

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE ASSEMBLY**

**FIFTY-SEVENTH PARLIAMENT**

**FIRST SESSION**

**Tuesday, 13 March 2012**

**(Extract from book 3)**

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**FIFTY-SEVENTH PARLIAMENT — FIRST SESSION**

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The Hon. D. M. ANDREWS

**Deputy Leader of the Parliamentary Labor Party and Deputy Leader of the Opposition:**

The Hon. J. A. MERLINO

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Kotsiras, Mr Nicholas	Bulleen	LP	Wynne, Mr Richard William	Richmond	ALP
Languiller, Mr Telmo Ramon	Derrimut	ALP			

<sup>1</sup> Resigned 21 December 2010

<sup>2</sup> Resigned 27 January 2012

<sup>3</sup> Elected 19 February 2011



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## Tuesday, 13 March 2012

**The SPEAKER (Hon. Ken Smith) took the chair at 2.04 p.m. and read the prayer.**

### RULINGS BY THE CHAIR

#### Members: conduct

**The SPEAKER** — Order! On 8 February 2011 I indicated to the house, after an absolutely appalling display of behaviour by members in this chamber on 21 December 2010, that members would get two warnings and would then be out. I did this to ensure that a fair process was in place and to give notice to members that their behaviour was unacceptable. This system has not worked during the past year, and upon reflection I feel that I need more flexibility when dealing with incidents, particularly during question time.

As from today the two warnings system will cease. In the future members will not be given warnings, and their behaviour will be dealt with on a case-by-case basis depending on the severity of the incident. Sometimes I may rule that a member should be given a warning, and at other times I will rule that the member will not receive a warning and will therefore be required to leave the chamber under standing order 124. I hope this will improve the smooth running of the house.

### QUESTIONS WITHOUT NOTICE

#### Infrastructure: government performance

**Mr PALLAS** (Tarnait) — My question is to the Premier. Can the Premier outline for the house the major capital infrastructure projects valued at over \$50 million that have been initiated since the government came to office?

**Mr BAILLIEU** (Premier) — I thank the member for his question, because it gives me the opportunity to say that the government is very proud to have supported the regional rail project.

*Honourable members interjecting.*

**Mr BAILLIEU** — I am pleased at the reaction from the opposition, because opposition members do not yet understand that they did not fund that project adequately.

*Honourable members interjecting.*

**Mr BAILLIEU** — Nor did they scope that project correctly. It took this government to scope it correctly, to arrange the funding and the contracting, and to do it in a competitive fashion — something members on the other side have never understood. In the same vein the Victorian Comprehensive Cancer Centre — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I would have hoped that my ruling earlier would have given some indication that I would not be prepared to continue putting up with this level of shouting across the chamber. I ask the house to come to order. I ask the Premier to resume answering the question.

**Mr BAILLIEU** — This is a project that required the application of the high-risk, high-value processes which were put in place by the Treasurer — put in place by this government.

**Mr Andrews** interjected.

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

**Mr BAILLIEU** — That is an important project. Both sides of the house recognise that, but it had not been well managed. Likewise the Bendigo hospital, Box Hill Hospital, Geelong Hospital — —

**Mr Pallas** — On a point of order, Speaker, with respect to relevance, the Premier was asked what projects had been initiated by his government. All we have heard is a list being rolled out by the Premier of Labor's visions. What is he going to do when he runs out of Labor ribbons to cut?

**The SPEAKER** — Order! I do not uphold the point of order, because I believe the answer was relevant to the question the member asked.

**Mr BAILLIEU** — The member's point goes to the very heart of this. The vision was: no money, no proper scope and no proper monitoring. That is what this government has put in place, and that is what we will continue to do. We have sought applications for a rescope, revised and sensible east-west link from Infrastructure Australia, support for the port of Hastings and support for the Avalon Airport rail link and additional level crossing upgrades. These are the projects that are important.

But we recognise something that the opposition still does not recognise: that the Infrastructure Australia bucket, the Building Australia Fund, is empty. It is empty because the funds are not being delivered to it by

the commonwealth government. We understand that; the opposition does not.

**Employment: government initiatives**

**Mr THOMPSON** (Sandringham) — My question is directed to the Premier. Could the Premier advise the house on positive jobs announcements showing confidence in Victoria, in spite of the current challenging economic conditions?

**Mr BAILLIEU** (Premier) — I thank the member for Sandringham for his question. These are important issues, and I am pleased to have the opportunity to report to the house that last week the Minister for Technology, Mr Rich-Phillips, and I were able to announce that 450 new jobs will flow from a \$30 million investment by leading Australian IT company Interactive. That is an important announcement of a project facilitated and assisted by the government.

One hundred and fifty jobs will be generated during the construction and fit-out phase of a new state-of-the-art IT facility. That announcement was warmly welcomed by the staff and by the customers that Interactive services. Three hundred highly skilled permanent IT jobs will also be generated over four years. Interactive provides products and services for leading companies for cloud computing, data centre operations, disaster recovery and hardware maintenance, as well as providing managed services to more than 1900 businesses.

*Honourable members interjecting.*

**Mr BAILLIEU** — Once again, the opposition is not interested — talking it down.

*Honourable members interjecting.*

**The SPEAKER** — Order! The Leader of the Opposition is on a warning.

**Mr BAILLIEU** — Last week the Minister for Manufacturing, Exports and Trade announced an agreement between Tomcar Australia and local component maker MtM Automotive to manufacture a specialist off-road commercial utility vehicle at Oakleigh. Another announcement we were pleased to be party to was that the Tomcar will become the first all-terrain vehicle to be manufactured in Australia, creating 50 direct jobs and an expected 300 downstream jobs for the automotive industry.

Last week the Treasurer and the minister for manufacturing opened Sherrin's new manufacturing

plant in Scoresby. The new plant is 30 per cent larger than Sherrin's previous home and exemplifies what modern, competitive manufacturing is all about — more efficient production processes and greater use of new technology. These are just a handful of an enormous number of job announcements that have been made in conjunction with the government.

Yes, these are challenging times. Yes, they are tough issues to deal with. They are generated by factors such as the high Australian dollar, increased competition and low commodity prices. We will deal with those issues, but the situation is also reflected in the independent audit review's report of April last year. The audit review report concluded in regard to the budget situation which the government inherited:

Victoria's current financial position is unsustainable into the medium term ...

Trend growth in expenses has outpaced trend revenue growth over the past decade; this has been obscured by the accounting treatment of the significant additional commonwealth-sourced revenue received for specific infrastructure programs.

That was the dodge of the previous government. We are getting on with the job — and we are talking up the economy, not talking it down like the opposition.

**Public sector: job losses**

**Mr ANDREWS** (Leader of the Opposition) — My question is to the Premier. I ask: will the Premier guarantee that no jobs will be lost in Geelong as a result of his government's public sector cuts and the review of the Transport Accident Commission?

**Mr BAILLIEU** (Premier) — I thank the Leader of the Opposition for his two questions. Indeed we have spoken about the sustainable government initiative in this house many times, and the audit review report to which I have just referred specifically says we had to take measures to deal with these problems left to us by the former government. We took those measures in the December budget update, and we indicated then that we would reduce the core public service to 2007–08 levels. That is a responsible position to take, and as we have mentioned many times in this house, the departments are working through that.

As to the second question — a luxury afforded to the opposition leader on this occasion; two questions in one, a very generous opportunity — I make the point that the Essential Services Commission inquiry is a regular inquiry done on behalf of the government in accordance with the arrangements which were in place under the previous government. As we indicated prior

to the election would happen, that report will examine the performance of the Transport Accident Commission and WorkCover and look at the ways to improve both of those organisations, should they be the recommendations of that report.

### **Floods: northern Victoria**

**Mr WELLER** (Rodney) — My question is to the Minister for Police and Emergency Services. Can the minister update the house on the floods in northern Victoria and advise what assistance the coalition government is providing to help recovery efforts?

**Mr RYAN** (Minister for Police and Emergency Services) — I thank the member for the very important question he asked, particularly bearing in mind that much of his own electorate is deeply affected by the floods. As most Victorians would be aware, areas of our state experienced severe rain, commencing on 26 February and causing some of the worst flooding we have seen in more than 50 years. A number of small towns have been cut off, some have required evacuation and there has been significant property damage caused in a variety of locations.

There are 23 locations in the area north of Shepparton that have recorded their highest total rainfall readings since records began. These include Wangaratta, Beechworth, Benalla, Wodonga and Rutherglen in the north-east, and then further west, back along the Murray River, a variety of smaller towns leading all the way through to the areas north of Shepparton. Hydrologists' assessments indicate that the flood levels will be higher than the 1993 levels, and some areas are experiencing a 1-in-100-year event.

The Victoria State Emergency Service has advised me that as of this morning it has received over 3000 requests for assistance since the start of the flood event. VICSES continues to be supported by a range of agencies, including the Country Fire Authority, the Department of Sustainability and Environment, Parks Victoria, the Metropolitan Fire and Emergency Services Board, Ambulance Victoria, Victoria Police, the Department of Human Services, the Bureau of Meteorology and a number of other government agencies and non-government organisations.

In addition, the Australian Defence Force has been deployed. It has done some wonderful work around the town of Nathalia. I am advised that as of today those ADF personnel are moving to Barmah, because that town can expect the floods to move into its area over the course of the next little while.

Over 140 residential properties in the north-east have had over-the-floor flooding, 94 of which are in Numurkah. The government has, as of today, issued 806 emergency assistance grants to a total value of \$690 000-odd. The current focus, as I said, is on Barmah, Numurkah, Nathalia and surrounding areas. The water levels are falling slowly, but we are not out of the woods yet. Some 90 000 hectares of farmland is now under water, and the reality is that, given the topography of the region, that will be the case certainly for days and prospectively for weeks. A number of townships are now working toward relief and recovery, with clean-up information and assistance likely to become the key focus in towns such as Numurkah, Katamatite, Tallygaroopna and Yarrawonga.

The government has moved quickly to ensure that people in need receive adequate support in their various locations. The government activated the emergency relief and assistance grants on 29 February, and on 9 March the commonwealth and our government announced the additional support that would be made available under the natural disaster relief and recovery arrangements. Flood-affected businesses, primary producers and not-for-profit organisations in the shire of Moira and the city of Greater Shepparton are now able to access grants of up to \$25 000 for clean-up and recovery, and 14 of the flood-affected local government areas can now access low-interest concessional loans of up to \$200 000. We are continuing to work with the commonwealth to extend the area where the clean-up and recovery grants are being provided. The commonwealth requirements have become more stringent since the floods of last year. Those matters are now being addressed.

I finish by commending the remarkable work of our many volunteers and acknowledging the extraordinary resilience of the communities that have been affected.

### **Employment: government action**

**Mr HOLDING** (Lyndhurst) — My question is to the Treasurer. I refer the Treasurer to his claim in this house on 4 May 2011 when he stated:

If you looked at employment and looked at the figure of 1.75 per cent, the growth in employment, you would realise that that equates to between 50 000 and 55 000 jobs being created every year over the forward estimates period under this budget —

and I ask: does the Treasurer know how many jobs have been created in the first eight months of this financial year?

**Mr WELLS** (Treasurer) — One of the high priorities of this government is the issue of jobs. We

have made it very clear that there are four points that are very important in regard to economic development and job creation. The first is to ensure that we have strong finances. It is very important from a confidence point of view that we protect our AAA credit rating.

The second issue in regard to jobs is productivity. In the 1990s this state was well above the national average when it came to productivity. Under the Labor governments productivity fell below that national average. We are putting a lot of time and effort into the issue of improving productivity, whether it be through cutting red tape by 25 per cent; increasing the skill level, with record amounts of money being spent to ensure that we have an increase in skills; or increasing spending in infrastructure, as high-quality infrastructure leads to greater productivity.

The third issue is growing Victorian businesses to create jobs. When the Premier and others travel to India and China, those emerging markets, it is about increasing investments into Victoria to improve those job figures. The first point is to assist industry restructuring, and that is about making sure that we put money in to ensure that those businesses are more sustainable in the longer term by being more efficient. We maintain that through those four very important pillars we will continue to grow the economy and increase job creation in this state.

**The SPEAKER** — Order! The member for Lyndhurst on a point of order. Does it relate to the Treasurer?

**Mr Holding** — Of course it relates to the Treasurer.

**The SPEAKER** — Order! The Treasurer has sat down; he has concluded his answer, but I will hear the member's point of order.

**Mr Holding** — On a point of order, Speaker, the Treasurer spoke for 2 minutes and 10 seconds. As you know, the question referred specifically to a claim the Treasurer had made about the level of job creation that would occur over the forward estimates period. My point of order simply relates to the question of relevance. Does the Treasurer really expect this house to believe that he does not know the number of jobs that have been created over the last eight months?

**The SPEAKER** — Order! The Treasurer has concluded his answer.

*Honourable members interjecting.*

**Questions interrupted.**

## SUSPENSION OF MEMBER

### Member for Monbulk

**The SPEAKER** — Order! The member for Monbulk can leave the chamber for 30 minutes.

**Honourable member for Monbulk withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

**Questions resumed.**

### Economy: federal policy

**Mr WATT** (Burwood) — My question is to the Treasurer. Can the Treasurer update the house on the threats to the Victorian economy because of policy decisions made by the federal Gillard minority government?

**Mr WELLS** (Treasurer) — I thank the member for Burwood for his quality question. The Baillieu government, as I mentioned in the previous answer, has those four key points. It is making sure that it has those strong key points. They are: to ensure that we have those strong finances, to improve productivity, to expand Victorian business by travelling to India and China and assisting industry transition to make sure industries are more viable, and restructuring. However, the job has been made much tougher by the policies of the federal Labor government.

Several of these challenges are a result of decisions of the federal Labor government. The first one is the carbon tax. The carbon tax will affect small and medium size business. It will affect every classroom and every hospital ward in the state. That will be a direct result of the carbon tax. We have had the advantage of cheaper power with brown coal, and the Gillard government's attack will have a direct impact on that advantage. Households and larger businesses will be able to receive some compensation, but there will be no compensation for small and medium size businesses. If they cannot pass on that additional cost, it will have to be absorbed into their operation costs. This is Labor's tax on jobs and Labor's tax on the viability of those small and medium size businesses.

In addition to that, there is the Fair Work Act 2009. When it comes to flexibility the Fair Work Act 2009 is adding costs to Victorian businesses. We have a situation where the system is now so union dominated that the number of days lost through industrial disruption has increased. We have Canberra's OHS

(occupational health and safety) system. Victoria had a very efficient OHS system, and that was a great comfort to Victorian businesses, but there is an OHS system being forced on us by Canberra.

Finally we have the federal government's anti-Victorian policy program highlighting the impact of the flawed GST distribution system. Two weeks ago the Commonwealth Grants Commission came out with figures that showed that we were at 92 cents. That means that for every dollar paid by a Victorian in GST we are getting back only 92 cents. It is a flawed system that needs to be fixed. You would have thought that in tough environmental and financial conditions the federal government would be there to assist.

Do members know what is more disappointing? Where does the opposition stand on the carbon tax? Where does it stand on the unfair distribution of GST?

**Ms Hennessy** — On a point of order, Speaker, the standing orders clearly prohibit attacks on the opposition. It is bad enough that we have twice been subjected to that performance by the Treasurer — not just once but twice. We ask that you uphold the standing orders and try to assist the Treasurer to answer his own question.

**The SPEAKER** — Order! I uphold the point of order.

**Mr WELLS** — Of course there is the issue of OHS. It is important for all Victorians to get behind the government to make sure that we send a clear message to Canberra on the carbon tax, on OHS and on the unfair GST. What Victorians want to know is: where does this mob stand on those issues.

### **WorkSafe Victoria: dividends**

**Mr SCOTT** (Preston) — My question is also to the Treasurer. I refer to the government's decision to take \$471.5 million from the Victorian WorkCover Authority scheme, and I ask: will the Treasurer rule out taking any additional dividends from WorkCover?

**Mr WELLS** (Treasurer) — The issue is that most government authorities pay a dividend — for example, the water authorities pay a dividend, and we expect WorkCover to pay a dividend. We have said very clearly that we think WorkCover is doing an outstanding job. In fact the premiums are the lowest in the country, which is something we are very proud of.

When it comes to dividends, let me explain to opposition members — because obviously they do not understand — a dividend is declared as a result of all

operations having been done. It is at that point that a dividend is declared. It does not impact on the operations. Whether it be a company or any authority, it has its profits and its trading after operations, and at that point it declares a dividend. We have said we think it is fair that WorkCover now pay a dividend, and we are expecting it to pay it. That will not have any impact on WorkCover premiums.

### **Building industry: federal legislation**

**Ms WREFORD** (Mordialloc) — My question is to the Attorney-General. Can the Attorney-General advise the house on current threats to the rule of law in the building and construction industry in Victoria, and what is the government's response to these threats?

**Ms Hennessy** — On a point of order, Speaker, earlier today we saw the Premier try to conflate the Leader of the Opposition's question as containing two questions. There are two questions in this question. I ask that you either rule that two questions are acceptable or provide the member with an opportunity to ask one question.

**The SPEAKER** — Order! I was going to say I did not hear the question properly, and I would like the member to repeat it.

**Ms WREFORD** — My question is to the Attorney-General. Can the Attorney-General advise the house on current threats to the rule of law in the building and construction industry in Victoria, and what is the government's response to these threats?

*Honourable members interjecting.*

**Mr CLARK** (Attorney-General) — I can advise the honourable member that there is in fact a serious threat to the rule of law in the building and construction industry in Victoria. It takes the form of amendments that the commonwealth government is seeking to make in relation to the Office of the Australian Building and Construction Commissioner (ABCC). As honourable members will be aware, despite previous commitments to maintaining a strong cop on the beat in relation to upholding the rule of law in the building construction industry, the Gillard government is moving to abolish the Australian building and construction commissioner.

Not only that, but late last month the Gillard government also snuck into the House of Representatives amendments that further dilute the powers of its proposed fair work building inspectorate, which are likely to render that inspectorate next to powerless in terms of upholding the rule of law on building and construction sites.

Those amendments will prohibit the building inspectorate from commencing or continuing any legal proceedings to uphold the law in relation to unlawful conduct in the building and construction industry if the conduct concerned has been the subject of a legal settlement between the parties. What that means — to put it in very plain and simple terms — is if a union is able to pressure or coerce an employer into doing a deal and withdrawing any claims that the employer has made about unlawful conduct by that union, then the independent inspectorate will be unable to take that matter further. That will make it even easier for unions to get back into bad old habits of intimidation and coercion in an industry that has already been notorious for such practices. It is an absolutely extraordinary move by the Gillard federal government.

We can compare the inspectorate with other regulators. Does the Fair Work ombudsman, for example, still have the power to pursue penalties for employers or unions who fail to comply with their obligations in respect of other aspects of workplace legislation? Of course it does. Does the Australian Competition and Consumer Commission still have the power to continue to pursue companies which have acted in breach of competition law even if the malfactor has done a deal with those who have been wronged? Of course the regulator can continue to do it.

Would anyone suggest the Victorian WorkCover Authority should not be able to pursue an employer who failed to uphold proper practices of safety in their workplace because the employer did some deal with the workers affected? Of course not. Does anyone suggest that the police should not be able to prosecute for criminal offences because the offender has done some deal with the victim? No. That has never been suggested, yet that is exactly the sort of thing the Gillard government is trying to do with its building inspectorate in relation to upholding the rule of law on building sites.

This is not only an appalling breach of principle but also a broken promise by the Gillard government, because in 2009 the now Prime Minister promised to maintain a strong cop on the beat and promised that breaches would attract the full force of law, yet that is not happening. Action on breaches such as the West Gate Bridge matter — where a complaint by an employer against relevant unions was withdrawn and yet the ABCC continued to uphold the law — will not be possible in future. That sort of action will no longer be able to be taken.

The Baillieu government is determined to do all it can to ensure that in Victoria the rule of law is upheld. That

is why we are introducing new industrial relations guidelines for Victorian building and construction projects — to make sure those businesses that seek to do construction work with the Victorian government are at least committed to upholding the rule of law to ensure that taxpayers get value for money and that we can have productive and safe workplaces in Victoria.

### **Employment: government policy**

**Mr ANDREWS** (Leader of the Opposition) — My question is to the Premier. I refer the Premier to the fact that some 12 600 Victorians lost their jobs in February — that is more than 434 each and every day — and I ask, on behalf of all Victorians: exactly how many people need to lose their jobs before the Premier will start doing his?

**Mr BAILLIEU** (Premier) — I thank the Leader of the Opposition for his question, but I remark again that the opposition leader seeks to talk down the Victorian economy.

**Mr Andrews** interjected.

**The SPEAKER** — Order! The Leader of the Opposition has asked his question.

**Mr BAILLIEU** — He talks it down at every opportunity — —

**Mr Andrews** interjected.

**The SPEAKER** — Order! The Leader of the Opposition should not push his luck.

**Mr BAILLIEU** — He talks down the economy at every opportunity. That is all we have heard. He has never, ever sought to take responsibility for the legacy the former government left behind.

Might I make the point that in the last few weeks alone new jobs have been created at Bombardier, Tomcar Australia, Interactive, Sherrin, ABB, RMIT, Westfield, Digital Realty and Hazeldene's.

The Victorian economy is facing significant challenges. Those challenges, as we have said, are challenges from the high Australian dollar, challenges from international competition and challenges from low commodity prices, particularly in the aluminium industry. International businesses are facing international competition and — —

**Mr Andrews** interjected.

**Questions interrupted.**

## SUSPENSION OF MEMBER

### Member for Mulgrave

**The SPEAKER** — Order! The Leader of the Opposition can leave the chamber for 30 minutes.

**Honourable member for Mulgrave withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

### Employment: government policy

**Questions resumed.**

**Mr BAILLIEU** (Premier) — I am sorry the Leader of the Opposition has left, because he might learn something. He might learn something about the importance of running a responsible budget position, not the budget position that we inherited, which was unsustainable. He might learn something about driving productivity and not turning a blind eye to the ABCC (Australian Building and Construction Commissioner), Fair Work Australia or OHS (occupational health and safety) changes. He might learn something about growing the economy — —

**Ms Hennessy** — On a point of order, Speaker, the standing orders prohibit attacks on the opposition. We are grateful that someone, the Leader of the Opposition, is actually standing up for jobs in Victoria, unlike the government in this paltry answer. The question the Premier was asked was what is he doing about the 464 people who are losing their jobs every day.

**The SPEAKER** — Order! I do not uphold the point of order.

**Mr BAILLIEU** — The opposition leader left the room. That is what has happened.

**Mr Pallas** — On a point of order, Speaker, I wonder if it is appropriate for the Premier to be attacking the Leader of the Opposition in his absence. It is a sign of cowardice. The fact that the Leader of the Opposition has been excluded from this chamber is an insight into and an indictment of the functioning of this chamber.

**The SPEAKER** — Order! The Leader of the Opposition is not here because of his behaviour. He failed to heed the warnings I had given earlier, and I did give them.

**Ms Hennessy** — On a further point of order, Speaker, the fact that a member is absent from the

chamber is not a green light for members of the government to attack them. You are well aware of that under the standing orders, and we ask that you uphold the standing orders.

**The SPEAKER** — Order! I do not uphold the point of order.

**Mr BAILLIEU** — We are not going to be silenced about the ABCC, OHS or the carbon tax. These international businesses are facing international competition and a rising dollar, and we are going to maintain the stand we take, which is a responsible budget position, a focus on driving productivity issues and putting the test to the commonwealth where the commonwealth is making it harder for Victorian businesses. This is a challenge for all Victorians. We are up to it. The opposition just wants to talk the economy down.

### Rail: timetable

**Ms MILLER** (Bentleigh) — My question is to the Minister for Public Transport. Can the minister update the house on the government's plans to increase train trips in Melbourne?

**Mr MULDER** (Minister for Public Transport) — There is nothing like the announcement of a new train timetable to get the hair standing up on the back of your neck or to get the blood rushing. I would like to thank the member for Bentleigh for her question and for her long-term support of the public transport network.

We do not have to look back far. I have a clipping from 20 January 2009 which shows that, in an unusual step, the former operator installed by the Labor government, Connex, handed out thousands of free ice-creams and bottles of water to pacify frustrated passengers at Flinders Street station. We have come a long way from those days. We are now moving into a new era of delivery by the government of a new train timetable for Melbourne. On 22 April this year we will have another 353 weekly services for the metropolitan network on top of 635 that we delivered in May of last year. It means 988 additional services that have been added to the network since we came to power. That has to be very close to a record, if it is not a record.

The new timetable will add 7.3 per cent more trains to the metropolitan timetable. Some of the key features include that for the first time there will be trains on the South Morang extension. This project was delivered early and within budget by the government. There will be extra peak-hour trains on the South Morang, Hurstbridge and Dandenong lines and a doubling of the

frequency of trains on weekends between 10.30 a.m. and 7.00 p.m. to and from Bentleigh, Frankston, Dandenong, Mitcham and Ringwood. In addition there will be 10-minute services delivered on weekends.

Some trains will stop at new stations at Lynbrook and Cardinia Road now that the new government has made arrangements for some stations to be upgraded. We know that the former government built those stations without providing enough power for the trains to take off. We have dealt with that issue. We have plans for 40 new trains, and we have already provided funding for 7 of those trains in the budget. Members can contrast that with the former government's performance, and I will refer to commentary on the former government's handling of the public transport network.

The Auditor-General's report entitled *Public Transport Performance* states:

In the past, there has been insufficient attention paid to coordination.

The Auditor-General's report entitled *Government Advertising and Communications* states that under the Victorian transport plan, \$3.5 million was spent on advertising promoting 'party political interests'. Members can forget about the ballast, the sleepers, the signals, the upgrades, the rolling stock; it was advertising and their telling a story about themselves.

The Ombudsman's report on Labor's ICT projects shows a \$352 million blow-out on myki and a 'lack of accountability of those — —

**Ms Hennessy** — On a point of order, Speaker, if that is not an attack on the opposition, which is prohibited by standing orders, then I do not know what would be. Entertaining as that is, I ask that you direct the minister back to answering the question he was asked, and if he wants to go outside and do a press conference, he should feel free to do so.

**Dr Napthine** — On the point of order, Speaker, the house is getting sick and tired of these irrelevant points of order taken by the opposition when the minister is being entirely relevant to the question. He is outlining the improvements made by this government to public transport services. He is highlighting Auditor-General's reports on the failures of the previous government to deliver adequate public transport services. He is being absolutely relevant to the question. I ask you to rule this frivolous point of order out of order. It is part of a political stunt by the opposition to try to stop the flow of question time.

**The SPEAKER** — Order! I do not uphold the point of order, but I do ask the minister to return to answering the question.

**Mr MULDER** — We will get on with delivering additional services. We recently announced a \$6.5 million Doncaster rail study of three options that have been identified by leading engineers and consultants. We have also had a report released in relation to a train service to Rowville. Members of the opposition will remember the 1999 election, when a commitment was given by the former government — —

**Mr Nardella** — On a point of order, Speaker, the minister is debating the question. I ask you to bring him back to answering the question.

**The SPEAKER** — Order! I uphold the point of order. The minister was debating the question.

**Mr MULDER** — So instead of making the commitment when in government and turning our backs on the people of Rowville, we have actually delivered as a government. We have appointed consultants, and they are carrying out the work as we speak. They are talking to the communities out in Rowville — —

**Mr Madden** interjected.

**Questions interrupted.**

## SUSPENSION OF MEMBER

### Member for Essendon

**The SPEAKER** — Order! The member for Essendon will leave the chamber for an hour.

**Honourable member for Essendon withdrew from chamber.**

## QUESTIONS WITHOUT NOTICE

### Rail: timetable

**Questions resumed.**

**Mr MULDER** — They are working on that project, which had been promised in the past and not delivered by the former government.

**ACCIDENT COMPENSATION  
AMENDMENT (REPAYMENTS AND  
DIVIDENDS) BILL 2012**

*Introduction and first reading*

**Mr WELLS** (Treasurer) — I move:

That I have leave to bring in a bill for an act to amend the Accident Compensation Act 1985 to enable the Victorian WorkCover Authority to repay capital and pay dividends to the state and for other purposes.

**Mr HOLDING** (Lyndhurst) — I would love it if the Treasurer were able to provide the house with some additional information about this proposal.

**Mr WELLS** (Treasurer) — The bill will enable the government to legislate that the WorkCover Authority pay a dividend to the government.

**Motion agreed to.**

**Read first time.**

**PORT BELLARINE TOURIST RESORT  
(REPEAL) BILL 2012**

*Introduction and first reading*

**Mr CLARK** (Attorney-General) introduced a bill for an act to repeal the Port Bellarine Tourist Resort Act 1981, to terminate the agreement ratified by that act and to terminate a Crown lease granted under that act, and for other purposes.

**Read first time.**

**VICTORIAN INSPECTORATE  
AMENDMENT BILL 2012**

*Introduction and first reading*

**Mr McINTOSH** (Minister responsible for the establishment of an anti-corruption commission) introduced a bill for an act to amend the Victorian Inspectorate Act 2011 to provide the Victorian Inspectorate with duties, functions and powers in relation to the oversight of the Independent Broad-based Anti-corruption Commission and the monitoring of compliance by a Public Interest Monitor with the prescribed obligations, to consequentially amend the Evidence (Miscellaneous Provisions) Act 1958 and for other purposes.

**Read first time.**

**BUSINESS OF THE HOUSE**

**Notices of motion: removal**

**The SPEAKER** — Order! I advise the house that under standing order 144, notices of motion 5 to 14 will be removed from the notice paper unless members wishing their notices to remain advise the Clerk in writing before 6.00 p.m. today.

**PETITIONS**

**Following petition presented to house:**

**Pigs: sow stalls**

To the Legislative Assembly of Victoria:

The petition of undersigned residents of Victoria draws to the attention of the house the recent decision by the Tasmanian government to ban sow stalls from 2017 and reduce their use to six weeks per pregnancy from 2014.

Such a move is an acknowledgement that the current national pig code is inadequate in protecting the welfare needs of pregnant pigs as it condemns them to unacceptable suffering. Sow stalls have been banned in the United Kingdom for 10 years, and several states of America have now vowed to prohibit their use also. The largest producer of pigs in Australia, Riverlea, has also announced a voluntary phase-out of sow stalls by 2017. The petitioners therefore request that the Legislative Assembly of Victoria introduce a similar ban as a matter of urgency.

