PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 9 March 2010

(Extract from book 3)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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Deputy Premier, Attorney-General and Minister for Racing	The Hon. R. J. Hulls, MP
Treasurer, Minister for Information and Communication Technology, and Minister for Financial Services	The Hon. J. Lenders, MLC
Minister for Regional and Rural Development, and Minister for Industry and Trade	The Hon. J. M. Allan, MP
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Minister for Environment and Climate Change, and Minister for Innovation	The Hon. G. W. Jennings, MLC
Minister for Planning and Minister for the Respect Agenda	The Hon. J. M. Madden, MLC
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Minister for Mental Health, Minister for Community Services and Minister for Senior Victorians	The Hon. L. M. Neville, MP
Minister for Public Transport and Minister for Industrial Relations	The Hon. M. P. Pakula, MLC
Minister for Roads and Ports, and Minister for Major Projects	The Hon. T. H. Pallas, MP
Minister for Education and Minister for Skills and Workforce Participation	The Hon. B. J. Pike, MP
Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

Legislation Committee — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

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

Select Committee on Train Services — Mr Atkinson, Mr Barber, Mr Drum, Ms Huppert, Mr Leane, Mr O'Donohue and Mr Viney.

Standing Committee on Finance and Public Administration — Mr Barber, Ms Broad, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips and Mr Viney.

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

Joint committees

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

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

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

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

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

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

Family and Community Development Committee — (*Council*): Mr Finn and Mr Scheffer. (*Assembly*): Ms Kairouz, Mr Noonan, Mr Perera, Mrs Powell and Mrs Shardey.

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

Law Reform Committee — (*Council*): Mrs Kronberg and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan, Mr Foley and Mrs Victoria.

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Acting Secretary: Mr H. Barr

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

Acting Presidents: Mr Eideh, Mr Elasmar, Mr Finn, Ms Huppert, Mr Leane, Ms Pennicuik, Mrs Peulich, Ms Pulford, Mr Somyurek and Mr Vogels

Leader of the Government:
Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Ms WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Murphy, Mr Nathan[2]	Northern Metropolitan	ALP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Mr David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Huppert, Ms Jennifer Sue[1]	Southern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles[3]	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William[4]	Southern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

[1] Appointed 3 February 2009
[2] Appointed 9 March 2010
[3] Resigned 1 March 2010
[4] Resigned 9 January 2009

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TUESDAY, 9 MARCH 2010

Tuesday, 9 March 2010

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

CONDOLENCES

Chile: earthquake

The PRESIDENT — In February 2010 a severe earthquake occurred in Chile causing widespread damage and a tragic loss of life. This house extends its deepest condolences to the individuals, families and communities affected. In expressing our sympathy for all those affected, I ask members to stand in silence for 1 minute.

Honourable members stood in their places.

RULINGS BY THE CHAIR

Urgency motion

The PRESIDENT — I advise the Council that pursuant to standing order 6.09 the Leader of the Opposition has sought my approval for an urgency motion to be moved today concerning the Minister for Planning. Standing order 6.10 sets out the criteria which the President must consider when determining whether an urgency motion will proceed. I have carefully considered the submission in accordance with the standing orders but have determined that, whilst the matter is of importance, on balance I do not believe it should proceed today.

I agree with the Leader of the Opposition that the matter he raises is of recent occurrence and that the subject is being raised at the first opportunity. However, I am not convinced, based on the submission, that at this stage the rights, welfare or security of citizens is in jeopardy.

The Leader of the Opposition also foreshadowed in his submission giving notice of a motion regarding the Minister for Planning for debate during general business tomorrow, which would be the next opportunity to raise such a matter. Under the sessional orders precedence is given to general business on Wednesdays. Standing order 6.10 requires me to consider whether there is a distinct probability of the matter being brought before the house in reasonable time by other means, and I therefore believe tomorrow would provide an appropriate opportunity to bring these matters to the house at an early date.

In summary, whilst I believe the submission raises a matter of importance and meets some of the tests in the standing orders, based on the submission provided I do not believe it warrants invoking the Council's urgency motion procedure, and I have therefore determined that it not proceed.

RESIGNATION OF MEMBER

Hon. T. C. Theophanous

The PRESIDENT — I have received the following communication from the Governor:

> I write to advise that on Monday, 1 March, 2010, I received a letter from Mr Theo Theophanous, MLC, resigning his seat in the Legislative Council. A copy of that letter is enclosed for your reference.
>
> Upon my receipt of that letter, Mr Theophanous's seat in the Legislative Council became vacant. I note that, in accordance with section 27A of the Constitution Act 1975, a joint sitting of the Council and Assembly is required to fill this vacancy.

The accompanying letter is from Mr Theo Theophanous, MLC, to the Governor:

> I write to inform you that I am resigning as member for Northern Metropolitan Region in the Legislative Council.
>
> It has indeed been a privilege to serve Victorians as a member of Parliament for more than 21 years and as a minister for more than 7 years.
>
> I wish to thank the people of Victoria for the trust they placed in me and put on record my thanks to the many people in the community and in the Labor Party who supported me over so many years and of course to my family, who encouraged me to try to make a difference.
>
> Thank you also for your own support to me as a minister.

JOINT SITTING OF PARLIAMENT

Legislative Council vacancy

Mr LENDERS (Treasurer) — I move, by leave:

> That this house meets the Legislative Assembly for the purpose of sitting and voting together to choose a person to hold the seat in the Legislative Council rendered vacant by the resignation of the Honourable Theo Theophanous and proposes that the time and place of such a meeting be the Legislative Assembly chamber this day at 6.15 p.m.

Motion agreed to.

Ordered that message be sent to Assembly acquainting them with resolution.

ROYAL ASSENT

Message read advising royal assent on 2 March to Transport Integration Act.

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Government decision-making, consultation and approval processes

The PRESIDENT — I have received a letter dated 3 March from the Standing Committee on Finance and Public Administration:

> Re: Standing Committee on Finance and Public Administration — new inquiry
>
> Pursuant to sessional order no. 22, the Standing Committee on Finance and Public Administration may inquire into any proposal, matter or thing that is relevant to its functions which is referred to it by resolution of the Council or determined by the committee.
>
> At its meeting on 3 March 2010 the committee resolved to inquire into and report on Victorian government decision-making, consultation and approval processes, and any knowledge and/or involvement of ministers, ministerial staff and/or Victorian government officers since 1 December 2006 and in particular issues arising from the media plans prepared by the Victorian government since 1 December 2006.
>
> The initial focus of the inquiry will be on the Windsor Hotel redevelopment process. The committee has resolved to conduct public hearings commencing 12 March 2010.
>
> Sessional order 22(11) stipulates that within seven days of deciding to inquire into any proposal, matter or thing, the committee will inform the Council of its terms of reference. It would be appreciated if you could inform the Council accordingly.

QUESTIONS WITHOUT NOTICE

Minister for Planning: want of confidence

Mr D. DAVIS (Southern Metropolitan) — My question is for the Minister for Planning. I refer to the media plan released by the minister's media adviser to the ABC. I also refer to the sham consultation regarding the Hotel Windsor laid out in his media plan. I am concerned about the integrity of the state's planning process and note that the chamber will debate a motion of want of confidence in the minister tomorrow. The minister has also said publicly he will not resign. I therefore ask him to give an undertaking to the house that he will neither make any planning decisions nor sign any planning instruments before the chamber has the opportunity to debate the motion of want of confidence in him tomorrow.

Hon. J. M. MADDEN (Minister for Planning) — First of all I am expecting vehement questions in this space today, and I am also expecting plenty of questions when I present myself to the Standing Committee on Finance and Public Administration on this matter — I believe on Friday of this week. There will be ample opportunity for the opposition to quiz me in relation to many of these matters.

I want to make a few things clear here today. We have a very robust and transparent planning system in this state. No matter how much the opposition might want to undermine those perceptions, let us remember how important the planning process is for this state and how important public confidence is in relation to these matters. I note that the member opposite has mentioned the document that was released by the media adviser — at the time — in my office. Can I just say that that document was a document, which I want to clarify here today, that was — —

Honourable members interjecting.

Hon. J. M. MADDEN — As I have said previously and publicly, this was a document I would not necessarily see, and nor had I seen it. It appears to have been a collation of information relating to up and coming planning matters and events from my diary as well as legislation and other additional comments. This document was prepared by my media adviser for her own planning purposes. It reflects her views on issues, not the government's. And they were her words; they were not my words.

I also say that this document is not part of advice that is provided to me to make any planning decisions. It has no role in the planning process whatsoever and does not factor in to any decisions that I may or may not have to make.

I also make the point in relation to the Hotel Windsor that this is a matter I am yet to consider. In order to ensure that the public can have confidence in the integrity of any decision I have asked the secretary of my department to appoint an independent probity auditor to oversee the evaluation process and to ensure that all parties involved can have complete faith in the independence of this process — remembering, as I mentioned earlier, that the planning process contains checks and balances to ensure that we have a transparent, accountable, defensible and robust planning system.

I also make the point that we have set in place measures to account for and to publicly report on any decisions made in relation to these matters. That stands in stark contrast to the opposition's record in relation to these matters — the Maclellanesque days of old when on average a decision was entertained by that planning minister on every day of his tenure and was not defended or accounted for.

Mr D. Davis — On a point of order, President, the minister well knows that at question time questions are asked of a government minister and the minister's task is to respond, not to attack the opposition and not to debate the point. It was a very simple question: will the minister pause in undertaking any planning decisions until after the motion of no confidence is voted on?

The PRESIDENT — Order! The question is to those on one side of the house a little provocative. It is a sensitive matter and an important matter not just for the house but for people in general. I believe the minister has been answering the question that was asked. I do not believe the minister has been overtly critical of the opposition. The minister has completed his answer.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — The minister, I note, has refused to give that undertaking to the house. I also note that he holds the portfolio of Minister for the Respect Agenda, and I therefore ask: does the minister regard the conduct of sham consultation and bogus planning processes — or even the contemplation of those — in his office and his decision to defiantly proceed with planning decisions today ahead of a vote on a no-confidence motion as respectful of the house and in keeping with the respect agenda?

Mr Viney — On a point of order, President, the initial question was to the Minister for Planning and the supplementary question was to the Minister for the Respect Agenda. It is clearly out of order.

The PRESIDENT — Order! The Government Whip is correct in saying that the supplementary question should be directly related to the answer given to the initial question. I do not believe it was, and I uphold the point of order.

Planning: rural city of Mildura

Ms BROAD (Northern Victoria) — My question is to the Minister for Planning. Can the minister update the house on current planning matters in the rural city of Mildura — an important part of my electorate — particularly in respect of amendment C65?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Broad's interest in this matter. I know this has been a matter of interest to Ms Broad for some time because of her representation across the Mildura area, so no doubt she will be interested to hear my response on these matters.

In the municipality of Mildura there are some land-use tensions that have been there for some time, in particular the competitive interests of land-holders around agriculture and the use of small parcels of land. Some land-holders are eager to use some of those small parcels of land for urban settlement. This is not to say that one is necessarily better than the other in terms of land use, but when you consider that they are of significant and vital importance to the Mildura economy and in particular to agriculture and irrigated horticulture and the associated manufacturing, packaging and processing of local produce and how important it is to underpin the local economy, you see that getting the balance between appropriate urban settlement and appropriate agricultural land use is vital to the broader community.

We have those competitive forces particularly in what is known as the Mildura older irrigation area. That is where we have a number of smaller land-holdings which people seem to want to use for urban settlement when, given the nature of the infrastructure and agriculture in this area over a long period of time, the land might be better used for agriculture. It is important that we get the right balance between those competing interests in the land parcels.

Today I am pleased to announce that I have approved what is known as amendment C65 to the Mildura planning scheme. It recognises that the farming zone is the most appropriate zone for the Mildura older irrigation area. This area presents a unique range of circumstances that need quite targeted responses and planning controls.

A task force was established. It has been a collaborative effort between the Mildura Rural City Council and various state government departments and agencies. They have worked together to achieve a positive outcome for the land-holders and landowners and the people of Mildura. I want to thank the independent chairperson, Duncan Malcolm, for his report.

This is a significant food production region, and it is where we need to make the most of the significant investment in irrigation infrastructure upgrades related to the Northern Victoria Irrigation Renewal Project. The amendment provides for consolidations of land parcels for non-urban land uses and clarifies

requirements for subdivision and excision of houses. While the opposition may not think this is important, it is critically important if you are a land-holder in Mildura and you want to find an appropriate land use.

I will detail for members some of the new provisions in the amendment covering the Mildura older irrigation area. I ask members of the opposition to listen intently, particularly if they are members with an interest in this area, because it is of vital importance to the individual land-holders. I will go through the provisions in technical detail.

The new provisions include that for every lot of 1 hectare or greater that has a dwelling on it, the landowner can apply to excise that dwelling. Boundary alignments are prohibited other than to transfer or consolidate farming land. For every lot between 0.3 hectares and 1.2 hectares, the landowner can apply for a permit for a dwelling. For every individual lot between 10 hectares and 20 hectares that existed on 29 May 2009, the landowner can apply for a permit to construct a dwelling. For every lot between 10 hectares and 20 hectares that is unencumbered by a section 173 agreement, ensuring that no further dwellings will be constructed, the landowner can apply for a planning permit.

Owners of lots of 20 hectares or greater do not require a planning permit for a dwelling, and for lots of between 1.2 hectares and 10 hectares, the landowner cannot apply for a permit for a dwelling. These overall provisions clarify the subdivision of dwellings and form part of modifications subject to special conditions. These are very important for the local Mildura area.

I have also asked that the council prepare a housing strategy, with support from the department, to guide the municipality's future housing and settlement needs, rather than having what we have seen from time to time, which is ad hoc settlement in some of the high-value agricultural areas. We look forward to working with the council, and we look forward to making sure that not only all of Victoria but particularly Mildura is a great place to live, work and raise a family.

Water: environmental flows

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Environment and Climate Change. It relates to the temporary qualification of water rights for the Yarra River. When we recently debated a bill on temporary qualifications the minister advised us of a number of different qualifications that were in place, including those for the Yarra and Thomson rivers. He said, without specifying that this referred to the Yarra and Thomson rivers, that three of those qualifications will expire when Melbourne's water restrictions ease to stage 2. However, the information I have got from Melbourne Water's website, from 2006–07, is that the qualification will expire when stage 2 water restrictions are lifted. Under the minister's advice, when Melbourne gets to stage 2 the Yarra will get its drink, but what Melbourne Water says is that when stage 2 is lifted — that is, when we get to stage 1 — is when the Yarra will get its drink. Can the minister tell me which of those two situations is the correct one?

Mr JENNINGS (Minister for Environment and Climate Change) — I appreciate that Mr Barber has an acute interest in this matter. I am grateful that he and a number of other members of the community — in fact a very large number in my estimation — are very concerned about the health of the Yarra in terms of the environmental flows that go down the river.

In terms of providing Mr Barber with the clarity he seeks, I am going to go back and have a look at the words I have put on the public record before I add to them. I will compare the words I might have said in the committee stage of the bill with what Melbourne Water has indicated in relation to environmental flows being allocated to the Yarra and the effect of the removal of the restrictions on access to that entitlement. I do not want to exacerbate what might be a difference in the way this issue has been described by myself and Melbourne Water.

I certainly know from my discussions with the Minister for Water, people that work with him and other parts of the government that I can actually restate that it is the intention of the government to remove that restriction on the environmental flows to the Yarra at the earliest time, given our confidence level about the availability of water supply for Melbourne consumption.

With respect to the environmental allocation to the Yarra and Thomson rivers, we are mindful of the need to remove those restrictions to release the environmental flows in a timely and appropriate fashion. We continue to stay committed to that course. Both the formal trigger and the announcement of the decision to release the restrictions on those entitlements fall within the portfolio of my colleague the Minister for Water, and I am not going to pre-empt his announcement. At the very least I will go back and look at my statements and compare them to those of Melbourne Water. If there is a requirement for me to clarify the difference and to provide Mr Barber with some certainty, I will do so.

Supplementary question

Mr BARBER (Northern Metropolitan) — I have another question for the Minister for Environment and Climate Change. Perhaps there is something else the minister can clarify. In order to get from stage 3 to stage 1, Melbourne storages would have to hold an additional 300 gigalitres of water more than they currently hold. Today storages hold about 629 gigalitres, which means Melbourne is just below the point at which it would move from stage 3 back to stage 2. This water was first promised in 2006; it was clawed back, if you like, by being qualified by April 2007. When does the minister believe the Yarra River will receive the environmental entitlement of 17 gigalitres, given that the total environmental watering program for Victoria for the last two years was just under 20 gigalitres?

Mr JENNINGS (Minister for Environment and Climate Change) — I do not know that Mr Barber's sums with respect to the allocation of environmental flows for the whole of Victoria are correct. I am not going to bandy about the numbers, but those that have been stated by Mr Barber do not ring true to me in terms of the availability of environmental water, for a start.

He made a number of assertions. I am not going to get into a situation, either, where I am conveying to Mr Barber my personal view or the view of my department about the relative merits of water entitlements, the distribution of water and the stages 1, 2, 3 and 4 of water restrictions that may have been based upon historical inflows and may not be the most pertinent or relevant at this time, given that that is an issue that warrants ongoing consideration.

What I can say is that the government wants to make sure that it acquits its obligations to provide certainty for water users across Victoria, including those in metropolitan Melbourne, and to provide also for the timely and appropriate release of environmental flows to support environmental values. When we are confident that we can actually satisfy those simultaneously, people will see the return of those flows to the Yarra and the Thomson.

Economy: private sector investment

Mr ELASMAR (Northern Metropolitan) — My question is to the Treasurer. Can the Treasurer update the house on how the Brumby Labor government is making Victoria the best place to live, work, invest and raise a family, with specific reference to the current figures on private investment in the state of Victoria?

Ms Pennicuik — That's not a question!

Mr LENDERS (Treasurer) — I thank Mr Elasmar for his question and take up Ms Pennicuik's interjection that it is not a question. On this side of the house we value jobs; on this side of the house we value the 99 000 extra jobs in the state of Victoria in the past year, and I hope Ms Pennicuik equally values those jobs, rather than chiding Mr Elasmar for being interested in jobs in his electorate.

Mr Elasmar asked specifically about private investment. In the year to the end of 2009 private investment in Victoria rose by 10.6 per cent. Despite the global financial crisis, companies and individuals were prepared to put their own money into Victoria to grow new jobs because they thought this was the best place in Australia — and, I might add, one of the better places in the world — to invest. It is worth noting that when we add the figure for businesses — that is, individuals and companies — investing, we find that private investment in the state of Victoria was almost five times the national figure of 2.3 per cent. We know the story around the rest of the world and where most economies are in this area. Let me assure the house that this is a very strong vote of confidence from business in the Victorian economy.

But there is more. What we have also seen in the last year is a 12.5 per cent increase in construction activity. That is a vote of confidence in Mr Madden and his stewardship of the planning portfolio, which has made conditions in this state a great precedent to grow jobs.

Honourable members interjecting.

Mr LENDERS — We have also seen a 10.6 per cent increase in private capital investment and a 2.8 per cent increase in employment. I used that figure quite lightly: a 2.8 per cent increase in employment in Victoria. What that means is that 99 000 extra Victorians got jobs last year, during a time of global financial crisis. Just last week the Boeing company announced 300 jobs here in Melbourne, because Victoria is a good place to do business. They are not my words; they are the words of a certain Barry O'Farrell, who said that Victoria is the best place in Australia to do business. We have also seen a 110 per cent increase in building approvals, for which my friend Mr Madden can take a great deal of credit. We have also seen that a record 53 730 Victorians have bought their own homes.

Mr Elasmar asked me the question about private investment and how it feeds into Victoria being a great place to live, work, invest and raise a family. All of this

means that in the Australian Bureau of Statistics figures for state final demand — or its version of where the economy is going based on its figures — Victoria had the strongest growth of any state in the December quarter. That strong growth means opportunities for more and more Victorians to have jobs.

As the Treasurer of the Brumby Labor government I am absolutely delighted with these ABS statistics. I am delighted because they are an endorsement of the Victorian economy, but most significantly they represent more and more opportunities for young Victorians and for Victorians across the entire workforce to get jobs, which is something that we on this side of the house cherish and those on the other side, since the budget onwards, have mocked.

Planning: Hotel Windsor redevelopment

Mr GUY (Northern Metropolitan) — My question is for the Minister for Planning. With the Hotel Windsor redevelopment being a quarter of a billion dollar investment for Melbourne and the minister's private office clearly having knowledge of the advisory panel's plans to recommend its approval, I ask: in the interests of probity, can the minister inform the house how he has checked that his staff came to be availed of the panel's likely decision on the Windsor project, how he did this checking, and if he has not done it, why not?

Mr Viney — On a point of order, President, apart from the discourtesy of the committee I serve on not yet letting the minister know it does not want to see him on Friday, I want to raise the relevance of asking a question on a matter that the house has just been advised that a committee of this house is going to inquire into. I think it would be inappropriate for there to be questions in the house on matters that are to go before a committee of inquiry of this house.

The PRESIDENT — Order! Whilst I said earlier that this whole issue is a matter of some conjecture, importance and sensitivity for both sides, I do not uphold the point of order. I think the question is in order.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in this matter. I have informed my staff that regardless of how they interact with the department — and they will have to always interact with the department in one form or another — they should not pre-empt any decisions that I may need to make. That is what they know. They should know that, and they should never take it for granted and assume anything counter to that.

What is particularly important in relation to the Hotel Windsor project is that I do not have that before me, but when it comes to me I will consider it accordingly. Most importantly, nobody in my office and nobody in the department should pre-empt any decision I have to make, because at the end of the day in relation to these projects it is not until I have put my name on the dotted line that any decision has been made. Of course the decisions I make will be based on advice from a number of sources. I will not make those decisions until I have the prerequisite advice from the independent panels, from the department or from any other agency that needs to provide me with that information.

To allow Mr Guy a degree of comfort I will say I have not made decisions about these projects and, more importantly, I have informed my staff that they should not at any stage pre-empt decisions I may need to make.

Supplementary question

Mr GUY (Northern Metropolitan) — I note that it is now plain that the minister and his office are part of a corrupted planning process surrounding the Hotel Windsor redevelopment, and I ask: will the minister now abrogate responsible authority status on this project to another minister to ensure that full probity is upheld and — again — if not, why not?

The PRESIDENT — Order! In relation to the supplementary question, I have some concerns about the minister's ability to comply with what it asks, but the decision rests with the minister.

Mr Guy — On a point of order, President, I was going to provide some advice to you about the nature of the supplementary, if that would assist.

The PRESIDENT — Order! I thank Mr Guy for his advice that he is prepared to advise me, but that will suffice.

Hon. J. M. MADDEN (Minister for Planning) — President, I know that members of the opposition would like to undermine confidence in the planning process right across the state.

Honourable members interjecting.

Hon. J. M. MADDEN — I know that they would like to do that. In many ways we have seen that the lack of commitment by the opposition to planning for Melbourne @ 5 Million is alone enough to undermine the planning system, particularly when it comes to positions on important legislation that comes before this Parliament. But I make the point, as I have done on numerous occasions, that I have asked my department

to appoint an independent probity auditor so that that auditor can report on the decision-making process and so that all parties can have absolute confidence that the process has been adhered to.

Clean Up Australia Day: government support

Mr TEE (Eastern Metropolitan) — From my new vantage point I wish to ask a question of the Minister for Environment and Climate Change. Can the minister inform the house of how the Brumby Labor government, working in partnership with local councils and the community, is taking action to drive initiatives that will help keep litter out of our environment and waterways and further reduce the amount of rubbish that goes into landfill?

Honourable members interjecting.

The PRESIDENT — Order! I am assuming the minister heard the question.

Mr JENNINGS (Minister for Environment and Climate Change) — Yes, the question was subjected to a lot of rubbish coming from the other side and Mr Tee had to put up with an unusual lot of rubbish coming from the other side. His question was, in its very essence, about litter, the amount of rubbish that is in the countryside — and obviously with his new vantage point he is a lot closer to some of it than he might have been before.

What Mr Tee and other members of the community may be interested in is that with the opportunity of Clean Up Australia Day, which was last Sunday, the Premier and I joined Ian Kiernan, the head of the Clean Up Australia Day movement, down at a great event at St Kilda. We were joined by the member for Albert Park in the other place, Martin Foley. It was the 20th anniversary of the first success of Clean Up Australia Day. I know that a number of members may have been out there. Were you out there cleaning up rubbish, Mrs Coote?

Mrs Coote interjected.

Mr JENNINGS — No, you take the initiative. Like thousands of Victorians, take the initiative.

The PRESIDENT — Order! The minister will address the Chair.

Mr JENNINGS — Certainly, President. In fact here is somebody who is very keen to get onto it now, but was apparently not so keen to actually participate in Clean Up Australia Day.

Mrs Coote — I did, at St Kilda Beach.

Mr JENNINGS — I am a bit confused about this, because hundreds of thousands of Australians, indeed some of my colleagues on this side of the chamber, took the initiative — independently, as self-starters — to get up and actually go down and participate in their communities. It is an extraordinary thing. Call me old-fashioned, but some members of the community actually take the initiative — maybe not too many members on the other side; I do not know.

The important thing is that more than 100 000 Victorians took the initiative; they went out and joined their communities in participating at probably 1500 sites across Victoria, cleaning up their areas on Clean Up Australia Day. It was a great self-starting initiative by members of the community.

The Premier and I felt it was appropriate to announce at that event that the state of Victoria would commit additional resources in its fight to remove litter from the landscape and from our waterways. We have committed $6 million over the next four years to work in a collaboration between state agencies, such as the EPA (Environment Protection Authority) and Sustainability Victoria, working through local government.

We rely on the local government sector very much in its efforts with litter; indeed it is an essential part of the Victorian Litter Action Alliance. Whether it be the Municipal Association of Victoria, the Victorian Local Governance Association or the metropolitan or regional waste management groups, we see the local government sector as a very important partner in removing litter from our landscape.

We will dedicate that $6 million to supporting local government in getting greater enforcement capability in reducing litter. We are going to provide staffing opportunities to work through the local government sector. We will be providing for an enhanced recycling capability in major public places, whether that be at public transport stations or in sporting precincts, where a lot of litter ends up being inappropriately disposed of currently by commuters or by sports patrons. In fact the message of protecting the environment is not what it should be when people are congregating in public spaces. We will be dedicating resources to making sure we have an enhanced recycling capability.

We understand that it is important to maintain the effort along major roadways, building on the major litter kits and campaigns that we have had along the Princes and Bass highways in the last couple of years. We are going

to grow that program throughout Victoria to reduce the amount of litter that we see in the landscape. We will run high-profile communication campaigns to try to encourage people to be more respectful of their environment, and certainly we will add to our enforcement capability.

The EPA recognises the need to enforce good litter protection in our community, and members will notice that the number of penalties that have been imposed by the EPA have multiplied tenfold during the last decade. That is a significant increase in the enforcement capability of the EPA, and we are going to grow that. We will cumulatively, through this program and the involvement and support of the Victorian community, reduce litter in the landscape. Our aim is to reduce it by 25 per cent by 2014. We think the $6 million announcement as part of Clean Up Australia will contribute significantly to that.

Schools: official openings

Mrs PEULICH (South Eastern Metropolitan) — I direct my question without notice to the Minister for the Respect Agenda. As the minister may be aware, Victorian schools are required to organise an official opening for all major capital works valued at $100 000 or more, and he would also be aware of reference in the infamous Madden media plan to the failure to invite some MPs. I ask: as the minister for the Brumby government's respect agenda, will he show respect for the Victorian Parliament and its elected representatives and, most importantly, for the people they represent, and ensure that all state MPs, regardless of their political colour, will be invited by the Victorian education department to all official openings in Victorian schools in their electorates?

Mr Viney — On a point of order, President, clearly the question relates to school openings in the education portfolio, which in this house Minister Lenders has responsibility for.

Mrs Peulich — On the point of order, President, the minister has indicated previously that the respect agenda is a broadbased agenda. In particular it will have relevance to education and will be delivered primarily through that portfolio. I consider this to be entirely in order.

Mr D. Davis — On the point of order, President, the question related to a document produced in the minister's office. I would argue that it is well and truly within his portfolio responsibilities.

Mr Viney — Further on the point of order, the question related to the official openings of school refurbishment projects that this government is undertaking in conjunction with the federal Labor government for every single school in Victoria, so it relates to education, not the respect agenda.

The PRESIDENT — Order! I am prepared to rule on the point of order. I believe the point of order is out of order, given that the minister has previously answered under the respect agenda portfolio on matters relating to education. By his own comments it is a very broad portfolio that comes into a number of other portfolios. Therefore I will allow it.

Hon. J. M. MADDEN (Minister for the Respect Agenda) — I welcome Mrs Peulich's interest in these matters, broadly within the portfolio but also specifically in terms of education. I get a sense that Mrs Peulich may have been left off an invitation list in relation to a particular project. Obviously Mrs Peulich is very sensitive about these matters.

More broadly, whilst I cannot speak specifically for the Minister for Education, I can speak generally in relation to these areas across portfolios. Our government has seen an enormous amount of money expended on not only the education program across the board but also the most comprehensive renewal of school buildings ever seen. As my colleague has mentioned, what we are seeing is investment in almost every single school across this state. That is either through a partnership between the federal government or through moneys from the state government. No doubt there is a reason to celebrate this investment.

In relation to who does or does not get an invitation to these events, I am happy to raise this with my colleague, the Minister for Education, because I think it is a matter that holds acute significance for all members of this Parliament. Schools hold a very important place in the community's mind not only in relation to the status of a school in the broader community but also through the degree of investment in young people in those schools as well as for families. I am happy to relay that to my colleague, and I am sure she will give it full consideration.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — Can the minister further assure us that the Brumby government will now apply the same protocols across all portfolios throughout Victoria in regard to official openings, or will this issue require yet another strategy

to be developed in his weekly media plan which was leaked to the media?

Hon. J. M. MADDEN (Minister for the Respect Agenda) — I appreciate Mrs Peulich's scepticism, but I do not understand it. Most importantly, where people receive invitations to any of these events, those invitations are normally based on being closely or integrally involved in the projects. That is not an unfamiliar protocol, I suppose, for people in general who get invited to any events, whether public or private. It is normally those who have either a high degree of interest or a high degree of involvement.

I will relay this to my ministerial colleagues, but if members opposite feel they have not been given the opportunity or have been left off an invitation list, they should also reflect on their own involvement or their own commitment to these projects and look at their own track record when it comes to investing in education, either in previous governments or in terms of their support through their own political parties' policies and reflect on those to see whether they are what their communities feel is warranted and whether they reflect well on the communities they represent.

Again I am happy to relay that to my colleagues, and I am sure my colleagues will make their decisions accordingly.

Rail: Berwick car park

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Public Transport. Can the minister advise the house of any recent improvements to facilities that will benefit commuters who use Berwick station?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Somyurek for his question. I am pleased to advise the house that last weekend I officially opened a major expansion to the Berwick station car park. I was joined on the day by the member for Narre Warren South in the other place, Judith Graley.

Mrs Peulich — Did you invite the local MPs?

Hon. M. P. PAKULA — Mrs Peulich, if you wait, you will hear the answer to that.

Mrs Peulich — Judith Graley. Who else? No respect.

Hon. M. P. PAKULA — Mrs Peulich, the word 'respect' should never pass your lips!

Mrs Peulich interjected.

The PRESIDENT — Order! Mrs Peulich's constant interjections are clearly disrupting the house; they are argumentative. The member is warned.

Hon. M. P. PAKULA — I was joined on the day by the member for Narre Warren South, who has been a strong advocate for the parking needs of her constituents who commute from Berwick station. This is an extension which provides local commuters with more than 300 new parking spaces. It takes the total at that car park to just under 800 spots. There are also additional disabled parking spaces included in the upgrade.

In the 2008–09 state budget this government made a commitment to expand that car park, and that is a commitment on which it has delivered. The upgrade to the car parking at Berwick station recognises the needs of the growing suburbs of Melbourne's south-east. It will help to relieve parking pressure at the station. The fully surfaced parking spaces also feature CCTV (closed-circuit television), and they also feature lighting. Both of those are important safety features.

To go to the subject of the constant interjections, let me say this: the event was an opening on a Sunday evening at 5.00 o'clock, with no media presence and none invited. It was disappointing to see a local Liberal candidate, Mr Batten, misleading constituents about the matter.

Honourable members interjecting.

Mrs Peulich — On a point of order, President, the minister is now using this opportunity to attack the opposition, which is clearly against standing orders.

The PRESIDENT — Order! I do not believe there has been overt criticism or attacks on the opposition at this time.

Mr Finn — On a point of order, President, I distinctly heard Mr Leane utter an unparliamentary term. It was not about a member of this house, but it was an unparliamentary term nonetheless, and I seek your guidance as to whether he should be made to withdraw that term.

The PRESIDENT — Order! Let me say that I did not hear any unparliamentary comment made by anyone in the chamber, and I think the chamber is aware that had I, I would have dealt with it. However, I accept that Mr Finn has in his view heard something that he considers unparliamentary, and it came from

Mr Leane. He is able to either withdraw that comment or deny it.

Mr Leane — There could be a chance that I have said a number of unparliamentary things.

The PRESIDENT — Order! There can be no debate.

Mr Leane — If that has hurt Mr Finn's feelings, I am happy to withdraw, because I know he is precious.

Hon. M. P. PAKULA — The comments that I make are germane to the interjections that I have had from — —

Honourable members interjecting.

Hon. M. P. PAKULA — Not at all. If members opposite would care to listen, the candidate in question was — —

Honourable members interjecting.

Hon. M. P. PAKULA — You don't want to hear it, do you?

The PRESIDENT — Order! I want to hear the answer.

Hon. M. P. PAKULA — The candidate in question was handing out material demanding that the car park be opened before it was ready to be opened and suggesting that the delay was because we were seeking to organise a media event. The fact is that there was no media event. The fact is that the car park was not ready for commuters to use. It was not ready to be opened, because the — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to comply with the standing orders by acting with a little decorum and allowing the minister to be heard while giving his answer. If that is not possible, I will use standing orders to ensure that it is.

Hon. M. P. PAKULA — The car park was not ready to be opened, because the electricity supply to the car park had not yet been connected by AGL. Until the electricity supply was connected we could not turn on the lights and it would have been unsafe to use. The electricity supply was connected on the Friday, and the station was opened on the following Sunday.

Those additional car parking spaces are very important for the local community — very important to their transport requirements being met. The expanded car park provides local commuters with greater ability to park and ride. Berwick station can be reached by bus routes 828, 834, 835, 836, 837, 838 and 839. It also now caters for the needs of cyclists — a new secure bike cage was included in the upgrade. Cyclists who are interested in becoming bike cage members can register at the Parkiteer website. I am delighted that the commuters who use Berwick station now have even more choices when using public transport and that they have a new, bigger, better and safer car park in order to access those choices.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I wish to draw to the attention of the house visitors in the gallery led by Mr Diego Velasco-von Pilgrimm, who is the consul general of Chile in Victoria, and he obviously has with him some members of the Chilean community. Welcome, in unfortunate circumstances.

Address from gallery.

The PRESIDENT — Order! I am compelled not to respond but to make a comment. Mr Velasco-von Pilgrimm has clearly set a precedent in the Legislative Council — that is, of being the first person who has ever spoken from the gallery, which is highly unusual and I might say totally unexpected. However, given the seriousness of the circumstances as well as Mr Velasco-von Pilgrimm's clear state of mind and feelings, I am sure all members of the chamber are sympathetic to what he said. However, I wish to put into *Hansard* my view that this will not be used as a precedent.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Rail: infrastructure

Mr D. DAVIS (Southern Metropolitan) — Before asking my question I will say that I concur with you, President, and I pass on my best wishes too.

My question is to the Minister for Public Transport. I refer the minister to how the government's decade-long neglect of Melbourne's rail system is placing 60 000 weekday rail return commuters on the Belgrave, Frankston, Hurstbridge and Pakenham lines at daily risk of being in a collision or a derailment. Can the minister explain why the wholesale replacement of timber with concrete sleepers and the complete rerailing

between Richmond and Caulfield that the Metro Trains Melbourne asset management plan said was due to commence on 18 January and to finish by 21 May has not commenced apart from the replacement of curves at South Yarra?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Davis for his question, and I note he has yet again engaged in classic scaremongering and hyperbole. I also note that the suggestion he has made about people being put at risk has been supported by nobody other than members of the opposition who have been pushing this story out, and they have been doing so solely for political advantage.

Let me talk about the document to which Mr Davis refers. It is an asset management plan prepared by Metro more than a year ago, and it was prepared by Metro in anticipation of its bid to take over the network. It is an asset management plan that was by its nature a document prepared by an outsider — in other words, an operator that was not going to run the network for another eight or nine months from the date when it was prepared. The document in question — the asset management plan that was prepared more than a year ago — does not take into account a number of things. It does not take into account the fact that under the new contract between the government and Metro there is provision for an additional $500 million of maintenance work on top of the $1.3 billion that was previously allocated for a total of almost — —

Mr Finn — Did you say $1.3 billion?

Hon. M. P. PAKULA — A total of almost $2 billion, Mr Finn — a total of almost $2 billion over the life of the contract. It does not take into account the fact that already over 120 000 timber sleepers have been replaced by concrete over the last two years. It does not take into account the fact that more than 700 000 are going to be replaced over the life of the contract, and it does not take into account the work that has been done by Metro in the three and a bit months that it has been running the network, involving reballasting, mobile track gangs, mobile engineering gangs, replacement of concrete sleepers and, as indicated by Metro this morning, work at 400 hot spots that it identified.

The proof of the pudding is in the eating to this extent: we have been somewhat fortunate this year. We only had one extremely hot day — a 43-degree day on 11 January — which in the past would have meant the sorts of conditions where track buckling would have been a major concern, and the sorts of conditions where in the past track buckling in fact occurred. On 11 January this year, when there was a 43-degree temperature, because of the additional work undertaken by Metro and its greater focus on mobile track gangs, on reballasting, on watering of the track and on sleeper replacement, there were no examples of track buckling. I concede that that is one day, but that is the day that most closely approximated the very hot days of last year.

Let me make this point as well. There are three things that commuters can take heart from. The first is the fact that, as Metro has said not just in the asset management plan of more than a year ago but repeated today, the network is fit for purpose; secondly, there is the fact of all that additional investment; and thirdly there is the fact that we have in this state an independent rail safety regulator, Public Transport Safety Victoria. Public Transport Safety Victoria is the organisation that looks at the track, looks at the rolling stock and makes these decisions to ensure that commuters are safe, and it has not indicated that it believes the track is in anything other than a fit state.

We recognise that with the massive increase in patronage, and the additional services the government has put on over the last five years in particular, increased maintenance and increased investment in the track are required. That is what we are putting in, that is what Metro is committed to and that is what the government is backing up with its additional $500 million for maintenance over the life of the contract. Commuters do not need to be put off by the scaremongering of this desperate opposition.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — My supplementary is as follows: is it not a fact that the totally avoidable, dangerous risks on the train system are a direct result of the underinvestment in transport infrastructure by the Brumby government for which Prime Minister Rudd has condemned it, describing it only a few days ago as having been inflicted on the long-suffering residents of Melbourne?

Hon. M. P. PAKULA (Minister for Public Transport) — I think we have a first. I feel like paraphrasing Whitlam.

Mr Guy — I bet you would!

Honourable members interjecting.

Hon. M. P. PAKULA — If you do not quote Kevin Rudd at me, I will not quote Peter Costello about you, Mr Davis.

Mr Jennings — Don't give up your rights!

Hon. M. P. PAKULA — I probably should keep it in my back pocket. The government's investment in public transport is timely and it is massive. We have a $38 billion Victorian transport plan, which the opposition has already indicated it will scrap, but it has not said which bits it will scrap — whether it is the rolling stock, whether it is the new stations or whether indeed it is the investment in and the upgrades of maintenance. The government has invested in rail maintenance. As patronage has grown and as services have increased, we have recognised the need to increase that investment, and that is exactly what we are doing.

Minister for Planning: media adviser

Mr DRUM (Northern Victoria) — My question is to the Minister for Planning. Immediately prior to 25 February did Peta Duke work for him or for the Premier?

Hon. J. M. MADDEN (Minister for Planning) — In relation to my media adviser, the way in which media advisers are appointed is through the media unit, which is located in the Department of Premier and Cabinet I understand — and as such it was not an appointment made by me.

Supplementary question

Mr DRUM (Northern Victoria) — In light of what happened post 25 February, did the minister remove Peta Duke from her role as his media adviser or did the Premier? If it was neither the minister nor the Premier, who was it?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Drum's interest in this matter. In relation to the particular person highlighted by Mr Drum, I must say I am saddened that she was reallocated, because whilst there are issues that have been played out publicly she was diligent and conscientious. I recognise that for any young person, particularly if they do not necessarily have sufficient or significant experience in a particular area, to have to be relocated is very disappointing, and it is especially so for a staffer to have their position played out so publicly.

Mr Drum interjected.

Hon. J. M. MADDEN — I will get to the point, Mr Drum. I and other members of this Parliament expect to be criticised publicly and expect that criticism to be played out in the media — whether we like it or not is a different matter, but we half expect that to occur as part of what we do as parliamentarians. For staffers that is not necessarily the case, and I am conscious that this staffer obviously feels very upset by the circumstances.

To come back to Mr Drum's question: discussions were held in which it was considered appropriate for Ms Duke to be reappointed, and as a result she was.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 10530, 10531, 10538–40, 10580–2, 10621–3, 10663–5, 10704–6, 10863–5, 10904–6, 10946–8, 10988–90, 11029–31, 11071, 11072, 11113, 11114, 11154–6, 11196–8, 11239, 11240, 11280–2, 11321–3, 11362–4, 11428, 11429, 11470, 11471, 11512, 11513.

Ms LOVELL (Northern Victoria) — Deputy President, I seek answers to questions 9085, 9087, 9172, 9173, 9174, 9175, 9176, 9177, 9178, 9179, 9180, 9181, 9182, 9183, 9209, 9210, 9211, 9212, 9213, 9214, 9215, 9216, 9217, 9218, 9260, 9261, 9262, 9263, 9264, 9265, 9266, 9267, 9268, 9269, 9270, 9271, 9272, 9273, 9274, 9275, 9276, 9277, 9278, 9279, 9313, 9314, 9315, 9316, 9317, 9318, 9319, 9320, 9321, 9322, 9326, 9327, 9328, 9329, 9330, 9331, 9332, 9333, 9334, 9335, 9379, 9380, 9381, 9382, 9383, 9384, 9385, 9386, 9387, 9388, 9390, 9391, 9392, 9393, 9394, 9395, 9396, 9397, 9422, 9423, 9424, 9425, 9426, 9435, 9436, 9437, 9438, 9439, 9440 and 10062.

All of these are questions to the Minister for Children and Early Childhood Development, lodged by the Treasurer.

The DEPUTY PRESIDENT — Order! Has the member written to the minister?

Ms LOVELL — Yes, I have written to the Minister for Children and Early Childhood Development.

Mr LENDERS (Treasurer) — As the minister representing the Minister for Children and Early Childhood Development in this house, I will certainly follow up the matter of these answers with the minister, but the procedure of this house is that members normally write first to the minister responsible in this house to ask for answers. I certainly have not received that request, but I am quite happy, on behalf of Ms Lovell, to raise this matter with my colleague Minister Morand.

PETITIONS

Following petitions presented to house:

Liquor licensing: fees

To the Honourable the President and members of the Legislative Council assembled in Parliament:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the Victorian Brumby government's unfair fee increases on small suburban packaged liquor outlets operating responsibly and within dry zones where little or no risk exists.

We oppose the massive increase in licensing fees for these packaged liquor outlets and demand that liquor licensing fees for such venues remain at their current levels and that a review of risk levels be immediately undertaken so that licensing fees can be more accurately determined.

By Mr D. DAVIS (Southern Metropolitan) (66 signatures).

Laid on table.

Police: Neighbourhood Watch

To the members of the Legislative Council:

The petition of certain citizens of the state of Victoria brings to the attention of the Legislative Council our opposition to the misguided state government changes to the accessibility of crime statistics for Neighbourhood Watch.

The petitioners believe that availability of local crime statistics on a street-by-street basis is an essential component of the Neighbourhood Watch program.

Local crime statistics on a street-by-street basis foster ownership of the Neighbourhood Watch program by local communities and enable vigilance and support of community safety activities. We oppose the proposed change to crime statistics only being available on a postcode basis.

The petitioners therefore call on the Legislative Council to urge Premier John Brumby, the minister for police, Bob Cameron, and all local Labor MPs to reverse their decision which ends vital access of Neighbourhood Watch to street-by-street crime statistics, undermining the Neighbourhood Watch program and the ability of the community to support this important and respected program and community safety.

By Mr DRUM (Northern Victoria) (15 signatures).