**By Ms DUNCAN** (Macedon) (904 signatures).

**Tabled.**

**SCRUTINY OF ACTS AND REGULATIONS  
COMMITTEE**

*Alert Digest No. 4*

**Ms CAMPBELL** (Pascoe Vale) presented *Alert Digest No. 4 of 2012* on:

**Associations Incorporation Reform Bill 2011**  
**Australian Consumer Law and Fair Trading Bill 2011**  
**Control of Weapons and Firearms Acts Amendment Bill 2011**  
**Disability Amendment Bill 2012**  
**Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012**  
**Justice Legislation Amendment Bill 2012**  
**Legal Profession and Public Notaries Amendment Bill 2012**  
**Statute Law Repeals Bill 2012**

**Statute Law Revision Bill 2012  
Water Amendment (Governance and Other  
Reforms) Bill 2012  
together with appendices.**

**Tabled.**

**Ordered to be printed.**

**DOCUMENTS**

**Tabled by Clerk:**

*Education and Training Reform Act 2006* — Declarations under ss 5.7A.6 and 5.7A.7 (two documents)

*Interpretation of Legislation Act 1984* — Notice under s 32(3)(a)(iii) in relation to Statutory Rule 158/2011 (Gazette C9, 1 March 2012)

*Planning and Environment Act 1987:*

Amendment C146 to the Cardinia Planning Scheme

Notices of approval of amendments to the following Planning Schemes:

Bass Coast — C120

Corangamite — C21

East Gippsland — C99

Frankston — C46 Part 1

Golden Plains — C55

Hume — C130

Knox — C108

Mansfield — C23

Maroondah — C83

Monash — C104

South Gippsland — C63

Strathbogie — C28 Part 1

Surf Coast — C59

Whitehorse — C133

Wodonga — C73

Yarra Ranges — C113, C120

Statutory Rules under the following Acts:

*Accident Compensation Act 1985* — SR 11

*Accident Compensation (WorkCover Insurance) Act 1993* — SR 11

*Guardianship and Administration Act 1986* — SR 12

*Residential Tenancies Act 1997* — SR 17

*Subdivision Act 1988* — SRs 15, 16

*Subordinate Legislation Act 1994* — SR 13

*Transfer of Land Act 1958* — SR 16

*Victorian Energy Efficiency Target Act 2007* — SR 14

*Subordinate Legislation Act 1994* — Documents under s 15 in relation to Statutory Rules 166/2011, 8, 10, 11, 12, 13, 15, 16, 17

*Victorian Environmental Assessment Council Act 2001* — Government response to the Victorian Environmental Assessment Council's Report on the Metropolitan Melbourne Investigation.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the house dated 8 February 2011:

*Criminal Procedure Amendment (Double Jeopardy and Other Matters) Act 2011* — remaining provisions — 18 March 2012 (*Gazette S66, 6 March 2012*)

*Public Prosecutions Amendment Act 2012* — whole Act — 6 March 2012 (*Gazette S54, 28 February 2012*)

*Sex Work and Other Acts Amendment Act 2011* — remaining provisions — 1 March 2012 (*Gazette S54, 28 February 2012*).

**ROYAL ASSENT**

**Messages read advising royal assent to:**

**1 March 2012**

**Evidence (Miscellaneous Provisions) Amendment (Affidavits) Bill 2012**

**6 March 2012**

**Emergency Services Legislation Amendment Bill 2011**

**Freedom of Information Amendment (Freedom of Information Commissioner) Bill 2011**

**Parks and Crown Land Legislation Amendment Bill 2011**

**Port Management Amendment (Port of Melbourne Corporation Licence Fee) Bill 2011**

**APPROPRIATION MESSAGES**

**Message read recommending appropriation for Water Amendment (Governance and Other Reforms) Bill 2012.**

**BUSINESS OF THE HOUSE****Program**

**Mr McINTOSH** (Minister for Corrections) — I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 15 March 2012:

Australian Consumer Law and Fair Trading Bill 2011

Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012

Legal Profession and Public Notaries Amendment Bill 2012.

Water Amendment (Governance and Other Reforms) Bill 2012

Wills Amendment (International Wills) Bill 2011

The government business program will provide as many members as possible with the opportunity of speaking on these very important bills which are part of the government's legislative program. I commend the motion to the house.

**Ms HENNESSY** (Altona) — The opposition opposes the government business program for a number of reasons. Each and every single item on the government business program has some merit and is important from a regulatory and harmonisation perspective. However, this business program reveals that this is a government short on vision and energy. This is quite an embarrassing government business program. Each of these bills seeks to address technical and harmonisation issues. Of course those are important — we do not quibble with that — but the government cannot continue, sitting week after sitting week, to bowl up bills that deal only with technical and harmonisation issues.

It is, as I said, quite embarrassing for the government to deliver a business program like this, particularly given that we live in a state that is suffering extreme economic duress, that there are important public policy issues requiring response and debate, and that we wake up every Sunday morning and read in the *Sunday Herald Sun* about another reform the government has committed to. None of those reforms is ever backed up with any legislation that appears on the government business program. For this reason we intend to hold the government to account.

We also object to the use of Wednesday afternoons for second-reading speeches. We understand the

government has rural and regional members who are eager to get home. I do not quibble with that sentiment; we are all very eager to get home on a Thursday. However, Wednesdays of parliamentary sitting weeks are incredibly important in providing members with sufficient opportunity to make contributions to debate. It is our view — and we intend to uphold our position — that Thursday afternoons are the best times for ministers to make their second-reading speeches. For these reasons we will be opposing the government business program.

**Mr HODGETT** (Kilsyth) — I rise to make a few brief comments in support of the motion of the Leader of the House in relation to the government business program. It comes as no surprise that the opposition is opposing the government business program again this week. It does not matter what we do, what business program we put up or how many items of business we put on it, those opposite are trained to oppose everything, to whinge and to carp, and they will continue their lazy attitude to, and position on, doing the hard work in here and scrutinising bills. We have five bills on the program, and we have a number of members on this side of the house who wish to make contributions on those bills. Let us hope that there are a number of members on the other side of the house who also wish to make contributions before those bills are put to the guillotine on Thursday.

In relation to the other comment made, opposition members seem to think the changes they made, when in government, to standing orders, to other rules or to the times when second-reading speeches are to be given are locked in concrete forever. Well, we are now the government. We will choose when we do second-reading speeches. We are not bound to do the second readings when it suits those opposite because of their lazy attitude. I urge everyone to support this government business program and get on with the job of scrutinising these bills before the 4.00 p.m. guillotine on Thursday.

**Ms KAIROUZ** (Kororoit) — I rise to speak on the government business program and to support the manager of opposition business in opposing it. There are five bills on the program, and they relate to a number of very important issues. They are the Wills Amendment (International Wills) Bill 2011, the Australian Consumer Law and Fair Trading Bill 2011, the Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012, the Water Amendment (Governance and Other Reforms) Bill 2012 and the Legal Profession and Public Notaries Amendment Bill 2012. As I said, these are very important pieces of legislation, and members on this

side of the house are eager to speak on them. That is why we seek maximum speaking time on these pieces of legislation.

When the members of this government were elected in 2010 they had campaigned on little other than being against the previous government. Their policy platform was little more than to do the opposite to what Labor wanted to do. More than a year on we are still waiting, and we are very unclear as to what else, if anything, those opposite stand for.

This government is asleep at the wheel. It has not created any new pieces of legislation or policies that have improved the livelihoods of Victorians.

The one thing that is clear — and this is based on what we saw last year and this year — is that The Nationals members rule the roost. Those members in that part of the chamber, cuddled up together in the corner there, rule the roost. They control the chamber and control the government business program. We in this chamber represent over 5.5 million Victorians, but those 10 members of The Nationals control the government business program and the government. Do members know why they control the government business program? They want to go home at 4.00 p.m. on Thursdays. They do not want to stay back, so they are curtailing debate. Why? Because, as I said, they want to go home at 4.00 p.m. on Thursdays, and they are not prepared to do that extra bit of work. They are not prepared to put in the hard work and stay back until 4.30 p.m., 5.00 p.m. or 6.00 p.m. They want to leave at 4.00 p.m. on Thursdays. On that basis we oppose the government business program.

**Mr CRISP (Mildura)** — I rise to support the business program. It has five bills on it, and I think, contrary to some of the earlier comments, they are important. The Australian Consumer Law and Fair Trading Bill 2011 is pretty much a rewrite of that legislation. The Drugs, Poisons and Controlled Substances Amendment (Supply by Midwives) Bill 2012 is important; it will allow midwives to possess, use, supply and sell certain drugs for midwifery, which is very important in the country. The Legal Profession and Public Notaries Amendment Bill 2012 tidies up some issues there and promotes the role of people who do that work for us. The Water Amendment (Governance and Other Reforms) Bill 2012 is very important for country Victoria, as it should be for all Victorians, and members of The Nationals are looking forward to using a number of speaking spots to raise certain issues going along with that bill. There is also the Wills Amendment (International Wills) Bill 2011, which will provide an opportunity for all of us to

remind our constituents of the importance of having a will. This is a good business program; it is one we are happy to support and one we are going to get on with. We want debate to get under way in order that legislation can be enacted in Victoria that will make the state a better place.

**Mr DONNELLAN (Narre Warren North)** — As indicated, the opposition will be opposing the government business program. If you look at the bills, you see there is nothing particularly significant there; they are very much pedestrian bills. There is no great revolution, there is no real activity and there is no dealing with substantive issues such as freedom of information.

We know why we are leaving at 4 o'clock on Thursday afternoons. It is largely because The Nationals, Her Majesty's country representatives, do not want to sit beyond 4 o'clock. When we have serious bills to consider, we are spending Wednesday afternoon listening to second-reading speeches so that debate and scrutiny can be curtailed and Her Majesty's country representatives can go home and not do a hard day's work. It is totally inappropriate to have this Parliament beholden to the wishes and whims of a small number of members of the house when there are serious issues to debate, and there are very serious issues to debate today.

We know what members of the Liberal Party said when they came into office: that things like Dorothy Dixers would disappear and we would get some serious reform in the house. At the end of the day the only serious reform we have is the Wednesday afternoon sleepy-eyed special to allow The Nationals members to head home early on a Thursday so they can relax and have a reasonably lazy afternoon. It is not appropriate for members of the Liberal and Nationals parties to say they are coming in here to address serious matters, but on a Wednesday afternoon we are cutting the debate on FOI. We are cutting it because the government does not want its bills properly scrutinised. It is ridiculous that we are sending people home early so that a few country members can have a relaxing day. We will be opposing this government business program.

**The SPEAKER** — Order! The question is:

That the motion be agreed to.

All in favour say aye, against no. I think the ayes have it. A division is required. Ring the bells.

**Bells rung.**

**House proceeded to divide on motion:**

**Mr Nardella** — On a point of order, Speaker, the bells were not ringing in the chook house — the temporary annex — and I think that may — —

*Honourable members interjecting.*

**The SPEAKER** — Order! This is a serious matter. We have had it reported to us, and we are going to do something about it. Are any members missing who may be in the chook house?

**Mr Nardella** — That is my point of order — that it may affect the vote currently being held.

**The SPEAKER** — Order! Ring the bells for another minute.

**Bells rung.****House divided on motion:***Ayes, 44*

Angus, Mr	Mulder, Mr
Asher, Ms	Naphine, Dr
Baillieu, Mr	Newton-Brown, Mr
Battin, Mr	Northe, Mr
Bauer, Mrs	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Bull, Mr	Ryall, Ms
Burgess, Mr	Ryan, Mr
Clark, Mr	Shaw, Mr
Crisp, Mr	Smith, Mr R.
Delahunty, Mr	Southwick, Mr
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Gidley, Mr	Tilley, Mr
Hodgett, Mr	Victoria, Mrs
Katos, Mr	Wakeling, Mr
Kotsiras, Mr	Walsh, Mr
McCurdy, Mr	Watt, Mr
McIntosh, Mr	Weller, Mr
McLeish, Ms	Wells, Mr
Miller, Ms	Wooldridge, Ms
Morris, Mr	Wreford, Ms

*Noes, 40*

Andrews, Mr	Howard, Mr
Barker, Ms	Hutchins, Ms
Beattie, Ms	Kairouz, Ms
Brooks, Mr	Knight, Ms
Campbell, Ms	Languiller, Mr
Carbines, Mr	Lim, Mr
D'Ambrosio, Ms	McGuire, Mr
Donnellan, Mr	Madden, Mr
Duncan, Ms	Merlino, Mr
Edwards, Ms	Nardella, Mr
Eren, Mr	Neville, Ms
Foley, Mr	Noonan, Mr
Garrett, Ms	Pallas, Mr
Graley, Ms	Perera, Mr
Green, Ms	Pike, Ms
Halfpenny, Ms	Richardson, Ms

Helper, Mr  
Hennessy, Ms  
Herbert, Mr  
Holding, Mr

Scott, Mr  
Thomson, Ms  
Trezise, Mr  
Wynne, Mr

**Motion agreed to.****MEMBERS STATEMENTS****Potter Street, Craigieburn: maintenance**

**Ms BEATTIE** (Yuroke) — With inertia the widely acknowledged key feature of the Baillieu Liberal government, its ongoing failure to invest in fundamental key infrastructure that is central to my constituents' safety is no surprise, albeit a continual disappointment. I have received correspondence from Mr McMahon, a Craigieburn resident, who is deeply concerned about the perilous state of Potter Street in Craigieburn and the ensuing potential danger this places drivers, cyclists, pedestrians and train commuters in. The road shoulders are littered with potholes along the bitumen edges, which ensures that travelling along this stretch of road on a daily basis is akin to a game of Super Mario Brothers — minus the ability to jump out of imminent danger with the push of a button.

The Labor government, of which I was a proud member, delivered a rail service to the people of Craigieburn and Roxburgh Park after many years of neglect under the Liberals. Now the members of the Baillieu government are again ignoring the needs of Melbourne's north, proving that they are incapable of delivering even the most basic maintenance programs. I have already taken this up with VicRoads. I now call on the Minister for Roads to arise from the Baillieu-induced coma that seems to have afflicted all those on that side of the chamber and meet the challenges of government that they have so far eluded. On behalf of my electorate, I demand that he step up and act on behalf of the hardworking constituents of Craigieburn.

**Tourism: international visitors**

**Ms ASHER** (Minister for Tourism and Major Events) — I draw to the attention of the house the latest international visitor survey results for the year ended December 2011, which were released on 7 March. They show that for the first time China is now our largest market for international visitor numbers, although it has been our largest market in terms of international visitor expenditure for some time.

In the year ended December 2011 China provided 265 300 visitors to Victoria, which is a 28.8 per cent increase on the previous year. China has now overtaken

New Zealand, which had been our highest visitor-number market since 2007. Chinese visitors spent \$816 million in Victoria, which is a 19 per cent increase on the previous year. To show the enormity of that figure for expenditure by Chinese tourists, our second-highest expenditure group spends \$331 million in Victoria. It is a historic event for the Chinese to be no. 1 in the Victorian market. In terms of overall international visitation, we have seen a 6.7 per cent increase. We now have 1.76 million international visitors and \$4.3 billion in international visitor expenditure a year.

### **Skye Mineral Sands: quarry operations**

**Mr PERERA** (Cranbourne) — I bring to the attention of this house and the government a matter of concern in my electorate. I have met with some anxious residents of the suburb of Skye in relation to the operation of the Skye Mineral Sands quarry in Ballarto Road. The residents are concerned that the quarry operator is not in compliance with the extraction industry licence 1241 issued in July 1994 for the operation of the quarry. Under the work authority, the quarry operator is required to extract the site at 45 degrees, but residents believe that this is simply not happening. The allowable depth for extracting is 14 metres below the natural surface. Residents believe it is now 30 metres below the natural surface and that the amount of area that is open for extraction is more than is stated in the operator's authority. The residents believe that not only is this a breach but also that it has created a great deal of dust in the surrounding area.

A guarantee has been given by the operator that the quarry's entrance opposite 500 Ballarto Road, Skye, will not reopen for use by heavy vehicles. There was a near fatality caused by heavy vehicles turning into the entrance. The quarry operator has been a champion in breaching work authority conditions and not listening to the authorities. Residents are determined to fight on. I am positive that the minister will have to intervene in the matter soon.

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

### **Floods: response**

**Mrs POWELL** (Minister for Local Government) — I pay tribute to the many volunteers and emergency service personnel, including those from the State Emergency Service, the Country Fire Authority, Victoria Police, the army, and community members, who are assisting during the floods in the north of the state. I also pay tribute to the media for keeping

communities updated with flood information. I acknowledge the great work of local councils, particularly East Gippsland Shire Council, City of Greater Shepparton Council, Moira Shire Council, Mount Alexander Shire Council and Towong Shire Council.

Following record rainfall many homes and businesses have been inundated or are under threat and a large area of farmland is still flooded as a massive wall of water moves across the north of the state. The incident control centres (ICC) are doing a great job of mapping the floodwater and coordinating the flood effort. On Sunday, 4 March, I joined the Premier, the Deputy Premier, the federal member for Murray and the Honourable Wendy Lovell, a member for Northern Victoria Region in the Legislative Council and Minister for Housing, when they visited the Shepparton ICC and toured the flooded areas to understand the massive impact the floods are having.

I have been in contact with a number of councils to ensure that they have the support they need from the Victorian government. Councils have been grateful for the assistance from the state government. The Municipal Association of Victoria and other councils are also giving support. I congratulate those council members who are working very long hours to protect their communities through the emergency and evacuation stage.

We understand that the hard work is not finished yet. Work will now commence on the clean-up and recovery stage. The rapid impact assessment team is already assessing the damage, although it is too early to get an exact damage bill because many places are still under water. I thank the councils and council officers and staff for their efforts.

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

### **Supreme Sikh Council of Australia: new year celebrations**

**Ms D'AMBROSIO** (Mill Park) — I was delighted to attend and speak at the Sikh new year celebration held in the city of Whittlesea last Friday night, 9 March. The Supreme Sikh Council of Australia held this special event with the presence of the local multicultural communities as its guests. The Nanakshahi calendar nominates the month of Chet as the new year, with 14 March this year beginning the new year of 544.

The 11 great gurus of Sikhism represent universal qualities that all of us can aspire to. These are humility, obedience, equality, self-sacrifice, justice, mercy, purity, service, tranquillity, courage and infinity. I am proud to inform the house that the Sikh community is going from strength to strength in my electorate, with many new families wishing to call it their home. Sikh families are making a wonderful and enriching contribution to our local community, from organising and promoting blood donations to active involvement in the Whittlesea Interfaith Network and the holding of sporting and cultural events, including Kabaddi tournaments and events involving the martial art Gatka.

I wish to acknowledge and congratulate the fine leadership of Sardar Harkirat Singh Ajnoha, general secretary of the Supreme Sikh Council of Australia; Sardar Paramjit Singh, the president; Sardar Gurdeep Singh and Sardar Gurinder Singh of the gurdwarra in Craigieburn; and representatives of other Melbourne gurdwarra. To the Sikh community of my electorate I say: luk luk vadai — happy new year 544.

### **Karma Hastwell**

**Ms McLEISH** (Seymour) — I was pleased to see that the Parks and Crown Land Legislation Amendment Bill 2011, which was introduced towards the end of last year, received royal assent last week. An additional 10 000 hectares have now been added to Victoria's parks, which is reflective of the Victorian coalition government's commitment to long-term protection of the environment, as well as to enhancing our parks and reserves.

I want to recognise today the role played by Ms Karma Hastwell, who at 88 tragically lost her life in Kinglake during the Black Saturday fires. Ms Hastwell was passionate about the environment and had a strong attachment to the natural land, or 'the bush', around her, with a particular fondness for birds and nature in general. She would be pleased to know her generous donation of 27 hectares of land is now part of Kinglake National Park.

### **Floods: response**

**Ms McLEISH** — On another note, I want to congratulate the coalition on its handling of the recent flood events in central and northern Victoria. The response by the government, its departments, the defence force, local councils and the many amazing volunteers was inspiring. The activation of emergency relief grants to help families affected by the flooding was timely and well publicised, ensuring that those in need of support at the time could access it. A

streamlined and updated emergency volunteer register was put in place to improve effectiveness.

The swift action taken to support farmers in the area is greatly appreciated. The establishment of a Department of Primary Industries flood response centre, through which all farmers are to be contacted to get detailed damage and loss assessments, is to be commended. Finally, the coordination of the emergency services response has been praised by volunteers and government staff on the ground and should be noted by the house.

### **William Ruthven Secondary College: funding**

**Ms HALFPENNY** (Thomastown) — I was very pleased to have been part of the official opening of the learning centre building at William Ruthven Secondary College last Friday, 9 March. This was a federal Labor initiative to invest in our children's futures.

There was a fantastic buzz at the school, with excited students, parents, staff, teachers and visitors coming to realise the enormous potential of this school, which has in part been unlocked by the opening and use of this new building. We got a taste of the opportunities that could be offered to students and the willingness and enthusiasm they have to take up such opportunities. What a pity the state government does not have the same enthusiasm and commitment to supporting our students, the next generation and the future of Victoria.

This school desperately needs to be rebuilt. Two secondary colleges merged to form William Ruthven, and they deserve to get the new school they expect. I have repeatedly called on the Minister for Education to commit the proceeds from the sale of the land at Lakeside Secondary College, which was vacated as a result of the merger, to rebuild William Ruthven to give the new school a fresh start. We have heard nothing. Meanwhile the school community suffers deteriorating amenities and the Lakeside Secondary College land has become a dumping ground, which is a fitting symbol of this government's detrimental lack of action. Let us just get on with it: sell the land and use the proceeds to rebuild William Ruthven Secondary College.

### **International Women's Day**

**Ms HALFPENNY** — On Thursday, 8 March, I celebrated International Women's Day with many residents of the Thomastown electorate. I thank the Goce Delčev and the Hellenic Women's Cultural Association for the invitation.

### Japan: tsunami anniversary

**Mr BATTIN** (Gembrook) — Just over 12 months ago the world watched in horror as Japan faced a natural disaster that took thousands of lives, with thousands of people still missing. Many more people were displaced as their homes and communities were destroyed.

I had the sad honour 12 months ago of standing here in this place and sending our thoughts to the Japanese people and government, who had to deal with the aftermath of such a huge disaster — a disaster that still continues, with many still unable to return home and 3000 still missing. The Acting Consul-General in Melbourne at the time, Kotake San, was present in this house and passed on our message to the Prime Minister of Japan. I ask Japan's Consul-General in Melbourne, Sobashima San, to again relay the thoughts of Victorians, which are still with the Japanese people as they continue to rebuild their infrastructure and communities. This week I am sure many in the house, as well as many in our communities, have been reminded of the tragic events in Japan via the TV. Each time we see footage of those events we cannot believe they happened.

At a recent memorial day with the Consul-General we heard moving speeches and messages of support and hope from the Governor of Victoria, the Premier, the honourable member for Lyndhurst; and the Honourable Bruce Atkinson, President of the Legislative Council. All these speakers relayed the same message — that we are friends of the Japanese and are proud to assist them in their time of need. The Victorian government and the Victorian people see the rebuilding of infrastructure and the spirit of all in Japan as working towards the common goal of a better future.

### Singh Sabha Sports Club

**Mr LANGUILLER** (Derrimut) — I wish to inform the house that I recently attended the Singh Sabha Sports Club (SSSC) Brimbank Kabaddi Cup 2012, held at Errington Reserve in St Albans. I particularly wish to commend the good work of all committee members, particularly the president, Mr Dara Singh Aujla; Mr Ronny Randhawa, who is the secretary; and Mr Berreck, who is the Treasurer.

The Singh Shabha Sports Club was established in 1994. It is one of the oldest and proudest Indian sporting clubs in Australia. The SSSC has contributed enormously towards helping the Punjabi community to better integrate into Australian sport and culture while still maintaining traditional cultural values. The club is a

benchmark and an inspiration for many of the Indian community-based associations in Australia. Community spirit has always been at the forefront for the club, as many illustrious players were of Sikh, Hindu or Muslim backgrounds.

The beginnings of the club can be traced back to the late 1980s, when, following a hard week's work, a few friends got together in the parks of western Melbourne to have a game of soccer and catch up on the week's events. After participating in a number of Australian Sikh Games under various banners, the club formally became Singh Sabha Sports Club in late 1994 and set up a link to the Sri Guru Singh Sabha Gurdwara.

### Floods: northern Victoria

**Mr McCURDY** (Murray Valley) — Hail the heroes of northern Victoria, who rallied together over the last two weeks and still continue to protect our communities from the floodwaters. Over 300 millimetres of rain has turned a pristine late summer into a waterlogged, murky mess. People have banded together like I have not seen before. As water levels rose to heights we could never have imagined, Tungamah, Telford and Katamatite were isolated for up to a week as the water poured through the hearts of these proud communities. Neighbours are united, both rural and townsfolk, and continue to protect each others' assets and states of mind. Our people demonstrate mateship in times of uncertainty. I am extremely proud to be part of a community where people look after each other when the chips are down.

In the full light of day we will hear about the wonderful efforts of the State Emergency Service, the Country Fire Authority, the Shire of Moira and the Red Cross. The teamwork shown by the ambulance and hospital staff as the Numurkah hospital was evacuated in the dead of night will also come to light. From Yarrawonga to Nathalia and beyond we fight Mother Nature. We won the battle in some places and lost the fight in others, but as a team of individuals we rallied and created a well-oiled machine. In the beginning the members of our community won the respect of one another, and in the end that will make us stronger.

While the clean-up begins in Cobram East, the Muckatah and Broken creeks still flow outside their banks. The stone fruit industry has been hit again, but Michael and Rosa Crea donated peaches to the recovery centre set up in Tatura to ensure that those who are working long hours to assist our recovery are well fed and watered. Annual summer crops have been ruined in some places, and the resilience of the dairy farmers continues to amaze me.

### **Mental health: advice line**

**Mr NOONAN** (Williamstown) — Next week the Baillieu government will shut down Victoria's only dedicated 24-hour mental health advice line. The advice line was established by the previous Labor government in 2009 to provide expert advice, information and referrals on any mental health issue and to help individuals and families navigate their way through the broad spectrum of mental health services.

The most up-to-date information available on the Department of Health's website indicates that the advice line receives about 800 calls per month, almost a third of which are from regional and rural Victoria. About half the calls involve more serious and immediate mental health issues, with many requiring urgent referrals to area mental health services or emergency departments. The advice line has been described as a front door to Victoria's mental health services, operating in a similar way to the Nurse on Call service, with trained mental health professionals available 24 hours a day, 7 days a week.

News of the advice line's demise was allegedly leaked by the minister's department and reported in the *Age* newspaper of 27 January. A spokesman for the ministry explained that the service had been underperforming, with only 800 calls per month, but as one *Age* commenter questioned:

... how does a mental health hotline 'underperform'? If they prevented one suicide, surely they've earned their keep ...

As another commenter put it, the minister should put her counting skills to good work and count the number of people who will be severely disadvantaged by the closure of this valuable service. Perhaps that would be a better measure.

### **Fawkner Park Children's Centre and Kindergarten: parent community**

**Mr NEWTON-BROWN** (Pahran) — I was delighted to accept the invitation of Tom Noble to visit the Fawkner Park Children's Centre and Kindergarten last week. Like so many child-care centres, Fawkner Park thrives through the input of a dedicated parent community, which has clearly assisted staff to create an amazing, nurturing space for their children.

### **Clean Up Australia Day: Prahran electorate**

**Mr NEWTON-BROWN** — On a wild and wet Saturday morning Ian Penrose from the Yarra Riverkeepers Association launched his little tinny and assisted the residents of Prahran in their Clean Up

Australia Day efforts along the Yarra riverbanks and on Herring Island. An incredible number of local people pulled together to play a part in improving our local environment.

### **Cycling: Prahran electorate**

**Mr NEWTON-BROWN** — I was pleased to meet with Raili Simojoki and Nicholas Dow from the Melbourne Bicycle User Group, otherwise known as BUG, last week. They provided me with some very useful feedback which will assist me in my commitment to make Prahran an even better place to ride a bicycle. In particular they assisted in planning the implementation of my policy to deliver enhanced bicycle lanes along Chapel Street to improve safety for city commuters.

### **Polyglot Theatre: performance**

**Mr NEWTON-BROWN** — I attended my first performance of the Polyglot Theatre with the federal member for Higgins, Kelly O'Dwyer, last weekend. Based in my electorate, the Polyglot Theatre has become an internationally renowned creator of theatre for children aged up to 12 years. I thoroughly enjoyed the performance and look forward to seeing further productions in the future.

### **Judith Troeth**

**Mr NEWTON-BROWN** — I congratulate former senator for Victoria Judith Troeth on her induction into the Victorian Honour Roll of Women last week. This honour recognises Judith's outstanding efforts on women's issues throughout her distinguished parliamentary career, particularly in the areas of health, education and agriculture.

### **Parliamentary internship program: Monash University students**

**Mr NEWTON-BROWN** — Last Friday I had the pleasure of meeting and speaking with Monash University students undertaking the university's Victorian parliamentary internship program. It is always inspiring to speak with young Victorians interested in the operation and function of Parliament and democracy. I wish the students all the very best for the remainder of their internships and broader studies.

### **Water safety: personal watercraft**

**Mr FOLEY** (Albert Park) — I rise to grieve at the tragic death of a constituent, Mr Robert Brewster, who was killed by a jet ski on 24 February whilst swimming at a Port Melbourne beach. The matter is subject to a

police inquiry, so my comments will not deal with the particular circumstances of his untimely death. Suffice it to say there are serious questions to be answered as to how a tragedy like this could occur on a hot evening in a swimming-only area of a crowded beach. The result is that a family is left grieving, having lost a son, partner, brother and father.

As Mr Brewster's brother put it to me, if this senseless tragedy is to mean anything, let it be that we not see it repeated. Let us see a greater effort in enforcing the separation of swimmers and jet skis. Let us see greater restrictions on where these powerful and now clearly lethal machines are allowed to operate. Let us increase the areas for swimmers and more passive recreational activity closer to shore and push jet skis further out, past the 400-metre mark. Let us benchmark penalties on the equivalent offences for road vehicles. Let us make registration and licensing requirements more demanding and rigorous. Let us increase the focus on education and responsible behaviour, and when there are accidents let us make sure that the 14 000 registered jets skis and personal water craft operating on our bays and waterways are covered by at least compulsory public liability insurance or, ideally, no-fault, third-party insurance. Let these measures mark this tragedy and give it some sense for a grieving family.

#### **Aspendale Tennis Club: court resurfacing**

**Mrs BAUER** (Carrum) — It was great to share the official opening of Aspendale Tennis Club's two new plexicushion courts with the club president, Dayle Brown, Kingston councillor Dan Moloney and the local tennis community at the club's open day on the weekend. Funded by the state government and the City of Kingston, the courts look terrific. They will not only save competitors time in watering and bagging but preserve valuable water.

#### **Clean Up Australia Day: Carrum electorate**

**Mrs BAUER** — I love getting out and about in the community on Clean Up Australia Day. I enjoyed meeting hardworking volunteers Bonnie Henderson and Yvonne Lynch at the Seaford clean-up site, organised by the Kananook Creek Association, which continues to do a fantastic job keeping the creek and surrounds clean all year round. This is just one of the many groups and individuals who put in a great effort on the day, along with year 12 Mentone Grammar student David Eden, who also organised his own clean-up at the Chelsea Yacht Club for Clean Up Australia Day.

#### **Chelsea Occasional Child Care Centre: fundraising**

**Mrs BAUER** — I commend the Chelsea Occasional Child Care Centre for its recent recipe book initiative. I have enjoyed trying the new recipes provided by local families, and I am pleased to support the centre in its efforts to raise funds to continue to provide the high level of care it has been providing our community for the last 30 years.

#### **Carrum electorate: flood recovery funding**

**Mrs BAUER** — I was proud to give two local Chelsea clubs a huge boost, with a total of \$78 000 in flood recovery funding from the state government. Chelsea Pony Club has been given \$45 000 to rebuild after last year's floods, and \$33 000 will help the Chelsea golf club bring its fairways back up to scratch.

#### **Ivanhoe Cricket Club: community fundraising**

**Mr CARBINES** (Ivanhoe) — Congratulations to the Ivanhoe Cricket Club on raising \$3500 at its community day held last month. The day included a fun run, family activities, a barbecue and a Twenty20 match. Thanks to the Rotary Club of Ivanhoe for running the barbecue. I, for one, certainly worked up an appetite after the fun run. Over 150 people registered for the run, which took us along the Yarra River, near the Ivanhoe golf course and Wilson Reserve. In sweltering conditions the charity cricket match was won by the Miles Maulers, which took home the Ivanhoe community cup with a six off the penultimate ball to beat the Autoclinic Avengers.

Funds raised on the day were donated to Open House in Ivanhoe. Open House began in 1971 and is ably led by the director, Ross Oldmeadow, and his team. Open House is very well regarded for its work in the local community, offering long-term friendship and support to youth and adults, particularly those who are isolated or disadvantaged.

The willingness of the Ivanhoe Cricket Club to run a fundraising day for other local organisations in need is a credit to the club. Sporting clubs that contribute to their community off the field are sure to enjoy ongoing success and support on the field too. I look forward to again supporting the Ivanhoe Cricket Club community day next year and commend Ivanhoe Cricket Club president George Grossek for his leadership of this initiative on behalf of the club.

### **Rosanna Golf Links Primary School: student leaders**

**Mr CARBINES** — Last week I visited Rosanna Golf Links Primary School and presented student leadership badges to nearly 80 students to acknowledge the important roles they will be undertaking on behalf of their classmates in the year ahead. The school assembly was attended by many parents and friends who know the value of a high-quality education for their children and are choosing Rosanna Golf Links Primary School in ever-increasing numbers. This is a great credit to school principal Janice Fischer and her tireless staff. Enrolments are ever increasing, and I will continue working with the school community to ensure that funds to implement the completed master plan are provided. I look forward to the Minister for Education fulfilling his commitment, made last year, to visit the school and consider these issues very soon.

### **North-eastern Victoria: community events**

**Dr SYKES** (Benalla) — North-east Victoria is open for business, with a smorgasbord of fantastic activities over the coming Easter weekend. The Ovens Valley rail trail provides gentle exercise, with the beautiful backdrop of Mount Buffalo. Bright will be staging its 50th annual autumn art exhibition as well as a Saturday market. Harrierville will also have a bush market, and Dinner Plain is staging its Easter festival, which includes live music, country food and Easter egg hunts. The Mount Beauty speedway will be in action, and there will be a Gliding Club of Victoria Easter fly-in.

Longwood will be hosting the Australian carriage driving championships. The Avenel and Nagambie markets will be popular, as will the Tahbilk Winery's Easter fiesta on the following weekend. Winton Motor Raceway will stage the Easternats, and nearby Molyullah will stage the 112th Easter sports. That offers a great day of family entertainment. The Farmers Arms Hotel in Benalla will again stage its annual Good Friday appeal, as will the Tatong community. Tatong will also stage its popular market on Easter Saturday morning.

In the fabulous King Valley the Gracebrook winery and many others will be open, and the Moyhu farmers market will again showcase the best local food and wine. On the slopes of the Warby Ranges the Baileys winery will offer wood-fired food and great wines. Mansfield has a great bush market, and the Goulburn River high country rail trail, between Mansfield and Bonnie Doon, is a must. The Lions Club of Eildon will be holding an Easter market, and there will be plenty of fish to catch in Lake Eildon and nearby waters. All in

all, you can be guaranteed a great Easter break in north-east Victoria.

### **Clayton electorate: landfill sites**

**Mr LIM** (Clayton) — I rise to speak on the continuing offensive odours emanating from landfill sites in Clayton South and Clarinda. In June last year I raised this matter in the chamber as a members statement to alert the house to this issue and as an adjournment matter for the Minister for Environment and Climate Change, asking him — without success, I must say — to direct the EPA (Environment Protection Authority) to revoke the licences of landfill site operators that have failed to comply with the Environment Protection Act 1970.

In response to the adjournment matter, the minister advised me on 22 September 2011 that, and I quote:

I am aware that EPA is continuing to collect evidence with a view to progress enforcement action against offending operators.

Ten months have now passed since I raised this matter. Whilst there has been a little improvement, the fact remains that these sites are still emitting toxic odours and dust, which is affecting the health and quality of life of thousands of residents in Clarinda, Clayton South, Heatherton, Oakleigh South, Springvale and the surrounding area. The residents have simply given up contacting the EPA, and frankly urgent intervention is required. If the minister will not direct the EPA to act, I call on the Premier to intervene and direct the minister to do his job.

### **Taralye: achievements**

**Ms RYALL** (Mitcham) — I would like to recognise the tireless work of Taralye, an oral language centre in Blackburn, which, through its early intervention program for children with a hearing impairment, is achieving magnificent results in getting kids to speak. Recent research shows that 70 per cent of children leaving Taralye's kindergarten facilities have speech and language skills equal to those with normal hearing, and many are now entering mainstream primary school education facilities. Congratulations, Taralye, and keep up the good work.

### **Brodie Cross**

**Ms RYALL** — I would like to congratulate Mullauna College student Brodie Cross on winning the 2011 Victorian School Sports Award in athletics. Brodie has demonstrated not only great skill in his chosen sport but also dedication, sportsmanship and a

pursuit of excellence. As we all know, Victoria is the home of Australian sport, and it is very pleasing to note that we have our own home-grown champion in the Mitcham community.

### **Alex Morgan**

**Ms RYALL** — Congratulations to Mitcham resident and cycling world champion Alex Morgan, who has been named the eastern region's overall Leader Sportsmart Junior Sports Star for 2011. Alex won the individual pursuit at the Track National Championships recently and is this week in New Zealand competing in the Oceania Road Championships.

### **Clean Up Australia Day: Heatherdale Reserve, Mitcham**

**Ms RYALL** — I would like to congratulate all members of the public who assisted in Clean Up Australia Day at Heatherdale Reserve in Mitcham and express my appreciation to them for helping to maintain a beautiful reserve area, which is well treed and lovely for the community to walk around in and enjoy.

### **Wangaratta Showgrounds: redevelopment**

**Mr EREN** (Lara) — It was with great pleasure that I attended two important regional Victorian projects which were funded by Labor and were opened last week. Wangaratta Showgrounds is now able to host bigger and better sports events thanks to the previous Labor government. We understood that Victorians love their sport and we took action to ensure that communities have the best facilities, and we contributed \$1.2 million towards this \$3 million redevelopment.

What is this government doing, apart from cutting ribbons and opening our investments? 'Nothing' is the short answer. Interestingly the Minister for Sport and Recreation did not make mention of his government's contribution to sport and recreation during his speech. This speaks volumes about this government. It does not have a plan and it does not care. I say to the minister that this is just not good enough. When is he going to invest in regional Victoria, and what new projects is he going to invest in?

### **Lara Lake Community Preschool: opening**

**Mr EREN** — Furthermore, I had the Minister for Children and Early Childhood Development come to my electorate to open another Labor-funded project. The previous Labor government contributed \$200 000 to the redevelopment and expansion of Lara Lake

Community Preschool, which was a \$1 million project. It is disingenuous that the little amount of money this government has committed to preschools has predominately been committed in Liberal-held seats. The government needs to fund on the basis of need, not to pork barrel in order to look after its Liberal-National colleagues. There are many examples where this has happened, and unfortunately for this government what it is doing is actually being very biased against the areas that really need this investment.

### **Japan: tsunami anniversary**

**Mr THOMPSON** (Sandringham) — A few days ago the Japanese consul hosted a gathering in Melbourne marking the anniversary of the massive tsunami which hit the east coast of Japan, causing the loss of life of some 16 000 people and injuring another 6000, and 3000 people are still missing. We, the Australian people, stand by the Japanese community as they seek to rebuild their nation following the devastation that was caused.

### **Sandringham Hospital: tribute**

**Mr THOMPSON** — I congratulate the Sandringham Hospital following feedback given to me by a patient who paid very high tribute to the calibre of support and care provided by the medical and nursing staff and the cooperation and teamwork amongst the people who provided support services to them during a recent stay at the hospital.

### **Pastor Youcef Nadarkhani**

**Mr THOMPSON** — Along with other Australians, I call upon the Iranian government to spare the life of Pastor Youcef Nadarkhani who has refused to renounce his faith to escape a death sentence.

### **Variety Splash**

**Mr THOMPSON** — I pay tribute to the organisers of the Variety Splash dinner and presentation evening which was held at the Sandringham Yacht Club in February. Variety is dedicated to empowering Australian children who are sick, disadvantaged or have special needs.

### **Aged care: city of Bayside**

**Mr THOMPSON** — I encourage Bayside City Council to maintain an ongoing role in aged-care accommodation and respect the legacy of councils of yesteryear.

## WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2011

### *Second reading*

#### **Debate resumed from 9 November 2011; motion of Mr CLARK (Attorney-General).**

**Ms HENNESSY** (Altona) — It is my pleasure to rise to make a contribution to the debate on the Wills Amendment (International Wills) Bill 2011. I wish to place on the record that the opposition does in fact support this bill. Whilst it is a minor bill of a technical nature, it will bring Victorian law and wills made under the existing Wills Act 1997 into line with prevailing international conventions concerning cross-border protection of wills and the Uniform Law on the Form of an International Will 1973. That is the international convention that this bill seeks to give expression to.

The passage of this bill will uphold Victoria's commitment, through the Standing Committee of Attorneys-General (SCAG), to act in this regard in the same way as all other states and territories that are undertaking the same action. Through this process Australia will finalise its accession to the international convention.

The convention and related uniform law that this bill seeks to codify in Victoria will mean the introduction of an international will that will be recognised as a valid form of a will for states that are party to the convention and, as such, will be recognised under Victorian law. International wills will sit alongside existing wills made under the current Victorian Wills Act 1997. In turn these international wills will be recognised as a valid form of will by courts of other states that are party to the convention, irrespective of where the will was made, the location of assets or where the will-maker lives. A will will also be recognised without courts having to examine internal laws in operation in other countries to determine whether or not the will has been properly executed.

According to International Institute for the Unification of Private Law, the convention is currently in force in Belgium, Bosnia and Herzegovina, Cyprus, Ecuador, France, Italy, Libya, Nigeria, Portugal and Slovenia. It is also in force in the following Canadian states: Manitoba, Newfoundland, Ontario, Alberta, Prince Edward Island, New Brunswick and Nova Scotia. The following countries are also signatories to the convention: the Holy See, Iran, the Russian Federation, Sierra Leone, the United Kingdom and the United States of America. The fact that a nation-state is a signatory to an international convention does not

automatically mean that it becomes local law. As the constitutional arrangements in Australia outline, there are a range of mechanisms that need to be adopted in order for that to find expression in domestic law.

The decision to take steps to implement and formally accede to this convention was made by the Standing Committee of Attorneys-General in July 2010. The committee made that decision in and out of session time. All Australian states and territories agreed to adopt this uniform law as their respective local laws, which in turn allowed Australia to accede to the convention. I think the important effect of this process is that it will ensure that there is uniform law in terms of all relevant Australian local laws. It will provide a consistent approach to the recognition of international wills right across Australian jurisdictions. Given the broader streams of globalisation and patterns of international migration that occur, this is an important issue to address. One can imagine that at times of great stress, when families are understandably grief stricken, ensuring that we provide consistency and certainty and giving our courts the capacity to interpret and apply wills in a way that is consistent are very important.

The bill is evidently based on a model bill prepared by the Australasian Parliamentary Counsel's Committee at the request of the Standing Committee of Attorneys-General. The bill reproduces the actual text of the convention, as it must in order to be valid under the terms of the convention. That is why the bill is quite extensive in terms of the number of pages it contains. It should also be noted that the provisions of the bill and the operation of the convention in practice do not come into force until six months after Australia has acceded to the convention. As I have mentioned, that can only occur after all states and territories have passed equivalent bills in regard to this.

As was outlined by the Attorney-General in his second-reading speech, this bill may not come into force until sometime in 2013. Following the bill's passage, international wills will sit alongside existing forms of wills. International wills are to be made in similar terms to those that are currently made in Victoria — that is, they must be made in writing and signed by the will-maker in the presence of two witnesses.

As has already been pointed out by the Attorney-General in the second-reading speech, the only significant difference between the making of an existing form of a will in Victoria and the new international will is that international will-makers must also declare the will in the presence of what is termed an authorised person, who is required to attach a

certificate to the will indicating that the proper formalities have been undertaken. SCAG has decided that these authorised persons in the Australian jurisdiction must be Australian legal practitioners and public notaries.

It is interesting that in the course of considering the bill I came across a submission by the Law Institute of Victoria. It contained a number of criticisms about the concept of adopting an international will. In 2009 the institute wrote to the Department of Justice on this very issue and extensively outlined its criticisms. Broadly speaking — and I do not wish to do a disservice to the extensive nature of the law institute's position on this bill, but I will summarise it in my limited and rudimentary way — effectively the law institute considers the validity requirements for international wills to be onerous and time consuming. The law institute is not in favour of any amendment to the act which would impose any more significant burdensome formalities in relation to the valid execution of a will. That obviously becomes an issue, because we know that many people use the self-help will options that are available; they see them as more accessible, in both a financial and logistical sense, than going to the expense of having an Australian legal practitioner execute a will for them.

The law institute also made the point that the existing act already contains provisions in respect of wills that are made under foreign laws and also said that even without adopting a uniform international will, a Victorian practitioner may prepare a will in that form today if he or she is satisfied that it is appropriate for the jurisdiction for which it is intended, just as a practitioner, properly advised, may prepare a will in any other appropriate form for another jurisdiction. It is important to reflect on the issues that the law institute has raised.

Despite the issues the law institute has raised, the opposition was provided with a briefing on this bill by officers of the Department of Justice — I take this opportunity to thank the department for taking the time to brief the shadow Attorney-General on this matter — at which they indicated that the Law Institute of Victoria supports the legislative changes in the form proposed by the bill. We rely upon that representation by the Department of Justice in indicating our support for this bill.

The matters of potential concern voiced by the law institute in 2009 are not issues that we find so persuasive that they outweigh the positive benefits of acceding to the international convention, which of course will be further enhanced by additional states and

countries acceding to it as well. We think it is important that Victoria do its part. I commend the government for taking this step and ensuring that we implement and continue the momentum that was established under the previous government at the SCAG level. It is my view that the more states and countries that accede to the convention, the better coverage and recognition these international wills will have across the world. As I have previously said, the greater the certainty, reach and consistency there is, the better it will be for the law of succession and for the families of the deceased who are grieving. For those reasons I wish the bill a speedy passage through both chambers.

**Mr NORTHE** (Morwell) — It gives me great pleasure to rise to speak in the debate on the Wills Amendment (International Wills) Bill 2011. We are pleased that the opposition is very much supporting this sensible bill, the purpose of which is to amend the Wills Act 1997 to give effect to the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973, which was signed in Washington, DC, in 1973. UNIDROIT is an intergovernmental organisation which seeks to harmonise and coordinate private laws between countries. The bill before us is part of the international wills convention, the purpose of which is to have one uniform law instrument that can be applied.

As is referred to in the second-reading speech by the Attorney-General, Australia has been a member of UNIDROIT since 1973, but it is not a signatory to the international wills convention, which has been operational since February of 1978. In her contribution the member for Altona made reference to some of the countries that are signatories to the international wills convention, including France, Italy, the USA and the United Kingdom. This bill is important because Australia has very strong links with its international counterparts, and the Minister for Multicultural Affairs and Citizenship, who was in the chamber a few minutes ago, would certainly understand that. I will refer to that a bit during my contribution.

The objective of the amendment to this bill is to eliminate issues that arise across jurisdictions when dealing with wills, including in the circumstance where a person's country of residence is different from where the will is to be executed and also when wills deal with assets that are located overseas. You do not have to be Einstein to work out that the time when a will needs to be executed is often a very distressing time. If we can harmonise legislation to make it easier for people across jurisdictions to execute the will in a uniform way, then

it makes sense to do so. It is something we are supportive of.

The bill came about after, as was referred to in the second-reading speech by the Attorney-General, the Standing Committee of Attorneys-General in July of 2010 agreed that states and territories would legislate to adopt the convention's uniform law. As the member for Altona pointed out, there will be a consistent standard of words and text that will be utilised across legislation in all states and territories. The uniform law itself provides for an additional form of will — the international will. It sits alongside other forms of wills that currently exist. It is recognised as a valid will through the courts in countries that are signatories to that international wills convention. I referred to some of those countries earlier. The will itself has similar requirements to those under the Wills Act 1997. There is one difference — and the member for Altona referred to it — which is that the will must be declared in the presence of an authorised person. Through these amendments this bill designates Australian legal practitioners and public notaries as authorised persons for the purposes of the international wills I referred to.

SCAG itself has agreed that that will be the case, and it is important that those authorised persons have an understanding of local laws concerning wills. It is important to note, from a broader perspective, that cross-border or cross-jurisdiction legislative frameworks can sometimes prohibit these types of scenarios playing out. My colleagues in The Nationals would know very well some of the cross-border anomalies that exist. The members for Mildura, East Gippsland, Rodney, Murray Valley and Lowan all deal with their own cross-border anomalies. In terms of wills it is very important legislation that we have before us. It is important that people, at the time of grieving, are able to execute and apply wills through best practice methods. This is a sensible approach that allows them to do so.

Victoria is built on the foundation of our embracing multiculturalism, and nowhere is this more practised than in the electorate of Morwell in the Latrobe Valley, although many other regions do it also. The Latrobe Valley is built on the foundation of migrants and their service to our community. Indeed this weekend we have the multicultural festival. I am sure those who reside in the Morwell electorate and form part of the wonderful band of people who have provided skills, dedication and determination over a long period of time would welcome the embracing of their multicultural backgrounds. They may have family back in the countries from which they come, and they might be

able to practically apply the reforms in the amendments we have before us today.

With those few words I again congratulate the Attorney-General for bringing these amendments in the bill before the house. We look forward to their inception at a later time. We are pleased that the opposition supports the bill before us, and I wish it a speedy passage.

**Mr LIM** (Clayton) — I welcome the opportunity to speak on the Wills Amendment (International Wills) Bill 2011, particularly as I represent the most multicultural electorate in this state. However it would be remiss of me not to bring to the chamber's attention that it is some four months since the bill was introduced into the house, and four months after the government insisted that it could only agree to a two-week adjournment. Nevertheless, despite the government's lack of urgency it is a very important bill as far as I am concerned, particularly for Victoria's migrant communities, which have a strong connection with their home countries.

Australia is very much a land of migrants. Every time I attend a function with the mayor of the City of Greater Dandenong or the mayor of Monash or Kingston, I remind the audience of the fact that we are a city representing something like 185 nations, practising more than 100 religions and speaking nearly 200 different languages.

The census of 2006 indicated that 23.8 per cent of the Victorian population was born overseas; and I am sure in the census of last year the figure would be even higher. The latest publication from the Victorian Multicultural Commission indicated that another 20 per cent have either one or both parents born overseas, so the figure is very significant, and a bill like this makes me reflect on many of the things that are happening around me. I have a neighbour across the road who would not take up citizenship. He is in his 60s, from Italy, and it took me some time to find out that he had properties back home, and he said Australian citizenship would affect his inheritance.

I remember that when I was at university I had many friends from overseas, and one was a professor from Thailand who stayed here for a long time and wanted to stay longer but decided to return simply because of this inheritance problem. In addition, the owner of the electorate office that I rent is from Malaysia and he had the same problem. Many Malaysians here want to be permanent residents but do not want to take that step of becoming full Australian citizens simply because of the complexity of the inheritance and land ownership laws

and how land may or may not be passed onto their children. A bill like this will go a long way towards making things easier for our migrant community, and it is appropriate that we are dealing with it.

There is no doubt that some migrants maintain very close relationships with their birth countries, and now with the growing number of Chinese in this state there is no doubt that this bill will go a long way towards trying to make things easier for them to understand in terms of where they stand on issues of inheritance and wills, so we should be very proud of taking this step.

There is an old saying that a person who dies without a will has lawyers for his heirs. But for Victorians owning property overseas a will may not be enough to overcome all of the legal expenses and time-consuming delays for their heirs in having a Victorian will recognised in international jurisdictions.

As a response to this issue the International Institute for the Unification of Private Law (UNIDROIT) has developed an international convention on wills. UNIDROIT grew out of the old League of Nations, and is:

... an independent intergovernmental organisation with its seat in the Villa Aldobrandini in Rome. Its purpose is to study needs and methods for modernising, harmonising and coordinating private and in particular commercial law as between states and groups of states and to formulate uniform law instruments, principles and rules to achieve those objectives.

A UNIDROIT convention in 1973 provided for international wills. In simple terms the convention provides that an international will in the jurisdiction of one signatory state is a valid will in the jurisdiction of another signatory state. To this end the convention provides an annex which this bill inserts through the schedule at the end of the bill. There is no doubt that this bill is pretty technical in its own right.

While the Attorney-General in his second-reading speech mentioned that 12 states are party to the international wills convention, UNIDROIT itself has 63 member states, so there is the potential to increase the number of countries to which international wills apply, and of course Australia is now in the process of becoming party to the convention.

Clause 5 of the bill inserts a new division 7— International wills — into the principal act, which is the Wills Act 1997. It includes a new section 19D — Witnesses to international wills — and this makes it clear that the legal requirements for witnesses to wills, including international wills in Victoria, remain those as determined by the state. The main change brought by

the bill is the addition to the principal act of a new section 19C — Persons authorised to act in connection with international wills. This specifies that an authorised person must be a legal practitioner or a public notary. At the end of the bill is a new schedule to be inserted into the Wills Act. It requires the authorised person to attach a certificate verifying that the will is in the prescribed form to comply with an international will.

I will conclude where I began — on the issue of the four-month delay in debating this bill. Indeed, the Scrutiny of Acts and Regulations Committee, in its *Alert Digest* No. 14 of 2011 warns that international wills may not be in effect in Australia until 2013, and UNIDROIT, in Article 1 of its 1973 convention, states:

Each contracting party undertakes that not later than six months after the date of entry into force of this convention in respect of that party it shall introduce into its law the rules regarding an international will set out in the annex to this convention.

I hope the government does not sit on this bill for another four months in the Legislative Council.

**Mr THOMPSON** (Sandringham) — The main purpose of the bill before the house is to amend the Wills Act 1997 to give effect to the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973. My first remark is that it is 39 years ago that this international convention was encouraged so that it might assist in giving effect to the intention of a will made in a different country, perhaps an originating country. That is a remarkably long time. The legal outcomes and additional expenses of many people may have been affected in the intervening period. I commend the coalition government for taking the initiative to bring this into effect, albeit within a federal framework.

My second comment relates to Victoria's position of being the home to the diasporas of over 200 countries around the world. Within the context of the bill's importance, there are some regions in the world where the UNIDROIT convention may not have the same significance it has in Victoria. Settlers from over 200 countries around the world have made their home in Victoria. It has also been said that 40 per cent or thereabouts of Victorians are either born overseas or have a parent born overseas. This is reflected in the members of this chamber at the present time. That has some significance in terms of the importance of the legislation and the practical impact it will have.

Changing the law in this chamber will only be part of the equation. People also need to recognise that in the event that they do not make a will, they may end up in a situation where they die intestate. Not to be confused with the word 'interstate', 'intestate' means the circumstance of a person dying without having made a formal will. The scheme and distribution of an estate would then follow a statutory formula, which may not necessarily be the formula that people might seek to apply to their own circumstances. I have a number of colleagues who will be encouraging their constituents to give some consideration to the process of will making and to the process of preparing enduring powers of attorney or medical powers of attorney. These may enable decisions to be made regarding an individual's medical treatment or regarding the administration of an individual's financial and property matters at a time when they have lost the mental capacity to make those judgements or decisions themselves. It is all very well having a change in the law before the house at the moment, but there needs to be a practical application.

Generations of lawyers in Victoria have been strongly influenced and wisely led by the instruction of former Monash University lecturer Lawrie McCredie. Lawrie is a remarkable person who was at one point the dean of the law faculty at Monash University. He attended Melbourne High School and went to Duntroon. Tragically he lost his eyesight in an explosion, which meant that he had to redirect his career. With the able support of his wife, who was the nursing sister who nursed him during the initial period of his convalescence, he studied law and then lectured on the laws of estates, succession and wills at Monash University. He had a very strong impact on generations of lawyers who would remember the calibre of his teaching and his ability to impart knowledge, albeit without the benefit of using sight to read the cases and judgements about which he taught. He made a very strong contribution to the legal profession in Victoria through his sage teaching and his rapport with students as a university lecturer.

I would like to make comment on the question of which countries are signed up to the convention. I note that there are currently 12 state parties to the convention and an additional 8 signatories. The state parties which have legislation that has already come into effect include Belgium, Bosnia, a number of Canadian provinces, Cyprus, Ecuador, France, Italy, Niger, Portugal, Slovenia and Yugoslavia. There are a number of other parties that have signed the convention but it has not yet come into force in those countries. They include Iran, Laos, Russia, the Holy See, Sierra Leone, the United Kingdom and the United States of America. Absent

from this list of countries that are within a bull's roar of being able to affect changes are India, China, Vietnam and Greece. Historically the largest migrant groupings in Victoria have been from Italy, Greece, Vietnam and China. With the volume of overseas students studying in Victoria and taking up permanent residence in this state we have a situation where a very strong cohort of Victorians will not have the benefit of the provisions of the bill before the house at the moment.

Briefly summarised, the provisions of the bill enable a person to make a will under the Wills Act 1997 and have it recognised overseas through the completion of the forms that were part of the 1973 agreement. The one requirement, in addition to existing requirements such as the terms of a will being in writing and it being witnessed by two people, is that the document be authorised. Any lawyer or public notary may authorise the document, which is the additional formal process that is required.

It is in many ways regrettable that there has been a slow uptake of the vision of the UNIDROIT convention-makers, which goes back some 39 years, of a uniform law on the form of an international will. While it will be of invaluable benefit to many people in the passing on of a legacy, real estate or some other benefit under the terms of a will, I also take the opportunity, in a parochial political sense, to note that people can leave a legacy in different ways. Some might leave real estate or a financial legacy, but a number of people create and leave a legacy that has a continuing benefit. The Friends of Cheltenham and Regional Cemeteries has highlighted a number of outstanding Victorians who have made contributions which continue to live on in different ways.

There is the wonderful work of Dr Vera Scantlebury Brown, a medical practitioner who trained in Melbourne. I believe she sought to serve in Australia as a surgeon but was not able to do so, and in support of the war effort undertook medical work in London. Upon her return to Australia she had a pivotal role in the field of maternal, child and preschool welfare. She benchmarked standards in Victoria and, in turn, Australia that became a precedent for the rest of the world to follow. The proportion of deaths in the immediate post-birth phase is a result of her good practices in child and maternal health and led to the situation where in recent years the death ratio has fallen from a significant figure 100 years or so ago to just 3.9 deaths per 1000 births in more recent times. She made an outstanding contribution.

I also refer to a former Sandringham electorate resident, Bruce Ruxton, whose main legacy was his advocacy on

behalf of returned service personnel and their widows in order for them to gain entitlements and work their way through the repatriation process. He was a vigorous advocate whose legacy to the wider Victorian community was not in material kind but in the welfare that he advanced on behalf of widows and the returned services community in Victoria and Australia.

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

**Mr PERERA** (Cranbourne) — I am pleased to speak on the Wills Amendment (International Wills) Bill 2011. The bill amends the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973, which was signed in Washington, DC. By a decision of the Standing Committee of Attorneys-General of July 2010, all Australian states and territories have agreed to adopt the uniform law into their legislation. I congratulate all the committee members for taking this very important initiative in Australia. The law will allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions.

The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will — where a will deals with assets located overseas or where the will-maker's country of residence is different to the country in which the will is to be executed. This objective is very useful for a multicultural society such as ours, especially in Victoria, where 40 per cent of residents were either born overseas or have at least one parent who was born overseas. We have people who have migrated from the four corners of the world; except for members of our indigenous community everybody is either a migrant or a descendant of a migrant.

Many migrants who have decided to permanently live, work and raise a family in Victoria or Australia still maintain properties overseas, even though they believe their descendants will permanently live in Australia. Had it not been for entities such as the UNIDROIT convention, many Australians would have to travel to those countries and establish separate wills in these countries under different jurisdictions. This situation may still be the case, because in some parts of the world the uniform law has not been adopted. I am sure most countries will do this in the near future, but it will take some time. While there are exceptions, many people had residential property before migrating to Australia. They may have been making rushed decisions, so they

did not want to take a chance and sell all their property before migrating to this country. That is why, after a number of years in Australia, some people have to revisit their birthplace to write their own wills and make arrangements. However, under this proposed legislation, they will be able to make those arrangements here in Australia.

This is a very helpful piece of legislation, because wills are an important part of human life. In the absence of wills, families can fall apart. When somebody in a family passes on and leaves property behind, mothers can turn against children and children can turn against their siblings. In the absence of a will there is no direction on how the property or assets are to be shared within the family network. This bill is a very important step for all seven Australian jurisdictions to adopt and follow the leaders of the pack, even leading many other jurisdictions across the world. It is important that other countries follow the lead and pass uniform law in their own jurisdictions.

In the absence of wills people can act deceitfully and dishonestly. It is always helpful for people to make international wills so that their wills can be executed in any part of the world in their absence and in the absence of a legal team in a given country. The opposition is not opposing this bill, and I wish it a speedy passage.

**Mr SOUTHWICK** (Caulfield) — I rise to speak in the debate on the Wills Amendment (International Wills) Bill 2011, which is an important bill. We cannot take lightly what a death does to the family and friends. It is a horrible thing for any family to contend with, even without complex argumentation and dispute about the distribution and termination of a will. Anybody who has gone through the death of a family member or friend — and many Victorians have, including, I am sure, many in this house — will know that the last thing a person in that situation wants to contemplate is the distribution of assets and the complexities around that.

Today a number of speakers have already spoken about Victoria being a multicultural state that has 200 countries — with 200 different jurisdictions — represented by people who speak some 230 dialects. If we look at the composition of families, we see figures showing that in the case of 40 per cent of people, their mother or father were born overseas. When we look at these sorts of figures, we can contemplate how this bill will ensure that disputes can be handled across borders, that we will have a uniform law under which disputing a will can occur and that the relevant process will be speedy.

The overall objective of this bill is to amend the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will of 1973. The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will. Where the bill deals with foreign assets, for example, or where the will-maker resides in a country different from the country in which the will is executed, this legislation will allow the will to be sorted out and the people in the different jurisdictions to be covered.

As we have heard, the uniform law resulted from an initial recommendation of UNIDROIT, an intergovernmental organisation that formulates uniform laws. It is aimed at harmonising and coordinating private laws among countries. We have also heard today that a number of countries and jurisdictions have signed up already. Since the international wills convention came into force in 1973, 12 state parties and an additional 8 signatories have signed up. The jurisdictions so far are the United Kingdom, the United States, Italy, France, Bosnia and numerous provinces of Canada. A number of places are awaiting sign-off, such as Iran, Laos, Russia, Syria and Sierra Leone.

When we are looking at an important issue such as the cross-border dispute resolution of something that will affect each and every one of us, I think members on both sides of the chamber would agree that it is important to get more signatories to these sorts of conventions. I would advocate very strongly that we do whatever we can to ensure that more jurisdictions sign up to this important step. I would advocate particularly on behalf of a number of people in my constituency of Caulfield. We have a number of people who have settled after leaving various countries. Many fled wars, particularly the Second World War. They have fled especially from many of the countries of Europe, and in many cases there were parcels of land, property and assets left in the countries they fled from. When a family member passes away, it is important for those left behind to be able to look again at the properties which were theirs and which had been left as part of their family's assets and to be able to settle the relevant matters.

I note that many of those people who fled, particularly during the time of the Nazi regime in Germany, did not want the relevant parcels of land because they saw them as being associated with that terrible regime; they saw the land as connected to that regime. With this legislation we are able to look at settling matters once and for all. That allows families to have closure. It

allows them to go back and take what is rightfully theirs. That is why it is very important that we settle this.

I am glad the opposition is supporting this bill. I commend the Attorney-General on the great work that has been done in putting this work together. I was a little bit surprised, I must say, by the member for Clayton, who made the point that it took us four months to bring this bill before the house. Victoria is the first of all the states and territories in Australia to bring this legislation forward. As we all know — and I am sure the member for Clayton would know this as well — the legislation cannot proceed until all states and territories sign up to it. The fact is that we have brought this bill before the house, and getting it right is very important. As I said, we need all states and territories to sign up to the arrangement before it can come into effect. I am pleased other states and territories are signing up, but we need to ensure that the process is completed.