Laid on table.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Minister's Order of 20 February 2010 giving approval to the granting of a lease at Yarra Bend Park Reserve.

Emergency Services Superannuation Act 1986 — Report on the Actuarial Investigation of the Emergency Services Superannuation Scheme as at 30 June 2009 (two papers).

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

Baw Baw Planning Scheme — Amendment C73.

Cardinia Planning Scheme — Amendment C137.

Frankston Planning Scheme — Amendment C57.

Horsham Planning Scheme — Amendment C43.

Hume Planning Scheme — Amendment C109.

Macedon Ranges Planning Scheme — Amendment C70.

Maribyrnong Planning Scheme — Amendment C56.

Mildura Planning Scheme — Amendment C61.

Moorabool Planning Scheme — Amendment C18.

Moyne Planning Scheme — Amendment C50.

Nillumbik Planning Scheme — Amendment C58 (Part 1).

Wellington Planning Scheme — Amendments C57 and C59.

Yarra Ranges Planning Scheme — Amendment C98.

Statutory Rules under the following Acts of Parliament:

Conservation, Forests and Lands Act 1987 — No. 11.

Racing Act 1958 — No. 12.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rules Nos. 11 and 12.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Consumer Affairs Legislation Amendment Act 2010 — Section 19 and Parts 8 and 9 — 1 March 2010 (*Gazette No. G8, 25 February 2010*).

Land (Revocation of Reservations and Other Matters) Act 2009 — Parts 2 (other than section 3), 5, 6 and 7 and Schedules 3, 4, 5, 8 and 9 — 25 February 2010 (*Gazette No. G8, 25 February 2010*).

Racing Legislation Amendment (Racing Integrity Assurance) Act 2009 — Parts 2, 3 and 4 — 1 March 2010 (*Gazette No. G8, 25 February 2010*).

GOVERNMENT: PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter from the Attorney-General dated 9 March 2010. It states:

ORDERS FOR THE PRODUCTION OF DOCUMENTS

I refer to the Legislative Council's (Council) orders of 24 February 2010 relating to a new order for the production of documents, and certain other orders for the production of documents made by the Council in 2008 and 2009.

Register of the exercise of delegated powers order (24/2/10)

In respect of the new order made by the Council on 24 February 2010 regarding the register of the exercise of delegated powers, discretions and functions between the Minister for Planning and departmental staff within the Department of Planning and Community Development, I advise that government is in the process of compiling and reviewing relevant documents and is therefore unable to meet the Council's deadline of 9 March 2010. Government will respond to this order as soon as possible.

Solar energy feed-in tariffs (11/3/09 & 16/9/09) CPRS #1 & #2 (1/4/09, 16/9/09, 6/5/09, 11/11/09), Clearways (1/4/09 & 16/9/09), Better Place (6/5/09 & 11/11/09), Alpine resorts (3/6/09 & 16/9/09), Carbon trading institutes (29/7/09 & 16/9/09), DoT ministerial briefings (29/10/08 & 11/3/09) orders

In respect of the solar energy feed-in tariffs, CPRS scheme #1, clearways, CPRS scheme #2, Better Place, alpine resorts, carbon trading institutes and Department of Transport ministerial briefings orders, I confirm that the government's response to these orders has been completed. I also confirm the claims of executive privilege previously made in respect of certain documents that are relevant to these orders.

Coal exports (11/1/09), Working Victoria & Shine (14/10/09), Crown Casino (24/6/09 & 16/9/09) & Desalination (12/8/09) orders

In respect of the coal exports, Working Victoria & Shine, Crown Casino and desalination orders, I advise that government is still in the process of compiling and reviewing relevant documents and will respond to the orders as soon as possible.

Desalination gateway review order (23/6/09)

In respect of the desalination gateway review order, I confirm that the only documents that are relevant to this order are:

1. Report from gateway review team to Department of Sustainability and Environment, 'Gateway review 2 — business case' (23 May 2008); and

2. Report from gateway review team to Department of Sustainability and Environment, 'Gateway review 3 — readiness for market' (23 May 2008).

Moreover, I advise that the reason why release of these documents would be prejudicial to the public interest is because their release would reveal the high-level confidential deliberative processes of executive government.

I have received a further letter from the Attorney-General dated 9 March 2010. It states:

ORDER FOR THE PRODUCTION OF DOCUMENTS

I refer to following orders made by the Legislative Council (Council):

(a) 25 November 2009:

That in accordance with sessional order 21, there be tabled in the Council by 12 noon on 8 December 2009 a copy of all agendas and minutes of the financial and/or audit committees and the investment committee (or its equivalent) if in existence, of each of [132 listed] Victorian health services, networks, hospitals and small rural services for the financial years 2008–09 and for meetings held in 2009–10 to date (providing the required information for each health service entity where appropriate and for each hospital or site where a separate or additional committee/s exists) (Health services order).

(b) 9 December 2009:

That in accordance with sessional order 21, there be tabled in the Council by 12 noon on Tuesday, 2 February 2010, a copy of the 'Report of the Local Government Investigations and Compliance Inspectorate on Colac Otway Shire Council' (Colac Otway order).

Health services order

The government does not possess any documents that are relevant to the Health services order.

Colac Otway order

In my letter to you of 28 October 2008 1 noted the limits on the Council's power to call for documents. These limits centre on the protection of the public interest. In that letter I set out factors that the government would consider in assessing whether the release of documents would be prejudicial to the public interest.

The executive government has now assessed the 'Report of the Local Government Investigations and Compliance Inspectorate of Colac Otway Shire Council' dated 6 November 2009 (report) against the factors listed in my letter. The government has determined that the release of the report would be prejudicial to the public interest.

The executive government on behalf of the Crown makes a claim of executive privilege (public interest immunity) in relation to the report on the ground that it would reveal high-level confidential deliberative processes of the executive government.

The DEPUTY PRESIDENT — Order! Are there any motions by the house in respect of that correspondence?

Mr D. Davis — On a point of order, Deputy President, I note that the letter dated 9 March just tabled under the letterhead of the Attorney-General in response to a sessional order 21 motion of 25 November 2009 seeks the tabling of the agendas and minutes of financial or audit committees of hospitals and health services. Those documents clearly exist, but the Attorney-General has said the government does not possess any of the documents that are relevant to the health services order.

I note that the Leader of the Government is the one to whom the sessional order motion was directed, requiring him to produce those documents. I note that the response has come back from the Attorney-General, and I wonder if the Leader of the Government may wish to respond on that or on the appropriateness of that, given that it seems to me that, firstly, the statement in the Attorney-General's letter may well be untrue, and secondly, it is the response of the Attorney-General to a motion directed at the Leader of the Government.

The DEPUTY PRESIDENT — Order! It is my view that there is no point of order as such. The reason I asked whether the house had any motions in respect of the correspondence read by the Clerk was that the house had obviously sought this information. This is a response to a resolution of the house, and it is now within the power of the house to determine how it decides what to do with the correspondence. If the house finds the response is unsatisfactory, and I guess Mr Davis's comments indicate it is unsatisfactory to him, then it is obviously within the power of the house and members of the house to move a motion accordingly.

Ordered that letters from Attorney-General be taken into consideration next day on motion of Mr D. DAVIS (Southern Metropolitan).

BUSINESS OF THE HOUSE

General business

Mr D. DAVIS (Southern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 10 March 2010:

(a) the notice of motion given this day by Mr D. Davis expressing no confidence in the Minister for Planning;

(b) notice of motion 26 of 2009, standing in the name of Mr Hall, to disallow the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Further Amending Order (No. 2) 2009;

(c) notice of motion 26 of 2010, standing in the name of Ms Pennicuik, relating to political donations;

(d) the notice of motion given this day by Mr D. Davis relating to the production of certain documents relating to the review of the Victorian Funds Management Corporation by Dr Mike Vertigan;

(e) notice of motion 25 of 2010, standing in the name of Mr Dalla-Riva, relating to the production of certain Office of Police Integrity documents;

(f) resumption of debate on order of the day 12, relating to local community problems; and

(g) resumption of debate on order of the day 13, relating to the schools Rock Eisteddfod.

Mr Lenders — On a point of order, Deputy President, the government completely accepts that the order in here is an issue for the non-government parties, so I am not seeking to prosecute that. But I am confused because Mr Davis has twice referred to general business motion 26 regarding Ms Pennicuik's motion and bulk entitlements. I think for clarity after his motion we could perhaps have a list of what is going to be debated tomorrow. I am puzzled by how he read his motion.

Mr D. Davis — On the point of order, Deputy President, I am happy to provide clarification on that. The note provided by the Clerk had 'notice 26' on it twice, so that is my error.

The DEPUTY PRESIDENT — Order! The reason is that one notice was lodged in 2009 — that is notice of motion 26 of 2009, which refers to bulk entitlements — and the other is notice of motion 26 of 2010, which refers to political donations.

Motion agreed to.

MEMBERS STATEMENTS

Minister for Health: conduct

Ms LOVELL (Northern Victoria) — On 10 December last year the Minister for Health, Daniel Andrews, stood in the Legislative Assembly and attempted to mislead the chamber in his response to a question asked by the member for Ivanhoe, Craig Langdon.

The minister claimed that I had made comments to the Kyabram *Free Press* endorsing the Victorian government in the area of health services. He read aloud a quote which the newspaper had mistakenly attributed to me. However, the minister would have been well aware that this was an error, as the quote, mistakenly attributed to me, came directly from the minister's own media release of 30 October 2009, entitled 'Maternity boost for Loddon-Mallee mothers' in which the minister included the same quote from the member for Ripon, Joe Helper.

I believe the Kyabram *Free Press* inadvertently attributed Mr Helper's quote to me because Kyabram is not located within Mr Helper's Ripon electorate but is

located within my electorate of Northern Victoria Region.

In January I wrote to the Minister for Health requesting that he acknowledge that his use of this article and quote was misleading and that he correct the record in the house when Parliament resumed. I also requested that he respond to me in writing. The minister has failed to correct the record in the house, and I am yet to receive a written response from the minister regarding this issue. The minister should be condemned for his deceitful behaviour, and I request that he immediately correct the record in the house.

Duck hunting: season

Mr HALL (Eastern Victoria) — With duck season opening on 20 March, today I call upon everyone with an interest in duck hunting to do all within their respective powers to see that the season is conducted in a safe and lawful manner.

While I acknowledge the right to protest, I urge those opposed to duck hunting to make their protests known away from game reserves. Conflict within areas where firearms are in use is particularly dangerous and should be avoided.

As well as calling on protesters to stay away from game reserves, I call upon duck hunters to exercise responsibility in the conduct of their chosen recreation by adhering to laws and regulations governing the activity and to demonstrate tolerance to others.

I call upon authorised officers of the Department of Sustainability and Environment and Victoria Police to exercise their powers to the extent necessary to reduce conflict and improve safety when duck hunting takes place in game reserves this year.

Jan Wilson

Mr LENDERS (Treasurer) — I rise to acknowledge the contribution to our community made by the late Jan Wilson, who sadly passed away after a battle with cancer on Friday, aged a very young 69 years.

Jan was born and educated in Scotland and made an extraordinary contribution to the Dandenong and Victorian community. She served as mayor and councillor of the City of Dandenong and was elected as the first MLA for Dandenong North; she served in that role from 1985 until her retirement in 1999.

She and her late husband, Eric, both served on the council and both made enduring contributions to Dandenong and the Labor Party. Eric's contributions included being a chief returning officer for the Labor Party for both the state and federal branches.

I had the privilege of following Jan as both an ALP state organiser and as the MLA for Dandenong North. I can testify to her legacy in support for individuals, the community and her beloved Labor Party through some very tough times.

Post Parliament Jan continued in her community involvement with Greyhound Racing Victoria, as its chair. She was also chair of the Wallara project in Dandenong and was involved in a myriad of other activities.

Jan was a mentor and a friend. She and Eric welcomed me to the south-east of Melbourne when my family and I moved there in 1990. She was a great cook — she made the best soups and sticky date puddings for ALP branch meetings that I have ever tasted — a great raconteur and a champion of social justice.

My condolences to her son, Craig. She will be sorely missed by the Dandenong community, by the greyhound racing community and by the hundreds and thousands of people she encountered in her public life, for whom she always had time, always made an effort and was always a great mentor and role model.

Locusts: control

Mr KOCH (Western Victoria) — Western Victorian farmers are concerned that heavy summer rains in the far south-west of New South Wales and the Riverina could result in an autumn migration of plague locusts over the border.

During December the Department of Primary Industries detected locusts in native pastures west of Swan Hill. A number were also found near Echuca, and the DPI is monitoring any threats. Recent heavy rains across the Wimmera may give rise to suitable breeding conditions that could assist the insects to spread further. According to the federal Department of Agriculture, Fisheries and Forestry there is potential for a high-density population to develop in several regions of New South Wales. This would increase the chance of a widespread swarm infestation in Victoria during April.

While locust populations remain relatively low in Victoria, the ability of locusts to form dense swarms and migrate over large distances means that farmers in western Victoria should be aware of the threat; they should be prepared to act to minimise the risk and be vigilant in controlling hatching should the locusts spread south. Land-holders should be prepared to spray

hoppers so as to reduce pasture and crop damage immediately.

I urge the Minister for Agriculture to monitor breeding larvae in the Wimmera and southern Mallee areas. It is essential that the minister make a commitment and ensure that his departmental officers and equipment are on the ground and are made available to assist land-holders in containing any outbreaks.

International Women's Day

Mr SCHEFFER (Eastern Victoria) — Yesterday, 8 March, we celebrated the 100th International Women's Day, for which the theme this year is empowering women to end poverty.

The day recognises that if peace and social progress are to be achieved and if women are to have human rights and fundamental freedoms, they need to be active and equal participants in their own development.

International Women's Day celebrates what has been achieved and it focuses on what remains to be done. Women everywhere, but foremost women in developing countries, continue to encounter the huge problems of the global financial crisis and the impacts of food insecurity, natural disasters and climate change.

The plight of women and their families involved in the recent devastations in Haiti and Chile has drawn attention to the fact that governments and international relief agencies need to work with women and their organisations on the ground to make a real difference.

CARE Australia's CEO, Dr Julia Newton-Howes, wrote in an article in the *National Times* on 5 March this year saying:

> … there is one thing we know for sure; women are both most affected by, and the most effective solution to, poverty.

Dr Newton-Howes provides a number of cogent examples.

Closer to home, issues that still need to be addressed include wage equality for women, including those in the community sector, paid maternity leave, family violence, the availability of affordable child care, sexual and reproductive ill-health, and homelessness.

I commend the work of women's organisations and congratulate women everywhere on their great achievements on the 100th International Women's Day.

Timber industry: mills

Mrs PETROVICH (Northern Victoria) — In February 2002 the Bracks Labor government announced *Our Forests Our Future — Balancing Communities, Jobs and the Environment* to ensure the sustainable future of Victoria's native forest and timber-dependent communities. VicForests was established as a new commercial entity to separate the commercial forestry objectives from the policy and regulatory functions of government and ensure that the logging industry was managed efficiently.

The reality was massive job losses and the closure of many sawmills, particularly the small ones. ITC Timber Pty Ltd, owned by Elders, purchased the largest mill in Victoria, Neville Smith Timber Industries, and Goulds Sawmills and many others. It was clear that Victoria was not a great place to work, live and raise a family if you operated or worked in a small timber mill. There was an obvious push by the Labor government to get rid of small mills and leave the larger ones in business.

Further to this delightful tale is that Tasmanian-based Gunns Ltd completed the acquisition of ITC Timber Pty Ltd for $88.5 million on 4 December 2009. Gunns reported a plunge in first-half profit, sending its shares down 22.15 per cent to a value of 68 cents. According to the *Herald Sun* of 23 February:

> Tasmanian timber giant Gunns traded to an 11-year low yesterday after the shares were pulped by a 99 per cent slump in first half profit. Australia's biggest woodchip exporter posted an interim net profit of $400 000, down from $33.6 million.

Was this the vision of the Bracks government for *Our Forests Our Future*, to balance communities, jobs and the environment by losing jobs, closing businesses, wrecking our timber industry and sending the remaining profits to Tasmania, or have things gone terribly wrong?

Brimbank family violence unit

Ms HARTLAND (Western Metropolitan) — International Women's Day, marked on 8 March every year, is a day that is celebrated globally. It acknowledges women's economic, political and social achievements and continuing challenges. While we have seen major advancements in women's rights, thanks to the hard work of women and men activists over many years, women continue to face significant problems, such as family violence and unequal pay, on which we are failing to see adequate action from this or any government.

I draw attention to the closure last month of the Brimbank family violence response unit, which had been operating out of the Keilor Downs police station. The Brimbank area has the highest rates of reported family violence incidents in Victoria. The unit provided specialist response to family violence incidents, and valuable relationships, skills and knowledge were established and nurtured over the years it operated. The family violence unit is an absolutely vital service for women and their families. The closure of the unit contradicts the claims of the Brumby government. I understand the unit has now been reopened, but for only two months. There is no guarantee that the program will continue.

Either the government has a commitment to addressing issues of family violence or it does not. I hope that next year on International Women's Day I can say that the Brimbank family violence response unit has been successfully reopened and fully funded and that women in Brimbank are safer.

Heywood Wood, Wine and Roses Festival

Ms TIERNEY (Western Victoria) — On Saturday, 27 February, I had the pleasure of attending the many stalls and exhibitions at the Heywood Wood, Wine and Roses Festival, as well as having the opportunity to assist in the judging of the street parade floats. As reported in the Hamilton *Spectator*, around 12 000 people attended the festival, which was an excellent result. Visitors came from far and wide, including from Melbourne, Geelong, Echuca, South Australia and Warrnambool. It is always a pleasure to be in Heywood, but particularly so on the special weekend of the Heywood Wood, Wine and Roses Festival.

I would like to take this opportunity to thank all those involved in the festival, particularly those who spent many hours on the fantastic floats. The young people of the Heywood district excelled with their wonderful imaginations, with Heywood Consolidated School, Narrawong Primary School, and Heywood and District Secondary College receiving first place, runner-up and a high commendation for their floats.

I would like to mention also the long hours and hard work of the festival's committee and volunteers, particularly president Elaine Evans, event organiser Ross Barclay and parade co-announcer Terry Grant. It is their time and effort that make this festival possible and a real drawcard for the district.

Bellarine Agricultural Show

Ms TIERNEY — On another note, last Sunday I attended the Bellarine Agricultural Show. This event is a true commitment to the notion of an agricultural show, where our local farming community members provide their stock and produce to be judged. It also provides an opportunity to educate the wider community on our agricultural products. I congratulate the Bellarine Agricultural Society for ensuring that the show remains a local community event.

Le Louvre: relocation

Mrs COOTE (Southern Metropolitan) — In 1922 a young woman from Ballarat established a fashion business and in 1952 opened a couturier shop in Collins Street. Her name was Lillian Wightman, and she called the shop Le Louvre. She changed the face of Melbourne, naming the eastern end of Collins Street the 'Paris end'. Melbourne has traded on this perception ever since. It has been a tourism drawcard, the centre of fashion in Melbourne and the envy of all the other states in Australia.

Lillian Wightman created magic from her two-storey terrace near the corner of Exhibition Street and Collins Street. It became the epitome of style for decades — an extravaganza of gilt mirrors, ocelot and European sophistication. She was the doyen of fashion in this country. Lillian was a shrewd businesswoman who realised that her approach to fashion needed change and so, 17 years ago, she positioned herself on the ocelot sofa in the centre of Le Louvre and handed the running and development of the business to her talented daughter, Georgina Weir.

Under the direction of Georgina, Le Louvre has gone from strength to strength. It is now moving from Collins Street. Georgina says of herself that she has designed a new fashion masterpiece in South Yarra. She has said also, 'Other shops are full of shop fittings and they may look the same worldwide. There is no mystery or excitement. You know that what you see is what you get. I want people to come in and look around in wonder and think, "Gosh, this is so different"'.

Le Louvre will soon end its era in Collins Street, but it takes its style, culture and memories to South Yarra, where the women of Victoria and Australia are about to experience something never seen here before and a fitting legacy from a pioneer of Australian fashion. As Georgina Weir has said, 'The world has changed and it's time for Le Louvre to change, but our philosophy will not change. Le Louvre is a little oasis, a fantasy'.

Rotary Club of Balwyn: indigenous scholarships

Mr LEANE (Eastern Metropolitan) — I wish to commend the members of the Rotary Club of Balwyn on their Aboriginal and Torres Strait Islander tertiary scholarship initiative, which they started about six years ago. I was very honoured to represent the Minister for Skills and Workforce Participation, Bronwyn Pike, last week at the meeting of the Rotary Club of Balwyn where three scholarships were awarded to three very excited and deserving indigenous young people.

The scholarships are valued at $200 000 over the period of the young people's studying for their university degrees. There is also a funding contribution to the scholarship holders from the Department of Innovation, Industry and Regional Development and Aboriginal Affairs Victoria. It was good and very encouraging to hear from two of the current scholarship holders about how they are going with their university courses. Again I commend the members of the Rotary Club of Balwyn, especially the president, Bill Goodwin.

Melbourne Sri Lanka Charity Foundation

Mr LEANE — On another matter, representing the Premier a couple of Saturdays ago I attended the inaugural ball of the Melbourne Sri Lanka Charity Foundation. It was a successful event, with the auditorium being full. The foundation will use the money it made for charity purposes in Sri Lanka and Melbourne.

Heytesbury settlement: anniversary

Mr VOGELS (Western Victoria) — Over the long weekend the 50th anniversary celebrations of the Heytesbury land settlement around Simpson in south-western Victoria were held. In 1960 the first settlers arrived to take up their farming blocks, which were balloted out by the then Soldier Settlement Commission. On average the blocks were between 180 and 200 acres. For those who do not know what an acre is, the blocks were between 73 and 80 hectares.

It was tough going for those first settlers, with nearly half the original settlers walking off their properties. However, over the next few years, as more land was cleared and became available, potential farmers were queuing up for a once-in-a-lifetime opportunity to be allocated a property. The settlers leased their property for the first three years, after which they had the opportunity to buy the land over a long period at very low interest rates.

Eventually approximately 400 farms were settled, and the region has become Victoria's premier dairying area. The biggest drawback for the Heytesbury settlement area is lack of underground water. It is a pity that, with its proximity to the Otways, no dams were built — such as, for example, Rocklands Reservoir or Lake Bellfield in the Grampians — which would have drought proofed stock and domestic supplies into the future. That being said, in a very short time what was originally known as Bolte's blunder was declared Bolte's bonanza when in 1966 the then Premier opened the Simpson Kraft factory.