It has taken some 33 years for this legislation to get to the point it is at now. As the member for Sandringham correctly pointed out, a lot of water has flowed under the bridge since that time, and disputes that possibly could have been settled in that time have not been settled because we have not had the effective cross-border legislation allowing for dispute resolution which this bill provides for.

I will take a moment to reflect briefly on how important it is for all Victorians to consider making a will and, as was mentioned by the member for Sandringham, members on both sides of the house should remind their constituents of that. When we are young, fit and healthy and running around doing all the things we do, the last thing on our minds is death, but it is absolutely imperative to ensure that once we have accumulated any assets we prepare a will and appoint a power of attorney. That will ensure that once somebody is gone any necessary process is speedy and does not cause disputes among or pain to members of families.

What I have seen time and again, both in my office since I have been a member of this place and previously, has been families torn apart by money. They have been working out who gets what money and how it is distributed. In many cases they are trying to interpret what was the initial intent of the person who left property, other assets of money or whatever. The best way that can be limited is by ensuring that the person who owns assets stipulates their requests correctly and clearly in a will so that the family can carry out that person's wishes. That is absolutely imperative.

That principle will be coupled with this legislation, and we can be peacefully assured that any area in which there is any dispute among families or in different countries or jurisdictions will be covered. This is good, solid legislation which has been introduced after good work by the government. I commend the bill to the house.

**Mr SCOTT** (Preston) — It gives me pleasure to rise to speak on the Wills Amendment (International Wills) Bill 2011. Like other members, I reinforce the importance of making a valid will. I am sure all of us at various times have dealt with the issues that arise when a person dies intestate — that is, with the problems and conflicts that can cause in relation to disposable assets and additional problems. All of us, obviously, will pass from this world and none of us know when that will occur. It is imperative that all members avail themselves of the opportunity to make a valid will. That will resolve, not always entirely but as much as possible, the sorts of issues that often arise when people have not made a valid will. Members who have spoken in this debate, including the preceding speaker, have highlighted that particular issue.

While this bill makes welcome advancements in dealing with wills made in different jurisdictions, such legislation obviously has no effect if a valid will has not been made. Therefore it is imperative that as many people in the community as possible avail themselves of the opportunities which are afforded, relatively simply these days, with the various forms available for making a valid will. There are will kits and legal firms, some related to industries and volunteer organisations, where there are arrangements for people to make a will at either no or limited cost. It is important for us all to emphasise the benefits which accrue from making a valid will.

Turning directly to the provisions of the bill, it arises out of a decision of the Standing Committee of Attorneys-General — SCAG, as it is often referred to — to agree to adopt the uniform law to allow Australia to formally accede to the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will, which I understand was created on 26 October 1973 and came into force on 9 February 1978. As has been previously mentioned, a number of countries — I will not list them all — have acceded to this convention and it has entered into force in a number of countries. There is another group of countries where the convention has been signed but has not yet entered into force.

As has been mentioned, Victoria is a multicultural community with persons who have entered other countries before entering into the Victorian community. Conversely, there are Victorians who are living, working or travelling internationally. This creates many circumstances where wills have to deal with assets that exist in different jurisdictions and different legal environments. It is useful that this bill provides a certain level of certainty to aspects of that process. It is important to note that the uniform law in this case does not deal with the issues of the capacity required of a will-maker or the construction of the terms of a will. Those matters will be dealt with by local law. The uniform law sets out the requirements for the form of a will and the process of its execution. This is an important step, dealing with a limited aspect of the process of making wills where there are issues relating to assets or individuals across jurisdictions. It is an important advance that I am sure is welcomed by members on both sides of this Parliament.

As people would be aware, there are particular issues with property holdings between jurisdictions. It should be noted that approximately 1 million Australians live around the world as expatriates. Obviously proportionately about 250 000 Victorians would make up part of that total. There are of course a large number of people who were either born overseas or are children of people born overseas or non-permanent residents living in Victoria. Hence, there are often complex personal and business relationships with people in Victoria. To deal with such issues it is appropriate to provide a mechanism to streamline and buttress the legal process relating to dealing with wills.

As the world becomes more and more globalised and the interpersonal and business relationships between people from different jurisdictions grow, which is a large part of globalisation, the law relating to international wills and the issues that arise out of them should help support certainty and uniformity where possible. As has been stated previously, that is not so in all countries, but there is a significant list and I will touch on a couple of them. They include a number of states in Canada and Italy, so there are important countries which have great relationships with the state of Victoria.

I am sure there will be individual Victorians and people in other jurisdictions who are related to Victorians who will benefit from the passing of this bill. It is an example of the great work which SCAG has done over the years to bring uniformity and certainty to law within Australia. I note the contribution that was made to SCAG by the former Attorney-General, the former member for Niddrie. Before I conclude my

contribution, I reinforce the point made by a number of the contributors to this debate — that is, the importance of every person making a valid will to ensure that the difficulties that arise in dealing with the death of any individual are minimised. On that note, I wish the bill a speedy passage.

**Mr McCURDY** (Murray Valley) — I too am delighted to rise to speak on the Wills Amendment (International Wills) Bill 2011, and certainly not just because we have an ageing population, as others have mentioned in this chamber today, but because all members of the community 18 years and older should be considering their wills and the ramifications of not having a will in order.

The main purpose of the bill is to amend the Wills Act 1997 to adopt the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will, otherwise known as ‘the convention’ and signed in Washington DC in 1973. The primary objective of the convention is to eliminate problems that arise when cross-border issues affect us and affect a will — for example, when a will deals with assets located overseas or when the will-maker’s country of residence is different to the country in which the will is executed. This provides uniformity, consistency and flexibility. In this day and age, with the travel and movement of people on a global basis, introducing the bill makes common sense. As mentioned by a previous speaker, over 1 million Australians live overseas, and the amendments in the bill will have practical applications for those people.

The international wills convention came into force, as we know, on 9 February 1978. It currently has 12 state parties and an additional 8 signatories, which include the United Kingdom, the USA, Italy, France, Bosnia and numerous provinces of Canada. While Australia has been a member of UNIDROIT since 1973 it is not yet a signatory to the international wills convention. However, in July 2010 the Standing Committee of Attorneys-General (SCAG) agreed that all Australian states and territories would adopt the convention’s uniform law into their local legislation, which allows Australia to formally accede to the convention and provides a consistent approach to the recognition of international wills across all Australian jurisdictions. This bill therefore meets that commitment and is based on a model bill prepared by the Australasian Parliamentary Counsel’s Committee at the request of SCAG.

Having said that, I point out that the international wills convention requires contracting states to introduce the

uniform law on the form of an international will into their own law. States must then reproduce the actual text of the uniform law or translate it into the official language or languages of that state. This universal law provides for an additional form of will, an international will, that sits alongside, for example, a Victorian will or those of other states that also adopt this, in existing forms.

An international will that complies with the uniform law will be recognised as a valid form of will by courts and other states that are party to the international wills convention, irrespective of where the will was made or, as I said previously, the location of the assets or where the will-maker lives. In this global world we live in, that need will only increase rather than decrease as time goes on. Australia will not accede to an international wills convention until states and territories have the necessary implementing legislation in place. Further, the convention provides mechanisms so that entry into force of the convention occurs six months after the accession takes place. The Victorian amendments will therefore not commence operation until that convention comes into force in Australia, which may not be until as early as 2013, and when that uniform law is operating all states and territories will have a consistent approach to the recognition of these types of international wills across Australia.

Further to this, an expanded number of foreign countries will be required to recognise wills made in Australia in compliance with the uniform law, and that means a testator, wherever they or their assets are located and whatever their nationality or language, can choose this form of will knowing that it will be recognised as a valid form of will anywhere in Australia as well as in any country that is party to the international wills convention.

In my electorate of Murray Valley, along with all other electorates across the state, wills can cause much confusion and distress. Earlier in the day we heard the member for Morwell saying that this matter affects his electorate as it does mine. It is a difficult time when a will needs to be read, so any reduction in confusion could make life a lot easier at that difficult stage.

Cross-border anomalies are a major issue in the region in which I live on the Murray River; they are part of our daily lives. We often find that whether it has to do with building amendments, drivers licences or various laws that cause confusion, living as we do, close to a state border, we understand how different laws in different states can make it quite convenient and at times inconvenient to settle transactions. The emotion and difficulties that can arise from the will of a high-profile

person are often highly reported by the media, and that creates further confusion.

There is a practical sense that these wills will sit beside the Victorian wills, as I said earlier, and I commend the way this bill has been handled. I encourage my constituents to do what they can to have their affairs and those of their loved ones in order well before a will may need to take effect. That involves sitting down and talking to the family and understanding everyone's expectations and their wishes as that time comes about. Circumstances may also require the appointment of a power of attorney, and now is a great opportunity for people to take that advice and talk to family members. There is no better time than the present to begin those discussions, and this is a good opportunity to do so. By seeking appropriate advice and information people can eliminate the stress and element of surprise that wills sometimes contain. This bill is another step towards removing the complexity of some of the extra issues involved.

I have handled most of the detail of the bill. We have consulted widely on this bill. A consultation was undertaken with the stakeholders in the legal profession: the Supreme Court, the Law Institute of Victoria, the Victorian Bar Council and State Trustees Ltd. We have spoken to all those bodies, which is important as we move forward to make sure that people have their say. I am pleased to hear that the opposition does not oppose this bill. It is terrific that we are seeing eye to eye on this issue. I commend the Attorney-General for his foresight and on the practical outcomes that will result from this bill. On that note, I commend the bill to the house.

**Mr LANGUILLER** (Derrimut) — It gives me pleasure to rise to speak on the Wills Amendment (International Wills) Bill 2011. It is not one of the bills that will necessarily attract robust debate in this chamber, which members on both sides sometimes appear to enjoy, but it is useful legislation being introduced into Parliament arising out of the meeting of the Council of Attorneys-General that took place in July 2010. It is pertinent and particularly important to many of us who have relatives and families living in a number of countries. That goes to the heart of this community, and indeed to this country, where one in three or one in four people have been born overseas.

The Wills Amendment (International Wills) Bill 2011 is important because it will provide some degree of uniformity and harmonisation. I wish to take this opportunity to extend my appreciation to the minister at the table, the Minister for Innovation, Services and Small Business, who was kind enough to allow me to

ask a couple of technical questions in relation to it. I appreciate that. The convention's uniform law provides for a form of international will that sits alongside other forms of wills. An international will that complies with the uniform law will be recognised as a valid form of will by courts in states that are party to this convention.

It is important to establish clearly that the main purpose of this bill is to amend the Wills Act 1997, but it is also important to say that this convention, which was signed in Washington DC in 1973, has not been endorsed by a number of countries that I would have thought should have been party to it. Let me speak on the positive side. There are countries like Canada, which has signed and has therefore given its dual citizens and citizens abroad the opportunity to work through these complex challenges when they arise. Bosnia, Cyprus and Italy are also some of the countries that have signed and become party to the convention providing uniform law on the form of an international will.

As members of this house would be aware, I come from the Latin American part of the world; I was born in Uruguay. It is unfortunate that all Latin American countries except Ecuador — and I commend Ecuador — are not signatories to this convention. It is unfortunate because there are literally millions of Latin American people who live abroad. There are half a million people from Uruguay living abroad, there are probably about 1 million from Argentina and the list goes on and on.

The other country that has not been a signatory or has not contracted into this arrangement is Greece. Of course most members of this place would represent members of Greek communities of one type or another. As the good member for Sandringham indicated, we are a multicultural country, and one of the major communities in Victoria is that made up of people with Greek backgrounds. The Italians have signed the convention, but the Greeks have not. I can only call upon these countries respectfully, if I may, to get their acts together, understand the importance of this legislation, of supporting uniform law internationally and providing that service to the diasporas of these countries, because at the moment I can only imagine how complex the process is. In addition to the fact that it is typically triggered by the passing of a loved one in the family, I find there is a complex range of issues associated with not being able to execute those wills.

Once a country becomes a contractor to the convention, it is then supposed to enact national legislation in its own country. I think that is not much to ask, given that a large proportion of these diasporas, if I may use that terminology, certainly contribute to the economies back

at home. Whether it is the English, the Irish, the Uruguayans, the Greeks or the Italians, they are certainly intertwined with their countries of birth. They go there as tourists, they send money back home and they contribute to the wellbeing of their families in more ways than one, and I think it is important that these countries adopt this uniform law.

Speaker, it is a pleasure to have you in the chair.

**The SPEAKER** — It is nice to be here.

**An honourable member** interjected.

**Mr LANGUILLER** — I will not take up those interjections.

I will certainly be writing to every ambassador in Canberra, asking them to give consideration to this important legislation, because I know this legislation is important to people on the ground, shall we say — people who came to this country, who worked and made contributions and are likely to have developed wills.

I will give one example of my own, if I may. It is unusual for me to bring family matters into this chamber. My daughter lives in Argentina. If I were to have a will — and I do — what would happen in the event of — —

**Ms Green** — Don't go, Telmo!

**Mr LANGUILLER** — Absolutely not. Can I say, Speaker, I can assure you and my colleagues on this side that I have every intention of staying around for a long time to come. But just in case, and because of the complexity of having to deal with these issues with members of my direct family, in this case a daughter of mine, living in another country, I think this bill is important. Can I say that if one were to examine the annex which was provided, one could see that the form of an international will is very simple and straightforward. It can be handwritten and in the person's own language, as I understand it. It requires a couple of witnesses. It can be very simple. In fact that simplicity, if anything, warrants that attention be paid.

The other matter you would appreciate, Speaker, is that there are lots — people have spoken of some 220 or thereabouts — of communities, languages, cultures, faiths and so on, and many do not have a tradition of organising a will per se. I guess I include myself in the groups of families that do not have such a cultural tradition. I assume this is predominantly because there is not much to leave behind in terms of assets; consequently, why would you worry about making a

will? But Australia has treated most of us reasonably well as we have taken up its opportunities, and there might well be assets that we might wish to facilitate handing to the next generation.

I suggest organising a will according to Victorian law, but in addition to that, encouraging the diplomats of people's countries of birth concurrently and consequently to take up the challenge and pay attention to this convention for an international will, which was established, as I understand it, in October 1973. With these few remarks I wish this bill a speedy passage.

**Mrs FYFFE** (Evelyn) — I am pleased to rise to make a contribution on the Wills Amendment (International Wills) Bill 2011. It is important to emphasise that international wills will just sit alongside wills already allowed in the Wills Act 1997. They do not affect or override existing forms of will. In particular while an international will may be a foreign will because it is executed overseas, it is going to sit alongside other foreign wills recognised by the Wills Act 1997 under division 6 of part 2 of that act. However, an international will made in compliance with the Uniform Law on the Form of an International Will 1973 will remove the need for the court to determine which jurisdiction's rules should be applied to determine whether the will was validly executed.

The uniform law only goes to the issue of the formality of a will to be admitted to probate in Victoria. It does not affect the substantive law to be applied to the administration of estates with assets in Victoria or the rules of construction of wills, and neither does this bill fix up every problem with the different rules in every country. We are probably all very much aware that in some countries if you are a citizen of another country, you are not allowed to inherit or own property in that country. This does not fix this up. Hopefully, over a period of time more and more countries and states will sign up to the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will. Incidentally, Victoria is probably going to be the first state to formally sign up to this and follow through with it.

Why do we have wills? Wills are important so that we can direct that any property we own goes to the people we want to have it, and I would encourage everyone to have a will and to make sure that they have executors of that will who understand what their wishes are. In today's modern society, where we have so many blended families and extended families, it is very important that we are clear about where we want our assets and property to go and who is to have what

share. It can be very difficult and confronting for families when someone who does not have a will passes away. In the normal dynamics of family life, particularly in a large family, it is difficult to get agreement, but in a blended family where there are stepchildren or children who may be thrice removed from a family but are part of that family it is a completely awkward situation. It is very important that people have wills.

It is also important that people have powers of attorney — a medical attorney and also an attorney over the estate — so that they can manage their affairs. At some point all of us will probably need someone to help us make decisions or someone to take over the making of decisions for us if we are incapacitated and cannot make those decisions. It is sad that so many families break up when someone dies and there are fights over wills, and we read about that in our newspapers and hear about it amongst friends and families. I will be urging everyone in my electorate to make a will, and I encourage them to have powers of attorney.

The details of this legislation are that the UNIDROIT convention requires contracting states to reproduce the actual text of the convention's uniform law. The bill does this by inserting a schedule containing the uniform law into the Wills Act 1997. The uniform law sets out the requirements for the form of international wills and the process for their execution. The uniform law does not deal with issues such as the capacity required of the will-maker or the construction of the terms of a will. These matters will continue to be dealt with by existing Victorian law.

The formalities required for an international will are similar to the requirements for other wills under the Wills Act 1997. For example, the will must be in writing and signed by the will-maker in the presence of two witnesses; however, the maker of an international will must also declare the will in the presence of an authorised person, who must certify that the formalities required by the uniform law have been met. The bill designates Victorian legal practitioners and public notaries of any Australian jurisdiction as persons authorised to act in connection with international wills in Victoria.

In July 2010 the Standing Committee of Attorneys-Generals (SCAG) agreed that states and territories would adopt the convention's uniform law in their domestic legislation to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions. The commonwealth will only accede to the convention once each state and territory

has in place the necessary implementing legislation. It is particularly important for Victoria that this legislation proceeds, because, as has been mentioned before, we have people from 200 different countries here in this state, which adds to the beauty of the state but can cause complications for those new residents when wills that may have been made in other countries need to be executed.

The bill is based on a model bill prepared by the Australasian Parliamentary Counsel's Committee at the request of SCAG. As I said, the commonwealth will not accede to the convention until all the states and territories have the necessary implementing legislation in place. I am pleased to support the bill. As I said, it is an important bill, but it is not going to solve all the problems. I know the next speaker for the opposition on the list of speakers is anxious to speak and has hurried into the chamber to take her place. I support the bill.

**Ms BEATTIE (Yuroke)** — It is very nice to be greeted with such anticipation by members of all parties. It is often said that where there is a will, there is a relative, and the more dollars attached to that will, the more relatives shaken out of the tree. We see that with a very high-profile case at the moment where all sorts of people have sought to buy into how they think the deed of trusts should be divvied up and what should happen with that will.

That high-profile case takes me back to a simpler time when many people aspired just to have enough money in the bank to cover their funeral costs. Certainly their children never sought to gain advantage from their deaths, and those people did not seek to be a burden on their families. As some of my colleagues would know, many law firms still offer union members a free will. We often hear members on the other side of the house talking about unions in derogatory terms, but here is something that unions do that is a really positive thing: provide a will service for their members. I understand many unions help to defray funeral costs for their members too.

This legislation highlights the importance of having a will. I would certainly not advocate going to a newsagency and buying a will pack over the counter. You need good professional advice to make a will, because it can be very complex. These days, when there are mixed families of various sorts — there may be remarriages or same-sex couples, for example — it is important to get the proper advice, and if there are any changes to a person's circumstances, such as a remarriage, they need to update their will. Every person should make it clear how they want their assets to be divided. That may mean talking to members of the

family. It may mean that some members of the family are unhappy with that, but it saves a lot of heartache and a lot of pressure if the will is clearly and properly written. It is not up to me to drum up business for the legal profession, but in this instance I would advocate going to see a lawyer on these things.

The international will is to sit beside other wills and will allow for cross-border protection, if you like. Many members have already talked about our multicultural society, and indeed the international will can even deal with the sort of funeral arrangements that can be made across different ethnic and cultural groups.

Other speakers have said that the opposition does not oppose this bill. Victoria is the first state in Australia to seek to introduce a bill such as the Wills Amendment (International Wills) Bill 2011, and I commend the government on that. There is not much that I commend the government on, but I commend it on this aspect. With those few words, I commend the bill to the house.

**Mr MORRIS** (Mornington) — I am pleased to rise to support the Wills Amendment (International Wills) Bill 2011. This is an important bill. It is relatively straightforward, and it makes some important changes to the Wills Act 1997. Despite what the member for Yuroke said, I was listening closely to the lead speaker for the opposition and I was pleased to hear her say that the opposition was supporting the bill, which is a one-step improvement from simply not opposing it. I was pleased to hear that the opposition is supporting the bill, and I congratulate it on that decision. It is one of the rare good ones it has made in recent months.

The bill implements the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will. UNIDROIT is the International Institute for the Unification of Private Law. As the name suggests, it is an organisation that is about formulating uniform law. It is about harmonising and coordinating private laws between nations. Australia has been a member of that organisation since 1973, but UNIDROIT had done some good work in that space before that. It has been active not just in the business of wills but also right across that space.

The convention we are seeking to incorporate into the act by this bill deals with issues we are familiar with through discussion, particularly among some of your party colleagues, Acting Speaker, and they are cross-border issues. In this case we are not talking about domestic borders and the issues that so often vex those who live close to them in Australia; we are talking about international cross-border issues. We are

talking about the management of foreign assets and how they might be disposed of on a person's passing. We are talking about having the capacity to reside in one place and deal with assets in other places around the world.

It is also worth saying that it is not actually necessary to have any international assets at all. You can use this form of will without owning a single asset outside the state of Victoria. It is simply an additional form of will that will be available as a result of this legislation. We are increasingly physically mobile, and many Australians are travelling a lot more than in the past. We are also far more mobile in terms of the acquisition of assets and investing. Many Victorians invest actively overseas, whether it be in the financial markets, acquiring property or making other investments. I hasten to add that I am certainly not in that class — my investments are far more modest than that — but many are in that situation, and it is important that we deal with them.

The convention we propose to incorporate has an interesting history. In terms of its implementation within Australia, it goes back to the Standing Committee of Attorneys-General in 2010. That is relatively recent, but when you look more closely at the convention you see that it goes back much further, to 26 October 1973, when it was ratified in Washington, DC. Since then a number of nation states have adopted it, including Belgium; Bosnia and Herzegovina; Canada, including all eight constituent provinces of the Canadian Confederation; Cyprus; Ecuador; France; Italy; Libya; Niger; Portugal; Slovenia; and the former Yugoslavia, although there is a note on that in terms of the changes that occurred in that nation on 31 December 1992.

A number of other states have signed the agreement but are yet to implement it, including the Holy See, Iran, Laos, the Russian Federation, Sierra Leone, the United Kingdom and the United States of America. I understand that the United Kingdom in particular has either legislation in the Parliament or legislation at least developed with a view to proceeding down that path.

The Standing Committee of Attorneys-General considered the legislation back in 2010, and the agreement it reached was that the various states and territories would proceed to incorporate the convention into their domestic legislation. It agreed that once that process was completed, the commonwealth would accede to the convention. The model bill was developed by the Australasian Parliamentary Counsel's Committee. I understand that Victoria is the first state to legislate to give effect to this convention but that the

other states are all expected to complete their processes by the middle of the year. The intention is to have the commencement of the legislation uniform with other states; it will be six months after the commonwealth accedes to the convention.

The bill highlights — if it needs to be highlighted — that we need to make provision for the disposition of our assets, no matter how large or modest the asset base might be, after our passing. In an increasingly global world we need mechanisms for dealing with that. But in general principle it is equally important: no matter whether substantial properties are involved across the Midwest of the United States or a small amount of equity in a weatherboard building locally, it applies.

People of the southern peninsula have the distinction of having one of the oldest average ages in Australia. I am pleased to say that the Mornington electorate is somewhat closer to the norm than that, even though we are quite often considered in the same breath by the media. Nevertheless we have a significant number of retirement villages and a significant number of older Victorians. You cannot really wonder why they would take the opportunity to succumb to the charms of the Mornington electorate. Were I not already living there, I might do exactly the same thing once I reach my retirement years.

Wills, however, are not relevant to age; it is not about age. Bad luck can strike at any age, no matter whether you are a young adult first making your way or whether you have had 99 good years. It is not relevant; you need to make provisions. You need clarity for your next of kin; in fact you need clarity about who your next of kin is. People generally have a view about who their next of kin is, but that may be a different person in the view of the law. It is important to have it clarified.

The nature of the relationship is important. If there is a change in the relationship — that is, if a marriage, a divorce or a de facto relationship is involved or there are dependent children and their future care and education are to be managed — all those things need to be addressed. I do not think we can talk about any changes to this legislation without highlighting again the importance of everyone being accommodated in that way. A will is a very important document, and far too many people neglect it.

The uniform law provides an additional option within the framework already available. The current arrangements remain; they are extended. I understand some consultation was undertaken prior to consideration by the Standing Committee of Attorneys-General. The legal profession, the Supreme

Court, the Law Institute of Victoria, the Victorian Bar and State Trustees were all consulted. I understand the majority of those, with the exception of the Law Institute of Victoria, supported the initial move and still support the move. The law institute has a slightly different view and some reservations about the basis of necessity and whether it will be a wide benefit or not. But apart from that, the profession and those most closely affected support it.

I think the legislation is necessary; it has a wide benefit and it is good legislation. I commend the bill to the house.

**Mr CARBINES** (Ivanhoe) — I am pleased to make a contribution to the debate on the Wills Amendment (International Wills) Bill 2011. I note the Labor Party is supporting the bill. The bill is largely technical in nature, and ensures that existing wills have cross-border protection. In particular the bill will mean the Wills Act 1997 will be amended to adopt into law a uniform law based on the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973. That convention dates back to nearly 40 years ago.

It is important to note that when recognising wills courts look at the laws of other countries. Many countries already have enacted a bill such as this. We seek to make amendments to the principal act to come into line with work that has been done internationally.

For a consistent national approach in Australia it is important to ensure that legislative changes are adopted across all states and territories. Clearly we now live in a world environment that is very much smaller than it once was because of people's capacity to migrate, travel and do commerce. That means people need to take their affairs into account and make sure they leave clear instructions in their legal wills so that their rights and desires are taken care of by the law and by those family members and friends who may be beneficiaries of their wills in the future.

We will not see these laws come into effect until some six months after Australia becomes a signatory to the convention. Australia is unable to do that until all states have signed up to the sorts of amendments members of the house are considering that are contained in the bill before the house at the moment.

I will reflect on wills, in particular, and their importance. Often it is a case of people saying, 'Do as I say, not as I do'. As someone who is a member of the Australian Workers Union I am pleased to say that the

union has encouraged, through Maurice Blackburn Lawyers, members of the AWU to have wills. This ensures that not only is the union looking after its workers and members but that workers are looking after their families by providing for them and giving clear instructions and an encouragement, whenever that can happen, to think about the future. It is a credit to the union movement in terms of looking out for workers in their workplaces and emphasising the importance of having a will.

I was talking to other members of this house in relation to succession planning that often needs to be done in business. Succession planning needs to be done in relation to farms and very substantial businesses in their own right. No matter what occupation you might be in, it is something you need to think carefully about. As an AWU member, I know the union has made sure that its members understand their obligations. The union seeks to provide its members, with minimal financial burden, with a free basic will service, which I think is very important. It reflects the idea — and it would be fair to say — that most people do not want to acquire large amounts of wealth; they want to provide for themselves and their families.

These days it is also important to be clear about what rules have been put in place to make sure that people's families do not have to go through the turmoil and stress that can sometimes arise when these sorts of affairs have to be resolved and where clear instructions have not been left. We have seen some high-profile cases in other parts of Australia where those things have happened and have been difficult to resolve before people have even had to work through what is in the will.

Something else I would like to reflect on and that people should give consideration to is State Trustees. A number of people in my electorate of Ivanhoe have availed themselves of the services of State Trustees in relation to their wills and the preparation of those sorts of financial documents. I would encourage members to make sure that people in their electorates who might not be inclined to use the services of lawyers or who might feel it is financially beyond them to engage a lawyer know that preparing a will is not always financially onerous and that State Trustees provides good, free advice and services to all Victorians who want to avail themselves of support and assistance to ensure that their affairs are in order. That is something I think people need to give consideration to.

In relation to some of the other points and commentary around international wills and the amendments that are being proposed, the Law Institute of Victoria made

some comments in August 2009. It noted that it had some concerns in relation to the adoption of the convention. It pointed out in particular that — and I paraphrase from the letter — some of the changes that were being proposed would be more burdensome formalities in relation to the valid execution of a will. It went on to point out some of its concerns in relation to these matters. The institute also noted that it was not going to go into some of the practical purposes being served by the adoption of the convention, so there is not a greater level of detail that I can refer to in relation to the institute's comments on amendments to the principal act that may be required if the convention is adopted.

Some of the concerns flagged by the Law Institute of Victoria are not shared by people who are keen to see, where there are structures that get in the way or limit people's capacity to provide for their families or to ensure that their wishes are met in relation to valid wills, that the international wills convention and the amendments this bill seeks to make provide greater clarity around the execution of wills and the outcomes of people's wishes and instructions in relation to their wills. The intent of the convention, what we are working to ensure and what people are trying to achieve the world over, is to provide greater opportunity for people's aspirations — their instructions — to be met. I think that is adequately outlined in the amendments in the bill.

They are the key points I wanted to make mention of. I encourage people who may not have a will to give serious consideration to the matter. If they are a member of a union, they may find that will advice and support services are provided free as part of their union membership. I have been able to utilise such services through my union, the Australian Workers Union. I also encourage people in my electorate to make sure that they avail themselves of the advice and services of State Trustees in relation to clarifying where they can get advice and what sorts of matters they need to give consideration to when it comes to the preparation of a will. They are important matters.

I hope the Australian government will be able to ratify Australia's support for the convention in relation to these matters once all states and territories have passed these amendments through their parliaments. We will then have six months before Australia's position as a signatory to the international wills convention takes effect. With those comments, I commend the bill to the house.

**Mr ANGUS** (Forest Hill) — I am pleased to rise this afternoon to speak on the Wills Amendment

(International Wills) Bill 2011. As other contributors have noted, this is a fairly straightforward bill. Clause 1 articulates the main purpose, which is that this bill amends the Wills Act 1997 to give effect to the Convention providing a Uniform Law on the Form of an International Will 1973. A very clear purpose is articulated in the bill.

If we turn our attention to the overall objective, we can see that this bill amends the Wills Act 1997 to adopt into Victorian law the uniform law that is contained in the UNIDROIT Convention providing a Uniform Law on the Form of an International Will 1973. UNIDROIT is the International Institute for the Unification of Private Law. It is an intergovernmental organisation that formulates uniform law instruments aimed at harmonising and coordinating private laws between countries. That is how it fits into this particular bill.

The primary objective of the convention itself is to eliminate problems that arise when cross-border issues affect a will. An example of that could be where a will deals with foreign assets or where the will-maker resided in a different country to the one in which the will was made. That is not as uncommon a problem as it perhaps might once have been, particularly given the globalisation of the world, the increased propensity for travel and the fact that travel is available to so many more people of all ages. The convention's uniform law provides for an additional form of will — the so-called international will — that is recognised as a valid form of will by courts of other states that are party to the convention irrespective of where the will was made, the location of the assets or where the will-maker lived. It does not rely on the internal laws operating in foreign countries to determine whether the will has been properly executed. It is a very comprehensive coverage in relation to the scope and the primary objective of the bill.

If we turn to the details of the proposal again we can see that the convention requires contracting states to reproduce the actual text of the convention's uniform law, and that is what this bill does. It does it by inserting a schedule containing the uniform law into the Wills Act 1997, and the passing of this bill will ensure that we have that consistency across the various jurisdictions, both here and overseas.

The uniform law then also sets out requirements for the form of the international will and the process for its execution — again, a couple of key points — but it does not deal with issues such as the capacity required of the will-maker or the constructive terms of the will. They are matters that will continue to be dealt with under existing Victorian laws, and that is a very

appropriate approach to be taken in relation to this matter. We are not wanting to delve into those particular aspects of the will in question but rather the more general international aspects.