MAGISTRATES' COURT AMENDMENT (MENTAL HEALTH LIST) BILL

Second reading

Debate resumed from 25 February; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Ms HARTLAND (Western Metropolitan) — The Greens are generally supportive of this legislation as we believe separate court lists have merit. In the case of the Koori Court and Drug Court, they have proved to be extremely successful.

It is somewhat of a concern, and it is quite clear from a reading of Mr Rich-Phillips's contribution, that the coalition does not support separate lists. I may be incorrect in saying that, because I am receiving a stern look from a Liberal Party member, but the separate lists are important.

Non-government organisations (NGOs) generally support the concept of the mental health list because of the high rates of people with a mental illness being caught up in the criminal justice system. Generally the NGOs like the idea that the list would allow the individual needs of the accused to be assessed with a therapeutic and support outcome rather than a legal outcome. The NGOs support the aims of treating a mental illness as a health issue, not a crime, and showing appropriate support and management of people who are disadvantaged by intellectual disability or brain injury. The suggestions by the NGOs are aimed at making the trial successful.

The Victorian Aboriginal Legal Service (VALS) outlines a number of ways in which the legislation should recognise the unique needs and values of the Aboriginal and Torres Strait Islander population. Cultural and physical barriers need to be removed to both encourage Aboriginal and Torres Strait Islander

people to consider moving their cases to the mental health list and to keep them participating and complying. We should be paying close attention to its submission because there are far too many Aboriginal and Torres Strait Islander people in the current criminal justice system as well as in the mental health system.

From the VALS submission one can sense an excitement that the trial might work. It might remove some barriers, like the adversarial, formal and technical nature of the ordinary court system, as long as it is not replaced with another formal and culturally inappropriate system.

During my speech I will be asking the minister to take on a number of concerns and for the government to reply to them, either during the committee stage or when a member of the government responds in debate. I ask for a response to the Victorian Aboriginal Legal Service submission.

The Public Interest Law Clearing House recommends adequate resourcing and the clarification of issues such as what will happen if there is a high level of demand to access the list, what sort of evidence regarding eligibility criteria will be required, and consideration of guidance for making sure individual support plans are not so onerous or inappropriate that the accused will be set up to fail. It also recommends that the evaluation at the end of the trial be made public. I asked the minister if that would happen, and I have received a signed letter today saying that that evaluation will be made public.

My experience of having worked in the field is that often good programs are funded as pilot programs. They go on for a year or two, they have great success, then they are suddenly defunded but we never quite know why.

The Federation of Community Legal Centres asked for clarification on how an individual support plan in the bill may interrelate with other requirements such as a community treatment order under the Mental Health Act 1986. The term 'mental health list' has been unhelpful and inappropriate, as has been mentioned in a number of members' presentations. If I were a mentally well person with an acquired brain disorder or intellectual disability, I might be surprised to find myself on a mental health list and might be a bit offended by the perceived assumption that I have a psychological or psychiatric illness. I am glad to see that the government has proposed amendments to the bill to change the name 'mental health list' to what I think is a much more appropriate name, being 'assessment and referral court list'.

I have also received a submission from Margaret Ryan and Max Jackson that proposes there should be separate legislation for mental health and intellectual disability. Margaret Ryan, in her submission, says:

> A clear point of distinction between the two is that intellectual disability is not an illness, is not episodic and is not —

as an underlying condition —

> usually treated by medication.
>
> …
>
> A person could recover from a mental illness as a result of treatment, but intellectual disability is fairly consistent throughout a person's life.

I think Ms Ryan makes an extremely good point, but in my view the legislation does differentiate between a person with a mental illness and a person with an intellectual disability. It enables individual needs to be met.

New section 4T provides that in order to be eligible for the list, a person may have a mental illness, an intellectual disability, an acquired brain injury, an autism spectrum disorder or a neurological impairment including, but not limited to, dementia.

New section 4T(4) provides that in order to be eligible the accused must be assessed as benefiting from a range of services, including psychological assessment, mental health services and disability services. I am pleased to see the government's proposed amendments will change the name of the bill.

While I understand why the coalition has circulated a number of proposed amendments to the bill, the Greens have decided we will not be supporting those amendments, because we do not believe the amendments make the bill any stronger; they add a layer of bureaucracy where it is not needed.

But I have some concerns which I hope can be addressed during the committee stage concerning the court integrated service program which was established in 2006 and operates in Melbourne, Sunshine and the Latrobe Valley. This was a three-year trial, and I understand this program will continue. It is very similar to what will occur under the referral and assessment bill. I would like to know how it is different, how it is to be funded and how the two groups will be working together.

I will address my other questions during the committee stage, but at this stage the Greens support this bill, because we recognise there is a need for people with an intellectual disability, a brain injury or a mental illness

to have access to a separate list within the court system so that they get good service and have access to justice.

We just have to look at the numbers of people currently in our prison system who have either a disability, a mental illness or a drug or alcohol problem to see that those numbers are far too high.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! I call on the minister to move amendment 1. I indicate to the committee that I consider amendment 1 to be a test of all remaining proposed amendments as they relate to the same issue of a name change from 'mental health list' to 'assessment and referral court list'.

Hon. J. M. MADDEN (Minister for Planning) — As you mentioned, Chair, these are fairly obvious amendments. I will not go into a long dissertation. I move:

1. Clause 1, lines 2 and 3, omit "Mental Health" and insert "Assessment and Referral Court".

The DEPUTY PRESIDENT — Order! Is there any discussion in respect of clause 1, which is the purposes clause? The amendment has been moved, but are there any comments in respect of clause 1?

Mr P. DAVIS (Eastern Victoria) — My comments will not go to the minister's proposed amendment, but I want to make some very brief — very brief — remarks about the purpose of the bill. Clearly the purpose of the bill is to initiate an action in respect of the administration of lists in the Magistrates Court, which is proposed for a trial period. The comments I will make essentially support that purpose.

The reason I want to make these remarks — perhaps because I did not have an opportunity to make them earlier — is that the real thrust of this bill is to achieve a significant benefit for many individuals who are caught up in our legal system and, more importantly, those people who simply fail to be recognised when they come into contact with compliance processes. That is particularly in the sense of police intervening in situations where there may have been what the community regards as abhorrent behaviour and as a result of contact with police, people are processed into the Magistrates Court system when in fact what they really need is some medical and/or psychiatric assistance.

I make my observations as somebody who has come into contact with such circumstances relatively late in my time in Parliament. In recent times I have seen a number of circumstances in which the best outcome for the community and in particular for the individuals who have been absorbed into our legal process would have been for them to be given some assistance by way of intervention.

I wish to cite one example to demonstrate my particular concern, although I have seen quite a number. It involved a young student from central Victoria who is of my acquaintance. Coincidentally not long before this incident occurred his relationship with his girlfriend had come to an end and he had displayed a good deal of anxiety about that relationship, which led to him displaying behaviours in relation to this young woman and in the company of some of her friends that in retrospect could only have been seen to represent a psychotic event. But that was not recognised at the time. At the time it simply appeared to be obsessive behaviour, and the behaviour appeared to be threatening. As a consequence of that this young man — who was studying law and was an outstanding young student — became part of our legal system.

He was taken into custody, he was held overnight in a police station and eventually he went before the Magistrates Court and certain matters were found. A consequence of this has been profound in relation to this young man: as a consequence of the convictions being recorded he cannot practise law. He can conclude his legal studies, but he cannot really look forward to the prospect of practising law in the future. Importantly what surprised me, because I was aware of this incident on the way through, was that nowhere in the intervention by police or in the court was there any engagement by the state collectively to assist this young man. The only psychiatric assistance he received in the end was after some months of incredible anguish on the part of friends of his who were students at university — not his family, because he was not particularly engaged with his family — who managed to steer him into some programs that assisted to manage his disorder.

I make the point in relation to the case of this young man because it sticks in my mind more than many of the other cases I have recently seen simply because he was a young man at the start of his adult life who could have made a significant contribution, and I have no doubt he will in another way. His interest was in

pursuing a line of study to achieve an outcome in a particular aspect of law.

Importantly, I feel that we as a community have let him down. He did not need to be collected and thrown in the back of a divvy van and locked up for the night; he did not need to suffer the indignity of the process of coming before the courts. What he actually needed was help, and nobody in a position of authority with whom he came into contact was able to ensure, in a position to ensure or perhaps interested in ensuring that that assistance was provided.

Simply on the purpose clause I commend the general principle of the bill to the committee. The opposition has issues about some of the details of the bill, but without further ado I conclude my remarks.

The DEPUTY PRESIDENT — Order! That was very close to a second-reading speech, I thought; it was far closer to a second-reading speech than a committee contribution.

Mr P. Davis — Nevertheless a very useful contribution.

The DEPUTY PRESIDENT — Order! It may well have been. No doubt the minister is encouraged with his legislation.

Ms HARTLAND (Western Metropolitan) — Yes, I think Mr Davis has eloquently put why we need this list. One of the issues that has been raised with me is the assessment of clients in relation to someone who has a mental illness versus someone who has an intellectual disability. I have been told that it will be a multidisciplinary team, but these are obviously very different issues in terms of assessment. How will that be dealt with?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that initially there will be assessment by a psychologist and appropriate staff on a broader-type definition and then, if greater expertise related to particular areas is needed, appropriate personnel or staff will be allocated on that basis. It is really, as Mrs Peulich mentioned, trying to find which category you might fall into, or if there are more complications, it is in a sense trying to get the assistance through the expert required for a particular type of ailment.

Ms HARTLAND (Western Metropolitan) — I need to ask the question again but in a different way. Someone who has bipolar disorder is in a very different position to someone who has autism; they are very different areas of expertise. Will there be one person or a number of people on the team who can deal with someone with both bipolar disorder and possibly an intellectual disability and with someone who just has autism?

Hon. J. M. MADDEN (Minister for Planning) — I know it is unusual, Chair, but I know Brian Tee has been closely involved in much of the forensic detail of some of these matters, and it might be useful if he speaks more broadly to some of them. I am happy to go back to answering the question specifically, but if Mr Tee wants to he can speak about some of the more technical matters and some of the technical definitions around these aspects.

The DEPUTY PRESIDENT — Order! The Chair will certainly recognise Mr Tee if he presents to answer the questions. On a number of occasions in the past I have encouraged him to do so.

Mr TEE (Eastern Metropolitan) — The starting point is that the court itself will not develop, or does not intend to develop, the expertise, but there are a number of specialised fields. The process that will be adopted is as follows: if an individual is deemed to fall within the legislation and put on the list, they will be allocated an officer who will work with them. That officer will then have the capacity to buy in the relevant expertise. There will be a capacity for each individual to be assessed as part of the process, and that assessment will be done by someone who is an adequate expert in that particular area of expertise.

The court may not have the expertise, but that expertise can be sought as part of the program. That expertise, whether by way of counselling or otherwise, will then be fed back as part of the development of a support plan for the individual, which may include a number of other aspects such as drug and alcohol services, homeless services and so on. There will be a particular emphasis to make sure that people are correctly diagnosed and appropriately treated, and there is a clear recognition that there is the expertise in the community to identify the particular needs of individuals.

Ms HARTLAND (Western Metropolitan) — To have an external assessment is quite an expensive process. Can Mr Tee indicate how much budget has been put aside for that kind of buy-in of services?

Mr TEE (Eastern Metropolitan) — The budget that has been allocated is $13.8 million over four years, of which some $10.9 million is new funding and $2.9 million is existing resources.

Mr Rich-Phillips — On a point of order, Deputy President, I accept it is quite in order for Mr Tee to comment on and respond to matters with respect to this

committee debate, as it is for any member of this chamber to express their view on particular matters, policy matters et cetera. However, there is only one person in this chamber who is responsible to the Parliament for this piece of legislation, and that is the Minister for Planning. Without any disrespect to Mr Tee, I am seeking your guidance as to what weight this committee and this Parliament can place on answers given by Mr Tee when he is not the minister responsible for this legislation, particularly when, as the Deputy President will appreciate, the minister's response on this matter can have significant ramifications in the future if this legislation is ever called into question.

Mr Tee — On the point of order, Deputy President, essentially I would have thought there would be two categories in respect of my capacity to assist the minister in matters relating to justice. The first is in my capacity as the former Parliamentary Secretary for Justice, where I developed a large body of knowledge which would enable me to assist the committee in its deliberations. The second category is if there is a question of the minister or of the government, or indeed any other questions where the minister might wish to comment or assurances might be sought, it might be entirely appropriate for me to do it on that basis, so my involvement enables me to have a greater sense of overview of the bill.

Hon. J. M. Madden — On the point of order, Deputy President, in relation to Mr Rich-Phillips's queries and Mr Tee's comments, at this early stage of the bill we are not talking so much about definitions within the bill and we are not talking about the legislative technicalities, which I am happy to take questions on. When considering the first clause of a bill we often have comments from members of any party on implementation issues which are not specifically dealt with on a clause-by-clause basis but are more about the government's program-type arrangements that might come out of the bill. I think it is appropriate for Mr Tee to answer those questions because they are not defined within the bill. It is just an area of interest that can be discussed more broadly in the first clause. As we move into the next clause, I would expect that I would need to respond to questions on the technical merits of the legislation.

Mr Rich-Phillips — Further on the point of order, Deputy President, I take up Mr Tee's point. The issue is not related to Mr Tee's knowledge. I have no doubt that Mr Tee has knowledge of the matters he speaks of, but my point is whether he has the authority to speak on behalf of the government. Mr Tee himself said he is the former Parliamentary Secretary for Justice, rather than the current Parliamentary Secretary for Justice. This is a justice matter, and the person in this house responsible for justice matters is the minister at the table, not Mr Tee.

The DEPUTY PRESIDENT — Order! I thank Mr Rich-Phillips for his point of order and for the contributions made towards it. It is an important point that has been made because the accountability question is very important. Given that, as I have indicated a number of times, committee debates can be relied upon by the courts in certain instances to establish what is the government's intention in making its decisions and judgements, my view is that the accountability issue is very important, and clearly there is a designated minister who appears at the committee and represents that accountability on behalf of the government. As Mr Rich-Phillips says, there is no doubt that Mr Tee is in fact in a position and has in the past been in a position to expedite committee proceedings because he has had significant knowledge of the process of drafting legislation and has contributed to it in a detailed way in which the minister responsible for the legislation has not actually been involved, so I think Mr Tee's contribution is valued in that sense.

The matters that have been canvassed in clause 1 at this point have been matters of some general detail, important though they are to Ms Hartland in establishing that certain facilities are in place to underpin the implementation of the legislation. I still regard them as matters of detail rather than matters that relate to the scope, commitment or legal aspects of the legislation for which I would intend to hold the minister accountable. On that basis I do not think Mr Tee's contribution thus far has been at issue in terms of the information that he has provided to the committee. I accept that the accountability to this chamber for this legislation resides with the minister, notwithstanding the contributions that Mr Tee might make. In fact, as I said, I as Chair in many ways welcome those contributions in the sense that in a number of instances, past and present, there has been an opportunity to expedite some of the issues related to this legislation. If we stray into areas where the accountability factor becomes crucial, then I will seek confirmation from the minister and, if you like, take Mr Tee's comments in an advisory capacity to the minister and to the house.

Ms HARTLAND (Western Metropolitan) — In terms of the current court integrated service program that has been operating since 2006 in Melbourne, Sunshine and the Latrobe Valley, I understood that that was a three-year trial and that the funding would continue. It seems to me that this is a similar program to the referral and assessment bill that we are now

debating. How will that be different? Are there two different lots of money? How will those two programs work together?

Mr TEE (Eastern Metropolitan) — The CISP (Court Integrated Services program) has been operating in, I think, three courts. It has proven to be very successful, and it is that program which will really be at the core of the way in which work will be done under this list. What that means is that the clinical assessors who will work with each of the individuals on the list to develop their support plan will be CISP employees. They will be part of the CISP program, so this will see a formalisation and expansion of that role. Those clinical assessors, through the CISP program, can then on a needs basis refer to other services — it might be drug and alcohol services or it might be employment services — but this will see CISP being front and centre of the list. They will be involved in the implementation phase of the list. They will also then come back to the magistrate as required by the court to report on progress in terms of the development and also the implementation of the individual support plan.

Ms HARTLAND (Western Metropolitan) — I did ask a question regarding funding. Is the funding separate for these two programs, or is the $13 million for both the programs?

Mr TEE (Eastern Metropolitan) — Under this bill there will be additional funding of some $10 million, which is the new funding. Part of that will be allocated to CISP and that will result in the employment of at least three new advisers or three additional support people as part of CISP, so that $10 million will partly go towards the CISP program.

Ms HARTLAND (Western Metropolitan) — In our initial briefings we were told there was $13 million for this program, and at the time I did not think to ask about it. It appears that this is not an entirely new program but that three more people are going to be employed. I am sorry, but I believe this has not been explained very well. I thought the $13 million was for a completely new program, but now you are saying no, it will cover the new program and CISP, so there are not two separate lots of money.

Mr TEE (Eastern Metropolitan) — The government has provided as part of the implementation of this bill an allocation of $13.8 million. Of that, $10.9 million is new in the sense that is over and above existing funding, and the other $2.9 million is the reprioritisation or the use of existing resources. It is new in the sense that the list is new. The role of CISP is expanded, and there is an acknowledgement that that role is changing as per the new list. As part of that there will be additional resources, which will include the engagement of three additional case managers.

Ms HARTLAND (Western Metropolitan) — I am sorry, Mr Tee, but I thought this was an entirely new program that was getting $13 million worth of funding. Now I am being told no, it is actually for the existing program and there is only going to be three extra people. That is not the impression I have had from any of the briefings. I thought this was a completely new program.

Mr TEE (Eastern Metropolitan) — I am not sure how much further I can take it in the sense that what is new is the creation of the list and the oversight by the courts. What is new is the $10 million, which is additional funding. The courts will pick up the role that CISP does and use that existing vehicle, and the immediate change will be the addition of three case managers. However, some of that other funding will also be allocated to the purchase of what might be something as small as work boots or what might include specialist counselling services or drug and alcohol services or indeed a combination of services.

We are not doubling up the CISP; we are not doing something in addition to it. What we are doing is integrating it more formally into the court system and making sure that what is a successful program now has a more direct oversight by the courts.

Ms HARTLAND (Western Metropolitan) — It seems to me that the government has actually created a new list on the cheap, because it is not being fully funded or resourced — and that was not the impression I had in the briefings. However, I will move on.

The Public Interest Law Clearing House has concerns about what happens if there is a high level of demand for access to the list. If there are more people wanting to access the list than it is capable of servicing, how is that going to be dealt with?

Mr TEE (Eastern Metropolitan) — Essentially it is a trial for three years which will then be evaluated. We anticipate it will take some time to work through, develop and initiate the program and get it working, and it will continue to evolve. As the endpoint there will be an evaluation after three years, which will be publicly released. That will in large part provide an assessment as to how the program is competing with the numbers. That is there, but additionally, as the program evolves, the department will be able to make an assessment of the resources that are being allocated. It is not as though that is the only mechanism to review

the resourcing, but that is certainly a public mechanism at the end of the process, when it will be properly evaluated.

Ms HARTLAND (Western Metropolitan) — This is my last question on this. People are now on things such as community treatment orders under the Mental Health Act; how will they interact with this program?

Mr TEE (Eastern Metropolitan) — What the program does for the first time is provide for oversight by the courts. When an individual appears — initially and subsequently — before a magistrate, for the first time there will be someone able to review all the circumstances, including any other orders an individual may be subject to or any other orders a magistrate can impose. All those powers of the magistrate are there, but the bill and its process provide that the list and its work be taken into account when the magistrate uses the powers within his or her discretion. For the first time we have in place a mechanism that looks at all the court orders as well as the individual's needs from a mental health perspective. We will be asking that the magistrate then take that into account when working through the issues affecting the individual. It will be part of the case management of those individuals.

The DEPUTY PRESIDENT — Order! Does the minister have anything to add to the remarks that have been made?

Hon. J. M. MADDEN (Minister for Planning) — No.

The DEPUTY PRESIDENT — Order! I take it that it is the minister's opinion that Mr Tee's comments reflect the view of the government in terms of the operation of this legislation?

Hon. J. M. MADDEN (Minister for Planning) — Just to give confidence to the committee and the process of deferring to Mr Tee, I certainly endorse all his comments.

To assist Ms Hartland in relation to those matters about resourcing and the services provided, I note that she is quite conscious of the three extra service provider personnel. However, as Mr Tee mentioned, it is important to remember that there is an allocation of an extra $10 million. That is not a figure just plucked out of the air; such funding within government is normally a decision made on the basis of determining how best to apply the resources to meet the demands.

Ms Hartland mentioned that there might be increased demand; of course that is a matter for consideration. However, that will be part of the review. One of the useful things that comes out of a review after a period of years is further consideration about the extent of resourcing. We tend to see requests for additional resourcing, if it is warranted, at the end of a review. Given that this bill will allow for something that is more flexible — rather than prescribing personnel straight off, having extra workers who can case manage, bring flexibility to the program and have that flexibility reviewed as to the extent of the resourcing — I think that is a fair and reasonable model proposed by the government. Also a review will assist in determining whether in the long term that is appropriate for the needs of the sorts of persons we are trying to capture with this bill.

The DEPUTY PRESIDENT — Order! There being no further discussion in respect of clause 1, I intend to put the minister's amendment to the test. As I have indicated, I regard amendment 1 standing in the minister's name as a test for further amendments relating to the issue of a name change from 'mental health list' to 'assessment and referral court list'.

Amendment agreed to; amended clause agreed to; clauses 2 and 3 agreed to.

Clause 4

The DEPUTY PRESIDENT — The minister's amendments 2 to 5 relate to clause 4. Given that they are related amendments, I invite the minister to move amendments 2 to 5 en bloc and to make any remarks he wishes to in support of those amendments.

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

2. Clause 4, after line 11 insert —

   "***Assessment and Referral Court List*** means the list established by section 4S;".

3. Clause 4, lines 14 and 15, omit the words and expressions on these lines.

4. Clause 4, page 3, line 7, omit "Mental Health" and insert "Assessment and Referral Court".

5. Clause 4, page 3, line 13, omit "Mental Health" and insert "Assessment and Referral Court".

As you have mentioned, Deputy President, these amendments are very much consequential. They are not directly consequential, but they are in a sense name changes, and as such I think they are fairly obvious.

Amendments agreed to; amended clause agreed to.

Clause 5

The DEPUTY PRESIDENT — Order! In my view the minister's amendments 6 to 26 to clause 5 are also all related amendments. For that matter they relate back to the very first amendment that was agreed to by the committee. I invite the minister to formally move amendments 6 to 26 and to make any remarks he wishes to make in support of those amendments.