The third detail that I want to touch on deals with the formalities required for an international will, and they are similar to other requirements under the current Wills Act. Some of those, for example, are that the will must be in writing, it must be signed by the will-maker in the presence of two witnesses and it must be properly executed in all regards. The maker of an international will must also declare the will in the presence of an authorised person, who must certify that the formalities required by the uniform act have been met. So in fact there has to be knowledge by the person involved in that capacity of the international requirements, and that will be a matter that the will-maker will have to ensure before he or she seeks to cast a will in this form.

The bill designates Australian legal practitioners and public notaries of any Australian jurisdiction as persons authorised to act in connection with international wills in Victoria. Again that gives scope, and I am sure that once this bill goes through there will be considerable attention given to people involved in that capacity, who at the moment are lawyers and others aware of the changes pursuant to this bill.

Some of the history of the bill, as other contributors have noted, is that in July 2010 the Standing Committee of Attorneys-General determined and agreed that the states and territories would adopt the convention's uniform law into domestic legislation throughout Australia and formally accede to the convention. This will ultimately provide a consistent approach to the recognition of international wills across Australia. That is a very important aspect, and not the least reason for it is the fact that we have a very multicultural society. That is true throughout Australia, but truer nowhere more than here in Victoria and in the suburbs of Melbourne, including my own electorate of Forest Hill, where we have a very diverse and multicultural society. The bill will be embraced by the constituents in the state electorate of Forest Hill, because many of them have connections overseas. They travel overseas frequently and hold assets overseas, so this will be a very important advancement for them.

The bill is based on a model bill prepared by the Australasian Parliamentary Counsel's Committee at the request of the Standing Committee of Attorneys-General, and Victoria will be the first Australian jurisdiction to implement the uniform law — although having said that, I note that other states and territories have indicated they will adopt the uniform

law into their own legislation by about the middle of this year. The commonwealth will not accede to the convention until all the states and territories have implemented the necessary legislation. That is an important safeguard — that it will be a case of one in, all in, and the expectation is that that will be early next year, in 2013.

In relation to the consultation process undertaken by the commonwealth, there has been a good deal of consultation, particularly here in Victoria, with various stakeholders including the Supreme Court, the Law Institute of Victoria, the Victorian Bar Council and State Trustees, so the bill has been widely canvassed amongst those experts in the field and their comments have been noted.

In terms of the practical aspect of how the uniform law will work in Victoria, it will allow a person to make an international will in Victoria, and as I said before, it might be relevant for them, particularly if they have assets or beneficiaries located in another convention country or indeed if they intend to live in a convention country at some point in the future. It will also allow the Victorian Supreme Court to determine the formal validity of an international will executed overseas in a convention country in accordance with the Wills Act rather than being required to assess the formal validity of the will against the internal laws of that country. Again that will provide some clarity and simplification. An example of that would be where probate was sought in Victoria for an international will that was executed overseas and the formal validity of the will can simply be established by reference to the Wills Act. That is a very important aspect of this bill and the amendments that will result from it.

The uniform law only goes to the issue of formality of a will to be admitted to probate in Victoria, so it will not affect the substantive laws applied to the administration of estates with assets in Victoria or the rules of construction of wills generally, so those rules are pre-existing and will continue to prevail in those situations.

In conclusion I note in general terms the importance of having a will. Other speakers have also commented on that, but for all of us it is important not to die intestate. Having a will simplifies important matters in a time of inevitable distress and high emotion, and I can cite examples that I saw in my previous occupation where clients had died intestate, and that creates an enormous amount of angst and work for particularly the near relatives. Therefore I encourage all Victorians to have a current will. It is a responsible course of action and one that should be undertaken. I am pleased that the

opposition is not opposing the bill, and I am pleased to commend the bill to the house.

**Mr HERBERT** (Eltham) — It is a pleasure to be called to speak on the bill. It is an important piece of legislation in that it seeks to amend the Wills Act 1997 to adopt into Victorian law uniform laws applicable to international conventions and the International Wills Convention 1973. We have pretty good wills laws in this state, but this clarifies and brings into the Wills Act issues where there are assets overseas or where a resident resides in another country and there is some debate about a will that has been made. It enables the Victorian Supreme Court to have a role — and this is important — in the validity of wills executed overseas. That role is enshrined in the bill and in the amendments that we will undoubtedly pass today.

It is important because most Victorians work hard for their entire lives; they strive to improve their lives for their families and themselves, and in so doing they increase their asset base, which most people want to leave to their children or spouse when they have gone, to provide certainty for their families and security for their loved ones into the future. It is crucial that we have laws in regard to wills that are tight. It is important that when people are overseas the validity of their wills and their assets located overseas is guaranteed, and this bill will give many people the confidence that their will is recognised, whether they own assets in Australia or overseas, or whether they live overseas and have assets here.

It is a pity, as other members have said previously, that there are many people who avoid making a will. They simply do not want to or do not get around to it. It is as if they want to deny the inevitability of life. But the consequences of that denial can be quite fraught with pain, and the intentions of the deceased may not be honoured. It is important to have a will, and it is important to have a tightly written will. I do not think anyone would like to experience a family saga like that of the Rinehart family which we see in newspapers and on TV. With \$17 billion worth of assets the family is torn apart because the issues of intention appear not to have been clear — I guess with the best lawyers in the world. That really should not be the case. When you make a will to pass on your assets, your intention should be clear and should be honoured by the law and the family.

In this era of further deregulation it is unfashionable but absolutely crucial that we have legislation and regulations that are tightly written and broad enough to cover most eventualities. The amendments made by this bill are a small step forward in achieving that aim.

It should be noted that this bill will not come into operation until the Australian government accedes to the international wills convention, which I understand will happen sometime in 2013. It is crucial that the Victorian government, rather than constantly bagging the federal government and blaming it for all Victoria's ills, work with the federal government to make sure that the international wills convention is honoured and implemented nationally.

In implementing the framework both here and nationally it is important to note that the government needs to support industries and people who are affected by the framework with an education campaign. It is crucial that there be some form of education campaign. It is one of the most important aspects associated with the enactment of this legislation. It is essential that government take action to notify all of the professionals and organisations that assist people with preparing new wills and with new requirements for their wills. Whether it is lawyers, accountants, conveyancers, large employers, the state trustees, legal aid et cetera, there are a multitude of groups which have to be familiar with these new requirements and ascertain whether they are relevant to their clients. There is no point passing the law in this place and then walking away and doing nothing to ensure that it has been broadly communicated to the relevant sectors. It is also important that government play a role in ensuring that lawyers and the various groups that deal with these issues contact past clients who may have a will sitting there and have gone overseas thinking everything is hunky-dory, unaware of these new amendments to the act. That is also critical.

Of course I do not have a great deal of faith that this government, once the bill has been passed, will do anything. The government has a track record of doing absolutely nothing on other pieces of legislation, so why would it do anything more with this particular bill? Perhaps the government will have a four-pillows strategy, like its four-pillows strategy on jobs, and sleep on it the way it is sleeping on the jobs crisis. The government may be inactive on wills just like it is sleeping on everything else. It is the four-pillows strategy we heard about today in question time.

Moving back to the bill, of course — —

**Mr Wakeling** — You've only got 3 ½ minutes!

**Mr HERBERT** — I can talk about the four-pillows strategy on jobs, sleeping while on the job and sleeping when there is a jobs crisis — there are many things you can do with this four-pillows strategy.

However, on this particular bill it is important that Victorians who own assets overseas or who have moved overseas have their assets protected and that their intentions when they pass on are honoured by law here and overseas. That certainty is a great thing for many people who have not led the traditional life of living in the same country that they grew up in and having all their assets in that country.

The member for Ivanhoe in his contribution made an excellent point about his union, the Australian Workers Union, a great union, and other bodies like that, such as employer bodies, that recognise the importance of wills in the community. Perhaps it is something that the members, workers or clients of these organisations have simply not thought much about. As part of their civic duties and the extra work they do in terms of their community, union or employees, these organisations go out and provide an extra service over and above the normal relationship they would have with their clients, employers or members. It is something that you, Acting Speaker, at the conclusion of this debate may want to have a chat with the Speaker about in terms of the Parliament. Many people work here, and the Speaker or the President, who hold regular forums on a whole range of issues, may wish to hold a forum on this. It is the sort of thing that could be very valuable for the hundreds of people who work in this building on a regular basis.

With those few words, I conclude by saying I wish this bill a speedy passage. It adds to our laws, and it adds to the level of certainty for many people. It adds great certainty for the thousands of people who come from overseas and inherit assets from overseas or who have come to Australia and Victoria to live but still have financial links with other countries from their past, with their families overseas and with their assets overseas. This bill provides them with a bit more certainty than they had before these amendments. I commend the bill to the house.

**Mr WAKELING** (Ferntree Gully) — It is a pleasure to rise to contribute to the important debate on the Wills Amendment (International Wills) Bill 2011. I thank the member for Eltham for his contribution. He was obviously straying a little from the bill at a certain point in time, and with the assistance of members from both sides of the house he fortunately came back to the bill at hand.

This is a small but important piece of legislation. The bill amends the Wills Act 1997. It will adopt into Victorian law the uniform law contained in the International Institute for the Unification of Private Law convention, known as the UNIDROIT convention. The

convention provides a Uniform Law on the Form of an International Will 1973. It is an important convention which was discussed through the Standing Committee of Attorneys-General (SCAG). We as a government are acting, and fortunately the opposition is supporting this important bill. The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will — for example, where a bill deals with foreign assets or where the will-maker resided in a different country to the one in which the will was made. Given the significance of the multicultural community within Victoria, it is important that this small but important bill is implemented, because, as we all know, there are citizens in this state whose wills may have been drafted overseas or who may have assets overseas.

This is an important piece of legislation for people within my community and electorate who come from a foreign country or who have relatives in their place of birth. I encourage all members of my community and all Victorians to ensure that they have a will drafted. I remember hearing a harrowing story about a young female whose spouse had passed away in a bushfire. Dealing with that situation was harrowing enough, but because they had been in a de facto relationship and there was no will, it was very difficult for that individual to be guaranteed a benefit from the assets derived from her late partner. The situation with her former spouse's family was very difficult, and it brought home to me the benefit of having a will. I am sure all members in this house would encourage members of their communities to ensure that they have wills in place, and more importantly that their wills are up to date, particularly following the birth of children, to ensure that is reflected in the will.

The convention requires contracting states to reproduce the actual text of the convention's uniform law, and the bill does this by inserting a schedule containing the uniform law into the Wills Act 1997. Members on both sides of the house who have spoken before me have articulated this provision in many ways. By way of background, in July 2010 SCAG agreed that state and territories would adopt the convention's uniform law into their domestic legislation to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions. As has been mentioned before, the commonwealth will only accede to the convention once each state and territory has in place the necessary implementing legislation.

The member for Eltham suggested that the Victorian government needs to work with the commonwealth government on this issue. We as a government are more than happy to work with the commonwealth

government, but I would have thought it was fairly plain to all of us here that this is an important bill because it has a clear purpose. I would have thought it behoved the federal government to support this important bill. I would not have thought it was up to us to convince the federal government but that it would have recognised the benefits of this legislation. I hope a bipartisan approach is adopted and, more importantly, that at a federal level the necessary actions will be taken by the federal government.

There has been broad consultation with key stakeholders in the legal profession, and the proposal has largely met with broad support. Stakeholders have identified that it is unlikely to have any adverse effects upon legal practice around wills and probate and that some benefits could flow from the passage of this bill. The bill is important in the sense that there are already 12 state parties to this convention with an additional 8 signatories, including Belgium, Bosnia, numerous Canadian provinces, Cyprus, Ecuador, France, Italy, Niger, Portugal, Slovenia and Yugoslavia. The convention has been adopted internationally, and it is important that this state follows suit. The following state parties have signed the convention but it has not yet come into force in their areas: the Holy See, Iran, Laos, Russia, Sierra Leone, the United Kingdom and the United States of America.

An international will requires formalities. It cannot be a joint will, must be in writing, must be declared by the will-maker before two witnesses and an authorised person, and must be signed by the will-maker in the presence of two witnesses and the authorised person.

I am mindful that other members wish to speak on this bill, so I will finish on this note: in terms of authorising wills it is imperative that Victorians ascertain the legal status of relevant persons who have the authority to witness wills. Like many in this house, I am a justice of the peace. Many of my constituents, and others from surrounding communities, ask me to witness various documents. There are documents that a justice of the peace can witness and there are documents that we cannot. It is important that people are educated as to the legal status of relevant bodies that can witness documents. This is important legislation, and I wish it a speedy passage through the house.

**Mr McGuire** (Broadmeadows) — The changing nature of the Victorian community and of the structure of families makes this bill timely and important. My electorate of Broadmeadows has people from 140 different nationalities. I refer to it as virtually the United Nations in one neighbourhood. Many of those people obviously still have family in the countries they

originally called their homelands. The themes in the Wills Amendment (International Wills) Bill 2011 therefore resonate strongly for my constituents in particular.

There are also generational and social issues that need to be taken into account when we look at the issues at play here. These include people of great wealth looking for certainty. Cases which have been running recently and which have been reported in the media confirm that it is better for all concerned if there is certainty in wills and if they are not contested and played out in courts.

Then there are people who may not have made a lot of money in their lives but who have made a great contribution to their communities and to their families. Quite often these people have a strong sense of duty, and they are often referred to as the greatest generation — those who put a duty to community and to their families first. For the families of these people it is also important that funeral costs and associated matters are taken care of at the end of their lives and that the dignity they brought to their lives, professions and communities is honoured without a contested legal proposition.

This bill is also noteworthy for providing clarity and coordination internationally. Finally, we turn to the modern day theme of blended families. These are a reminder that we live in a global village and that the reach and complexity of families is not just in our neighbourhood but can extend across the world.

I want to refer to the frame of reference of this bill. The amendments will adopt a convention on a uniform law on the form of an international will that was agreed to by the International Institute for the Unification of Private Law (UNIDROIT) in Washington, DC. The legislation follows an agreement in July 2010 of the Standing Committee of Attorneys-General that all Australian states and territories would adopt the convention's uniform law into their local legislation, and that has brought us to the position where we are today and to this debate. This will ensure a consistent approach to the recognition of international wills across all Australian jurisdictions. The law will establish an additional form of will — an international will — as distinct from existing forms of wills. An international will that complies with the new uniform law will be recognised by courts of all states party to the international wills convention without prejudice as to where the will was made, the location of assets or where the will-maker lives. The Victorian legislation pre-empts the international wills convention coming into force across all Australian jurisdictions and will come into force when that happens.

I note that the United Kingdom, the United States of America, Italy, France, Bosnia and Canada are among the signatories to the UNIDROIT convention. It is essential that broad support amongst the international community be sought on this issue. Given the significance of global change and given that we all now live in the global village, I presume that it will only be a matter of time before the matter proceeds. The bill amends the Wills Act 1997 to align Victorian law and wills made under the act with the terms of the uniform law in the Convention providing a Uniform Law on the Form of an International Will of 1973. As has been stated by my colleagues, the opposition does not oppose this bill, which aligns the Wills Act 1997 with the form of the international will proposed by the convention.

For the record, while there is widespread support for the bill, there is also some dissent on this issue. The Law Institute of Victoria (LIV) has raised a few concerns. The institute:

... considers that the validity requirements for international wills set out in the Uniform Law on the Form of an International Will annex to the convention are onerous and time consuming when compared with the validity requirements for wills contained in —

another section of the act. Summing up its argument, the institute states that it is:

... not in favour of any amendment to the act which would impose significantly more burdensome formalities in relation to the valid execution of a will ...

The institute has other concerns as well. It:

... sees no practical purpose being served by the adoption of the convention. For this reason, the LIV does not propose to comment on amendments to the act that might be required if the convention is adopted.

That said, a number of countries have already become signatories: Belgium, Bosnia, Cyprus, Ecuador, France, Italy, Libya, Niger, Slovakia, Portugal and some parts of Yugoslavia and Canada. Once all the Australian states have gone through the legislative proposition that goes to the federal government, we will become signatories as well. The overriding proposition is that this provides certainty and is an advance, so I am supporting it from that perspective. I think it is timely.

I would also like to take up a point raised by the member for Eltham. He said some people do not want to face the inevitable and do not have wills. I will be trying to take that up with the constituents in my electorate, particularly once this whole process has been resolved, and to inform them of the opportunity at hand. These are difficult issues which have to be faced by all

of us and our families. I am always reminded of Shakespeare, who said it best when he said:

Of all the wonders that I yet have heard,  
It seems to me most strange that men should fear,  
Seeing that death, a necessary end,  
Will come when it will come.

**Ms McLEISH** (Seymour) — I was most impressed by the final comment of the member for Broadmeadows in his quoting Shakespeare without looking at anything.

I rise today to speak in support of the Wills Amendment (International Wills) Bill 2011, which was brought to the house by the Attorney-General. As many of the other speakers have said, this bill is very straightforward, and it comes to us as a result of a decision in July 2010 of the Standing Committee of Attorneys-General, or SCAG, to adopt in relevant jurisdictions the 1973 UNIDROIT convention providing a uniform law.

UNIDROIT, the International Institute for the Unification of Private Law, wants to get some harmonisation of these sorts of laws across countries. In Australia SCAG sought to adopt a consistent approach across the country to the recognition of international wills. Regardless of which state a person is in, having that consistent recognition is important. It is very easy for people who have come from other countries to have one family member living in Sydney and somebody else living in Melbourne. If they are both subject to a will that refers to foreign assets, it can be quite messy within the family, so that consistent approach to the recognition of wills across Australia is certainly a good thing.

The main purpose of the bill is to amend the Wills Act 1977 to give effect to the 1973 UNIDROIT Convention providing a Uniform Law on the Form of an International Will. The relevant bit will drop into our existing law through the insertion into the act of a schedule containing the provisions of the uniform law. The text of the law will remain pretty well the same; it will be reproduced and have an additional component alongside it.

The uniform law outlines the form that the will must take — that is, that it needs to be in writing and signed by two witnesses in the presence of the person making the will. An additional component for the international will is that the declaration is made in front of an authorised person who can certify that it meets international requirements. The uniform law also outlines the process of execution. It does not provide for any of the other things, such as somebody's

capacity or mental powers to make a will or whether something has been done in error. It is simply about providing uniformity.

The uniform law will eliminate issues arising from cross-border matters. There will be issues relating to foreign assets and to people living in different countries. Members can imagine the headaches that these issues can cause for people, which we rarely hear about. This law will make it easier for people living in Australia who come from overseas and who own or inherit land there. It is for the mums and dads of Australia, I suppose. If there is not a consistent approach, it can be very difficult. It can be a pain for solicitors to have to dig up the laws in other countries. They might have to deal and be familiar with the laws of six or seven other countries. That can take quite a bit of time, and I imagine that would also be costly for the families or individuals involved and that that work would take some time. The bill speeds up the process of understanding an international will. There will be a speedier process for the families involved, and I suggest that will lead to cost savings as well. A suburban solicitor in one of the more multicultural areas of Melbourne might be used to dealing with small issues but could have headaches caused by overseas wills involving assets and things like that, so I imagine the bill is important for everybody.

One of the things I want to talk about is the fact that Victoria, and indeed Australia, is multicultural. The issues we are talking about — that is, foreign assets and people living in other countries — are real. Members have just heard from the member for Broadmeadows, who outlined the diversity in his electorate. It is very easy for people to own land and other assets in other countries. That might be on a family basis, as they have come from another country and maintain land there. Now a lot of people own properties in France, for instance. I know a number of people who have properties in France, where they might do their holidaying. Other investors are looking at the excellent exchange rate at the moment and wanting to invest in other countries. There is a lot in the newspapers about people wanting to invest in the United States. These days it is much easier to travel; it is a smaller world. One of the other things that can bring is marriage to people from overseas, so there can be a complexity with an overseas will.

As I mentioned earlier, this bill came about because of a decision of SCAG. The bill will come into effect only when all the states have signed up to the convention. I am pleased to say that Victoria is the first or leading state. It is likely that the other states will be signing up. The commonwealth government will get on board once

all the states and territories have signed up. It will be another six months after they have all signed up before the convention will come into force. Even though Victoria is leading the field, the bill may not take effect for some 12 months.

I want to take this opportunity to remind everybody to think about updating their own will and their powers of attorney. It is very easy for a will to be out of date — with births, deaths or even divorce in a family. That can certainly complicate things, and there can be situations such as we had in our family. My brother-in-law, who was a solicitor and the executor of a number of wills, passed away. My partner was his executor and so by default he became executor of the wills that his brother had been executor of. That was extremely messy for everybody involved, and the Law Institute of Victoria was terrific in helping sort that out. Everyone should revise things every now and again and consider whether their executor still has the mental capacity and is still around to undertake the role required of an executor.

Any bill that provides for a consistent approach to the laws in Australia, including as in this case cross-border issues, is a good thing. There are 12 state parties signed up to this and additional signatories to it. Although this convention has been in effect since 1973, Australia is just signing up now. I am pleased to say that Victoria is doing well in leading the way in Australia, and I have no problem in commending the bill to the house.

**Ms MILLER** (Bentleigh) — I am delighted to make a contribution to the debate on the Wills Amendment (International Wills) Bill 2011. We have heard speakers from both sides of the house speak in the debate on the bill. They have all raised similar points, and I am delighted that both sides of the house are supporting the bill.

The main purpose of the bill is to amend the Wills Act 1997 to adopt into Victorian law the convention providing a Uniform Law on the Form of an International Will 1973. This will provide clarity and consistency and give certainty to those making a will and to those involved when the time comes for the will to be read. The bill is small but today we are talking about a technicality. The bill will eliminate some problems that would potentially exist on both the Australian and international levels.

As members know, the seat of Bentleigh which I represent is a multicultural electorate. My constituents represent numerous communities such as the Greek, Jewish, Chinese, Russian, Indian, African and other communities. All these people came to Australia, to Victoria, to Bentleigh, and they may have come directly

from their native country. Associated with that is the fact that they may very well own a home in their own country. People may own a block of land, a business or a retail or commercial property. If a will is made in another country and the person then chooses to live in Bentleigh — and I am delighted that they do — when the will is read, and given that the death of an individual is always stressful, sadly it can potentially compromise relationships. If there are inconsistencies or confusion in relation to the clarity of a will, unfortunately that is when those sorts of things arise, and it is not what you want to deal with at that time. This legislation will simplify things and make the process more consistent.

The reasons for this bill arose in July 2010 when the Standing Committee of Attorneys-General agreed that all Australian states and territories would adopt the convention's uniform law into their domestic legislation in order to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions. I am delighted to be part of the Victorian government, which is leading the way on behalf of all states represented in this country to take part in the agreement. It is a Baillieu government that has taken the lead and had the vision to do this. Other countries that currently adopt the provisions contained in this bill are Belgium, Bosnia, parts of Canada, Cyprus, Ecuador, France, Italy, Nigeria, Portugal, Slovenia and Yugoslavia, all of which recognise the importance of these provisions.

Whether you were born in Australia or not, you may live elsewhere, and today it is not uncommon for many working people to live interstate or overseas. In that case they may decide, according to timing, that it might be financially beneficial to purchase a property, whether that be a block of land, a house, a unit or a commercial property. This bill provides that whether a will is made internationally or in this wonderful country that we live in, Australia, and certainly in Victoria, the reading of the will can be simplified.

When a court looks at a will it asks, 'Is this a valid will or not?'. In order to qualify that, it cannot be a joint will, it must be in writing and it has to be declared before two witnesses and an authorised person. These are all very simple but effective steps to take and measures to be considered when looking at this bill. With that I conclude my contribution and commend the bill to the house.

**Dr SYKES** (Benalla) — I thank the member for Bentleigh for allowing me the time to make a contribution to debate on the Wills Amendment

(International Wills) Bill 2011. As indicated by other members, this bill basically sets out to assist people in the management of international assets and/or people who reside overseas. I put this bill in context, as others have, firstly by highlighting that wills are a critical part of managing one's assets during life and thereafter; and secondly by saying that wills need to cover a wide range of situations in part in relation to asset ownership but also in relation to the number and range of beneficiaries of a will.

I touch briefly on an experience I had with international law because it highlights the importance of making this will legislation conform to international law. My experience relates to the Hague convention and a time when one of my family members got caught up in a messy separation and the custody of a child was involved. It was an interesting and expensive exercise in international law when the debate that ensued was in relation to whether the country in which the child was living at the time was a signatory to the Hague convention. Lawyers sought to argue that you needed to demonstrate that you were living permanently in a country that was not a signatory to the Hague convention to be exempt from the Hague convention.

Conversely, a different reading of the law, by me, was that all you had to demonstrate was that you were not living in a country that was a signatory to the Hague convention to be exempt from the Hague convention rulings. That is a subtle difference in interpretation, but we spent a lot of time and money resolving that issue, and eventually it was the bush lawyer interpretation that carried the weight of law. From my point of view that meant a difficult situation over the custody of the child and the possibility of the child having to go to the United Kingdom in relation to a legal battle, which would have been emotionally very draining and very expensive.

That was an example of where uncertainty in relation to compliance with international law created some difficulty. If this bill achieves the simplification and clarification of applying international law, that is an excellent outcome. As has been mentioned, Victoria is leading the way in mainland Australia in adopting this piece of legislation, and we expect other states to follow. As we have seen and as other speakers on this side of the house have mentioned, this is another example of the Baillieu-Ryan government getting on with the job and ensuring that we have in place common-sense legislation that ensures people can go about their lives knowing that things can be simplified and made much easier.

Being mindful of the desire of the house to finish the debate on this bill before the dinner break, I will close now. I wish the bill a speedy passage with the support of both sides of the house.

**Debate adjourned on motion of Mr CRISP (Mildura).**

**Debate adjourned until later this day.**

**Sitting suspended 6.28 p.m. until 8.02 p.m.**

## AUSTRALIAN CONSUMER LAW AND FAIR TRADING BILL 2011

*Second reading*

**Debate resumed from 8 December 2011; motion of Mr O'BRIEN (Minister for Consumer Affairs).**

**Government amendments circulated by Mr O'BRIEN (Minister for Consumer Affairs) pursuant to standing orders.**

**Ms D'AMBROSIO** (Mill Park) — I rise to speak on the Australian Consumer Law and Fair Trading Bill 2011. The bill proposes to consolidate and restructure the Fair Trading Act 1999 and a number of other consumer acts into one new consumer act. The main purposes of the bill include: to promote and encourage fair trading practices and a competitive and fair market; to regulate trade practices; to provide for codes of practice; to provide for the powers and functions of the director of Consumer Affairs Victoria to extend the role with respect to small businesses and suppliers; to promote uniformity with consumer laws of other jurisdictions through the application of the Australian Consumer Law in Victoria; to regulate certain businesses; to repeal and re-enact with amendments the Fair Trading Act 1999; to repeal the Disposal of Uncollected Goods Act 1961, the Carriers and Innkeepers Act 1958 and the Landlord and Tenant Act 1958; and to amend the Credit (Administration) Act 1984 to close the Consumer Credit Fund and transfer any residual funds and liabilities to the new Victorian Consumer Law Fund.

The bill is the next step in very significant reforms undertaken by the former Minister for Consumer Affairs under the previous Labor government. Labor will not be opposing the bill. I will spend my contribution talking about the various reforms that have been undertaken and are now composed within this new framework. With some 100 acts and regulations affording very important protections to Victorian consumers, the previous Labor government took a very

deliberate decision to modernise and rationalise Victoria's consumer rights framework without losing any of the consumer benefits.

One important feature of that spate of reforms was not only to make the laws user friendly in terms of their being able to be accessed and understood but to remove any redundant or anachronistic provisions. The objective was clear and purposeful: that over a 10-year period — by 2010 — the laws would be reviewed and modernised through a more straightforward framework of protections, clearer and more user-friendly language, as I have mentioned, and the removal of anachronistic and redundant provisions. Importantly this process would also complement the important work that was being undertaken to reduce the regulatory burden on businesses. It was envisaged that the reduction in the burden would be of the order of 20 per cent. That is a very important outcome, if you like, of those legislative and regulatory reforms over a period of time.

Extensive community consultations and engagements were undertaken through this period to ensure that the new framework was as relevant as ever to community expectations, because at no point were we intending to diminish or cause to be diminished any of the important consumer protections that had been built up over decades. There was also a very close alignment between this work and matters that were identified through the Productivity Commission's *Review of the Consumer Protection Framework*. The bill we have before us comes at the tail end of the process, which focused on achieving national harmonisation of those consumer laws. The house will know that the Australian Consumer Law became effective on 5 January last year.

The body of reform has been significant. A lot of that is contained in this bill as a re-enactment, and it is important to dwell on the importance of those reform processes that were undertaken and the reforms achieved. Of particular relevance to the bill before us is business licensing and registration, a reform which underwent wholesale review and harmonisation with the object of reducing red tape for businesses whilst preserving important consumer protections, as I said earlier.

Five acts were subject to discussion papers and community consultations from 2008. Let us remember that 100 acts and regulations cover the wide array of consumer protections and consumer matters that exist in Victoria. Those five acts are the Travel Agents Act 1986, the Private Agents Act 1966, the Introduction Agents Act 1997, the Carriers and Innkeepers Act 1958 and the Landlord and Tenant Act 1958. Other acts also

underwent significant changes, including the Fair Trading Act 1999, the Conveyancers Act 2006, the Owners Corporation Act 2006 and the Estate Agents Act 1980.

The review culminated in the Consumer Affairs Legislation Amendment Act 2010, introduced in January 2010, which also repealed various redundant and anachronistic provisions, as I touched on earlier. This was the first stage of legislative reform. This was followed by the Consumer Affairs Legislation Amendment (Reform) Act 2010, which was passed in September of that same year.

That dealt with changes to the Fair Trading Act 1999, the Goods Act 1958, the Sale of Land Act 1962, the Conveyancers Act 2006 and the Estate Agents Act 1980. The Consumer Acts Amendment Act 2011, which was passed in August 2011, incorporated changes to the Owners Corporation Act 2006 and further amendments to the Fair Trading Act 1999 and the Estate Agents Act 1980.

It is important to note that, as I mentioned earlier, there was a concurrence of activity across all jurisdictions to move towards a national harmonisation of consumer laws at the same time as Victoria set about making wholesale reforms to its set of consumer laws. At the July 2009 Council of Australian Governments meeting of commonwealth, state and territory leaders an intergovernmental agreement for the Australian Consumer Law was signed off. This has meant that since 1 January 2011 there has been a single national law for fair trading and consumer protection which applies equally in all Australian jurisdictions, to all sectors of the economy and to all Australian consumers and businesses.

This was a terrific achievement, and it is important to note that the Productivity Commission estimated that this reform could provide benefits to the Australian community worth between \$1.5 billion and \$4.5 billion a year. Those figures are taken from the *Australian Consumer Law — An Introduction* guide of November 2010. This is a significant reform which protects essential consumer rights and also provides a major reduction in the cost of red tape for businesses. That is a double plus by any stretch of imagination.

The Australian Consumer Law replaces previous commonwealth, state and territory consumer protection legislation and fair trading acts. It is part of the federal Trade Practices Act 1974, which was renamed the Competition and Consumer Act 2010. In Victoria the Fair Trading Amendment (Australian Consumer Law) Bill 2010 made the new Australian Consumer Law a

law of Victoria and also made related changes to the Fair Trading Act 1999. A new part 2 was inserted into the Fair Trading Act 1999 to provide that laws applying in Victoria will include regulations made by the commonwealth for the purposes of the Australian Consumer Law. This was to ensure that we have continuing harmonisation of changes that are made from then on. It is important to have provisions in place that allow the continuation of that harmonisation. The Australian Consumer Law applying in Victoria comprises schedule 2 of the commonwealth Competition and Consumer Act 2010 and regulations made for the purposes of that schedule.

The development of the Australian Consumer Law was a watershed in unifying consumer protections across the country. Victorian Labor was proud to be a part of the development and implementation of these uniform laws. I wish to pay tribute to the previous Minister for Consumer Affairs, Tony Robinson, who was instrumental in driving a lot of these key reforms. He flew the flag for Victoria, which for decades very much led the way in consumer protection laws, and he ensured that the national harmonisation of Australian Consumer Law did not diminish or cause to be reduced the protections afforded to Victorians before 1 January 2011. That is an important point — national harmonisation is important, but it is also important that hard-won consumer rights built up over the decades not be reduced.

The effective date of the new Australian Consumer Law was 1 January 2011. As I said, the Australian Consumer Law delivers nationally harmonised unfair contract terms law covering standard form contracts. It does a number of other specific things, including providing laws to secure rights for consumers when buying goods and services which replace existing laws, conditions and warranties. It provides laws governing product safety and enforcement mechanisms. It also offers straightforward provisions for lay-bys, a range of new penalties, consumer rights options and enforcements, and a new national law covering unsolicited consumer contracts, which also includes the replacement of door-to-door selling provisions.

While the bill mostly re-enacts existing provisions of the Fair Trading Act 1999, there are a number of additions that I wish to comment on. The bill broadens the focus of Consumer Affairs Victoria (CAV) to include a recognition of what is deemed as ‘small business as consumer’. I understand that this is a commitment of the current government. It fulfils the government’s election commitment and takes the form of protections in the Australian Consumer Law. The Australian Consumer Law contains a definition of

consumer that includes small businesses, so this amendment broadens the scope of Consumer Affairs Victoria to allow the director of Consumer Affairs Victoria to conciliate disputes between a small business and its supplier. I understand that attention has been given to ensure that the definition of small business is one that matches that contained in the Australian Consumer Law.

I wish to mention a concern that the opposition has in terms of what additional resources will be provided to Consumer Affairs Victoria to allow for the conduct of this broadened application of conciliation in disputes covering a new category of consumer which includes small business and suppliers. That is a very pertinent point. We want to make sure that ordinary consumers who rely on and rightly expect the assistance of Consumer Affairs Victoria do not miss out on the work and assistance of CAV by virtue of the fact that no additional resources will go to the agency to cover this added area of responsibility for dispute conciliation. Any fair-minded ordinary Victorian would simply say, ‘If this came at the expense of ordinary consumers, who have traditionally been referred to in consumer protection laws, then that would be an unfair outcome’.

For this reason I ask the minister to provide the house with further information on this issue to put to rest our concerns. We hope the minister will provide that assurance before the bill is passed. I remind members that the Minister for Consumer Affairs has refused to sum up on any of the debates on bills he has brought to this house in the last 15 months. A number of bills about consumer affairs have come to this house, so he has not answered a number of very important questions put to him by the opposition on consumer protections to date. I hope that on this occasion the minister breaks the drought. The matter I raise tonight for his response is particularly pertinent given the Baillieu government’s commitment to cut the public service staff numbers by 3600. Can the minister give assurances that this jobs-shedding commitment will not be applied to staff dealing with disputes and complaints at Consumer Affairs Victoria?

**Ms Ryall** — On a point of order, Acting Speaker, I welcome the member’s return to speaking on the bill, but I ask you to help her to not stray from the bill and to not talk about extraneous matters.

**The ACTING SPEAKER (Dr Sykes)** — Order! I am satisfied the member for Mill Park is using her licence as the lead opposition speaker on this bill, but I am sure she will keep referring to the bill at appropriate intervals.

**Ms D'AMBROSIO** — I assure you, Acting Speaker, that this matter goes to the heart of the efficacy of this bill. If you are going to increase the work of Consumer Affairs Victoria by virtue of the introduction of this bill, the logical question is: are there sufficient resources being provided to Consumer Affairs Victoria to implement the bill? I strongly suggest I have done nothing but stay on this bill. Perhaps the member who has raised the point of order should read the bill; she may actually come to the same conclusion.

The Consumer Action Law Centre has also expressed concerns to the opposition, including me, regarding whether the government will be providing additional resources in relation to complaints from and conciliation regarding small businesses who may be in dispute with suppliers, which will now be entertained by the director of Consumer Affairs Victoria.

This bill also broadens the eligibility of who can source assistance from the Victorian Consumer Law Fund, which was created by the passing of the federal Fair Trading Amendment (Australian Consumer Law) Act 2010. Civil penalties awarded under Australian Consumer Law are to be paid into the Victorian Consumer Law Fund. When ordered by a court, payments from the fund will be received and distributed from defendants to redress non-party consumers who are entitled to refunds as a result of conduct that contravenes specified Australian Consumer Law provisions.

The Victorian Consumer Credit Fund will be closed as a result of consumer credit laws having been transferred to the federal jurisdiction. This fund played an important role in relation to consumer credit matters, but given that the Australian Consumer Law and the Victorian Consumer Law Fund are now in place and that consumer credit matters have been transferred to the federal jurisdiction, it is now appropriate for the Consumer Credit Fund to be wound up. My understanding is that the residual funds will be transferred to the Victorian Consumer Law Fund. I understand from the briefing the opposition received from the staff of the minister's office that some funds remaining in the Consumer Credit Fund will be transferred to the Victorian Consumer Law Fund. I understand that the Consumer Credit Fund has residual funds of approximately \$530 000.

Previously, amounts from the Victorian Consumer Law Fund could be paid as special-purpose grants to not-for-profit organisations or to the director of Consumer Affairs Victoria to be used for purposes consistent with the objectives of Australian Consumer

Law. This bill will remove the requirement that special-purpose grants from the Victorian Consumer Law Fund be only made to not-for-profit organisations. That means that any person or organisation could apply to receive a grant from the fund to run educational initiatives consistent with the objectives of Australian Consumer Law. It is opening up the fund to those outside the strictly defined not-for-profit group of organisations and the director of Consumer Affairs Victoria.

The opposition is somewhat wary of the appropriateness of no longer restricting the issuing of funds to not-for-profit organisations. The Consumer Action Law Centre is also concerned about this. The funds in the Victorian Consumer Law Fund are intended to further the interests of consumers with respect to their relationship with businesses. The Consumer Action Law Centre has made it very clear to the opposition that it does not believe business is best placed to further those interests and that independent research or advocacy is more likely to further consumers' interests. That is a view that has been put by the Consumer Action Law Centre. It is a foremost organisation, robust in its championing of consumer rights, and it is important that we reflect on the concerns it has expressed.

Further, the Consumer Action Law Centre believes in general that businesses have significantly more resources to undertake research and education compared to the not-for-profit consumer agencies. Again this is something we need to reflect on as legislators, and I signal that the opposition will be watching very carefully how grants from this fund are used in the future. We hope there will be no diminution of assistance provided to not-for-profit organisations. We will see how that pans out.

The bill provides for the closure of the Victorian Consumer Credit Fund, and the residual funds will be moved over to the Victorian Consumer Law Fund. I should touch on some of the features of the Victorian Consumer Credit Fund and the grants that are used for certain purposes. This goes to the heart of ensuring that consumers are afforded the greatest protection possible. The purposes for which that fund is used are credit education services; education, advice or assistance to persons to whom credit has been or may be provided under credit contracts; and research about the use of credit. The Victorian Consumer Credit Fund is funded by civil penalties, and the Consumer Law Fund will absorb these funds and receive continuing payments as civil penalties are applied under the Australian Consumer Law.

The bill also seeks to lessen the impact of inspections on businesses, and that is a positive thing. The bill provides that an inspector from Consumer Affairs Victoria or a member of the police force may bring with them any other person who has expertise in a particular area that is being investigated or searched and who may be necessary or useful. For example, a technology expert may accompany an inspector to inspect a storage device at a particular site rather than that device being taken away by the inspector and searched by an expert off site. This makes a lot of sense.

The bill also gives rise to a statement under section 85 of the Constitution Act 1975 pertaining to the limitations of the jurisdiction of the Supreme Court. I want to refer to that in passing. Three clauses in particular in this bill receive treatment under section 85. Clauses 187, 188 and 189 seek to alter or vary section 85 of the Constitution Act 1975 regarding the Victorian Civil and Administrative Tribunal. I will touch on those.

These changes revolve around VCAT being the preferred court for disputes in small claims. The statement under section 85 goes to the matter of ensuring that VCAT has precedence over other courts if a proceeding is commenced in VCAT first. I will illustrate that from my understanding. The variation to section 85 is to allow for parties to a fair trading dispute a choice of forums in which to litigate and to ensure that a party wishing to take advantage of the benefits offered by VCAT is not unfairly frustrated by another party that may choose to commence proceedings in court merely as a tactical manoeuvre.

We all know that the greatest strengths of VCAT are its affordability and its accessibility. Those are two hallmarks of the VCAT system. I note the minister's comments in his second-reading speech on the bill, which were — and I paraphrase — that where a fair trading dispute is commenced first in VCAT and is not struck out or withdrawn but is live, a court cannot deal with the same matter. This is dealt with by clause 187 in the bill. Clause 188 deals with proceedings that are first commenced in a court other than VCAT. Under particular circumstances the court must stay these proceedings if VCAT is considered the better option for dealing with the dispute. The rationale for this clause is simple and straightforward. Clauses 187 and 188 are about affordability for a party to a fair trading dispute and, of course, accessibility to the processing and settling of a matter.

Notwithstanding this, VCAT may exercise its power to refer a matter to court. Clause 189 confines small claim

disputes exclusively to VCAT, and the opposition understands that nothing in the section 85 statement impinges on other appeal triggers on decisions of VCAT.

As I have illustrated, the bill very much re-enacts a number of provisions of existing laws in this one act. It seeks to make changes, the last of which I have talked about in my contribution. I note that the minister, just before I rose to speak, circulated a number of amendments. I am not in a position to comment directly on any of those amendments. They certainly seem perfunctory in nature, but the opposition reserves any comments beyond that to a later stage in this debate.

The Australian Consumer Law certainly is a watershed for the jurisdictions in harmonising national laws. Big things are expected of the laws in terms of significant reductions in costs for businesses, and that has to be welcomed. I am very pleased to say that the previous government was a champion of a national harmonisation of consumer laws and moved very forcefully and purposefully through good community consultation towards overhauling the Victorian laws and regulations which existed and which continue to exist. We are very keen to ensure that consumer protections remain as relevant today as they ever were, and we certainly believe every opportunity needs to be afforded to ensure that consumer protections are paramount and that costs to businesses are also important in the modernisation of consumer laws.

**Mr NORTHE** (Morwell) — It gives me great pleasure to rise this evening to speak in the debate on the Australian Consumer Law and Fair Trading Bill 2011. Obviously it is a very comprehensive bill, containing in the vicinity of 240 clauses, and I take the opportunity of thanking departmental staff for their briefing and for providing information in relation to this very comprehensive bill.

Essentially the bill is a rewrite; it is a re-enactment of the Fair Trading Act 1999. It seeks to make the act consistent with the Australian Consumer Law. The member for Mill Park indicated that the Australian Consumer Law has been in place since 1 January 2011 and is a single national fair trading law itself. As the member for Mill Park also said, over a long period of time there has been substantial consumer law reform in Victoria. Other consumer acts have been modernised and consolidated, particularly around consumer protection schemes. It is imperative that businesses and consumers have faith and confidence in the legislation and regulations that we have before us, so these amendments seek to go some way to help not only businesses but consumers as well, and it is imperative

that we have that consistency between the Fair Trading Act and the Australian Consumer Law.

This is a bill for an act to re-enact with amendments laws relating to fair trading and consumer protection, to regulate certain businesses, to repeal the Fair Trading Act 1999, the Disposal of Uncollected Goods Act 1961, the Carriers and Innkeepers Act 1958 and the Landlord and Tenant Act 1958 and to make other related and consequential amendments and for other purposes. Given the time constraints on debate on this comprehensive bill, I will refer to only five or six key points. The first one is in reference to the Victorian Civil and Administrative Tribunal and its jurisdiction to make an enforceable order for the possession of land. This order refers to, for example, a trader dispute where a debtor under a loan agreement commences proceedings in VCAT to prevent the creditor from enforcing a mortgage and the creditor wants to counterclaim. This determination in VCAT can only be made by a judicial member, but there have been concerns expressed in VCAT with regard to this particular provision.

What we have seen subsequent to that is a number of cases being referred to the County Court. Essentially what you have is these particular disputes ending up in multiple forums. There have been a couple of VCAT cases that I can refer to. One was *Linton and Vink v. Commonwealth Bank of Australia* in 2004, and in his determination at that time Judge Bowman concluded in his findings that whilst VCAT probably had the power to make an order, greater certainty existed in the County Court. More recently, in *Seachange Management Pty Ltd v. Bank of WA* in 2010 a determination was made that that matter would be better dealt with in the County Court. These amendments in part seek to rectify that particular matter so there is more clarity for VCAT to be the jurisdiction to make an enforceable order for the possession of land. Also, failing to comply with certain orders by the director of Consumer Affairs Victoria is evidence of failure to comply with the law.

Essentially at the moment the director can order a person to supply or produce documents or information to demonstrate compliance with the Fair Trading Act regulations. This is cumbersome for the director, because the director must prove that a person has not complied. In that scenario you end up with affidavits having to be sworn, evidence tendered et cetera, so it becomes quite a cumbersome process, in part. The bill provides that certification by the director will be taken as prima facie evidence of non-compliance, which seems a common-sense measure.

The third issue I want to talk about this evening is the enabling of the Victorian Consumer Law Fund to issue grants to businesses. The member for Mill Park spent some time speaking on this part of the bill. It relates to the closure of the Consumer Credit Fund, and as was referred to by the member, regulation of the fund was transferred to the commonwealth in 2010. Therefore we will see residual moneys — \$530 000 or thereabouts — transferred to the Victorian Consumer Law Fund. The objective of that fund is to look after consumer wellbeing and protection, and also have an understanding of fair trading. When in opposition, the minister certainly did raise the prospect that he felt businesses should be able to apply for grants under the Consumer Credit Fund, which will now be known as the Victorian Consumer Law Fund — and there are many good examples of where this fund can be put to good use. One of the examples at the moment — and I am happy for somebody to correct me if I am wrong — is the Footscray Community Legal Centre, which uses those funds for what it calls ‘Bring your bills’, where consumers can bring their bills into the community legal centre in Footscray for analysis, assessment and advice. It makes sense that businesses be able to assist in consumer education, and it makes sense again, as the minister has suggested, that businesses be able to access that particular fund.

The fourth key point I want to speak to is enabling Consumer Affairs Victoria to conciliate disputes involving a small business as a consumer when that small business is the complainant. Under the Australian Consumer Law small businesses have protections and rights, but these amendments enable the director of CAV to conciliate disputes between a small business that is a consumer and suppliers of goods and services. The businesses will not have to meet some of the requirements they currently have to meet under the Fair Trading Act 1999. The requirement for such a dispute to involve a matter of significant public interest has been removed.

The director of the conciliation service must have regard to whether the dispute is likely to be settled and discretion on whether to accept a dispute at all. There was some debate in the member for Mill Park’s contribution about how this might work between the small business commissioner and CAV. However, members should be assured that there has been plenty of agreement reached between CAV and the small business commissioner in ensuring that these disputes are held in a cordial manner, and that agreement has been reached with both of those authorities to ensure that small businesses are being looked after in that regard.

I also want to speak briefly about Consumer Affairs Victoria and its inspection powers. Where there is a search warrant to monitor compliance of goods with a recall notice or information standard, inspectors can test the goods. Under the proposed amendments if an inspector is conducting an emergency entry, he or she may, in addition to another inspector or the police, bring in a person who has some technical expertise and can provide assistance. That will provide minimal disruption to the business itself, but it will also ensure that appropriate expertise is involved in that particular search. It might be in the manner of an engineering or mechanical expert coming along to help CAV inspectors in that regard. It may be in the circumstance that an embargo on a particular set of goods or a product can be issued immediately or that further analysis might be required down the track. Again, that makes sense. With reference to information technologies, access to computers and IT information is very important, so having experts come along, not disrupting the business and being able to access the information that is required is common sense.

Finally, the bill provides clarification around those who are prohibited from being debt collectors. Those found guilty of matters such as assault, fraud and drug trafficking within the last five years are not able to be debt collectors. The provisions ensure that those who have been found guilty or have been convicted, for the purposes of consistency, will also not be allowed to be debt collectors.

I thank the minister for wonderful and sensible legislation. I wish it a speedy passage.

**Mr HERBERT** (Eltham) — It is a pleasure to speak in the debate on the Australian Consumer Law and Fair Trading Bill 2011, coming after the member for Morwell's obvious passion for consumer affairs. As my colleague the member for Essendon just commented, with his new haircut the member for Morwell might want to see the Minister for Consumer Affairs about what redress he has.

**The ACTING SPEAKER (Dr Sykes)** — Order! On the bill!

**Mr HERBERT** — I can only wish I had that much hair, Acting Speaker.

The bill renames and makes amendments to the structure and numbering of the Fair Trading Act 1999. It follows on from substantial reforms undertaken a few years ago by the previous government, which were fully enacted early last year. Those reforms were negotiated as part of a national dialogue on consumer

protection, and they are still moving through this Parliament today in legislation.

Whilst the bill contains fairly minor amendments compared to that major overhaul of consumer laws, it nevertheless makes some major reforms, particularly some substantive changes to consumer law in increasing protections to small business consumers and ensuring consistent interpretation with other jurisdictions.

I will speak to the bill a little more. I do not intend to speak for a long time on the bill. Before I move on to some specific measures, it needs to be said that if the government wants to protect consumers and the small businesses that serve those consumers, the first thing it has to do is have a thriving economy. It has to do something about the parlous state of Victoria's economy, with 1000 jobs lost per week.

**Mr Southwick** — On a point of order, Acting Speaker, I ask you to draw the speaker back to the bill.

**The ACTING SPEAKER (Dr Sykes)** — Order! I ask the member for Eltham to stick to the bill. The lead speaker had licence, and she used that appropriately, but I ask the member to stick to the bill.

**Mr HERBERT** — The bill, as with all consumer laws, relates to misleading or deceptive conduct. It relates to a whole heap of services not matching the descriptions that are given. It certainly relates to whether what is produced is fit for purpose. It is clear that if only these laws applied to the government, we would be a little bit better off. If you were a teacher looking at consumer protection in relation to the promises that you were sold at the last election or a nurse — —

**The ACTING SPEAKER (Dr Sykes)** — Order! Would the member for Eltham please stick to the bill!

**Mr HERBERT** — Yes, I will. Those occupations need consumer protection from being sold a dud.

On the specifics of the bill, one important aspect is allowing Consumer Affairs Victoria to undertake dispute resolution services for small businesses. This is an important point. A dispute between a landlord and a community agency about a commercial tenancy arose last week in Eltham. In fairness, many of us as MPs in this place have broad roles. We do a lot of different things over and above making the law and representing groups, but it became clear to me that as this matter was a legal dispute it was not something that an MP should be involved in to a large degree.

However, in researching that query, and it was a substantial query, I was a bit surprised to find that the body to go to — over and above VCAT (Victorian Civil and Administrative Tribunal) and over and above a court dispute, which would have cost a lot of money — was in fact the small business commissioner. The commissioner handles these sometimes quite large and sometimes quite small commercial disputes between small businesses and landlords. In coming to that conclusion and advising the person who had rung me up about the issue — and I had not read this bill at that point — I thought it wise that there be an aspect of Consumer Affairs Victoria that deals with that side of commercial exchange for small businesses. I am pleased that this bill will further take on the role of dispute resolution for small business.

As the member for Mill Park said, in any bill like this which sets up extra services out of a government agency or department the secret is in its implementation. Given the cuts to the public service and to that department, I wonder who will be implementing these changes.

**Ms Ryall** interjected.

**Mr HERBERT** — This is directly for the member for Mitcham's benefit and directly on the bill.

The bill creates a whole new range of activity — properly so, in my opinion — for Consumer Affairs Victoria. The question is: is there resourcing to go alongside this bill for the implementation? I hope the minister in summing up will tell us if there is any funding associated with this bill for the implementation of this new capacity for Consumer Affairs Victoria to perform dispute resolution.

I note that some groups have raised concerns about the minister's comments in regard to section 32 of the Charter of Human Rights and Responsibilities Act 2006. In his second-reading speech the Minister for Consumer Affairs said consumer law is being read in an inconsistent manner. It is a bit of a pity that even in a bill like this, which is about consumer affairs, members of the government show obvious disdain for aspects of the Charter of Human Rights and Responsibilities. In terms of future activity in this Parliament, I hope the basic principles of that charter will be better embraced.

Some of the major provisions of the bill provide for the closure of the Victorian Consumer Credit Fund and for any residue of funds to be placed in the Victorian Consumer Law Fund. I am told that \$530 000 is in the fund right now. It is a pretty important fund for education, advice and assistance for people and

research about the use of credit — all very good things. The bill also seeks to lessen the impact of inspections on business. When I first saw that provision I thought, 'Hello, what is going on here? How do we ensure that consumers' rights continue to be protected?'. But in fact the bill enables inspectors to get some outside expertise to go to a business and have a look at some of the storage devices et cetera on site, rather than having the business take it all outside to be inspected at other places. Importantly, the Victorian Civil and Administrative Tribunal remains the tribunal for Victorian consumers to resolve disputes, and the bill confirms its powers to make an order for possession of land in the course of a consumer or trader dispute.

In summing up, Labor will not be opposing the bill. We see it as a tidying up and a streamlining of existing legislation. Basically we have a great desire to ensure that consumers are protected in a robust manner in their dealings. The bill is a sign of sophistication in our state; however, we have concerns that there do not appear to be any financial resources to underpin some of the aspects of the bill that will require staffing and expertise and a range of activities within Consumer Affairs Victoria. We would like to see what the government is doing in terms of strengthening resources for those provisions of the bill that need them, but basically we support the bill and wish it a speedy passage.

**Ms RYALL** (Mitcham) — It gives me great pleasure to rise today to speak about the Australian Consumer Law and Fair Trading Bill 2011. This bill provides an opportunity to consolidate and improve the Fair Trading Act 1999 (FTA), and it is appropriate considering the Australian Consumer Law that came into effect on 1 January 2011. This bill does a number of things, including preserving existing Fair Trading Act 1999 provisions. It improves the structure of that act and gets rid of references to provisions which have been repealed. It makes amendments to provisions within the FTA, including clarifying the Victorian Civil and Administrative Tribunal's jurisdiction in relation to enforceable orders for the possession of land. It provides that certification by the director of Consumer Affairs Victoria of a failure to comply with particular requirements is prima facie evidence of compliance failure unless evidence to the contrary is brought forward.

The bill provides the Minister for Consumer Affairs with the ability to make special purpose grants — which we have just heard something about — out of the Victorian Consumer Law Fund so that organisations other than not-for-profits or the director can receive grants. The bill amends the Credit (Administration) Act 1984 so that residual income and liabilities can be

transferred from the Consumer Credit Fund to the VCLF. It provides better access for the small business sector to dispute resolution services currently offered by Consumer Affairs Victoria. Following recent reforms, this bill will tidy up what has essentially become patchy legislation and give those who depend on this legislation access to a clearer, more logically arranged and accessible act. Furthermore, it will give added support to what is commonly known as 'the engine room of our economy'— that is, small businesses.

The Baillieu government made an election commitment to expand services for small business consumers and better identify the consumer protections available to them. In doing so, changes to the powers of the director of Consumer Affairs Victoria to conciliate and mediate disputes make good sense. As defined by the Australian Bureau of Statistics, a small business is one with less than 20 employees, but it also covers businesses that may have more employees but who are generally a casualised workforce. Cafés and restaurants are a good example of small businesses that may have over 20 employees.

As at June 2009, there were close to 500 000 small businesses in Victoria, representing 25 per cent of the national total, or 96 per cent of all businesses in Victoria. Small businesses contribute approximately 30 per cent of Victoria's total production — and as I said, they are 2009 figures. In the city of Whitehorse, which the Mitcham electorate is in, there are over 8500 businesses that provide over 55 000 jobs, and those businesses have a combined economic output of approximately \$8.3 billion. Collectively we are talking about a significant amount of money here. In relation to small businesses — and there are many within the Mitcham electorate — one thing that is often forgotten or overlooked is that small businesses are actually consumers. They have suppliers, they purchase goods and they purchase services.

As someone who was a small business owner for 15 years, I well and truly understand the challenges faced by small business. Particularly in the early days when you are trying to establish a small business you run from week to week and from day to day. You do your best to manage your finances because you are everything. I have said this in the past: you are human resources, you are sales and marketing, you are the accountant for the business, you cover every aspect because you do not have separate departments to do this. Growing a small business takes a clear strategy, good processes and money.

There is very little fat in a small business's budget. Your staff are your biggest asset, and it is a great

feeling to be able to provide employment to people. It is greatly satisfying, and you value those people enormously. Small business owners tend not to get breaks. They are always working on their business on weekends; they are still receiving phone calls and emails. If they try to get away for a few days the emails still come, the phone still rings. They do not get a break. This is so particularly when you are trying to maintain your financial responsibilities within the business. You have a huge number of compliance requirements in the financial area. If you are able to manage some days off, as I said, you are still contactable, and that contact still occurs. Essentially in such circumstances you have to run your business from a distance.

Small businesses cannot afford the time, the money or the personal and emotional drain that comes with disputes. A dispute creates mental anguish if the business is disrupted. In any business, but particularly in a small business, cash flow is king. When a small business as a consumer depends on suppliers providing products and services, if those products and services get held up, the small business may not be able to supply its customers, meaning cash flow can be blocked and the small business can be brought to its knees.

**Mr Eren** interjected.

**Ms RYALL** — It is interesting that the member opposite makes jokes about this. Given an understanding of the contribution small business makes — —

**Mr Eren** interjected.

**The ACTING SPEAKER (Dr Sykes)** — Order! The member for Lara is out of his place.

**Ms RYALL** — Given the contribution small business makes to the economy and to this state, I would very much question the value of any interjection from the member opposite at this point in time.

If a supplier does not honour a warranty or service within the required time it can stop the small business being able to offer its services and being able to employ and pay other people. Imagine for a moment that you run a bar or a restaurant and that you pay a tidy sum of money for services that maintain your commercial ovens. There is regular servicing and an extra charge for a call-out in an emergency situation. Suddenly that emergency comes. It is 4 o'clock on a Friday afternoon, right before your busiest time of the week, right when you are about to bring in the source of cash you need for that week to be able to pay your people and to

continue, and the service provider does not arrive. You cannot operate. You cannot function.

This could become an example of a dispute. The last thing a small business needs is to have its cash flow blocked, not to be able to handle or negotiate an outcome of a dispute and to end up in a stalemate. These issues need to be dealt with, and it is therefore absolutely vital to the survival of small businesses that where there is a dispute with a supplier the problem can be resolved through conciliation and mediation involving the director of Consumer Affairs Victoria. This is common sense, because it is both inexpensive and timely.

Something else that was important to getting this bill right was making it clear and easy to understand. In my former life I was a consultant to business, both big and small, on legal compliance systems. One of the absolutely important things is making sure our legislation is easy to read, understand and apply. I congratulate the minister on the work he has done on this bill — on coming out with a piece of legislation that is easy to understand and apply and that consolidates matters. I commend the bill to the house.

**Mr MADDEN** (Essendon) — I rise to speak on the Australian Consumer Law and Fair Trading Bill 2011. I am happy to follow the member for Mitcham, because I too want to talk a little bit about small business and the impact this bill may or may not have on it. One of the more significant things about this quite substantial bill, which is 270 pages long, is that under the bill small businesses are considered consumers and thereby may seek to have issues dealt with by the likes of Consumer Affairs Victoria.

I am a little concerned on a number of fronts. We have heard from the member for Mitcham about the number of small businesses we have in this state — let alone in her seat, or the municipality that coincides with her seat. Small businesses make up a fairly large percentage of the economy's businesses. Given those large numbers, we could expect a fairly large number of actions, complaints or referrals to the director of Consumer Affairs Victoria seeking conciliation of disputes between small businesses and their suppliers. I do not think we are drawing a long bow by suggesting that expanding the depth and breadth of the coverage of this legislation will expand the number of small businesses that will need that service provided to them.

This has been a common theme raised by the speakers on this side of the chamber. Sure, we think it is a good idea to include small businesses. We think it is commendable that this was an election commitment

that has been delivered on by the government. However, the qualification is that there is no point in trying to do more with the same amount of money unless you can improve your systems, and there is no guarantee that is going to happen. In fact I am a little bit concerned about the interrelationship we are going to see between the small business commissioner and the director of Consumer Affairs Victoria. I will explain why.

During my experience as Minister for Planning I saw issues dealt with involving the building commissioner and Consumer Affairs Victoria. There were issues that needed to be dealt with through one of those two gateways, and they would come through either the Building Commission or Consumer Affairs Victoria. More often than not issues related to disputes around building practice, the quality of building work or the contract and how the work manifested what was or was not in the building contract. In general terms that worked reasonably well, but there was a significant degree of tension between consumer affairs, the Building Commission and consumers because — and I have mentioned this before in other debates — the worst thing that can happen on a building site is that work grinds to a halt while it is sought to resolve a dispute. If that is protracted, it is harder to get contractors back on the site.

I am concerned that, where there is small business as a consumer and likewise a small business that seeks to have an issue reconciled through mediation or conciliation, if the government does not have sufficient resources for consumer affairs to deliver the service quickly, efficiently and effectively, what it will end up with will be a lot of complaints in the in-tray. They might be dealt with eventually but what people do not want on a building site or in a small business is as we have heard from the member for Mitcham. If you are in a precarious position because your business runs with very slim margins because it is a small business and if you are paying wages you are the last one who gets a wage because you own the small business, then the last thing you want is a very large in-tray at consumer affairs that is not being dealt with quickly enough.

I think what we will see will be what may be a noble ambition of this government to expand the depth and breadth of the legislation to include small business become a thorn in its side. Unless the government delivers the resources, guess who will be the government's biggest complainants about the services that are not being provided by consumer affairs? They will be small business people. This will be about not only small business but also big business.

When, in my role as spokesperson for small business, I enter into discussions with small business operators around the state, one of the things I hear is that most often they are in dispute with big business. One example is of a small business operator who is running a very good operation when there is a tightening of the credit situation. What happens is that one of their biggest purchasers says, 'By the way, our terms of payment aren't going to be 14 days anymore; they're going to be 30 days. That's just the way it's going to be, so you'd better get used to it'. What happens to the small business person? They now have to cover all their salaries, on-costs and operations for the fortnight, which will probably blow out to 21 days, to cover the credit that they need for all their outgoings that they would have got when they got the cash flow from the business they had that relationship with. They will not cut off their nose to spite their face, so they are not going to say to that big business that purchases their product or their services, 'We're not going to deal with you any more', because they cannot afford to do that.

What will happen is that there will be those sorts of complaints by small businesses against a big business as a provider or a purchaser, and guess what will happen? People at Consumer Affairs Victoria will find themselves blueing with big business on behalf of a small business and they will need the resources to do that. They will not need a few resources; they will need a hell of a lot of resources, because one thing we know about big business is that when they see an action coming they bring in all their legal advisers — their best barristers or legal advice — and they run the gauntlet and the big fight.