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

6. Clause 5, line 17, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

7. Clause 5, line 18, omit "A Mental Health" and insert "An Assessment and Referral Court".

8. Clause 5, line 19, omit "Mental Health" and insert "Assessment and Referral Court".

9. Clause 5, line 23, omit "Mental Health" and insert "Assessment and Referral Court".

10. Clause 5, page 4, line 8, omit "Mental Health" and insert "Assessment and Referral Court".

11. Clause 5, page 4, line 11, omit "Mental Health" and insert "Assessment and Referral Court".

12. Clause 5, page 4, line 16, omit "Mental Health" and insert "Assessment and Referral Court".

13. Clause 5, page 4, line 18, omit "Mental Health" and insert "Assessment and Referral Court".

14. Clause 5, page 4, line 23, omit "Mental Health" and insert "Assessment and Referral Court".

15. Clause 5, page 4, lines 27 and 28, omit "Mental Health" and insert "Assessment and Referral Court".

16. Clause 5, page 5, line 3, omit "Mental Health" and insert "Assessment and Referral Court".

17. Clause 5, page 6, line 9, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

18. Clause 5, page 6, line 10, omit "Mental Health" and insert "Assessment and Referral Court".

19. Clause 5, page 6, line 22, omit "Mental Health" and insert "Assessment and Referral Court".

20. Clause 5, page 6, lines 27 and 28, omit "Mental Health" and insert "Assessment and Referral Court".

21. Clause 5, page 7, lines 3 and 4, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

22. Clause 5, page 7, line 8, omit "Mental Health" and insert "Assessment and Referral Court".

23. Clause 5, page 8, line 7, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

24. Clause 5, page 8, line 11, omit "Mental Health" and insert "Assessment and Referral Court".

25. Clause 5, page 8, line 14, omit "Mental Health" and insert "Assessment and Referral Court".

26. Clause 5, page 8, line 18, omit "Mental Health" and insert "Assessment and Referral Court".

Again these are technical amendments based on the name change and are all consequential.

Amendments agreed to.

The DEPUTY PRESIDENT — Order! I invite Mr Rich-Phillips to move amendment 1 standing in his name, which also relates to clause 5.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

1. Clause 5, page 4, after line 16 insert —

   "( ) For the purposes of subsection (3)(b), in determining whether an accused meets the eligibility criteria specified in section 4T, the Court must, so far as is practicable, have regard to any assessment undertaken by a person with appropriate clinical qualifications and experience in relation to the particular impairment or principal impairment that the accused may have.".

Before I speak to that amendment I would like the opportunity to ask the minister a couple of questions which go to the subject of our amendments to clause 5. We have four amendments to this clause.

The first matter I would like to ask the minister relates to proposed section 4S(3)(b), which is the basis on which the court refers a person to the mental health list — the renamed list. Section 4S(3)(b) requires that one of the criteria is 'the accused meets the eligibility criteria specified in section 4T'. How does the court determine that an accused meets the criteria specified in section 4T?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that would be on the basis of a psychologist's assessment of a person's condition.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Where would the psychologist fit into the process? How does the court get the assessment?

Hon. J. M. MADDEN (Minister for Planning) — I understand and am informed that they would need to be referred, and they could be referred by anybody who might have an interest in the court system or who may request a referral. They could be the likes of police, parents or, as we have heard from the other members in the chamber, friends who believe that further

examination of either a person's condition or state of mind might need further assessment.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am not sure that I follow that. If a person has come before the court, is the minister saying that the court would have to rely on a referral from the police or a family member to the psychologist?

Hon. J. M. MADDEN (Minister for Planning) — A request, I understand, for a referral.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — A request to whom for what?

Hon. J. M. MADDEN (Minister for Planning) — I am informed that the request would have to be made to the presiding officer of the court, and then they would determine whether it is warranted or not.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am not at all sure that I follow what the minister is getting at. This would be if a third party — a parent or another third party the minister has named — wanted the person assessed by a psychologist; is that what the minister is saying?

Hon. J. M. MADDEN (Minister for Planning) — It is. I am saying it might be a third party or a person with an interest in that person, or it might even be at the request of the individual themselves. It is a matter for the court to decide, and it is a matter for the court to consider if a request is made. It might be ruled to be of no consequence immediately on the basis that it might not necessarily be something the judge believes is warranted, but that decision would be a matter for the presiding officer of the court to make a determination on in that situation.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The matter I am getting to is: how does the presiding officer of the court determine whether the accused meets the criteria laid down in proposed section 4T, rather than whether a third party wants them referred to a psychologist?

Hon. J. M. MADDEN (Minister for Planning) — If the court believes it is warranted and some legitimate reason has been given or a request has been made, or if somebody has expressed an interest in this being considered, then of course the court would refer to the respective services of a psychiatrist or psychologist in that process. A diagnosis or a determination would then be made by the relevant experts as to whether further assistance was warranted.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am still not sure we are on the same wavelength. How is a psychologist or a psychiatrist identified for the purposes of this matter? If, for example, an accused person had an acquired brain injury, to whom would they be referred for the assessment in proposed section 4T?

Hon. J. M. MADDEN (Minister for Planning) — I am informed that the court has its own staff who deal with these matters. I am also informed that if they need additional expertise because it is a specialist area, then they can often receive that specialist advice from outside the court.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Is there any obligation on the part of the court to have regard to a person's particular condition and to obtain appropriate clinical advice with respect to that condition — I will use the example of an acquired brain injury again — on the advice of a particular clinical specialist in that area when assessing whether a person meets the criteria in proposed section 4T, as opposed to a person with a mental illness or an intellectual disability?

Hon. J. M. MADDEN (Minister for Planning) — I do not want to jump clauses, but I am advised proposed section 4T has the relevant criteria but it does not specifically spell out each of the prerequisites to fulfil that criteria. It highlights what the criteria might be that need to be considered. The experts would then determine whether the particular criteria are fulfilled for a person to be in a category of either having an attribute or being in a situation. Having had an assessment undertaken based on the relevant diagnostic criteria and having fulfilled that criteria, a person might be diagnosed as having, for example, an acquired brain injury that may not have come to light until that assessment had been undertaken.

That is a relevant example because acquired brain injury can occur in different ways. Sometimes it can occur over time, not necessarily from a head injury per se but from substance abuse, and it is not until a formal assessment is undertaken that it is noted as that rather than a peculiarity of somebody's personality as such. Obviously there are strict criteria that go with the eligibility criteria.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — There is nothing in the first instance to guarantee that a person with ABI (acquired brain injury) or a mental illness would be assessed by an appropriately qualified clinician who is a specialist in that particular field?

Hon. J. M. MADDEN (Minister for Planning) — I missed the first part of the question.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — There is nothing to guarantee, under this legislation, that a person with acquired brain injury or mental illness would be assessed in the first instance by someone with specialised clinical knowledge in that particular field — a specialist rather than a generalist?

Hon. J. M. MADDEN (Minister for Planning) — I recognise those comments, but in any field of medicine you tend to go to a generalist before you end up at a specialist's. You are not immediately knocking on the door of a specialist in any field of medicine, because you need to have somebody give you that direction, and in this instance it would be not dissimilar.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I will not pursue the question on this matter further other than to say that is the reason for the coalition's first amendment. We believe there are not adequate provisions in place in the bill that would require a court to have regard to an assessment by a clinical specialist for the particular categories of impairment that may apply to people referred to the mental health list. Therefore we propose this amendment that would require a court, as far as practicable, to have regard to an assessment that has been undertaken by an appropriate specialist clinician in the particular field of impairment before proceeding with the process of the mental health list. That is the reason for moving our amendment 1, and I encourage the house to support it.

Hon. J. M. MADDEN (Minister for Planning) — I appreciate what Mr Rich-Phillips is trying to achieve with this amendment, but often in these instances, given the complexities of a person's condition, whether it be a mental health issue, an acquired brain injury or a condition that someone has had for their entire life, it is not just a one-stream condition. Often there are associated conditions that reveal or manifest themselves in particular ways.

Whilst I recognise that Mr Rich-Phillips is trying to get specialist expertise in straightaway, more often than not it is important to have a broader assessment undertaken to determine in which area of expertise an individual may need assistance. From time to time that might involve a number of experts in various fields rather than a person being allocated to a particular expert, which may limit the appropriate support the individual might get for other associated ailments that could be overlooked if the individual was directed to one specialist immediately.

Committee divided on amendment:

Ayes, 16

Atkinson, Mr	Hall, Mr
Coote, Mrs	Kavanagh, Mr
Dalla-Riva, Mr	Koch, Mr
Davis, Mr D.	Kronberg, Mrs
Davis, Mr P.	Lovell, Ms
Drum, Mr	O'Donohue, Mr
Finn, Mr (*Teller*)	Petrovich, Mrs (*Teller*)
Guy, Mr	Rich-Phillips, Mr

Noes, 20

Barber, Mr	Madden, Mr
Broad, Ms	Pakula, Mr
Darveniza, Ms (*Teller*)	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr (*Teller*)	Scheffer, Mr
Hartland, Ms	Smith, Mr
Huppert, Ms	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr

Pairs

Peulich, Mrs	Mikakos, Ms
Vogels, Mr	Vacant seat

Amendment negatived.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

2. Clause 5, page 4, after line 28 insert —

"( ) Without limiting subsection (6), the Chief Magistrate, in exercising the powers under that subsection and having regard to the needs or requirements of persons with different types of impairment, may provide for —

(a) separate hearing lists within the List; and

(b) other arrangements to deal with needs or requirements in relation to different types of impairment.".

The amendment goes to the issue of the breadth of the currently named mental health list, not only to the inappropriateness of the name of the list, which is now to be amended, but also to the fact that the list seeks to lump together matters of mental illness, intellectual disability, acquired brain injury, autism spectrum disorder and other neurological impairments such as dementia, which was the substance of much of the second-reading debate.

Despite Ms Hartland's comments in her second-reading contribution about the coalition's views on separate lists, it is in fact its view that these matters should be kept separate and it should be recognised that they are different impairments. Accordingly the purpose of moving this amendment now is to recognise that the

bill will set up the new assessment and referral court list which nonetheless will lump all those impairments together, which was the criticism of the mental health list.

What we are seeking to do by way of amendment 2 is to provide the Chief Magistrate with the discretion which would allow him to set up whatever separate list he elects to set up under the banner of the assessment and referral list. If he chose to set up a list that dealt with acquired brain injury as distinct from one dealing with intellectual disability or mental illness, he would have the discretion to do that. There would be no compulsion on the part of the Chief Magistrate to establish separate lists, but we believe it is appropriate that the differences between impairments be recognised by the court, and the fact that they would require a different clinical approach is largely the subject of our amendments, including the first amendment which we have just dealt with.

Accordingly I have moved the amendment to give the Chief Magistrate discretion to establish separate lists if he deems it necessary or appropriate for different impairments in order that people with the types of impairments that this legislation seeks to lump together can be dealt with according to their individual needs. I urge the committee to support the amendment.

Hon. J. M. MADDEN (Minister for Planning) — Again recognising the intent of Mr Rich-Phillips's amendments, the concern we have is that, as I have mentioned before, often people's impairments, conditions or situations are not black and white; they may not be defined in one particular category. We know that often — for want of a better description — people have multiple ailments, and we are concerned that inordinate amounts of money would be spent on administering a list and having separate lists rather than the money being put towards the individuals we are concerned about. That has resulted in the framing of the bill in the way in which we have developed it.

Mr HALL (Eastern Victoria) — I do not want to let the moment pass without expressing my strong support for this amendment. I said in my second-reading contribution, and in respect of the amendment to this clause I say again, that as my colleague Mr Rich-Phillips said, many of the people who have the potential to be included in such a list have different conditions and therefore need a different clinical approach. Therefore the aim of giving the Chief Magistrate an ability to have subgroups within a list or separate lists for those people is the only way in which those differences in clinical needs can be addressed. This is an extremely important issue, and I am disappointed the government has essentially said it is not doing it because it would be a costly exercise to set up. That was one of the reasons advanced by the minister. That is rubbish. This does not impose a great deal of additional cost. Moreover, it ensures to a much greater extent that people in need with different conditions will be assessed appropriately for those conditions. I feel strongly about this issue, and again I call on the government and on members of other parties in this chamber to reflect on what I think is a really important issue that needs to be addressed. The committee needs to support the amendment.

Ms HARTLAND (Western Metropolitan) — While I acknowledge the reason the coalition wishes to do this, the other issue that has to be put forward is that while everybody will have a different need and everybody will have a different assessment there will also be people who have multiple disabilities and multiple complex needs. You might have someone who is intellectually disabled and has a drug problem as well as an alcohol problem, or there might be someone with schizophrenia as well as an intellectual disability. Having a multidisciplinary team dealing with all of those things is a better way of dealing with the matter. But I understand what Mr Hall says, and I understand his concerns.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Just picking up Ms Hartland's points about people on the list having multiple impairments, I point out that the amendment we are seeking to insert does not require the Chief Magistrate to set up any particular structure of list. It would be completely at the discretion of the Chief Magistrate as to whether he sets up an individual mental illness or acquired brain injury list or whatever criteria he chooses to establish a list based on the experiences of the court. We are not seeking through the amendment to hard-wire the categories the Chief Magistrate could establish. It would be entirely at his discretion. If he wanted a list that dealt with multiple impairments versus one that dealt purely with acquired brain injury versus one that dealt purely with mental illness, it would be entirely at his discretion.

Through this amendment we are in no way seeking to pigeonhole people on the overall list or limit the discretion of the court; in fact it is quite the opposite. We are seeking to give the court more discretion as to how it manages people who are on the overall list. We are certainly not seeking to pigeonhole anyone through this process. The Chief Magistrate would have complete discretion.

Mr TEE (Eastern Metropolitan) — In response to that, the issue is: where do we allocate those resources, and do we ask the Chief Magistrate to set up the process, to set up the guidelines and to set up the list? Do we focus on the courts and their role or do we focus on the individual and their needs?

The bill very much focuses on the individual and their needs. That is where the resourcing is allocated and that is where the expertise is. The expertise does not go towards satisfying the court as to whether or not an individual fits into a particular list. Resources are provided to set up a plan for the individual, which helps them recover and work through their problem. Instead of there being a multiplicity of lists there is an individual support plan and resources that provide services and access for the individual.

The difference between the bill and the amendment is in emphasis. The amendment emphasises the court and its role, whereas the bill places the emphasis on the needs of the patient and of the individual. It makes sure that the patient has the expertise to develop and implement a plan that will see them on the road to recovery. That is not to say that we do not understand the differences between the different categories and the concern about individuals being lumped together; that is certainly not the intention, and that will not occur. However, we will ensure that individualisation occurs through the process and for the individual rather than at the court level, where frankly it is not necessary.

Mr DRUM (Northern Victoria) — I want some clarification of what Mr Tee has just said. It seems that he is more or less describing the status quo. He is saying that people who appear before a magistrate will have their cases dealt with individually and will have their assessments done as they appear before the magistrate. That is the system we already have, in effect.

This bill is trying to pull together a whole range of new measures, new forms of diversion plans for people suffering from mental illnesses, and then we have had disabilities thrown in on top of that. What we in the coalition are trying to do is pull it all apart so that the magistrate is able to call on help and to slot people into pigeonholes if it suits or to take other action. My understanding of what Mr Tee has just outlined is, in effect, where we sit right now before the enactment of this legislation.

Mr TEE (Eastern Metropolitan) — Mr Drum and I are in furious agreement: what the government is setting up is a list, and then it is referring those individuals to the experts they need to develop the plan and helping them access the resources they need.

I would urge Mr Drum to vote against this amendment, because I think what he is saying is right — this is about having an individual plan and the implementation of that individual plan. What the amendment provides is for resources to go into the development of a list which will not necessarily provide any support, assistance or help to any individual.

Committee divided on amendment:

Ayes, 16

Atkinson, Mr	Hall, Mr
Coote, Mrs	Kavanagh, Mr
Dalla-Riva, Mr	Koch, Mr
Davis, Mr D.	Kronberg, Mrs (*Teller*)
Davis, Mr P.	Lovell, Ms
Drum, Mr	O'Donohue, Mr (*Teller*)
Finn, Mr	Petrovich, Mrs
Guy, Mr	Rich-Phillips, Mr

Noes, 20

Barber, Mr	Madden, Mr
Broad, Ms (*Teller*)	Pakula, Mr
Darveniza, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr (*Teller*)
Hartland, Ms	Smith, Mr
Huppert, Ms	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr

Pairs

Peulich, Mrs	Mikakos, Ms
Vogels, Mr	Vacant seat

Amendment negatived.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

3. Clause 5, page 4, after line 35 insert —

"( ) The annual report prepared under section 15(3) must include the following information in relation to the operation of the List —

(a) the sources of referrals to the List;

(b) the numbers of persons in each diagnostic criteria in respect of whom a criminal proceeding was entered in the List;

(c) the numbers of persons who do not complete an individual support plan causing the criminal proceeding to be removed from the List and the reasons for those removals;

(d) the outcomes of criminal proceedings referred to the List, including —

(i) the number of proceedings in relation to which an accused failed to complete an individual support plan and the reasons for the failure;

(ii) the number of accused discharged in accordance with section 4U and section 4Y;

(iii) the number of proceedings transferred from the List under section 4X and the number of proceedings transferred to the List under that section;

(e) an assessment of how the List is functioning, including an assessment of the extent to which the List reduces re-offending.".

The amendment is essentially about closing the loop on the trial of the new name, the mental health list cum the assessment and referral court list. Basically we know that this is a trial process like so many other trials that are being undertaken in the legal system that the Attorney-General has brought before this Parliament. What the coalition is seeking with this amendment is that the annual report of the Magistrates Court include a report on the success or otherwise of the trial of the new list. We seek to insert a provision that would require that for the period of the operation of the trial the annual report contain details of the referrals that have been made to the new list, the number of persons in each diagnostic category, the number of persons who do not complete individual support plans, thereby causing the criminal matter to be removed from the list, the reasons for the removal from the list and other details, which I will not read to the committee.

This amendment is moved simply so that the Parliament will have a handle on how successful or otherwise the trial proves to be. Often the Attorney-General puts various trial programs in place in our courts and we do not close the loop on feedback as to how successful or otherwise those trial programs are. Inevitably we come back to Parliament — in this case it will be in three years — and seek to have the sunset provision removed so that the program can continue as an ongoing program without members of the chamber necessarily having a full understanding of how successful the process has been. With the amendment we are simply seeking to require that details of the program be reported in the annual report of the Magistrates Court so that all members can form a view as to the success or otherwise of the program and take that into consideration when inevitably the chamber is asked to remove the sunset provision.

Ms HARTLAND (Western Metropolitan) — The Greens will not be supporting this amendment. The main reason is that we consider that reporting after one year is simply not enough. These kinds of programs develop in the first year, have more successes in the second year and go on in the third year. In the first year there might be only a tiny success rate. Most people looking at a report on a year like that would think, 'This is a program that should not be continued'. I consider that it should be evaluated after three years, and that is why I have requested that such an evaluation be made public as well, because often we see really good programs that have great success and we do not know why they are defunded. I have been given those assurances, and I have a letter that indicates in writing that the evaluation will be made public.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — All I can say to Ms Hartland is that our amendment would require reporting on an annual basis in the annual report, so it would not be simply one year's data. As the trial program rolls out over the three years to the sunsetting of the provision, we would of course get three years worth of data on an annual basis, so we would be able to track the progress of the trial program over that time. Notwithstanding any private commitments Ms Hartland may have obtained from the government, we believe it is important that there be an official report back to this Parliament as to the success or otherwise of the program and the mechanism by which this is usually done is through an annual report by an agency, in this case the Magistrates Court, to the Parliament. I encourage the committee to support this amendment.

Mr HALL (Eastern Victoria) — I would like to support the amendment moved by my colleague Mr Rich-Phillips. It does not matter how little or how much is reported. I consider it important that feedback on this initiative is provided. Particularly as the government claims that the proposal is important and represents some real progress for people who have particular disabilities or mental illnesses, it is important, logical and part of the process of transparency that there be some report on the success or otherwise of the program. That should include the number of people or cases referred to the list on an annual basis.

I reject the view that reporting does not matter if there is not a lot to report in the first year. I consider that it does matter a significant amount that as the program is implemented over a period progress is reported to the Parliament, rather than members having to wait three years before we get the first report on how this list is operating. It is important that we get that feedback as soon as possible. It is a modest request that the opposition parties are making and I urge the government to support this amendment.

Hon. J. M. MADDEN (Minister for Planning) — I do appreciate the interest of opposition members in the reporting. We have made the commitment that at the end of the program review period the report will be made public. We consider that to be very important and believe that it is important to report regularly on programs and to give people, and more broadly the public, confidence that the programs are warranted and successful so that people can see the degree of success following the implementation of the programs.

There is a very fine line here between confidentiality with respect to individuals, particularly in the circumstances of this list, and trying to get the balance right, recognising the number of individuals who might be reported on in some shape or form. The complexity, as mentioned, may be in the first year and it may also be in other years, depending on the types of either intellectual disability or what people might have been assessed to have as other complexities that they have to deal with. In some instances the reporting would need to be so specific when made public in those first few years and when there are limited numbers in the program that it could potentially easily be determined which individuals have certain status within the system in relation to their individual circumstances. Trying to find the right balance between that confidentiality and the reporting means that at the end of the review period of the program one could feel confident that individuals are not being highlighted by virtue of small numbers. The numbers more broadly will give an idea of the success, without individualising who was, in a sense, being entertained in the process.

Amendment negatived.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

4. Clause 5, page 5, line 28 after "plan" insert "that has regard to the particular diagnostic and functional criteria applying to the accused and".

In doing so I would like to ask the minister about the operation of proposed new section 4V, which is 'Adjournment of proceeding in mental health list'. Proposed new section 4V(1) provides that as part of the mental health list process an individual support plan is prepared for the accused. I ask the minister what assurance he can give that that will be a support plan that is tailored to individual need insofar as reflecting the particular impairment that an individual may have — that is, a mental illness and acquired brain injury et cetera — and not simply a template approach?

Hon. J. M. MADDEN (Minister for Planning) — I thank Mr Rich-Phillips for his interest. I can give him the guarantee on the basis of the professionalism of the respective professions themselves. I do not believe professionals in that instance would rely on a template or formula to be used on the vast majority or a number of clients. The intent of this is to ensure that the diagnosis and in-depth nature of the diagnosis would allow for the appropriate plan to address the individual's needs as opposed to trying to get an individual to complement a particular program per se or a particular template. The intention is that the programs are individualised based on the advice of the respective experts in the field, and that they would no doubt assist in designing the program or design the program and give the court confidence that it was appropriate for the specific needs of that individual.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Is there anything in proposed new section 4V that requires those specific needs to be taken into account?

Hon. J. M. MADDEN (Minister for Planning) — I am advised that that goes back to the purpose of the list. If Mr Rich-Phillips does not feel sufficiently confident that that is clarified in the purpose of the list, I am happy to put on record that that would need to be the case in the aspects we are examining here now.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The purpose of the bill is to establish a mental health list in the Magistrates Court, so that does not give us a lot of comfort. The amendment that I propose to move is to require the individual support plan to have regard to the particular diagnostic and functional criteria of the relevant accused. The diagnostic and functional criteria are defined earlier in the legislation in proposed section 4T. It is the view of this side of the chamber that at minimum these individual support plans should explicitly have regard to diagnostic and functional criteria. We believe it is a limitation of this legislation that does not impose that specific requirement of the plan to reflect those individual criteria. Accordingly I have moved amendment 4 to require new section 4V(4) for the plan to have regard to the diagnostic and cultural criteria as defined by the legislation to ensure that those individual characteristics for people subject to a plan are recognised and are not subject to template treatment.

Amendment negatived; amended clause agreed to.

Clause 6

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

27. Clause 6, line 17, omit "Mental Health" and insert "Assessment and Referral Court".

28. Clause 6, line 19, omit "Mental Health" and insert "Assessment and Referral Court".

These are basically name changes that are consequential. They make the same name change to the bill.

Amendments agreed to; amended clause agreed to.

Clause 7

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

29. Clause 7, line 24, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

30. Clause 7, line 28, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

Amendments agreed to; amended clause agreed to.

Clause 8

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

31. Clause 8, line 4, omit "**Mental Health**" and insert "**Assessment and Referral Court**".

32. Clause 8, line 6, after "of" insert "***Assessment and Referral Court List***,".

33. Clause 8, line 7, omit ", ***Mental Health List***".

Again these are consequential name changes.

Amendments agreed to; amended clause agreed to; clause 9 agreed to.

Long title

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

34. Long title, omit "a Mental Health" and insert "an Assessment and Referral Court".

Amendment agreed to; amended long title agreed to.

Short title

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

35. Short title, omit "Mental Health" and insert "Assessment and Referral Court".

Amendment agreed to; amended short title agreed to.

Reported to house with amendments, including amended long and short titles.

Report adopted.

Third reading

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

That the bill be now read a third time.

In doing so, I thank members of the chamber for their contributions.

Motion agreed to.

Read third time.

JOINT SITTING OF PARLIAMENT

Legislative Council vacancy

Message received from Assembly acquainting Council that they have agreed to joint sitting to choose Legislative Council member.

ACCIDENT COMPENSATION AMENDMENT BILL

Second reading

Debate resumed from 4 February; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to make a few comments on the Accident Compensation Amendment Bill 2009. This bill is the government's response to the Hanks inquiry. Members of the Legislative Council will know of Peter Hanks, QC, who has been a frequent source of legal advice for the Attorney-General. Whenever the Legislative Council has particular standing or select committee inquiries and seeks to exercise its long-established powers, the Attorney-

General turns to Peter Hanks for advice to read down and limit those powers of the Council.

So Mr Hanks is well known to the members of the Legislative Council and Council standing committees; he is the Attorney-General's go-to guy when he wants the powers of the Council read down.

However, on this occasion it was Mr Hanks who was the choice of the Minister for Finance, WorkCover and the Transport Accident Commission to undertake a review of the Accident Compensation Act. Following the process undertaken by Mr Hanks — which was a panel process, if you like, resulting in a draft and final report and the government's response to that in the middle of last year — we now have legislation before the house that implements the government's response to Mr Hanks's report.

The bill is voluminous, being some 350 pages long, and makes a number of substantial amendments to the Accident Compensation Act, a number of which I will touch upon on the way through. I note there was also a fairly lengthy committee consideration of this legislation, with just short of 200 amendments in total coming before the Parliament during the course of the afternoon — and they are not all mine, I say to Mr Madden; in fact, most are not mine.

To recap the functions of the bill, it makes a number of changes with respect to increasing the benefits that are available to injured workers pursuant to the Accident Compensation Act. It doubles the period for which a worker or a deceased worker's dependents may receive weekly payments of compensation, which take into account pre-injury overtime and shift allowances, from the current 26 weeks to 52 weeks.

It extends the WorkCover scheme to cover municipal councillors, by deeming them to be employees of their council for the purposes of the act. This provision has created some concern in local government circles as to the practical implications of extending WorkCover, particularly return-to-work provisions to local councillors. While some efforts are being made to draw parallels between local councillors, who are currently not subject to WorkCover coverage, and members of Parliament, who are so subject, the practicalities of putting a return-to-work framework in place for councillors is far more complex than that for members of Parliament. It remains to be seen in a practical sense how those issues are resolved.

The bill also clarifies the stress exclusion provisions by expanding and defining the types of management actions that may activate exclusion. This is one matter that has received a fair bit of public comment. It is a matter the coalition side of the house believes is an appropriate step in this legislation, and we will not be opposing that provision.

It reduces compensation payments where the injury was caused by the worker driving in the workplace while intoxicated by alcohol or other drugs. It allows claims for compensation in the form of weekly benefits to be made prior to obtaining a medical certificate and provides that claims remain valid despite material defects, omissions or irregularities relating to information within the knowledge of the employer or the Victorian WorkCover Authority (VWA).

One of the other more controversial measures is the introduction of antidiscrimination provisions mirroring, or similar to, those recently introduced in the Occupational Health and Safety Act. Members of the chamber may recall from that debate that those provisions and the way in which they were to operate were opposed by this side of the house. The provision with respect to engaging in discriminatory conduct for a prohibited reason — in this case a prohibited reason against an employee who has lodged a claim — is similar to the provision in the Occupational Health and Safety Act. As with that act, it applies both a criminal and a civil penalty.

One of our criticisms of the Occupational Health and Safety Act is that that legislation did not provide any cap on the awarding of civil damages that could be made under that provision. We thought that was inappropriate; we sought to amend it and introduce a cap. I note that at the time that was not supported by the government or other parties in this chamber. However, in proposing a similar provision under the Accident Compensation Act, this time the government has indeed agreed to a cap on damages, very similar to the one we thought would have been appropriate to insert in the similar provision in the Occupational Health and Safety Act.

It is interesting that while the government would not listen to us in relation to the OHS legislation it is now proposing a very similar model with the discrimination provisions contained in the Accident Compensation Amendment Bill. This side of the house agrees that if we are going to have that type of provision, then that cap on damages is a more appropriate mechanism, and it will be interesting to see if we subsequently have amendments to the OHS legislation to bring that into line with what we will be doing with the accident compensation legislation today.

One of the key changes in the bill is that it increases the proportion of pre-injury average weekly earnings that a worker may receive in compensation payments from 75 per cent of pre-injury average weekly earnings to 80 per cent of pre-injury average weekly earnings, and it increases the cap on compensation payments, which currently vary between $903 a week and $1130 a week, depending on the particular category of claimant and the period in which their claim was made, to a flat cap of two times the state average weekly earnings, which is approximately $1740 a week. The cap is being raised fairly substantially along with the increase in weekly benefits, and as a consequence of moving from a dollar figure to a figure tied to state average weekly earnings that figure will increase as the Australian Bureau of Statistics published data on average weekly earnings also increases periodically, so reference back to this house will not be required in order to adjust that cap further.

The bill also provides for workers who have received a year's — 52 weeks — worth of compensation payments to also receive compensation for superannuation contributions. This will basically be paid pursuant to the commonwealth superannuation guarantee framework, which currently requires a minimum contribution of 9 per cent to be paid into a complying superannuation fund. Under this provision after a person has been a claimant for 12 months they will then receive superannuation paid at the rate of 9 per cent of their weekly compensation payment into a complying superannuation fund. Again this is a matter that has been the subject of ongoing concern over a long period of time, particularly in relation to injured workers who are very long-term claimants and as a consequence of being claimants are no longer having contributions made into their superannuation schemes. This provision will address that particular concern.

The bill also introduces an entitlement of up to 13 weeks of weekly payments for injured workers who have returned to work and ceased receiving compensation but who subsequently require time off for surgery arising from their injury. It is basically a mechanism whereby a person who has reached the end of their involvement in the WorkCover system and needs subsequent surgical procedures will have entitlements or compensation payments made available to them to cover that period in which they require subsequent surgery. The bill increases the maximum compensation for economic loss from the current $355 000 to $503 000, and that will be subject, as will a number of provisions in the legislation, to indexation in accordance with the consumer price index.

One of the other important changes relates to common-law serious injury claims. The bill provides that notwithstanding the death of an injured person it will allow the person's claim to continue provided there is a living dependent as defined in the legislation. That is similar to provisions that the Parliament enacted last year with respect to certain respiratory illnesses where previously a claim for compensation had terminated with the death of the injured party, and there were many such high-profile cases resulting from asbestos-related illnesses. The Parliament legislated last year to ensure that if a claim was under way at the time the victim died, that claim would continue. This provision will work in a similar way. If an injured worker has a dependent, then a common-law claim can continue notwithstanding the death of the injured worker.

The bill increases the lump-sum compensation that is available to a surviving dependent of a deceased worker from $273 000 to $503 000, and importantly it also increases or broadens the cohort of dependents who are eligible to receive that compensation. The bill expands the definition to include children who are full-time students up to the age of 25, and it extends the definition to include unborn children as defined under the Status of Children Act 1974. This is an interesting provision. Clearly the intent is that children conceived prior to the worker's death will be covered after the subsequent birth, and that is not a provision that this side of the house opposes.

The bill allows for provisional payment of weekly benefits for a period of up to 12 weeks for counselling and funeral costs to the family of a deceased worker prior to the liability of a claim being determined. This is an area in which, again, the notion is quite straightforward. We have some concerns that there are no provisions in the legislation to deal with the situation where liability for death is ultimately determined not to sit with the employer, because the reality is that a claim of this nature and a payment of benefits pursuant to this clause will have an effect on the employer's ongoing WorkCover premiums, and it would be regrettable if that were to occur and liability was subsequently determined not to sit with the employer. We on this side of the house can appreciate the reason for seeking to make these payments available up-front for the family of a deceased worker — to cover that essential expenditure at the immediate time of the death.

The bill also changes provisions with respect to lump sum compensation, allowing the WorkCover authority or a self-insurer to award lump sum compensation to the family of a deceased worker. Under current legislation this requires a determination from the County Court, so it will remove the court process from

that award of compensation. Whether that results in a more expeditious settlement of matters remains to be seen. I imagine, given the issues we hear with the County Court backlog, taking the matter out of the County Court can only assist the judicial process.

The bill creates an explicit right for an employer to sue a premium adviser as defined in the legislation where, through the negligence of that adviser, the employer has had to pay a default penalty or late payment penalty. That is an interesting provision, because in my role as shadow minister for WorkCover I come into contact with a great many employers who have issues with the Victorian WorkCover Authority. Those issues include the way in which their premiums are calculated and the way in which their statistical case estimates are calculated. Many of these employers engage third-party consultants who more than likely would fall under the definition of 'premium adviser' as included in this legislation.

This explicit-right provision is interesting. There is little doubt that there would be a right anyway, in normal commercial relations, for an employer to sue a premium adviser for giving negligent advice through the normal course of commercial processes. The fact that the legislation is now seeking to put in place an explicit right in that respect is interesting, given the number of employers who are now reliant upon premium advisers or consultants as defined in the legislation in dealing with their WorkCover matters, particularly where they are in dispute with the Victorian WorkCover Authority.

One of the other important provisions of the bill is that it introduces a prohibition on the use of hold-harmless clauses in contracts between employers and third parties that purport to provide indemnity with respect to section 138 recoveries. This is an issue that has been raised on numerous occasions with the opposition.

It arises particularly in labour hire scenarios, where labour hire operators put their people into a workplace. One of the conditions of placing their employees into third-party workplaces has generally been the requirement of a host employer that they sign a hold-harmless clause, basically absolving the host employer of any liability for any recovery action that may be initiated through the WorkCover processes in the event that that employee who is placed with the host employer is injured while they are working with the host employer.

This issue has been of significant concern to principal employers working in the labour hire industry. For some time they have sought to ensure that they are not subject to these hold-harmless clauses. I note that many of them that I have spoken to have said that the insistence on hold-harmless clauses has been as prevalent with government agencies taking labour hire staff as it has been with other private host employers, so it certainly has not been a problem limited to private sector host employers; it has been equally an issue, certainly as raised with me, as applying to government entities and agencies that have hired staff from labour hire firms. This prohibition on the use of hold-harmless clauses should go a long way towards addressing concerns expressed by the labour hire sector.

The bill also increases a large range of financial penalties and introduces a number of custodial penalties for offences under the act. It also introduces a distinction between natural persons who commit offences and bodies corporate, and it introduces a provision for adverse publicity orders. One of the concerns that the coalition had with this provision making the distinction between natural persons and bodies corporate is that generally that distinction will apply for an employee and an employer. Because of the distinction between natural persons and bodies corporate, that will mean one offence committed by an employee may have a different penalty from the penalty for the same offence committed by an employer.

It is our view that the successful operation of the accident compensation scheme, and indeed workplace safety in general, is a matter of dual responsibility and cooperation between employers and employees, and we think it is a retrograde step for these types of provisions to potentially have the consequence of imposing different penalties on employers and employees for committing the same offence merely because they are bodies corporate rather than natural parties.

The bill makes a number of other changes and clarifies the inclusion of the gross value of fringe benefits in payroll estimates for the purpose of the premium calculations. It enshrines in the legislation the application and renewal fees for employers seeking to become self-insurers. These have been set at 0.033 per cent of payroll up to a cap of $47 500, so for a large business it is a substantial cost to apply to become a self-insurer. That figure of $47 500 would apply on a payroll of $144 million, and those figures will be indexed to the consumer price index as we move forward.

One of the changes the bill makes is that while it sets an initial self-insurance period of three years after an application has been accepted, it then provides the VWA with discretion in re-approving a party as a self-insurer. It provides discretion of between four and six

years for a reapplication of an existing self-insurer. What is significant there in that period of discretion of between four and six years is that because the cost of applying and reapplying to be a self-insurer is substantial, there is obviously an incentive for employers to have renewal at six years rather than four years.

It will be incumbent upon the VWA and the government to make clear the criteria by which employers will be granted renewals at the six-year period rather than the four-year period — the other end of the scale that is available for renewal. The criteria that the VWA will apply in granting renewals on different time frames, given that the financial implications of that are significant for employers, need to be clearly spelt out.

The difference between a four-year renewal period and a six-year renewal period is 50 per cent, which impacts upon the frequency with which what can be a substantial renewal fee is charged, so there can be a very significant financial impact on a business according to whether it gets a renewal for four or six years; as I said, the criteria by which that distinction will be made need to be clearly spelt out.

One of the other self-insurance changes is that the bill will allow a party becoming a self-insurer to acquire the liability and management of any tail claims that may be outstanding from its period as an insurer under the WorkCover scheme; or where it acquires a subsidiary company that may have been insured under the WorkCover scheme and has outstanding claims, so they could become the responsibility of the self-insurer rather than remaining with the authority.

The bill prohibits partnerships becoming self-insurers. It creates rights of entry for return-to-work inspectors and allows them to issue return-to-work improvement notices to employers similar to those available under the occupational health and safety regime, and it imposes penalties in a similar way to the way that regime imposes penalties for a failure to comply. That is a quick overview of what the bill does.

The coalition has concerns about a number of matters. As I said in my opening remarks, the legislation before the house has come as the government's response to Peter Hanks's review of the Accident Compensation Act. However, it falls short of Peter Hanks's primary recommendation, because the first recommendation of the Hanks review was that the legislation for the accident compensation scheme be rewritten in a logical and plain language format. A complete clean rewrite of the Accident Compensation Act was recommended by Peter Hanks.

Members who have had anything to do with the existing Accident Compensation Act will know that it is now a massive volume of 677 pages that covers accident compensation. Two primary pieces of legislation come together to make up the accident compensation regime quite apart from the regime for occupational health and safety. We have already almost 700 pages of legislation for the accident compensation scheme, so it is little wonder that Peter Hanks's primary recommendation — his first — was a rewrite of the legislation in a logical and plain language format.

Instead of receiving that in the bill before the house, we have an extra 350 pages of amendments to the existing legislation. We are not seeing a simplification or a clarification of the principal legislation. Instead we have 350 pages of amendments added to 677 pages of existing legislation. By no estimate is this bill going to simplify the accident compensation scheme in this state.

One of the major failures of the government's response to the Hanks review is that while the government says it supports Hanks's first recommendation, we are not seeing that in the legislation we are dealing with today.

In regard to delivering on that commitment, the coalition parties have committed that in government we will undertake a full rewrite of the accident compensation legislation in the spirit of the recommendation made by Peter Hanks in his report.

Clearly when you talk to employers, employer groups and injured workers — the people who need to operate under this legislation on both sides of the fence — you hear that the existing legislation is unsatisfactory, and adding 350 pages of amendments is not going to make it any more satisfactory. It is the commitment of this side of the house to deliver on the first recommendation of Peter Hanks and have a full, clean consolidated rewrite of the Accident Compensation Act.

One of the other issues that has been raised as a matter of concern is the way in which section 40 of the legislation seeks to exclude annual leave and redundancy or severance payments from the calculation of current weekly earnings. The significance of this is that the measure of current weekly earnings is used to determine the level of weekly compensation payments that an injured worker is able to receive. If an injured worker were to take annual leave or receive a redundancy payment because their job had been made redundant or because of other issues at the firm where

they were employed and that injured worker were subsequently made redundant, the fact that those payments would be excluded from calculation of their current weekly earnings would mean that, although they were receiving that money, their assessed current weekly earnings would diminish. That would result in an increased entitlement to weekly compensation payments, which would have a flow-through effect on their employer's premium cost. A matter of concern that has been expressed to the coalition is that, particularly in the annual leave scenario, a person receiving annual payments and only annual leave payments would suddenly see their current weekly earnings drop away with a consequential impact on their entitlement to compensation and on the premiums paid by employers. It is a matter of concern that we are seeing those payments excluded from the calculation of current weekly earnings, with the potential for those to have an impact on downstream employer premiums.

One of the key issues the coalition has, and employers have more generally, is the financial impact of this legislation. There is no doubt that there is a substantial and indeed welcome increase in a range of benefits and entitlements for injured workers under this legislation; however, we are concerned about the ongoing capability of the scheme to support the increased cost that arises as a result of these amendments. In announcing its response to the Hanks review last June the government indicated that the annual cost of these amendments in the first year would be around the $90 million mark. The government indicated that that cost would be accommodated within the existing funding framework.

It is clear from the 2008–09 annual report of the Victorian WorkCover Authority that the margin on funding the VWA scheme is, as you would expect, quite narrow. The published average premium is 1.387 per cent of an employer's payroll. The Treasurer quotes quite frequently the way in which that premium has fallen, and it is a welcome fall, but the latest published break-even premium for the authority for the 2008–09 year was a premium of 1.263 per cent of payroll. This is a margin between the average charged premium and the break-even premium of 0.124 per cent. It is narrow; there is a narrow margin between break-even premium and average premium, as you would expect. In an efficiently run insurance scheme there would be a narrow margin between break-even premium and average premium. In dollar terms on premium collections for the 2008–09 year, which were approximately $1.6 billion, that margin between break even and average is around $143 million on back of envelope calculations. With this package we have a proposal that will soak up $90 million of that $143 million margin between last year's break-even premium and last year's average premium.

As I said, that was the situation with the 2008–09 year, but as yet we have not seen the annual report and we will not know until after that report has been released the break-even premium for the 2009–10 year. What is very clear from those back of envelope calculations is that the margin between break-even premium and average premium is quite narrow, and this package — that $90 million cost — will absorb a very large proportion of the buffer between the break-even premium and the average premium. That buffer exists to take regard of any extraordinary occurrences that may affect the operation of the scheme, and the absorbing of a large proportion of that margin by this package does tend to point to an upward pressure on premiums as we go forward. That is a matter of concern in Victoria and certainly at a time when businesses are recovering from the effects of the economic downturn and are still in a ginger state in terms of the recovery. The fact that this package could lead within a couple of years to higher premiums is a matter of concern.

One of the other matters I touched upon briefly earlier was the deeming of local government councillors to be employees of their councils for the purposes of return-to-work and WorkCover claims. As I said, the parallel has been drawn between members of Parliament and local government councillors; however, in reality the scenario is quite different, because members of Parliament operate on full-time salaries, with their own offices of course, and are in a far better position to recover from a WorkCover claim injury than local government councillors, who are not paid, other than receiving an allowance as councillors. As a consequence a number of concerns have now arisen as to how in a practical sense a council could be managed for the purposes of return to work, because one of the fundamental tenets of the Local Government Act is a prohibition on councillors working for the councils at which they are elected representatives.

One of the principal tenets of return to work is that an injured party — in this case, a councillor — would be given a suitable job at the place of their employer — in this case, the council. It is an untenable situation, certainly with respect to the Local Government Act, to have a councillor working for the council where they are an elected councillor. Clearly the way in which this provision is going to work will need to be clarified quickly to avoid concerns as to how this provision will work in practice.

There is provision in legislation for ministerial guidelines on this matter. As yet, to my knowledge

such a provision has not been promulgated. It is an issue that remains outstanding and of concern to the Municipal Association of Victoria and, I believe, to the Victorian Local Governance Association — that there is no clarity around how, in practice, this provision is going to work.

One of the other issues of concern with this legislation is the shift in compensation payments from 75 per cent to 80 per cent of pre-injury average weekly earnings. While that is an understandably welcome move for injured workers, the closer you get the weekly compensation payment to a worker's pre-injury average weekly earnings, the lower incentive you have for a return to work.

The shift from 75 per cent to 80 per cent represents a reduction in the incentive for a return to work. As we have seen with previous increases in the percentage of weekly compensation payments, there has been a slight decline in the return-to-work rates in Victoria, which is already below the national average for return to work. We are concerned that as the level of weekly benefits approaches pre-injury average weekly earnings there is a lessening of incentive for return to work, and it becomes much harder to lift those return-to-work rates.

One of the other areas where concern was expressed relates to the stakeholder reference group, which was the group of employer representatives and employee representatives, among others, that worked with Peter Hanks throughout the development of the Hanks review. The criticism in this area is that although those parties were involved in the review and the development of or input into drafting the legislation, they did not see the final legislation before it came to Parliament. They have not had an opportunity to comment on the final legislation.