I suspect that before too long we will see one of two things. We will either see this government having to put a lot more money into this space than its members ever thought they would need to — and they will do that only reluctantly, after they have heard sufficient complaints from small business operators that they are not getting what they want; or, alternatively, the rank and file consumers in the portion not considered small business but also in the in-tray will not be getting the services they want. It is very likely that some of those in the in-tray who have to go through consumer affairs will be people who are dealing with some building operations in the Building Commission as well. So there will be more people in the queue waiting for a service they need desperately and urgently and not getting it. Not only will they not get it in a hurry, it will take a hell of a lot longer than it ever took before.

What I am saying about complaints is: watch this space. When what I suspect will happen does happen, I will be the first one to say, 'I predicted it', but if it does not

happen, I will be happy also to say, 'I predicted it and it didn't happen' — but I suspect it will.

**Mr McIntosh** interjected.

**Mr MADDEN** — I am the first one to admit that I was wrong, but I do not think I will be in this case — put it that way.

**Mr McIntosh** — But you've got it both ways.

**Mr MADDEN** — No. I said I would admit it if I was wrong — —

**The ACTING SPEAKER (Mrs Victoria)** — Order! Interjections across the table and replies are disorderly.

**Mr MADDEN** — The Minister for Corrections can always read it in *Hansard*, if he needs to clarify what I have said.

**Mr McIntosh** — I just said you had a bob each way, that's all.

**Mr MADDEN** — No, I was not saying that.

**The ACTING SPEAKER (Mrs Victoria)** — Order! Through the Chair!

**Mr MADDEN** — I am actually saying that if I need to correct what I have said, I am happy to correct it.

**Mr McIntosh** interjected.

**Mr MADDEN** — What it means is the onus is on you to find out whether or not it works.

**The ACTING SPEAKER (Mrs Victoria)** — Order! The member for Essendon, through the Chair.

**Mr MADDEN** — What I believe will happen is that this will come back and haunt the government big time, particularly because its ambitions will in a sense precede its ability to deliver on what it needs to resource. I look forward to the uniform operation of consumer law across the country and to the state of Victoria delivering on that commitment as well, but I suspect there will be a few significant glitches and hiccups along the way before the government actually works out how much it needs to spend on resourcing these very significant changes that have been promoted as the upside of this bill.

**Ms WREFORD (Mordialloc)** — I rise to speak in support of the Australian Consumer Law and Fair Trading Bill 2011. As members can see by the book, this is an extensive bill that we have in front of us. The

Fair Trading Act 1999 has been Victoria's major legislation for consumer protection and has been important for both consumers and traders. The bill sets up laws that are consistent with the Australian Consumer Law, which came into effect on 1 January 2011. It overrides slabs of the Fair Trading Act 1999, and that means that parts of the act are therefore repealed. The implementation of this bill is an important and necessary step.

These days much trade takes place across state borders. It is not unusual for a Victorian business or consumer to buy from Queensland, Western Australia or anywhere else. In that context having an assortment of state acts did not make sense. Over time Victoria has repealed significant chunks of the Fair Trading Act 1999 and modernised provisions, which has made it a very messy and unwieldy piece of legislation. Unlike the previous government, this coalition government likes to help consumers and businesses, particularly small businesses, by making things easier through cutting red tape and taking a more common-sense approach.

With this bill the government is providing clearer, simpler and more concise legislation by reviewing and cleaning up the act. There is nothing worse for consumers and businesses than having acts that are impossible to read and follow. In this update, the bill reconstructs the act in a logical manner; it consolidates the act; it makes the act understandable and accessible; it re-enacts the remaining provisions in the act; and it renames the act the Australian Consumer Law and Fair Trading Act 2011, which reflects both its context and its place. It reorganises the structure of the act to make it clearer and easier to navigate. For example, it now includes chapters and extensive sections which have been renumbered. It takes the core of the tried and tested Fair Trading Act 1999 and retains the parts that we still need. It includes the recent reforms required to cope with the modern trading mechanisms. These core elements have essentially been re-enacted with little or no change.

However, this has been an opportunity to improve the act, particularly for small businesses. We have endeavoured to be at the forefront and even a bit ahead of our time with the latest regulatory and enforcement practices. For example, the bill allows the director of Consumer Affairs Victoria to conciliate and mediate disputes. It delivers on our commitment to promote and expand services to help small businesses and consumers. As we have heard from previous speakers, small business is very important to our economy. Small businesses and some medium businesses, but particularly small businesses, are key parts of my electorate in the city of Kingston.

This bill removes the impediments that restricted the director of Consumer Affairs Victoria from mediating and conciliating in small business to small business transactions. This will allow more disputes involving small businesses to go to conciliation where the business has split the definition of consumer. The bill widens the range of businesses that the legislation covers so that rather than just applying to small businesses, which are defined as having 20 employees or less, it now covers businesses that could be, for example, a cafe that might be seen as a small business but may employ 30 part-time employees.

The bill also removes references to significant public interest, thus acknowledging that a case is important even if it relates to just one or two people in a business. It adds to our program of assisting businesses as consumers, which includes customised information on the consumer affairs website and information line. This bill also allows special purpose grants from the Victorian Consumer Law Fund to be made to bodies beyond not-for-profit bodies and the director of Consumer Affairs Victoria as long as they are consistent with the aims of the Australian Consumer Law. For example, a for-profit organisation could apply for funds to assist consumers in one way or another. The bill allows the Victorian Consumer Credit Fund to close, with the movement of residual funds, liabilities and future revenue to the Victorian Consumer Law Fund. Basically that is moving the old fund to the new fund. This transfer to the Victorian Consumer Law Fund will reduce the double up in administration created by having two funds, thereby cutting red tape.

The existing inspection powers in the act have been re-enacted with enhancements. The impact of inspections on businesses has been reduced and inspectors may now take someone with technical expertise with them for assistance. For example, they may bring a computer specialist to a business rather than taking a hard disk away and extracting information off site — they can do it all on site now. Importantly, this bill re-enacts access to the Victorian Civil and Administrative Tribunal. Obviously the Australian Consumer Law was built around a national approach, but it is important that there is an affordable tribunal available in this state to help resolve disputes. This bill also puts beyond doubt the power of the tribunal to make an order for the possession of land in a dispute. This is important because there have been many contentious outcomes involving mortgaged properties.

Consumer Affairs Victoria provides certification, which can be taken as evidence of non-compliance by the notice recipient. In the past courts have interpreted the law to mean that the director must prove on the balance

of probabilities that non-compliance has occurred. This has required sworn affidavits and significant evidence, which is really unnecessary and expensive. This bill clears up the relationship between the Australian Consumer Law, the Charter of Human Rights and Responsibilities Act 2006 and this bill, the Australian Consumer Law and Fair Trading Bill 2011. The bill basically includes a new purpose, and that is to promote uniformity with the consumer laws of other states and to apply the Australian Consumer Law in a manner which is consistent with other states.

In summary, the Fair Trading Act 1999 has previously been reliable and is very important, but this bill consolidates the act by removing references to repealed legislation. It restructures and separates the provisions into chapters, it re-enacts the important parts of the old act specific to Victoria and it renames the act to reflect its content. It improves the old act by allowing the director of Consumer Affairs Victoria to conciliate and mediate disputes. It widens the range of businesses that can benefit from the system, consolidates the relevant funds and improves the grant process, makes the investigation process less intrusive, and improves and clarifies the court and tribunal process. This bill is of great benefit to consumers and businesses, and I commend it to the house.

**Mr McGUIRE** (Broadmeadows) — I rise to make a contribution on the Australian Consumer Law and Fair Trading Bill 2011. This legislation is uncontroversial, and I state at the outset that Labor does not oppose this bill. However, I note that the lead speaker for the opposition outlined that amendments will be pursued in the house and therefore we reserve our rights until those can be given greater scrutiny. From a quick assessment of the proposed amendments, they look to be minor, and I presume the bill will go ahead in good faith.

Following the meeting of the Council of Australian Governments in July 2009, state, territory and commonwealth leaders signed off on the Intergovernmental Agreement for the Australian Consumer Law. As of 1 January 2011 there has been a single national law for fair trading and consumer protection, which is to be applauded. It has ended duplication and overlap — an issue which is close to my heart.

The context is that this legislation is a continuation of the work of the former Minister for Consumer Affairs, Tony Robinson, who began the project to modernise Victoria's consumer affairs legislation, including by identifying legislation that may be redundant or outdated and by providing plain-English consumer protection legislation, which has allowed many

Victorians the benefit of accessible consumer protection. This goes to the nub of the issue: we need to have accessibility and plain English to make it practical and sensible for all to take advantage of the legislation.

It was the Labor government's commitment that by 2010 all laws would have been reviewed and modernised. This was an admirable achievement. During the terms of the Bracks and Brumby governments the statute book was reduced by 20 per cent compared to 1999, ensuring that Labor significantly reduced the regulatory burden for Victorian business. I know anyone who has run a small business appreciates that the success of a business is all about the amount of time you have to put into it; it is about working on the business rather than having to deal with other issues that become distractions and can take the value out of it. This is a critical contribution that Labor has made to small business. Other speakers have noted the value of small business in the community and in the economy, and that is totally supported by Labor. The development of the Australian Consumer Law (ACL) was a watershed in unifying consumer protections across the country, and Victorian Labor was proud to be a part of its development and implementation.

That is the political and historical context leading to the bill currently before the house, which seeks to promote and encourage fair trading practices and a competitive and fair market, to regulate trade practices and to provide for codes of practice. It will also provide for the powers and functions of the director of Consumer Affairs Victoria, and promote uniformity with the consumer laws of other jurisdictions through the application of the Australian Consumer Law in Victoria. It will regulate certain businesses. It will also look to repeal and re-enact with amendments the Fair Trading Act 1999. It will repeal the Disposal of Uncollected Goods Act 1961, the Carriers and Innkeepers Act 1958 and the Landlord and Tenant Act 1958. So it is codifying a number of different propositions that have developed historically and updating them to what is required in the 21st century. It will also amend the Credit (Administration) Act 1984 to close the Consumer Credit Fund and transfer any funds to the Victorian Consumer Law Fund.

As I have mentioned, the uniform Australian Consumer Law came into effect on 1 January last year. The new laws provide for a new national unfair contract terms law, which covers standard form contracts; a new national law guaranteeing consumer rights when buying goods and services, which replaces existing laws on conditions and warranties; a new national product safety law and enforcement system; and a new

national law for unsolicited consumer agreements, replacing existing state and territory laws on door-to-door sales and other direct marketing. This is an issue that is particularly important in my electorate of Broadmeadows; predatory behaviour is something that has been brought to my attention as a local member on occasion. Also the provision for simple and uniform national rules for lay-by agreements is welcomed amongst my constituents. New penalties, enforcement powers and consumer redress options will also apply nationally. The bill has an overarching proposition of codification and modernisation that I think is to be supported.

While the bill before the house mostly re-enacts existing provisions in the Fair Trading Act 1999, there are a number of additions. This bill implements the government's election commitment to promote protection for 'small business as consumer', including through protections in the Australian Consumer Law and by allowing the director of Consumer Affairs Victoria to conciliate disputes between a small business and its supplier. But this point raises some questions. The Consumer Action Law Centre is interested to know whether the government is providing additional resources for complaints and conciliation. Without extra money being provided there is a concern that ordinary consumers may miss out. This is an issue to be addressed as these changes are implemented and monitored. Therefore I call on the minister to provide further clarity on this issue when summing up at the end of this debate.

Further, the Victorian Consumer Law Fund was created through the Fair Trading Amendment (Australian Consumer Law) Act 2010. Civil penalties awarded under the Australian Consumer Law are to be paid into it. When ordered by a court, the fund will also be able to receive and distribute payments from defendants to redress non-party consumers who are entitled to refunds as a result of conduct that contravenes specified Australian Consumer Law provisions.

Previously, amounts from the fund could also be paid as special purpose grants to not-for-profit organisations or to the director of Consumer Affairs Victoria to be used for purposes consistent with the objectives of the Australian Consumer Law. The coalition's bill removes the requirement that special-purpose grants from the Victorian Consumer Law fund be made only to not-for-profit organisations, meaning that any person or organisation can apply to run educational initiatives consistent with the ACL.

I believe it is important to note that the Consumer Action Law Centre is concerned about the

appropriateness of funds no longer being restricted to not-for-profit organisations. The intention of these funds is to further the interests of consumers with respect to their relationships with businesses, and the Consumer Action Law Centre believes business is best placed to further these interests and that independent research or advocacy is more likely to further the common interest in the spirit of the Australian Consumer Law. This is an issue that needs to be monitored and reviewed as we see how it works in practice. These are the concerns that have been raised, but I have an open mind to see how they develop and whether we need further amendments at a later date.

The member for Essendon raised some interesting points in his contribution about whether this could set up a proposition between small business and big business. One of Victoria's leading businessmen, Lindsay Fox, is someone who started out with one truck and built an incredible business which is multinational in its scope and highly successful in its delivery. He used to say he had always liked small business because the best thing about it is that it can always become a big business. We have to monitor what will occur in that position between small business and big business under these changes. I just want that to be noted. The overview and context of the bill warrant the support of the house, so I wish the bill a speedy passage.

**Dr SYKES (Benalla)** — I rise to contribute to the debate on the Australian Consumer Law and Fair Trading Bill 2011. Previous speakers have touched on a number of aspects of the bill. I would like to put the bill in the context of the general principle of consumer protection. It really is a balancing act between expecting people to take responsibility for their own actions and decisions and at the same time protecting the vulnerable people in our society who can be hoodwinked by sharp operators. At the same time there is a balancing act in terms of avoiding excessive red tape.

The second component of the context is the importance of moving towards a national approach to this piece of legislation and many other pieces of legislation. That is a no-brainer, but given the history of the evolution of Australian democracy and the democratic system, we constantly have the 'not invented here' syndrome appearing. In what you would think would be a relatively easy exercise of getting a national approach to legislation, you find that various states seem to think what applies in other states simply cannot apply in their state. Moves towards national harmonisation are very important and should be encouraged.

Scams and deceitful acts are really only limited by the imagination and ingenuity of the crooks who cook them up, and I never cease to be amazed at the sorts of acts and scams that occur. Regrettably, they quite often occur during natural disasters and times of crisis, when people prey on people who are not only vulnerable in a general sense but who have an increased vulnerability when under pressure during a natural disaster. One particular scam that is running in our area at present is relevant to some aspects of this bill. It involves a painter who has done a substandard job. It turns out the painter is not registered because there is no requirement for registration, and the person on whose house the unsatisfactory job was done has been having great difficulty getting satisfactory recompense from that painter. That is an example that shows consumers can still be duded by unscrupulous operators even with the many protective mechanisms we have in place.

The other issue in relation to context is that there are a number of measures in place to protect consumers now, leaving aside the situation I have mentioned where there is a gap. We have simple things like the Do Not Call Register and the cooling-off periods that are factored into the signing of contracts. Those are really simple, but they give people protection. If we keep focusing on the principle of keeping it simple and achieving the maximum amount we can through simple approaches, everyone will be a winner.

As other speakers have said, this bill re-enacts many sections in existing legislation. One of the new provisions is the empowerment of the director of Consumer Affairs Victoria to conciliate disputes between small businesses and their suppliers. My wife operated a small office supplies business for a number of years, and there were two or three occasions during her operation of that business when she had difficulty with a supplier supplying goods that were not up to standard or a supplier not meeting the agreed number. Whilst in most cases the suppliers did things in good faith and commitments were honoured, there were a number of occasions when there were problems, and she really did not have any recourse to support to resolve those issues.

Interestingly the empowerment that exists in this bill also builds on another service we have certainly found very useful for our constituents, and that is a government dispute resolution service, which I have only become aware of in the last 6 to 12 months. There is no cost, and it starts with a mediation to identify the cause of the problem and attempt to get the two parties to mediate. We have found the service a great way to resolve many issues. This legislation will complement that existing measure.

Another point that has been made by other speakers is that this legislation broadens the eligibility of who can access the newly formed Victoria Consumer Law Fund. It is interesting that people raise concerns about its accessibility being broadened beyond not-for-profit organisations. We come in here and espouse the merits of small business — members on both sides of the house will say that — but then those on one side of the house say, ‘We are not confident that money that can be accessed by profit-making businesses will be used wisely to achieve the intended outcome of educating consumers’. I believe we should have faith in those people. I believe we can put in place appropriate monitoring mechanisms to ensure that we get more bang for our buck regardless of whether it is being used by not-for-profit organisations or by small business.

Other aspects of the bill, as mentioned by other speakers, include reducing the impact of inspections on small businesses. Again, that is common sense and is supported. There is a clause relating to lenders being able to take possession of property to recover debt. As explained by the member for Morwell, that is a logical step. Interestingly it builds on some legislation we put through the house last September which relates to that balancing act of protecting the lender but also protecting the borrower. In the case of protecting the borrower, last year we put legislation through this house that requires lenders to offer farmers who get into financial trouble mediation prior to foreclosing on a mortgage. The amendments we see in this bill complement that piece of legislation, which was put in by the Minister for Agriculture and Food Security. That piece of legislation particularly targeted farmers, because that was a time when we were coming out of 12 tough years. It was likely that we were going to see more farmers having trouble meeting their repayments and facing the possibility of foreclosure.

Another aspect of the bill focuses on attempting to maintain the standards of debt collectors, and excludes certain persons from being debt collectors. I should say from personal experience that that is highly desirable. I had a particular experience where I was owed a considerable sum of money. The matter went to the debt collectors. The deal was that if they wrote letters, they got 25 per cent of the money they recovered. If they had to take it to legal action they got 50 per cent. After writing two letters and making no greater effort, the debt collectors decided to take the legal course.

We went to the negotiation rooms, and before we got into any form of court the person representing my interests came to me and said, ‘What is the minimum you will accept?’. I said, ‘Fifty per cent, I suppose, and an apology’. He said, ‘Forget the apology, but we will

try for 50 per cent'. He went back and spoke to the legal representative acting on behalf of the person owing me the money, came back and said, 'Deal — done! We will settle for 50 per cent of the debt owing. We will take half of that, and you will get the other half'. So I got a miserable 25 per cent of the debt owing, and this debt collector got the other half for absolutely minimal effort. Anything we can do to tighten up the standards amongst debt collection agencies is appropriate in my opinion.

Aspects of this legislation also relate to supporting small business. In my electorate there have been seminars in the last few months. These have been about empowering small businesses to better operate their business and avoid issues such as dissatisfaction with a service or general cash flow and business viability. With those remarks, I conclude by saying this bill makes good sense. It has been supported by both sides of the house, and I wish it a speedy passage.

**Ms HALFPENNY** (Thomastown) — I rise to speak on the Australian Consumer Law and Fair Trading Bill 2011. Like my colleagues, I do not speak in opposition to the bill. Uniformity in laws across the country, especially around matters of fair trading and consumer protection, should always be welcomed. Uniform laws across the states help protect consumers from dodgy businesses which try to use state differentials or loopholes to get around their obligations and duties to consumers.

This bill was designed to bring national consumer law, which came into effect in 2011 and was underpinned by the Fair Trading Amendment (Australian Consumer Law) Bill 2010, and the existing regime governing fair trading in Victoria together in one piece of legislation. The bill modernises the Fair Trading Act 1999, but it also preserves important features such as the flexibility to remedy situations, access to the Victorian Civil and Administrative Tribunal (VCAT) and the ability to continue to develop codes of practice. It also brings together the nationally recognised obligations and protections brought about by the adoption of the Australian Consumer Law, which came into effect in 2011. The Australian Consumer Law is one single national consumer law. Over time it will replace up to 20 pieces of legislation across national, state and territory consumer law jurisdictions.

In its review of Australia's consumer policy framework, the Productivity Commission estimated that something like \$4.5 billion could be saved by having uniform consumer laws across the country. This would be done, it said, through the reduced costs of compliance for businesses, more certainty for

businesses and also greater clarity for consumers. The Australian Consumer Law is the key achievement in the Council of Australian Governments' reforms to deliver a seamless national economy, which will reduce complexity and duplication for businesses and also for consumers.

This was an important process that involved the former state Labor government. It was borne out by the introduction of the Australian Consumer Law in 2011. The legislation we are debating tonight is the natural next step in this process. In terms of the bill's impact on the existing Victorian Fair Trading Act 1999, it does not alter that legislation in any great way. In fact most of the changes are about consolidation. They are also about reordering, realignment, simplification and converting the legislation into plain English.

The bill provides the director of Consumer Affairs Victoria with some broader powers to conciliate and mediate disputes between suppliers and consumers and also between supply and supplier issues in the trade of goods and services. However, whilst these additional powers have been introduced as part of this legislation, I do not believe there have been any announcements of additional funding to provide for these additional conciliation and mediation duties. Hopefully we will see some discussion about that soon.

There is a requirement for conciliation and arbitration in disputes between businesses. In the past this required a test of significant public interest. This requirement has been deleted, and that is a positive step. However, this also involves the removal of a restriction on the payment of special purpose grants from the Consumer Law Fund to organisations. Now these payments can be made to not just the not-for-profit sector but also businesses. The Consumer Action Law Centre has raised questions about these changes. Until now, the intention of those funds was to further the interests of consumers in respect of their relationship with businesses. The Consumer Action Law Centre does not believe business having access to these funds will further the interests of consumers. It says these changes should be the result of independent research or advocacy which has the consumer's interest at heart. Further, the Consumer Action Law Centre believes in general that business has more resources to undertake research and education compared to the not-for-profit consumer agencies, which rely on government funding. I raise these issues for consideration in determining the implementation of this bill as it proceeds.

The bill seeks to close the Victorian Consumer Credit Fund. Existing moneys within that fund will be transferred to the Victorian Consumer Law Fund,

which we understand to be a bit over \$530 000. This is a straightforward and obvious step, which is required by the introduction of this bill. The Consumer Credit Fund is funded from civil penalties awarded by the court under former consumer credit code grants. These were made to provide education services about credit issues. Due to the transfer of the regulation of the consumer credit to the commonwealth, these funds are redundant and need to be transferred.

The bill also seeks to ensure that expertise can be deployed, such as to assist in the search of the electronic records or equipment of a business. In this case, experts can actually go to the site to investigate or search equipment or records rather than removing these from the site and causing more disruption than is necessary. The bill also reaffirms that VCAT will be used to resolve disputes and ensures that it has the power to make an order for the possession of property in the course of a dispute between a consumer and a trader.

In essence this is a representation of the culmination, or a bringing together, of a lot of work that has been done over quite some time. It was begun by the previous Victorian Labor government in conjunction with the governments of other states, territories and the commonwealth. It is part of a project instigated by the previous government to modernise Victoria's consumer affairs legislation, including identifying legislation that may be outdated, unnecessarily complicated or redundant. This helps to provide a more informed market and more informed consumers, because it is easier to understand, and because it gets rid of a lot of unnecessary complications because of Latin wording.

Proposed amendments were introduced more than an hour ago. We understand these amendments would not make substantial material changes. However, this legislation was introduced last year in the Parliament and you would think that any mistakes or issues that needed to be changed could have been dealt with earlier rather than having these amendments dropped in this debate tonight without any forewarning. We could have had a proper amount of time to look at them. I am not sure if this is an example of this government's incompetence or if it is a contempt of democracy and the parliamentary processes in this house.

In conclusion, members on this side of the house do not oppose this legislation. It is a culmination of a lot of work done by a lot of people over many years.

**Mr SOUTHWICK** (Caulfield) — I rise to speak on the Australian Consumer Law and Fair Trading Bill 2011. We have heard from a number of speakers. This

is quite a complex bill. It streamlines any duplication and replication; it cuts red tape and simplifies consumer affairs. This government's election commitments were to promote expanded services for small business consumers and highlight consumer protections available to small businesses under Australian Consumer Law by making changes to the powers of the director of Consumer Affairs Victoria to conciliate and mediate disputes. Fundamentally it helps businesses and consumers to resolve disputes through conciliation.

Before I talk about the bill, there are a number of comments that have been made today by members of the opposition. If there is any bill that shows that opposition members do not have a clue when it comes to small business or consumer affairs, it is the one we have been debating tonight.

Firstly, the member for Essendon, who is the shadow minister for small business, stood in the chamber and gave members a lesson about conciliation. In his contribution he referred to an example of when big business fights with small business, big business brings in lawyers, silks and heavies and there is no way for small business to have any hope in fighting big business when it comes to court cases and resolving disputes. The member for Essendon has absolutely no clue, because this bill is about conciliation — that is, it is about bringing two parties together to mediate and talk about a resolution. It is not about big business using silks and heavies to fight against small business. Here is a clear example of the member for Essendon, the shadow minister for small business, waltzing into the chamber and dumping a whole lot of codswallop on this bill; he wandered out of the chamber still not having a clue.

The member for Eltham, who is still in the house, gave us a fantastic example of retail leases. He spoke about retail leases and said businesses were able to negotiate and conciliate about retail leases. But I have to inform the member for Eltham that this particular bill is not about retail leases; it is about consumer affairs matters. It is entirely appropriate that retail leases are handled by the small business commissioner and retail leases are not about consumer affairs. I point out to the member for Eltham that clause 114 of the bill removes a significant public interest test to allow any company to access the service. However, the dispute must relate to a consumer transaction where goods or services cost more than \$40 000 and are of a kind ordinarily acquired for domestic, household or personal use or consumption, or a vehicle or trailer primarily used to transport goods on public roads. It is not about retail leases. I say to the member for Eltham: good try, but unfortunately it was not good enough.

This bill is fundamentally about reducing red tape. It is sensible legislation. I think the member for Broadmeadows, who is in the house, is one of the members on the other side of the house who got it right. The member for Broadmeadows quite correctly pointed out that it is practical, sensible legislation. He said it is in plain English and simplifies the process. I know he is a new member, and I know he cannot be held accountable for all of Labor's many examples of mismanagement and the fundamental flaws his Labor colleagues showed in the 11 years that they had to simplify these laws.

**Mr Eren** — On a point of order, Speaker, we have been listening to the member for 5 minutes. All he has contributed is a commentary on what other members have said in the chamber. I urge the member, rather than commenting on what members on this side of the house have actually said — —

**The ACTING SPEAKER (Mrs Victoria)** — Order! What is the member's point of order?

**Mr Eren** — My point of order is for you, Acting Speaker, to bring the member back to addressing the bill to explain to members of the house his knowledge of the bill before him rather than commenting on other members' contributions.

**Mr R. Smith** — On the point of order, Acting Speaker, the point of debate is to comment on other members' contributions.

**Mr Eren** interjected.

**Mr R. Smith** — I am responding to yours.

**Mr Eren** interjected.

**The ACTING SPEAKER (Mrs Victoria)** — Order! The member for Lara is out of his seat.

**Mr R. Smith** — The member for Lara and those members opposite might come into this chamber and deliver their set speeches, but the fact of the matter is that members on this side of the chamber are actually involved in the debate; they contribute to the debate by acknowledging what has been said.

**The ACTING SPEAKER (Mrs Victoria)** — Order! I do not uphold the point of order of the member for Lara.

**Mr SOUTHWICK** — The fundamental element of this piece of legislation is that it provides basic consumer affairs laws that put all parties on a level playing field. That is what we are about as a

government. We are about streamlining processes, ensuring that we do not duplicate the functions of state and federal jurisdictions and cutting red tape. We made a commitment to reduce red tape by 25 per cent in four years across all our portfolios. That is fundamentally what we are all about. This bill moves well and truly towards achieving those goals.

One of the things I wanted to point out in my contribution is that this bill will enable a special-purpose grant to be made to any person or organisation with a purpose falling within the objectives of the Australian Consumer Law, and we are talking about the Victorian Consumer Law Fund. The minister, who is in the chamber, advocated very strongly for this when he was in opposition. He advocated for the opening of the door to other parties to deliver consumer protection and education — that is, parties other than just not-for-profit organisations.

Under this change it is now possible for us to do this and enable education and consumer affairs services to be delivered by organisations that are properly equipped to do so. Examples of such organisations would be banks and private educational institutions. I know there are a number of private educational institutions that work tirelessly in the areas of consumer law and finance literacy. The National Australia Bank was instrumental in delivering financial literacy programs, particularly to African and Somali members of the community who were running small businesses. This bill would make it perfectly feasible for them to apply for grants in line with not-for-profit organisations and be on a level playing field with them.

This bill provides small businesses that procure a number of services, products, merchandise, printing and other promotional materials a course of appeal via a proper conciliation and arbitration process, if they enter into a dispute. The most important element of all of this, as we on this side of the house know, is that it will enable small businesses to do what they do well, which is deliver services and provide jobs. The last thing we want is for small business owners to be tied up in courts and disputes and to be taken away from the main game of running their businesses. That is what this bill is about. It is about ensuring that there are proper streamlined processes. It is not, as the opposition has been harping on about, that we are going to now need all sorts of money to be able to put this in place. We have the mechanisms — there are other processes, such as Victorian Civil and Administrative Tribunal, for larger disputes — which enable this to take place. This is a very sensible bill. Serious work has been done by the minister in bringing this bill together, and I commend it to the house.

**Mr EREN** (Lara) — I have only a short time allocated to me to speak on the Australian Consumer Law and Fair Trading Bill 2011, but I wish to continue my contribution whenever this bill comes back to the chamber. Concerns raised so eloquently outside the chamber in relation to small business, particularly by member for Essendon, were very valid. The government can deny what it wants to about a bill that is before the house. Obviously extra burdens have been put on the service providers in Consumer Affairs Victoria, and yet again we have a bill that has no money attached to it. It is so true to form for this government. Can I just say that the bill before the house was actually the good work — and it has been amended to a certain extent — of the former member for Mitcham, Tony Robinson. He was a fantastic Minister for Consumer Affairs. He cared about his portfolio so much that he put a lot of concentration into making sure — —

**Business interrupted pursuant to sessional orders.**

## ADJOURNMENT

**The DEPUTY SPEAKER** — Order! The question is:

That the house now adjourns.

### GippsTAFE: Auslan program

**Mr HERBERT** (Eltham) — I raise an issue for the Minister for Higher Education and Skills. The action I seek is for the minister to reinstate support for deaf students in Gippsland, who have clearly been impacted by the government's state funding cuts leading to GippsTAFE closing its Auslan program for 2012. With the closure of the only sign language course in Gippsland we have the most acute evidence of the suffering that this government's savage funding cuts to TAFEs have caused. These students are in the most vulnerable situation you could find, working their best to overcome a disability and trying to access skills training in regional areas of Victoria. But what is the government's response? It is to direct students to the Auslan course at Kangan TAFE in Richmond. Where do you go if you are deaf and you live in Morwell, Moe, Sale or Bairnsdale and you want to learn Auslan? 'You go to Richmond', says the minister. It is a heartless response from a government that is now admitting that regional services in Victoria are being sacrificed.

The two Auslan teachers at GippsTAFE who are deaf have been valiantly advocating that the Auslan course there be maintained. The needs of the deaf community in Gippsland have fallen on deaf ears, and the Baillieu

government has not acted. In my opinion it is unacceptable to just direct students in regional areas to a Melbourne provider when their courses are cut. These deaf students and their teachers have been left high and dry by the Baillieu government.

The minister has previously admitted that rates of higher education participation among young people from regional Victoria, particularly Gippsland, are much lower than those of Melbourne people. In fact the minister recently released a paper on expanding educational opportunities in Gippsland. However, the reality of the government's actions is different from the spin. If you are deaf and you live in Gippsland, those words from the minister are an insult. How can you feel encouraged to participate in higher education and training when local courses are being closed and the government is directing you to travel to Melbourne to further your skills and training? Clearly the Baillieu government must reverse these TAFE funding cuts and provide the support that deaf students in Gippsland need. I call on the minister to work with GippsTAFE to provide sufficient funding to reinstate the Auslan program at the Morwell campus.