I know that a number of them, by virtue of their involvement in the development of the legislation through the Hanks process and ultimately the drafting process, feel they are therefore constrained by that involvement. But they are disappointed and do not feel at liberty to make a public criticism of the legislation, given their role in developing it. They believe that an appropriate way in which the loop could have been closed was by the final legislation being referred back to that group prior to it being introduced to Parliament in its final form.

One of the other matters I will touch upon now relates to the Accident Compensation Conciliation Service (ACCS), which is also the subject of a couple of amendments in the legislation. That service is the body that was set up to conciliate disputes between the Victorian WorkCover Authority and WorkCover claimants. As someone who deals with many WorkCover claimants through my electorate office I hear a lot about the ACCS and its operations as the conciliation body; what I hear is not always positive, but it is important to recognise that the mechanism is there to deal with disagreement between the VWA and its clients.

The ACCS was established by former WorkCover minister Roger Hallam for that purpose. It is important to remember that any body that seeks to conciliate between two parties should be independent of those two parties. It is therefore of concern that in recent days I have received a number of representations about the ACCS, which suggests that there is intent on the part of the government to reduce the independence of the ACCS by seeking to appoint current or former employees of the Victorian WorkCover Authority to the ACCS.

Clause 79 proposes to insert into the Accident Compensation Act a provision that would require future appointments to the Accident Compensation Conciliation Service to be made on the recommendation of the senior conciliation officer. It is proposed that that clause would come into effect on 5 April 2010; however, I understand that a number of current appointments to the ACCS expire on 31 March of this year. As a consequence, that provision will not be in place when the existing appointments expire. The bill provides that new appointments be made between the expiration of the existing appointments and prior to this provision coming into effect on 5 April.

In view of concerns that have been expressed about the intention of the government to appoint former employees of the Victorian WorkCover Authority to the ACCS, I understand, against the wishes of the senior conciliation officer, the bill requires amendment to address that issue. It is our intention to move amendments to address the issue, and I ask that the amendments be circulated.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — The intent of the amendments is to modify the commencement date in clause 2 to bring it back to 1 March. The effect will be to require that any appointments made to the Accident Compensation and Conciliation Service after 1 March are made on the recommendation of the senior conciliation officer, which is what the government is proposing to do from 5 April. The effect of bringing it

back to 1 March will be to ensure that any appointments made after the expiration of the current appointments on 31 March will also be subject to the provision in clause 2. I understand from reading the *Government Gazette* that there have been no appointments gazetted from 1 March to date, and as a consequence the proposed amendments will not impact upon any existing appointments. However, they will ensure that appointments made from 1 March onwards are made with the recommendation of the senior conciliation officer.

The PRESIDENT — Order! In accordance with this afternoon's resolution the time has arrived to meet with the Assembly in the Legislative Assembly chamber to choose a person to hold the seat in the Legislative Council rendered vacant by the resignation of the Honourable Theo Charles Theophanous.

Debate interrupted.

Sitting suspended 6.14 p.m. until 8.03 p.m.

NEW MEMBER

Mr Murphy

The PRESIDENT announced the choosing of Mr Nathan Murphy as a member for the electoral region of Northern Metropolitan in place of Hon. Theo Theophanous, resigned.

Mr Murphy introduced and oath of allegiance sworn.

ACCIDENT COMPENSATION AMENDMENT BILL

Second reading

Debate resumed.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I will briefly conclude my remarks. I note that it is a very rare experience to commence a speech in this chamber when the house has one membership and then when you conclude your speech after an interruption for it to have a different membership. I take this opportunity to congratulate Mr Murphy on his appointment to the Legislative Council today.

Before the dinner break I was speaking about the amendment that the coalition proposes to move in the committee stage with respect to the Accident Compensation Conciliation Service.

Some concerns have been expressed about clause 79 with respect to future appointments to the service being on the recommendation of the senior conciliator. We certainly agree it is important that the conciliation service be independent of government and that the conciliators act independently. However, given the suggestion that a number of appointments to that service are about to be made and that those to be appointed are not independent due to having previous ties to the Victorian WorkCover Authority, it is our view that bringing forward clause 79 to make appointments from 1 March subject to the recommendation of the senior conciliation officer is the lesser of two evils regarding these appointments.

Therefore in the committee stage I propose to move an amendment to that effect: to require all appointments from 1 March to be on the recommendation of the senior conciliation officer.

In conclusion, coalition members will not oppose this legislation. We note that it makes a number of worthwhile enhancements to the benefits payable to workplace accident victims. However, as I noted in my commencing remarks, we note that one of the key failures of the legislation is that it does not pick up Hanks's no. 1 recommendation of a full and clean rewrite of the Accident Compensation Act.

In the absence of that full and clean rewrite, we will continue to stagger on under the 700-odd pages of existing legislation and the 350 pages of new legislation, which is not in the interests of business in this state. I urge the house to support the amendment I propose to move and to support a full rewrite of the Accident Compensation Act.

Debate adjourned on motion of Ms PENNICUIK (Southern Metropolitan).

Debate adjourned until later this day.

ANNUAL STATEMENT OF GOVERNMENT INTENTIONS

Debate resumed from 25 February; motion of Hon. T. C. THEOPHANOUS (then Northern Metropolitan):

> That the Council take note of the annual statement of government intentions for 2010.

Mr MURPHY (Northern Metropolitan) — Friends, colleagues, supporters, comrades: I want to acknowledge the traditional owners of the land on which we stand, the Kulin nation, and pay my respects to their elders, past and present. I note that in the oath that I took just moments ago there was no formal acknowledgement of the traditional owners of this land or any acknowledgement of Aboriginal Australia at all. That is a shame.

One has to wonder what we are doing walking around in the second decade of the 21st century, swearing allegiance to the Queen of England, yet we cannot acknowledge the traditional owners of this land. Swearing allegiance to an empire that represents colonisation, discrimination, racism, oppression, stolen wealth and stolen land when it comes to Aboriginal Australia does not sit well with me.

It is my strong belief that we can never truly reach reconciliation with our Aboriginal brothers and sisters whilst we continue to swear allegiance to the Queen and we have her symbols on everything from our flag to our currency. I am sure the founders of our Federation would have thought it reasonable to expect that by the year 2010 we would be living under and governed by our own head of state, and further that we would have reached a treaty with Aboriginal Australia.

I hope that by the time this decade is out, representatives elected to this Parliament and all parliaments throughout Australia are given the opportunity to take an oath by which they not only swear allegiance to our own head of state but also rightfully acknowledge the traditional owners of this land and all lands throughout Australia.

Having taken the oath as put before me, I am honoured and privileged to be standing before you all tonight. It is indeed a humbling experience. It is a proud day for me, my family, my friends and my union. I am a union man. I will always be a union man and will actively promote any cause that is collectively put forward by the union movement in Victoria and Australia.

The union movement in Victoria and Australia has often been one step ahead of government when it comes to promoting progressive causes in our community. Whether it be the 8-hour day or campaigning for equal pay, superannuation, maternity leave or safer work places, the union movement has always led the way. I look forward to seeking their advice on the promotion of progressive causes that improve the lives of Victorian working families.

Within the union movement I am a member of the Plumbing Trades Employees Union. As a member and representative of the plumbers union, I follow in the footsteps of great men — men such as George Crawford, who is present here tonight — a giant of the Labor movement in Victoria, a true believer in every sense. George Crawford's CV reads like few others in the Australian Labor movement: secretary and life member of the Plumbing Trades Employees Union, longest serving president of the Australian Labor Party in Victoria, and member for the then province of Jika Jika. As fate would have it, I now represent the Northern Metropolitan Region, which takes in George's former electorate. George remains an inspiration to so many, and I thank him for his support and encouragement.

I would also like to acknowledge the late Brian Mier, a former official of the Plumbing Trades Employees Union, who also served the people of Victoria in this Parliament.

I am the son of a plumber, the grandson of a shearer and the great-grandson of another shearer — a blood line of working-class men who did the hard yards to make a better future for their children, men who held the line with fellow workers in many a picket and strike, to secure better pay and conditions for working families, men who you do not have to ask where they stand; you know where they stand. All these men — Tony, John and Paddy Murphy — receive due recognition this evening for their tremendous efforts to make a better future for both their families and their workmates. Without them, I would not be standing before you today.

My mother, too, comes from the working class, growing up on the streets of Port Melbourne in the days when there were more pubs than coffee shops, when it was heavily industrialised and when working families had to work day and night in multiple jobs to make ends meet. A strong woman, she raised four sons — surely one of the toughest gigs in town.

I never knew my mother's mother, my grandmother, a woman who raised three children on her own in the flats of Port Melbourne. Unfortunately her life was tragically cut short by a disease inflicted upon so many working men and women in our community: asbestosis. It is a disease that discriminates against the working class like no other. I can assure you that no rich man or woman has died of this disease — but plenty have made money from those who have. Vera Simpson, my grandmother, passed away 33 years ago tomorrow, only five months before I was born. Her seven grandchildren

never saw her, but I am sure she is looking down today with pride in me and my mother, Sandra.

I am very fortunate to have Patricia Murphy, my father's mother, here tonight. Nan, as she is better known, raised a family in places such as Olympic Village in Heidelberg and Greenwood Drive, Bundoora. Those were the days when Bundoora was on the very outskirts of greater Melbourne, where the city met the country. Making a go of life could not have been easy in those places in those days, but she did it, bringing up two very important people in my life, my father, Tony, and aunty, Christine. She is a caring person who has seen it all and is always willing to put others before herself. I thank her for constant support and care over the years, and I recognise her in the gallery tonight.

I note that International Women's Day was celebrated yesterday. I would like to acknowledge a great woman of my family, Vi Forest. My great-grandmother was a senior manager for Interflora Australia in the middle of last century. With a name like Violet Forest, I guess it was her destiny to fulfil this role. Vi travelled the world representing a high-profile company in the days when the glass ceiling was reinforced with concrete slabs. Vi was a pioneer for women in the workplace. I am sure she, too, is looking down with pride — but maybe wondering what I am doing on this side of the house.

I am surrounded by strong men and women in my family, and it is through their strength and determination that I stand here making this speech tonight. My family's history is my future. I thank them all for their support.

I am a union man, and I am a Labor man. Growing up in my household, there were two certainties in life: voting Labor and supporting the Fitzroy Football Club. My family did both with passion. Both were about supporting the underdog, where victories were hard fought and long celebrated. As a teenager through the 90s, victories for the Labor Party and the Fitzroy Football Club were rare — but I never felt sorry about it. I actually felt sorry for those who did not follow the Fitzroy Football Club or support the Labor Party.

Politics found me very early on in my life. I remember handing out how-to-vote cards at a little portable voting booth on a dirt road in Eden Park. I think it may have been in Sixth Avenue; we lived in Seventh Avenue. I was handing out cards with my father for Bob Hawke at the 1987 election. The reception was not the greatest at that booth; it was not one of Labor's strongest, I suspect. Only a handful of votes were cast, but we stayed until the last. That night we watched the results at a neighbour's house. As Labor supporters, we were clearly in the minority. But I remember my father being very happy to see a Labor victory. Others were not so happy. As a 10-year-old, I could not quite figure out why people did not support Bob Hawke and the Labor Party; as a 32-year-old, I understand it is a little more complex.

I appreciate now that, whilst there may be differences amongst us, there is a collective will to make Victoria Australia's premier state. Whilst I disagree with much of what Jeff Kennett stood for, I have to acknowledge that he was pro-Victoria — just as Steve Bracks was and John Brumby is.

It is a great honour to stand here and say that I am a member of the Brumby government. John Brumby has done Victoria proud like few others before him. His ability to lead Victoria through this nation's single worst natural disaster is exemplary. Whilst many of us could only look on in disbelief in the days, weeks and months that followed Black Saturday, John Brumby rose to the challenge. As a Labor Premier, he did the ALP proud, but more importantly he did Victoria proud. I look forward to working with the Premier to make Victoria the best place to live, work, invest and raise a family.

Another who contributed so much toward making Victoria what it is today is the man I replace this evening, Theo Theophanous. Theo served the people of Victoria for 21 years. He saw the Labor Party through the good times and the hard times. Through government and opposition, Theo served the Labor Party and the people of Victoria well.

As Theo Theophanous said in his final speech, he can proudly look around our state and point out his many achievements while he was a member of the Parliament. Theo has been of great assistance to me over the last couple of months, taking me into his confidence and keeping me informed of his intentions at every stage. Theo and his family deserve our best wishes going forward, and I look forward to working with him over the coming months and years.

I would also like to recognise Theo's electorate staff, who have been of tremendous assistance in the last couple of weeks. I have two great new friends in Ana Sarakinis and Laz Iliadis, and I look forward to working with them.

I also look forward to working with my new parliamentary Labor colleagues. Today has been quite a surreal day for me. I did not envisage making this speech so soon following the party's internal

preselection process that occurred last year — but here I am! To all my parliamentary Labor colleagues: I express my sincere thanks for making me feel so welcome today.

When coming into Parliament today I was not too sure what to expect. A quick briefing here and there over the last week was pretty much all I had. Today all members have made me feel welcome and right at home. It is an amazing experience and one which I will always remember fondly. The experience would not have been so special without the well wishes and support of all members. I thank all of them.

I thought I had seen it all today until the events of only 90 minutes ago. Having the Leader of the Opposition, Ted Baillieu, second my nomination in the joint sitting of the Assembly and the Council was surreal, to say the least. I offer my appreciation to the opposition leader in the Assembly and to his colleagues for offering their warm congratulations as they left the chamber.

I would also like to thank those in the gallery tonight who have been a great inspiration to me over the years. I particularly recognise representatives of the Plumbing Trades Employees Union. To the president, Nazzareno Ottobre; members of the committee; officials and staff, I offer my sincere appreciation for their support over the years.

In particular I wish to recognise the support and friendship of Earl Setches, who is the state and federal secretary of the Plumbing Trades Employees Union. Earl Setches comes from a great family; his mother Kay served as a minister in the Cain and Kirner governments. Earl's father, Dennis, and his sister, Vicki, are true believers who have served the Labor cause for many years. The Murphy and Setches families go back a long way.

My earliest memory of Earl was when he visited our family home with my father in Watsonia one day after work. I must have been 15 or 16 years old. My brother and I were watching Monty Python's *Life of Brian*. Earl walked straight in, sat down and watched it with us, and we quickly started competing about who knew the next line in the movie. Since then we have been great friends, and I could not ask for a greater supporter over the years. I hope I can do Earl proud and look forward to debating whether it was the Judean people's front or the people's front of Judea who were the splitters!

Through my interaction with the plumbers union and the Labor movement I have met many great people in the Victorian trade union movement. Kevin Bracken, the state secretary of the Maritime Union of Australia, is one of those. Over the past 18 months I have hosted a program on 3CR radio with Kevin every second Thursday. It has been a highlight for me, and I will fondly remember our many discussions over the airwaves and then over breakfast. Anyone interested can tune in on 855 AM every other Thursday, alternating with the plumbers union show at 6.30 a.m.

Last week was my last show working on the panel, but it will not be the last time I visit the studios on a Thursday morning to talk with Kevin and his members over the airwaves.

The Maritime Union of Australia has been a great supporter of mine, as have unions such as the Communication Workers Union, the United Firefighters Union, the Electrical Trades Union of Australia and the Australian Workers Union, to name but a few.

The former national secretary of the AWU — now the federal member for Maribyrnong, Bill Shorten — deserves a special mention. Bill is a great friend and supporter and a great leader of the Labor movement in Victoria and Australia. Bill Shorten is an inspiration to many. There are many great things that could be said about him, but there is one which, for me, I particularly admire. Amongst his many roles and responsibilities Bill is Parliamentary Secretary for Disabilities and Children's Services. It is a role that Bill has taken up with great passion. Many of us will never truly know what it is like to live with a disability or support a family member who has a disability. Bill's determination to address the inequities faced by people dealing with a disability is second to none.

Having seen early in my childhood a close friend deal with a degenerative bone disease that eventually confined him to a wheelchair and took him far too early from this world — and the difficulties he and his brother, who suffered the same fate, faced — made a significant impression on me as a youngster. I hope to work with Bill and others who aim to address issues facing people with disabilities into the future; I offer my unqualified support to anyone who is willing to do the same. Where there is any form of discrimination in our society, we all must work to the best of our capabilities to do away with it. The elimination of discrimination in our society benefits us all.

Whilst on the subject of my childhood, I would like to acknowledge some good friends who I have grown up with and who have kept my feet firmly on the ground. To Brad Studd, Dirk Dickson and Troy Gitsos — this is for you! I look forward to us all catching up again soon, having a beer and watching the footy. If I had a dollar

for every game of footy or cricket we played growing up in the street, dodging buses and cars, we would all be living it up. As you go through life you meet new friends as circumstances change, but these guys are the ones who were there from day 1 and will be there until the end.

As I have travelled through life I have made many great friends, from university days through to being involved in the labour movement. In politics circumstances change and alliances shift. Real friends in the political sphere are hard to come by, but I am very fortunate to have found some. I would like to mention them tonight.

Erik Locke, a friend, and technically a former boss — that is, a state secretary of the ALP — is one of those. Erik has been a great sounding board over the years and puts everything into perspective. I thank him for being there time and again over the years.

Scott Stirling and his father Syd, the first Labor Treasurer of the Northern Territory, also deserve special mention. Scott has remained a great friend since our university days when we managed to win quite a few student campus elections. Those were great days, and I am glad he is back in Melbourne so we can catch up again and relive some of those old stories.

Bonnie Rivendale, with whom I have worked closely over the last couple of years on the indigenous plumbing apprenticeship scheme, has also been there through thick and thin, and I thank her for her support. I also recognise a couple of the guys, Modra and Davo, who are here tonight and with whom I lived for 14 months. Those were very good days.

However, my three brothers, Justin, Travis and Anthony, have become my greatest friends. Whenever we catch up all in the same place at the same time it is quite a sight. Their support over the years has been invaluable. I have dragged them along to branch meetings and events over the years, but they have gone with complete solidarity.

As anyone elected to this place would know, you do not get here without cutting your teeth. I would like to acknowledge those who have given me a chance in the political arena and saw the potential in me that has led me here tonight. The first is Harry Jenkins. My first professional job was working as an electorate officer for Harry. Although we may have had our differences since, working for Harry was a pleasure and a welcome break from bar work and other odd jobs I did whilst getting through university. My first full-time job outside university was working for Lindsay Tanner, a great mind of the Labor Party and a terrific mentor. Anyone who works for Lindsay Tanner should feel privileged.

Senator Gavin Marshall gave me the opportunity to spread my wings. A great defender of workers rights, Gavin remains a good friend. Senator Marshall entered the Senate following the departure of the great Barney Cooney. Barney Cooney is a gentleman in every sense of the word. His ability to encourage individuals to think outside the square and develop independent thought is remarkable. If it is possible to live without sin, Barney comes close to it. I do not think I have heard him say a bad word about anybody. He is a great friend of my family, and I welcome his constant phone calls and best wishes.

At the 2007 election I worked alongside Mike Symon, the federal member for Deakin. Together with a strong campaign team we managed to win a seat that had eluded Labor for many a long year. I also thank Mike for his support over the years. I will always remember the night we won Deakin.

One of the toughest assignments I have had in life was working at the ALP state office. The pressure and scrutiny that you face really does test your limits. I worked with some great people in the ALP state office, too many to name — a great bunch of people who work tirelessly for the good of the party. I would like to acknowledge Noah Carroll, current assistant state secretary, a young man with a great future and who has supported me every step of the way.

I notice the presence of Crs Norm Kelly and Steve Kozmevski from the City of Whittlesea here tonight. I worked closely with Norm and his wife, Karen, and family to save Chinamans Bridge Caravan Park in Nagambie. This was one of those small campaigns that receive little mainstream attention, but it meant so much to the working families who holiday there on an annual basis. Despite attempts by some to fence the park off and shut it down, we campaigned long and hard for two to three years and saved the park. Working families are still using the park, and I will be sure to head up soon to have a couple of Nagambie's finest wines with them.

To the many local branch members who have supported me over the years, also a big thankyou. From the Smiddys at Bundoora to Succetin Unal at Lalor East and Cr Kozmevski and the Bekhaazis at the Lalor branch, I thank you.

These speeches are generally prepared for those in the gallery rather than in the chamber. I thank you all for your indulgence tonight as I recognise the many people

who have supported me over the years. I look forward to working with all of you and my colleagues in the chamber as we work toward making Victoria the place to be.

Honourable members applauded.

Debate adjourned on motion of Mr O'DONOHUE (Eastern Victoria).

Debate adjourned until later this day.

ACCIDENT COMPENSATION AMENDMENT BILL

Second reading

Debate resumed from earlier this day; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Ms PENNICUIK (Southern Metropolitan) — The bill before us, the Accident Compensation Amendment Bill, is an important bill. As has already been mentioned, it is about the same size as the Melbourne residential telephone book. It has 194 clauses and 349 pages.

I agree with the comments made by Mr Rich-Phillips that, given the bill is so large and has so many clauses in it, it is a pity the first recommendation of the Hanks review, that the Accident Compensation Act be completely rewritten, did not happen because the act itself is already some 650 pages long with another 194 sections. I am not sure whether it will end up longer or shorter, but I suspect it will be longer and more complicated. There are good and bad parts of this bill. As usual, when we have a bill that has good parts and not so good parts it is difficult to know what to do in terms of supporting the bill or not.

It is worth mentioning that there have been nine major amendments to the Accident Compensation Act or various iterations of it since 1992. People would remember the substantial amendments in 1992 made by the Kennett government, including the abolition of the Accident Compensation Commission and the Victorian Accident Rehabilitation Council, combining their functions into what we now have, the Victorian WorkCover Authority. There were also amendments then redefining a compensable injury as one where a worker's employment had to be a significant contributing factor to an injury or disease, and abolishing the WorkCare Appeals Board and other provisions.

Then there were more changes in 1994 and 1996, which looked at return-to-work obligations. In 1996 there was a separate bill dealing with occupational health and safety, and governmental functions regulating and enforcing workplace health and safety were transferred from the Department of State Development to the Victorian WorkCover Authority. In 1997 there was the elimination of common-law damages. In 1998 there was another bill that began the process of contracting out various functions of the WorkCover authority and allowed self-insured employers to use third-party claims managers.

In 2000, with the election of the Bracks government, there were reforms to WorkCover which wound back some of the provisions that were introduced in the preceding years by the Kennett government, but, it is fair to say, not all of them. It was not until May 2000 that legislation was presented to Parliament to act on the Labor Party's promise to restore common-law rights for work injuries. Even that legislation left a gap in the reinstatement of those rights.