### Ferntree Gully electorate: environmental projects

**Mr WAKELING** (Ferntree Gully) — I raise a matter of importance for the Minister for Environment and Climate Change. The action I seek is that the minister attend a meeting with various environment representatives from the Ferntree Gully electorate.

In the 2011 state budget the coalition government delivered on its key election commitment to my community by providing a \$300 000 funding contribution to various environmental projects within my electorate. The first and most significant of those projects is a \$200 000 funding contribution to Knox City Council to assist in ongoing works with the restoration of the former CSR quarry site in Ferntree Gully. Previous works undertaken by the council include planting, boardwalks and an overall improvement of the amenity of the site — and residents of Ferntree Gully would be clearly aware that this was a desolate site which was fenced off but which has now become an important community asset. This \$200 000 funding contribution will continue this important work. I take this opportunity to congratulate and thank the local ward councillor, Sue McMillan, who has been working with me on that project.

An amount of \$50 000 has been provided for the work of the Friends of Koolunga Reserve in Ferntree Gully, and the funding will be provided through Knox City

Council. Great work has been done by the group over many years, ably led by Kathleen Loxton. The group has done significant work over time in weed removal, in planting native shrubs and in dealing with the overall improvement of the upper catchment of Blind Creek, and this \$50 000 funding contribution will further assist the group in its work.

The third amount of funding is another \$50 000 contribution to the work of the Friends of Blind Creek Billabong. That funding contribution will be provided via Knox City Council. I take this opportunity to commend the work of Faye Rimmer and her volunteers, who have diligently developed a project scoping for the works, which will include weed control in the creek and billabong, with the removal of blackberries and other weeds; weed control of neighbourhood environmental weeds, including cherry plum, desert ash, sycamore maple and sweet pittosporum; works undertaken for tree removal and pruning, remulching existing beds and supplementary planting with an estimated 2000 tube stock; as well as the engagement for 100 hours of an ecological restorer. This is significant work in my electorate, and I welcome the opportunity for the minister or his representative to visit my community to undertake an important meeting with these community groups.

### **Chronic traumatic encephalopathy: investigation**

**Mr MADDEN** (Essendon) — My request tonight is for the Treasurer, representing the Assistant Treasurer, who has responsibility for WorkCover. I ask that the Assistant Treasurer seek advice and direct the Victorian WorkCover Authority to investigate a workplace condition known as chronic traumatic encephalopathy (CTE). The Minister for Sport and Recreation, who is in the chamber, might appreciate this: it is a brain-acquired injury caused by multiple concussions and the accumulation of minor hits or collisions. It is often associated with workplaces that house either professional sports or environments similar to those housing professional sports such as horseracing. I know there are sections of the WorkCover act that exclude some professional sports, but this is not necessarily exclusive to those sections.

Basically sections of the brain undergo atrophy caused by multiple collisions. The symptoms include memory loss, impulsiveness, mood swings — and I am not talking about members of Parliament! — addictive behaviour and, more often than not, destructive behaviour. That destructive behaviour compounds with other compulsive behaviour and shortens the lives of these individuals. This is only diagnosed after

somebody has died, and in many instances the autopsies that have been performed have shown that had these individuals lived longer without that self-destructive behaviour, they would have sunk into a deep dementia relatively early in their lives.

We know of a condition similar to this, which is referred to as dementia pugilistica, or punch-drunk syndrome. We also know that in professional boxers we have seen a prevalence of Parkinson's disease, which also goes with it. It has been reported by United States experts in this area that the damage we are talking about affects the parts of the brain that control emotion, rage, hypersexuality and even breathing. So this is not an excuse for the behaviour of certain individuals who may have a high profile and who from time to time get prominence in the media, but it may need investigation.

I ask the minister with responsibility for WorkCover, even without the \$470 million that has been extracted from WorkCover, to have this matter investigated and seek advice on it, either in relation to those workplaces or where those individuals who suffer from this condition may also operate or work outside the place in which it originated. Boston University has a centre for the study of CTE, and I ask that the minister seek advice and direction in relation to this matter.

### **Australian Indigenous Surfing Championships: funding**

**Mr KATOS** (South Barwon) — I raise a matter for the attention of the Minister for Sport and Recreation. The action I seek is that he provide funding to assist Surfing Victoria to run an important sporting event on the Surf Coast. For the first time since the 1990s the Australian indigenous surfing titles will be held at Bells Beach from 27 May to 1 June this year. The event will see the best male indigenous surfers from across Australia do battle for the coveted title of Australian indigenous champion. The 32-man field will include local indigenous surfers Jordie Campbell from Sandy Point, Anthony Hume from Geelong and Steve Parker from Phillip Island, who placed first, second and third respectively in the recent Woorangalook Victorian Koori titles held at Point Roadknight. It is an exciting prospect to see these indigenous titles held at Bells Beach, which is arguably one of the finest surfing breaks in the world. This is an exciting event for the Surf Coast community, which will also play host to the Rip Curl Pro and the Bells Beach Easter Classic, which is celebrating its 51st anniversary and will see the world's best male and female surfers come to Torquay to compete for professional surfing's most treasured trophy, the Rip Curl Pro Bell.

I commend the work of Max Wells from Surfing Victoria, who has an office in Torquay which was recently opened by the Minister for Sport and Recreation — and it is good to see him in the chamber. Surfing Victoria does great work in youth and indigenous projects with regard to surfing and getting youth and indigenous people into surfing. These events all provide a great boost to the Surf Coast community, and I seek the minister's support for funding for the 2012 Australian Indigenous Surfing Championships.

### **Olinda Recreation Reserve: facility funding**

**Mr MERLINO** (Monbulk) — I raise a matter for the Minister for Sport and Recreation regarding the Hilltop Recreation Association and the redevelopment of Olinda Recreation Reserve. The action I seek from the minister is that he approve an application for \$100 000 under the country football and netball program. The Hilltop Recreation Association was formed in 2007. It represents all the users of the Olinda and Kalorama recreation reserves — Olinda-Ferny Creek Football Netball Club, Olinda-Ferny Creek Junior Football Club, Sassafras Ferny Creek Netball Club, Olinda Cricket Club and Kalorama Mount Dandenong Tennis Club.

One of the aims of Hilltop is to advocate for and deliver significant capital improvements. I am proud to be a supporter and patron of the Bloods and of the recreation reserves. I actively supported the construction of a new netball court and cricket nets in Olinda, and I have worked with Hilltop on the development of its greatest project — a new sporting and community facility in the reserve. The existing pavilion in Olinda is in desperate need of replacement. Built in 1953, it has long passed its use-by date and has significant health and safety issues. The master plan is complete, and Hilltop is now busy securing funding for this vital project.

I know from my time as sports minister that the key drivers in evaluating community sport capital funding are whether the project will increase participation, will promote engagement with the broader community and will involve a demonstration of local contributions, be it in dollars or in kind. On all counts this project ticks the boxes. Despite the massive physical and safety-related limitations of the existing facility, the clubs have already been successful in promoting local participation. For example, the Olinda-Ferny Creek Football Netball Club has been one of the best examples of a local club wholeheartedly embracing the union between netball and football. The country football and netball program was established by the former Labor government, and I am pleased that it continues to have the support of the current

government. Labor recognised that clubs that fielded both football and netball teams were stronger financially and on the sporting field and were also more inclusive, community minded and family friendly. Such is the case at Olinda-Ferny Creek.

There is no doubt that a new venue would allow all the tenant clubs to build on their hard work and dedication and significantly grow participation. In terms of community engagement, including the broader community in the project has been at the forefront of Hilltop's thinking. The association wants the community to fully utilise the new facility. The statement of purposes of the incorporated body makes it absolutely clear that participation of the community in the recreation reserve is paramount.

This brings me to my third criterion for funding. The commitment of Hilltop to its sporting clubs and the broader community has been acknowledged with its outstanding financial commitments locally. Hilltop has already secured \$1.1 million for the project through funds raised by the local clubs, support from Yarra Ranges Shire Council and a grant from the local branch of the Bendigo Community Bank. The Bendigo Community Bank's support of \$250 000 particularly highlights the wider community support for this project.

The clubs, the community and the council have done all they can to make this project a reality. I call on the government to similarly support the project. I again seek support from the minister in providing \$100 000 from the country football and netball program for the redevelopment of Olinda Recreation Reserve. This is a terrific local project.

### **Yarragon railway station: centenary celebrations**

**Mr BLACKWOOD** (Narracan) — I wish to raise an issue for the Minister for Public Transport. The action I seek is that the minister attend the Yarragon railway station centenary celebrations. These celebrations will be held on 28 April. The official launch is scheduled to be held at 11.00 a.m. on Saturday, 28 April. It would be great if the minister could attend to really give the celebrations a big lift and reward the people who have put so much hard work into arranging the centenary celebrations.

The Yarragon and District Community Association has organised the event, and its members have put an enormous amount of work and effort into the preparation, in particular Shirley Westerberg, Margaret Oliver, Tini Cook and Peter Lendon. The association has also been well supported by VicTrack in the

preparations for these celebrations. About 12 months ago I was able to convene a meeting between VicTrack and representatives of the Yarragon and District Community Association. From that meeting VicTrack agreed to carry out, and has now carried out, works on the outside of the station building, with a fresh coat of paint and some minor repairs.

Yarragon station is now part of the Stationeers program, and the site access permit will allow the Yarragon and District Community Association to commence beautification of the station building and surrounds. The community association is keen to apply to the funding program for the upgrade of country stations for community use. It was a commitment of the coalition prior to the 2010 election to put \$5 million into a fund for this program. The association is very keen to apply to that fund for an upgrade to the inside of the station building, which will allow it to be used by community groups. It would be a great outcome for that whole facility. The association is at the moment trying to enlist the support of the Baw Baw Shire Council for that application. If this happens, then an application to that fund could well go ahead.

To give a bit of the history of the station, I will put on the record that back in 1912 Yarragon station was a very busy one. When the timber industry was flourishing locally the platform had to be extended twice, and later when milk and cream was sent to Melbourne twice daily an additional platform had to be constructed. There was quite a lot of activity around the Yarragon station back in 1912.

The minister's attendance at the centenary celebrations would certainly reward the efforts of the Yarragon and District Community Association, which has worked so hard to make this event a very special commemoration of the hard work and foresight of our pioneering families some 100 years ago.

### **Cranbourne Secondary College: zoning**

**Mr PERERA** (Cranbourne) — The matter I raise is for the Minister for Education. The action I seek is for the minister to urgently reassess the zoning for Cranbourne Secondary College. Cranbourne Secondary College provides its students with a dynamic learning environment. Under the previous Labor government the college underwent stages 1 and 2 of a modernisation project. Over \$8 million was invested by the previous government. To finish the modernisation project the college is in dire need of the third and last stage. This much-needed request has been referred to the minister, and the Cranbourne community is waiting for the government to commit to and duly fund stage 3.

Cranbourne Secondary College reached its capacity of 1500 students in 2010. Unfortunately this year the school's enrolments are down to 1300 students. Zoning is not appropriate when school numbers are declining. Because of the current zoning Cranbourne Secondary College has unfortunately turned away approximately 70 students this year alone.

We have seen the Cranbourne area grow and grow. Many young families are moving into Cranbourne every week. Cranbourne is home to its ever-famous royal botanic gardens, to the ever-popular state-of-the-art aquatic centre, Casey RACE, and to Casey Fields, a multipurpose sporting arena which is the envy of all sporting enthusiasts. Cranbourne is also supported by a state-of-the-art police station and a premium railway station with over 700 car parks available for commuters. Near Cranbourne we have a birth-to-five-years children's education centre and Cranbourne East Primary School. All of the above were proudly supported by the Labor government.

Currently Cranbourne East Secondary College has no zoning restrictions, and rightly so. Cranbourne Secondary College should also have no zoning restrictions applied to it. With the current zoning Cranbourne Secondary College student numbers will decline continuously. Cranbourne Secondary College provides students with a quality education in a very safe environment. VET (vocational education and training) and Victorian certificate of applied learning courses are popular at this college, with over 300 students taking up VET courses alone.

Marnebek School, Cranbourne East Secondary College, Alkira Secondary College, Lyndhurst Secondary College and Cranbourne Secondary College are working together arm in arm to secure a trade centre under the Gillard federal government's trade training centre scheme. This cluster is also working hard to enter into a gainful educational partnership with Chisholm Institute of TAFE. The schools are being quite proactive, to say the least. I have been approached by many families who are missing out on enrolling their children at Cranbourne Secondary College because of the current zoning.

### **National Ride2School Day**

**Mr CRISP** (Mildura) — I raise a matter for the attention of the Minister for Sport and Recreation. The National Ride2School Day is coming up, and in Mildura we encourage schoolchildren to undertake active recreation by either riding their bikes or walking to school. The minister will recall that he visited my electorate last year and met students at Mildura West

Primary School to congratulate them on their successful high participation rate in Bicycle Network Victoria's Ride2School program. The minister may recall that we presented a couple of bikes, which I understand are still in use.

Mildura West is an excellent example of how walk and ride to school programs have been promoted and utilised by both students and parents. I also wish to thank the school principal, Mr Brian Young, for his efforts to promote this initiative and keep me informed about various events. Mildura West has already had one walk to school day this term and will be participating with the rest of the state in National Ride2School Day on 23 March. I have accepted an invitation from the school to join the students on Friday, 23 March, at one of the assembly points, and in my case to walk to school.

One of the strengths of Mildura West's programs is parent participation: mums, dads, grandparents, and even younger children in strollers, have become a feature. The modes of transport have also changed. A feature of this event is that not only can you walk or ride to school; there also strollers, scooters, skateboards and various other methods of getting to school. The event normally starts with about 15 people and grows to 60 people by the time it reaches the school. This has become a truly community event. Once at school participating students receive a sticker, which is followed by a classroom questionnaire in order to collect the data.

As I understand it, Mrs Marion Vorwerk is one of the driving forces behind making walking and riding to school a success. I would like to record my thanks to Marion as this event is building on Mildura's success with the rubbish-free recesses and lunches. The school has been nominated for and has won many awards for its efforts to promote both healthy lunch boxes and rubbish-free lunch boxes. Both programs — walk and ride to school programs — as well as healthy lunch boxes and rubbish-free lunch box days, have had the desired benefits. Mildura West Primary School has much to be proud of, and I request that the minister encourage schoolchildren to participate in the Ride2School or walk to school day on 23 March.

### **Roads: Bacchus Marsh bypass**

**Mr NARDELLA** (Melton) — The adjournment matter I have is for the Minister for Roads, and the action I seek is for the minister to reject the proposed Crook Street–Fisken Street arterial road upgrade in Bacchus Marsh to establish a bypass for Bacchus Marsh, especially for trucks and heavy vehicles. I

understand that the Shire of Moorabool, VicRoads and the minister's office have met, and a proposal to establish this new arterial road was put on the table as a response to the Woolpack Road extension being rejected by the Baillieu Liberal government.

Firstly, this new proposal comes with the compulsory acquisition of 16 homes accommodating 16 families, some of whom have been there for decades. The Baillieu Liberal government wants to kick them out of their homes. This is totally unacceptable to these families, to me and to the wider community. It should not even be contemplated.

Secondly, the government will compulsorily acquire and destroy the Avenue Bowling Club. Mr and Mrs Clegg of the club made formal representations to me last Friday against a road going through their greens and clubhouse — and rightly so. Thirdly, it is a dangerous options because the southern part of Fisken Street has a steep incline, producing a dangerous situation for trucks and other vehicles, along with V/Line trains, as there is a railway crossing at the midpoint of this steep hill. I am concerned that if a truck's brakes fail, it will hit a V/Line train going through this crossing.

Fourthly, the proposal would destroy four or five elms. Even though they are not officially part of the avenue of memorial trees commemorating the WWI diggers from the town who served, nonetheless they are tall elm trees, a reason used by this government to reject the Woolpack Road extension, which would have had a new avenue established to recognise WWII and later conflicts like Vietnam. Fifthly, it would create a route where trucks would need to double back to get to the Fisken Street–Crook Street roadway, which may not get the trucks out of the town centre, as the town centre route is more direct. Sixthly, it will take out more land from the irrigation district, as the new proposed arterial road is longer and curves around to meet the Crook Street entrance, destroying the economic base and growth ability of the town and of the specific farmer concerned.

This government has placed the township and especially the 16 families and their neighbours in a terrible position. I call on the minister to reject this option forthwith and to seriously sit down with Moorabool Shire Council and the community, after he gets some real authority to do so, to create a long-term, worthy and real bypass option in this fast-growing town.

Lastly, if the minister is going to pursue this option, he should personally doorknock at the home of every

single family and neighbour to tell them face to face of the government's plans and why it would be important to compulsorily acquire their homes to build a bypass for Bacchus Marsh. These families are currently beside themselves. It is not a situation that they should be put into, and I urge the minister to work through and find a solution that does not compulsorily acquire these homes.

### **Consumer affairs: senior citizens education**

**Mr ANGUS** (Forest Hill) — I raise a matter of importance for the attention of the Minister for Consumer Affairs, and the action I seek is for the minister to visit the electorate of Forest Hill to address older residents in the electorate and advise them of the latest consumer scams that he is aware of in the community, in particular those involving older people, and importantly how to avoid them. The issue of scams affecting senior citizens is a very important one throughout the community, including the electorate of Forest Hill. There are many senior citizens in the electorate, some of whom would have inevitably been victims of attempted scams.

Some of the more common types of scams going around currently include the following: phishing scams, where the offender seeks to obtain bank account details, credit card details and passwords; keylogger scams, which involve opening links in an unsolicited message thereby exposing the user's computer to being hacked by the offender; and identity theft scam, which, as it states, involves the taking of a person's identity for fraudulent purposes. This is a very common and insidious scam which can have a devastating impact on a victim, and one of the major issues of this type of scam is that the victim may not find out about it for some time. The advance fee fraud scam involves a prepayment for goods or services sought by the scammer. An example of this is the so-called pet scam, where the target has to send some money for transport costs in relation to the purchase of a pet over the internet. There are also charity scams where fake organisations seek donations in relation to a natural disaster or personal illness.

With the use of computers amongst senior members of the community continuing to increase, the possibility of unwittingly becoming a victim of a scam is ever present. This is particularly so given that some older members of the community are not experienced computer users and may not be alert to potential electronic scams. The residents of Forest Hill would benefit greatly from hearing from the Minister for Consumer Affairs about some of the scams and related matters that his office is dealing with.

Another type of scam that has been widely reported is the so-called travelling con man scam. The victims of this type of scam are usually older members of the community, often those who live alone. Like all scams, this is a problem for the community generally, and the need for vigilance in this area is ongoing. I welcome the opportunity to meet with the Minister for Consumer Affairs, who I note is at the table. I look forward to the minister's visit and the chance for him to meet with older residents of the electorate of Forest Hill to address these issues of importance with them.

### **Responses**

**Mr MULDER** (Minister for Public Transport) — The member for Melton raised an issue with me in relation to the Woolpack Road Avenue of Honour proposed upgrade. As the member would be aware, the heritage council was extremely critical of the former Labor government's failure to put forward options other than removing trees from the Avenue of Honour for this project, and the Minister for Planning ruled that the project would not proceed. I can inform the member for Melton that I have met with Pat Griffin, the mayor of Moorabool shire, and a number of his officers very recently. We discussed the situation, and we have formed a working party involving VicRoads and Moorabool shire that will sit down and go through a range of options for getting the best outcome given the circumstances we face in relation to that project.

It concerns me that within a matter of a couple of days, I think, of that meeting occurring an article appeared in a local paper that would have probably alarmed a number of local residents. I am not sure whether the member for Melton is aware of where the article came from or why the local community has been so concerned about a proposed option, but I assure the member for Melton that we will go through a process with Moorabool shire whereby we will look at each and every option each party puts on the table and will go to the community with the outcome of those discussions. No decision has been made at this point in time. I am not sure where that article came from, but I would ask the member for Melton to go back to his community members and let them know that no decision has been made in relation to an alternative route for Woolpack Road at this point in time. We will do as we have always done as a government: we will go to the community and work through this with the local council to see if we can come up with an outcome that meets the community's needs.

As I said, I am disappointed that that article appeared because homes, families and communities are involved and because it appeared a very short time after that

meeting. I am sure the member for Melton is aware — —

**Mr Nardella** — I am sure it didn't come out of the minister's office either.

**Mr MULDER** — I am sure it didn't, too; I can assure you of that. I am not sure, however, where it did come from. It is disappointing, nevertheless. The member can take a message back to his community.

The member for Narracan raised an issue with me in relation to Yarragon railway station celebrations on 28 April this year. I can recall driving past Yarragon station with the member for Narracan when we were in opposition and the member pointing out to me that the community would love to be involved with that station and put it to some use. I gave him an assurance that should we win government I would go back there with him to see whether we could find a use for that station and make sure it was upgraded and could be presented in a good fashion in order for the people of that community to put it to some use.

VicTrack, one of my agencies, has been working with the community association of Yarragon. The station has had a paint job and some repairs, and it now presents itself in a positive light for the community. For many years that station was in a total state of neglect. If you go around the country, you will find similar situations, and in that regard, through a policy announcement, I have asked VicTrack to go and have a look at a number of those station buildings in country areas in particular and see whether they could be put to some community use. We have put aside some funding to work with local communities on that.

In this case Yarragon has taken up that opportunity of working with VicTrack and the Baillieu government, and we are working to bring that station to the point where it can be put to some good community use. I am more than happy to work with the member for Narracan because he is great supporter of his community. As I say, he picked this up when in opposition as a project that was worthy — —

**Mr Delahunty** interjected.

**Mr MULDER** — He is a good local member. He picked this up as a project that was worthy of concern and of a contribution from the Baillieu government, and we have followed through and delivered on that. I will be up there on 28 April with the member for Narracan and the community group to open the building and celebrate the works that have been carried out. The station presents itself in a very positive light for the community, and that is the sort of work we want to see.

I congratulate the member for Narracan on raising the issue with me and delivering for his community on this project.

**Mr O'BRIEN** (Minister for Consumer Affairs) — I would like to thank the member for Forest Hill for raising this very important issue regarding scams in our community, the importance of ensuring that our citizens are educated about how to protect themselves from scams and what the Victorian coalition government is doing to assist in that process. I am very keen to accept the invitation that has been extended to me by the member for Forest Hill to come out and speak to his constituents about these issues.

The Victorian coalition government has been very proactive in developing ways to try to ensure that we have better-informed and therefore better-protected consumers who are able to protect themselves from scams. Certainly CAV (Consumer Affairs Victoria) is very active in terms of taking scam artists to court when they can be found. Unfortunately, with the nature of the internet, we find that many scams take place well outside our jurisdiction. They can affect people in Victoria — Victorians can get all sorts of dodgy offers through their email — but the scam may be being perpetrated somewhere else entirely. It is very important, then, that Victorian consumers are well supported through an active CAV.

Even better than catching scam artists is driving them out of business by having an educated community. This government has developed a smart phone application, MyShopRights, which is an innovative resource anyone can download to learn more about their rights. It has been downloaded nearly 15 000 times since it was launched — —

**Mr Delahunty** — How many?

**Mr O'BRIEN** — Nearly 15 000 times, Minister, since it was launched — by me, as it happens! — on Boxing Day 2010.

**Mr Dixon** interjected.

**Mr O'BRIEN** — I was working on Boxing Day, I say to the Minister for Education, because under the coalition government the work of protecting consumers does not stop for holidays.

We also launched an online scams quiz to test consumers' knowledge of what is and what is not a scam. We have continued outreach education services, visiting 33 locations across Victoria on a regular basis and including mobile services to communities requiring extra support.

Last October I went up to the New South Wales border and with my counterpart from New South Wales, the Honourable Anthony Roberts, the Minister for Fair Trading, signed a memorandum of understanding to ensure that travelling con men, who have no respect for consumers and state borders, are better targeted by Consumer Affairs Victoria and the New South Wales Fair Trading office. That has been very effective already. There has been cross-border action between New South Wales and Victorian consumer affairs officials, and a number of people have been charged because of that better sharing of intelligence and prosecution.

The member for Forest Hill is very keen to ensure that consumers are informed. I can say there is some good news. Already the 2011 Australian consumer survey has found that Victorians are in fact the best educated consumers in the country. Ninety per cent of Victorians surveyed know that consumer protection laws are in place, and we have a much higher education and recognition factor compared to other states. But there is more to be done — as I think has been said once or twice in this chamber. Certainly we are very keen to do it, and I look forward to going out with the member for Forest Hill to visit his constituents, particularly senior citizens, and discuss how we can better help them to protect themselves against scam artists.

**Mr DELAHUNTY** (Minister for Sport and Recreation) — I rise to respond to the member for South Barwon, who I know is a passionate sports fan and a great advocate for special events in his electorate. Tonight the member highlighted the upcoming 2012 Australian Indigenous Surfing Titles, which will be held at Bells Beach near Torquay. As the member highlighted, this event has not been held at Bells Beach since the early 1990s, so it is many years since it was held there. It will provide a perfect opportunity for the community to showcase the fantastic region of the south-west coast and importantly the local sports facilities and the talent in that area at this time of the year.

The member said 32 athletes will be involved in the Australia Indigenous Surfing Titles. They want to make it the best ever, but they need a bit of support, and the member for South Barwon has raised this matter with me tonight. All members know the area down there is already abuzz because the 2012 Rip Curl Pro is only a couple of weeks away. As the biggest and most prestigious professional surfing competition in Australia, this event holds a very special place in surfing folklore. As members also know, it is the longest running world championship level contest on the world tour. The Australian Indigenous Surfing

Titles will be held at the same location as the Rip Curl Pro.

The member for South Barwon spoke about the fact that the chief executive officer of Surfing Victoria, Max Wells, does a great job with unanimous support from everyone. A month or so ago I was up in Swan Hill, where I ran into Max's wife, Debbie. I did not realise that she was such a leading tennis player. So she is also heavily involved in sport, and it was great to see her there.

The events that have been raised by the member for South Barwon attract visitors to our state, provide a stimulus to the local economy of the Surf Coast and boost sports participation at a local level, so I am pleased to announce to the member for South Barwon and the Parliament generally that I have allocated \$5000 under the latest round of funding from the Significant Sporting Events program to be provided to Surfing Victoria to assist in running the upcoming 2012 Australian Indigenous Surfing Titles at Bells Beach near Torquay. Well done, the member for South Barwon!

Another matter was raised with me by the member for Mildura. As he said, I was up there a while ago and visited the Mildura West Primary School and gave them some bikes. I want to highlight again that the member for Mildura spoke about the fact that participation is a critical issue for us all. Research shows that across Victoria the number of children walking or riding to school has dropped sharply since the 1970s, while at the same time childhood obesity rates have increased. I got this off the Bicycle Network Victoria website, and everyone should look at it. It says:

In the 1970s, 80 per cent of schoolchildren were active on the way to school. Today, only 20 per cent experience the joy of getting fresh air on their school journey.

That is riding, walking, jumping or whatever they like to do in getting to school.

That is a major concern for us as a government, and I know it has been a major concern for a lot of people across Australia. As I have said in this place many times, I want to see more people more active more often. I do not care what sport they play. It is important that tonight we have here two former ministers for sport and recreation; I did not realise they had come back into the chamber so quickly after they exited! We want to see people involved in sport.

In the past couple of months I have visited Kaniva College and Penshurst Primary School as well as Big Hill Primary School in Bendigo. I presented them with

awards for their high participation rate in the Ride2School program. The member for Mildura highlighted the fact that I have been up there and visited Mildura West Primary School. That is a great school. It is setting a top example for people in Victoria to get active in going to school.

I congratulate the member for Mildura on highlighting this issue. The National Ride2School Day is next week, on Friday, 23 March, and I encourage all members in this chamber to try to encourage all schoolchildren to ride or walk to school or be involved in getting active in going to school. To mark the day, as Minister for Sport and Recreation, I will be setting an example by riding to school with students at Horsham Primary School in my electorate, and I look forward to that opportunity.

The member for Monbulk has also raised a matter. He gave me 5 minutes notice that he was going to raise this matter, which is different from my performance with him. I used to let him know when I was going to raise a matter on the adjournment. I suppose because he has been out of the chamber a fair bit of the time lately, he did not have time to come and tell me what he was going to get up to. The member raised an issue regarding the Hill Top Recreation Association. He said the Olinda Recreation Reserve needs some funding, and he has asked me to approve funding under the country football and netball program.

**Mr Madden** interjected.

**Mr DELAHUNTY** — As the member for Monbulk knows and the former Minister for Planning would also know, there is a panel approach to this. The panel consists of representatives of the AFL in Victoria, which put money into this program; the Victorian Country Football League, which put money into it; and also Netball Victoria, which has also put some money into it. They will make a recommendation to me, which I am sure will come shortly.

**Mr Madden** interjected.

**Mr DELAHUNTY** — They are good people on that panel. I was pleased that the member for Monbulk highlighted the fact that these groups out there have not only put their own money and sweat into this but have also raised a lot of funds from organisations like Bendigo Bank. I have to commend Bendigo Bank, because right across Victoria it is putting a lot of money back into communities. It is good to hear that it has also put a bit of money into this project. Again, I take on board what the member for Monbulk has said, and I look forward to receiving from that panel a

recommendation regarding the allocation of funding under the country football and netball program.

**Mr DIXON** (Minister for Education) — The member for Cranbourne raised with me an issue regarding zoning around Cranbourne Secondary College. He told us about a lot of the good points of not only the college but also the neighbourhood. Regarding the college, there is a zoning issue and he said the school numbers have dropped due to zoning. Zoning around a school is usually arrived at in consultation with the local community and also with other local schools. Often the reason zoning is put in place is because the school is landlocked and very popular for demographic or educational reasons and physically the school just cannot take any more students. I am not sure whether that is the case as far as Cranbourne Secondary College is concerned, but as I said, the zoning is not something that is imposed; it is something that is worked through with the school community.

The member also talked about the need for stage 3 of the building plan for the school. I am not sure whether that has got a relationship to the zoning issue the member raised, because if stage 3 is going to bring more students back to the school, that cannot happen if it is zoned. I cannot quite work out the connection between those two things. I will certainly investigate why the zoning is in place and also whether it is having a detrimental effect on the school or whether the effect it is having on the school, in the smaller numbers, is because the school has 1300 students — so it is quite a large school — and whether that was the point of the zoning exercise. We will investigate that and get back to the member, but I also invite the school to contact me directly. I am happy to take that up with it as well.

**Mr R. SMITH** (Minister for Environment and Climate Change) — In responding to the member for Ferntree Gully I would certainly be happy to visit his environment groups. The member has been a big advocate for those groups since he first came to this Parliament in 2006. Back in July last year I met with Kath Loxton of Friends of Koolunga Native Reserve, Fay Rimmer of Friends of Blind Creek Billabong and Cr Sue McMillan, who was the mayor at the time, about the former CSR quarry site. At the time I got a sense of the passion they all had for their environment and that they were looking forward to financial assistance from the government to make sure that they could get some of those projects done.

As the member said, I acknowledge the comprehensive work plan that the Friends of Blind Creek Billabong put together for revegetation work. I believe they are also developing and installing some signage which will provide details to the community about the proposed

works, and I will certainly make sure that I go and see that the work has been done. As I went out there in July 2011 and first announced the funds, I am very keen to see how the work is progressing.

The member for Eltham raised a matter for the Minister for Higher Education and Skills, asking him to reinstate the AusLink program in Gippsland, and I will pass it on to the minister.

The member for Essendon raised a matter for the Assistant Treasurer, who has responsibility for WorkCover, to see if cover can be provided for the acquired brain injury chronic traumatic encephalopathy. I will pass that on to the minister.

**The DEPUTY SPEAKER** — Order! The house now stands adjourned.

**House adjourned 10.46 p.m.**