Further changes were made to the legislation in 2001 to establish a more flexible process for making voluntary settlements, and in 2003 changes centred on WorkCover impairment benefits, following a review of those. That is just a brief overview; it does not go into the level of detail of many amendments that have been made to the workers compensation system over the last 18 years.

In front of us we have another bill, which is the result of the review carried out by Peter Hanks, QC, who made many recommendations in his report, most of which are taken up in this bill, except, as I have mentioned, there is no rewrite of the act. In conversations with the department it has been intimated to me that in fact a rewrite of the act will occur at some stage in the next few years, so we can look forward to yet another large suite of amendments. Hopefully there will be a complete rewrite of the act, but given the number of times it has been amended — this is now the 10th set of amendments to the WorkCover regime in 18 years — it is not looking as if the act and the way it works are going to be more streamlined, more simple or less complicated.

The purposes of this bill are to provide improved benefits for injured workers, better rehabilitation and return-to-work outcomes, greater transparency and improved operation of the legislation. They are the four overarching purposes of the bill. Looking through the bill I have to say it is a mixed bag in terms of achieving those purposes, in particular regarding the improved operation of the legislation, greater transparency and

better rehabilitation and return-to-work outcomes. I am not sure I could say the bill achieves those. It certainly does achieve some improved benefits for workers, and those are welcome. Even Mr Rich-Philips said they are welcome and probably quite a long time overdue.

We need always to remember that the purpose of the workers compensation system is to support and compensate injured and diseased workers, to assist them in rehabilitation and to assist them to return to work when they are well and able to. The Accident Compensation Act should enable and facilitate this. Wherever the legislation falls short or hinders that aim, as is the case with certain parts of the current bill which I will go to in my contribution, then it has failed. The bill fails if its amendments do not improve the lot of injured workers, improve their prospects of compensation for injury that they have incurred through their work and support their rehabilitation and return to work. It is fair to say that while there are improvements in this bill, it also fails workers in some regards.

Some of the improvements that have been made in the bill include doubling the period from 26 to 56 weeks during which an injured worker or a deceased worker's dependents may receive weekly payments for compensation that take into account overtime and shift allowance, increasing the maximum amount of weekly payments to $1753.40 gross per week and increasing the rate of weekly payments available to an injured worker in the second entitlement period from 75 per cent to 80 per cent of pre-injury average weekly earnings. Mr Rich-Philips made some comments about that in his contribution, suggesting that increasing that entitlement from 75 to 80 per cent of pre-injury average weekly earnings was somehow going to be a disincentive to people returning to work. I do not know that there is any evidence for that. The purpose of the entitlement is to make sure that injured workers can hold body and soul together and that they do not suffer a financial loss as well as an injury or illness and all the stress and hardship that goes with that.

Other improvements include providing that workers who have been in receipt of weekly compensation payments for 52 weeks can also receive superannuation contributions for as long as they continue to be in receipt of weekly payments. That is an improvement in the bill because there was never such a provision before, but I do not think it goes far enough. I do not understand why workers cannot receive superannuation contributions from the start, as soon as they are entitled to weekly payments. I do not know why they have to wait until they have been off work for 52 weeks — a full year — before they can receive those entitlements.

Other improvements in the legislation include providing for 13 weeks of weekly payments of compensation to a worker, even if that worker has returned to work and is no longer in receipt of weekly payments for compensation, if subsequent to their return to work they need follow-up surgery. It often happens with injuries that a worker needs follow-up surgery or follow-up treatments even after they have been able to return to work, so that is a good development.

Another improvement is allowing workers who receive redundancy and severance payments to continue to receive weekly payments for compensation which they previously would have been precluded from receiving for a period. That is a welcome development. I noticed that Mr Rich-Phillips was not enthusiastic about that one either, but my point is that if a person is entitled to redundancy payments, it has nothing to do with whether they are injured. They still should be entitled to their compensation payments regardless of any other payments they may be in receipt of.

The bill increases the maximum amount payable for impairment benefits to $503 000 and increases the maximum lump sum compensation payable to the dependants of a deceased worker to $503 000, which is almost a doubling from the $273 970 it currently is.

The bill increases the eligibility age for a dependent child to obtain a weekly pension following the death of a worker from 21 to 25 years where the child is a full-time student. That is a welcome development because many people are in full-time study up until 25 years of age. The bill amends the definition of a dependent child to include a child born after the death of a worker where the deceased worker was that child's parent, which entitles that child to receive benefits as an already living dependent child would.

The bill deems that a partner who resides with a worker at the time of the worker's death is dependent on the earnings of the worker. It enables the dependent family of a worker who has pursued a serious injury application and who subsequently dies from a cause unrelated to the worker's injuries the right to continue with the application after the worker's death.

Importantly it introduces antidiscrimination amendments in sections 242AA and 242AF to protect injured workers and prospective job applicants from discrimination as a result of pursuing a claim for compensation or notifying of a workplace injury. This is a very important improvement because there can be a stigma attached to workers or job applicants who have been unfortunate enough to have been injured at work

at a previous time. This is in keeping with provisions in the Occupational Health and Safety Act 2004.

The bill also makes some amendments to powers of return-to-work inspectors, including the ability to issue return-to-work improvement notices on employers similar to provisional improvement notices under the Occupational Health and Safety Act. I will have some questions to ask the minister about how that will actually work when we get to the committee stage, although I welcome the development as a good one.

The bill introduces procedures for the prosecution of employers who engage in discriminatory conduct in contravention of section 242AA and non-compliance with the return-to-work obligations in the new part VIIB of the act. In addition the ability of a worker to request that WorkSafe bring a prosecution after six months and, if such request is declined, the ability for a worker to defer the matter to the Director of Public Prosecutions for consideration are welcome developments. Again I will have some questions to ask about how the return-to-work inspectors are going to enforce non-compliance under the new part VIIB of the act.

The bill also, for the purposes of the Accident Compensation Act, deems local councillors to be employees for the purpose of the act, so that if they happen to be injured while carrying out the duties of a councillor they would be able to receive compensation and rehabilitation. Clause 17 of the bill also clarifies that outworkers are workers for the purposes of workers compensation.

There are quite a number of improvements to the workers compensation regime in this bill, and I know they are welcomed by workers and workers representatives. There are, however, as I have foreshadowed earlier in my contribution, some issues where I think the bill lets down workers and introduces some unnecessary and discriminatory provisions in the act. The first of those is the extension of the exclusions under current section 82A(2A) of the act as proposed by clause 14 of the bill where the definition of 'management action' is extended to include more types of management action, such as conducting performance appraisals, suspending training or counselling workers; and that if the worker suffers a stress injury as a result of those actions, they would be precluded from making a stress claim. It is a very broad and all-encompassing provision. It is a catch-all provision, I would say, and it is difficult to envisage many situations in a workplace that would not be the result of management action, seeing that management makes most of the decisions in the workplace.

My concern with this provision is that the WorkCover scheme is meant to be a no-fault provision scheme, and if a person is injured at work they are entitled to compensation. It does not go to finding out whose fault it was in terms of the award of that compensation, but under clauses 12 and 14 of the bill the ability of a worker who suffers a psychiatric or stress-related injury to claim compensation is severely curtailed. There is very little justification for it.

I did look at the recommendations by Peter Hanks regarding this particular provision. Amongst other things he said in his report:

> Legislative amendments are needed to provide protection for employers when undertaking appropriate and fair management actions, as intended by the exclusionary provisions set out in section 82(2A) of the AC act.

I would say that the provisions set out in existing section 82(2A) of the act are already very restrictive on the ability of workers to make a stress claim. It is very concerning for this bill to extend that and make it even more difficult, and it discriminates against workers who are suffering a stress-related or psychiatric injury as opposed to a physical injury. It makes their ability to be compensated, to be rehabilitated, to be supported and to return to work so much harder than it is for a worker who suffers a physical injury. Peter Hanks in his report said:

> Stress-related and psychiatric injury claims often involve complex issues between workers and employers, and other elements that make decision making more difficult than for many physical injury claims. These factors contribute to the high level of disputes arising out of stress-related and psychiatric injury claims.

I am not sure that that is a good reason for discriminating against workers, so it may be that the issues could be more complex. I do not know that there is a lot of evidence that there are a high level of disputes arising out of stress-related and psychiatric injury claims, except in terms of employers wanting to deny them or dispute that they exist, but that is not a reason for putting so many obstacles in the law to prevent a worker from claiming compensation for an injury. The process that it is gone through for a physical injury should be used to determine the compensation for a worker with a psychiatric or stress-related injury.

Recommendation 2.11 of Peter Hanks's review of the Accident Compensation Act is:

> Reducing the adversarial nature of dispute resolution is particularly important for stress-related and psychiatric injury claims, considering the nature of the worker's injury and the more frequent presence of interpersonal elements in those claims.

I am not sure that there is any evidence to support that. I say that because in a previous life I worked at the Australian Council of Trade Unions. I began work there in 1997, and in that year the national occupational health and safety committee of the ACTU decided that we would run a national campaign on the issue of stress; the ACTU had been running national campaigns on occupational health and safety issues for several years. In preparation for that campaign we took the decision to run a national survey from which we received 10 000 responses. When we analysed the responses and produced our report we found that the three most stressful conditions in the workplace were management issues, including a lack of consultation and communication with workers. The highest cause of stress in the workplace was lack of consultation and communication with workers by management — a management action.

Other issues included increased workload, job insecurity, organisational change, inadequate staff and resources, occupational health and safety issues, poor work organisation, insufficient training, long hours and rostering — all the result of management actions, and some of which should be captured in the extensive management actions outlined in clause 14.

As part of the survey workers commented on what was causing them stress, including 'people in management roles have little or no management training'; 'managerial harassment/bullying'; 'underhanded management actions'; 'rock-bottom morale exacerbated by inept and self-centred management to the highest level'; 'being told if you do not like it the way things are, leave — as if you had somewhere else to go'; 'no respect to workers — treated and spoken to as slaves'; 'often the people with rank will shout or physically intimidate to get their way; after a while you just stop contributing, and for the first time in my life I go to work with dread'. And on and on it goes.

I read through what Peter Hanks wrote in his rationale for recommending that the whole management action provision be extended to include mediation and performance management et cetera, but his is a sanguine view of the matter. His report refers to modern management practices and how those practices should be allowed to continue. He said that allowing people to claim stress-related injury would interfere with that process. I completely disagree with that. I am not sure what world Mr Hanks is working in. Certainly there are good workplaces with good management practices, but there are a lot of workplaces where there are not good management practices. Even when management might be following so-called modern management practices, such as performance appraisals et cetera, to believe that is always done in a fair and reasonable way is a little bit naive.

The statement of compatibility put forward by the minister with this bill also caused me some concern, in particular the section on clauses 12 and 14, which states:

> I therefore accept that the amendments relating to claims for mental injuries under clause 12 may limit the right to equality, as protected by section 8 of the charter.

The minister accepts that. He goes on to say:

> For the reasons given above, the limitations on section 8 of the charter presented by the differential treatment of mental injury claims under the bill directly address issues which go to the heart of the integrity of the scheme — its financial viability and its role in compensating claims for genuine workplace injuries.

First of all it implies that the heart of the WorkCover scheme is its financial viability. I am not saying that the scheme should not be financially viable, but the heart of the scheme is to compensate workers for injury. If the scheme is unviable, it should not be the case that workers are not compensated. The way to make the scheme financially viable is not to remove compensation from workers. That is not how to do it. In fact if employers are experiencing more workplace injuries, including stress injuries — and we must remember that psychiatric or psychosocial stress-related injuries are a growing source of injury, because that is the growing environment in workplaces and not more physical activity, which is decreasing — then the way to make the scheme financially viable is to increase the premiums on employers who are not performing well under the occupational health and safety regime rather than taking away the rights of workers. The statement of compatibility also states:

> … the bill presents a reasonable and fair option for achieving the three objectives of protecting the scheme's integrity, economic viability, and of protecting employer's autonomy in managing workplace activities and employee relations.

There is no mention of the protection of workers. The statement of compatibility continues:

> … the assessment of psychiatric impairment is based on the worker's self-reports and behavioural observations by clinicians and is highly subjective.

I am not sure I totally agree with that.

> Consequently, the reliability of psychiatric injury assessments presents greater risks to the scheme than physical injuries … and is more susceptible to abuse than physical injuries.

I do not know of any evidence of that, and no evidence is provided in the statement of compatibility. In a little

while I will read out the actual status of claims for psychiatric injury or stress-related injury under the current scheme. The statement also states:

> The burden on the scheme of claims for mental or psychiatric injury has already been noted.

Later in my speech I will also present reasons why that that is not the case. I am concerned that the statement of compatibility produced by the minister claims that restricting the rights of workers to make stress-related claims is necessary because allowing them to do so would threaten the viability of the scheme when the real reasons seem to be that it would save money.

I return to the survey conducted by the ACTU in 1997. I do not know of any more comprehensive survey of the Australian workforce and their attitudes to stress and behaviour regarding stress. In that survey over one in four, which was 26.5 per cent of the survey respondents, reported that they had taken leave for stress. Of those, 74 per cent had used sick leave, 18 per cent had used recreational leave, 4 per cent had taken other leave — that is, flexi leave, leave without pay or long service leave — and only 4 per cent had claimed workers compensation. So 96 per cent of workers who say they are suffering from a stress injury at work actually claim compensation for it. With the passing of this bill that figure will definitely decrease. That will be at the expense of those workers, and it will be discriminatory against those workers.

The minister, as I mentioned, said in his statement of compatibility that the reason for excluding workers from being able to claim for stress was that it was a financial burden on the scheme and it was necessary to maintain the scheme's viability. If you look at information put out by WorkSafe under the heading *Stress Eligibility Project — Reporting on Outcomes to Date* dated 21 November 2008 you will see there are a number of tables. One table is headed 'Scheme stress claim time loss lodgements 1998 to 2008 — lodgements reduced in 2005 and remain steady'. Another table is headed 'Government segment stress time loss claim lodgements 1998 to 2008 — stable levels since 2003'.

On the same page it states that stress claims initially rejected have been steady since 2003. A further table headed in part 'Stress claims initially accepted' states that the proportion of claims accepted has not declined since the project started in 2005 — but it has not risen either. The stress claims initially accepted have been around 60 per cent since the commencement of the project, so they have also remained steady. The percentage of sustained rejections of government stress claims reflects an improved maintenance of rejections under the project. WorkSafe's own data indicates there has not been a rise in stress claims.

More information provided by WorkSafe shows that the total cost on a yearly basis to the WorkCover authority for stress claims for the last three years from 2006–07 has remained reasonably steady in comparison to other injuries. For example, in the last year, 2008–09, the total cost on a yearly basis to the authority for stress claims was $130 690 000. The benefits in weekly payments to recipients with stress-related injury in 2008–09 were $75 981 000, and benefits paid for physical injury were $406 570 000, which is many times as much as the earlier figures.

Benefits, including legal costs, for stress claims in common law were around $17.7 million, but $402 million was paid for physical injuries. Impairment benefits paid in 2008–09 were $2.5 million for stress and $85 million for physical injuries. Death benefits paid in 2008–09 for stress were $142 000, and for physical injuries it was $19.3 million.

WorkSafe's own figures show that costs to WorkCover for stress-related claims are not high in comparison to other injuries. For the minister to use that as a rationale for excluding workers from being able to claim for stress is very concerning and unwarranted. I have grave concerns about that part of the bill.

I also have concerns about other provisions of the bill that propose to make changes to section 114 of the Accident Compensation Act relating to cessation of the benefits of a worker if a worker resigns, is terminated from their employment or moves out of Victoria. That is not the current situation, and there does not seem to be any rationale at all for those particular provisions.

I am very concerned that proposed new section 195 inserted by clause 129 of the bill will water down the return-to-work obligations of employers. Under the current act an employer is obliged to prepare a return-to-work plan and find work suitable for the worker unless it would cause unjustifiable hardship. This has been amended in the bill by adding the wording 'to the extent that it is reasonable to do so', which severely waters down that provision.

It is interesting that Mr Rich-Phillips in his contribution complained about the return-to-work rates in Victoria, which I agree are lower than in other states, but this bill will only make that worse. It is my contention that employers, under occupational health and safety regulations, have a duty to provide a safe workplace, and if a worker is injured whilst in their employment,

then it is the obligation of the employer to facilitate a return to work.

I am concerned about the new provisions in the bill which introduce a sliding scale of reduction in compensation for injured workers who have committed a drink-driving or drug-driving offence. Certainly that is at odds with the no-fault principle of workers compensation, and it forms a relationship between whether the person has had a drink-driving or drug offence and their workplace injury which may not actually exist. It also has the effect of punishing a worker twice, because if the person has committed a drink-driving or drug-driving offence, they will be dealt with under the Road Safety Act, and that should not affect their ability to be compensated and rehabilitated under the WorkCover scheme.

The other main concern I have with the bill relates to clause 79, which changes the way conciliation officers are to be appointed. They are meant to be independent. Currently the situation is that the Governor in Council makes the appointments and the minister can take advice from a range of sources; this will change to a situation where a recommendation will come from the senior conciliator. From my point of view that puts conciliators into a subordinate or dependent relationship with the senior conciliator and not an independent relationship, which is what they should have.

I have prepared a number of amendments which I would like to have circulated.

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

Ms PENNICUIK — I will go through the amendments in detail when the house is in committee, but briefly they will serve to delete the clauses in the bill which extend the definition of 'management action' to preclude workers from being able to claim for a stress injury. They will also delete the clauses regarding alcohol and drug-driving offences. With the deletion of those clauses the situation will default to the existing provision in the act. The amendments will delete clause 45, under which workers will lose benefits if they leave their job, are terminated or leave Victoria. They will also delete clause 79, which gives the minister the power to appoint conciliators on the advice of the senior conciliator. The amendments will replace the words 'unless to do so would cause unjustifiable hardship to the employer' in the return-to-work provisions in proposed sections 194, 195 and 196 of the principal act inserted by clause 129 of the bill to make it compulsory for an employer to consult with a worker, or the worker's representative if he or she is unable to do so because of their incapacity, on their return to work. It should be mandatory for an employer to consult with a worker or his or her representative on their return to work.

Even where the bill improves some benefits or access to benefits from 26 weeks to 52 weeks I propose that in all of the relevant provisions waiting periods be substituted with the words 'for the duration of weekly payments' because I do not understand why people have to serve out a waiting period before receiving compensation payments or benefits. Payments should begin from the time their weekly payments begin. It is no fault of the worker that they have been injured, and I do not know why they need to be more disadvantaged by having to wait 52 weeks for benefits. The upshot of that is that the vast majority of injured workers will not have access to benefits because only a small number of them are unfortunate enough to be so injured that they will still be receiving weekly benefits after 52 weeks or longer. My other amendment will reinstate section 159 of the principal act, which talks about rehabilitation plans and which the bill removes from the act.

This is a complicated bill, and a lot more could be said about it. I think I have outlined the main concerns, and there will be time to go over them in a little more detail in committee when I move the amendments. While I have spent some time on the concerns, particularly on the issue with regard to stress injury, the bill makes some increases to benefits and some improvements which I welcome and which I know are welcomed by others in the community. The bill is a mixed bag, and I look forward to the committee stage.

Ms PULFORD (Western Victoria) — It seems fitting that on the evening Mr Murphy has joined us in this place — and he talked about how he hopes always to represent the best interests of working people — he should be replacing Mr Theophanous, who I believe holds the record for the longest contribution in this place.

Mrs Peulich — Twenty-seven hours.

Ms PULFORD — Thank you, Mrs Peulich — 27 hours on workers compensation. In his parting remarks in our last sitting week Mr Theophanous referred to the role he played in this place in debating workers compensation arrangements over many years. As timing and chance would have it, it is absolutely fitting that we are debating the Accident Compensation Amendment Bill this evening.

Other members no doubt reflected for a moment on their first speeches as they watched Mr Murphy earlier, and I was reminded that in my first comments in this place I talked about the differences between the Labor Party and the Liberal Party in respect of workers compensation. For 8 of the 12 years that I was an official of the National Union of Workers the main part of my work was to assist people who had had the great misfortune to be injured at work, and so like Mr Theophanous — and I would not be surprised to learn, like Mr Murphy — these are matters of great interest and great importance to me. I have spent too many hours in the company of people who have been profoundly affected and whose lives have been turned upside down by a workplace injury not to have quite an interest in these issues for all time.

During that period the Kennett government abolished common-law rights for injured workers, and what a lightning rod that turned out to be. There were many other components of that package of reforms, and Ms Pennicuik referred earlier to the great many changes that have been made to workers compensation in the not-too-distant past.

The symbolic act of abolishing common-law rights caused great problems in people's minds about what is right and what is wrong. There were a great many injustices also served up in that package of reforms, including massive reductions to weekly benefits, a definition of pre-injury average weekly earnings that did not bear much relationship to what people had been paid before their injury and lump sum compensation for permanent impairment. A great disservice was done to a great number of workers, with thresholds set too high for many people to achieve, often in spite of having an injury which meant they could never return to their pre-injury occupation.

When I would speak to an injured worker over the phone or at the tearoom at their workplace, the first question I would need to ask to be able to answer any of their concerns or queries was, 'What was your date of injury?'. We had so many parallel arrangements occurring simultaneously that you could not tell a person what it was they would be entitled to without first unlocking that puzzle.

The difficulty in explaining to someone why the law provided something that was so completely at odds with their sense of right and wrong, their sense of what was just and fair is one of the things that I believe led me to this place. There are a great many things that as a union official you can achieve for working people. There are a great many things as a community activist you can achieve for a community. There are a great many ways in which people can affect political outcomes, but in all of the conversations I had with people who had a clear-cut case of having been injured in circumstances where the employer had failed to provide a safe workplace, the outcome that seemed right and fair could not be achieved because the legislation said that it had to be otherwise.

It became very clear to me that there is a limit to what can be done to help people outside of this place. I am incredibly proud to be here today to speak on a bill that will deliver $90 million per year in improved benefits for injured workers.

Mr Rich-Phillips and Ms Pennicuik have raised questions about why the government has settled on this figure and how it settled on a particular percentage of pre-injury average weekly earnings for a particular period of time and at a particular point in the course of injury. There have been comments about the viability of the scheme. Ms Pennicuik in particular expressed her concern about that being a little overemphasised. A scheme that is not viable and robust cannot provide an extra $90 million per year in benefits to injured workers.

I could tell thousands of stories about the eight years when I assisted injured workers. However, whenever we debate these types of issues there are a handful of people whose stories are so fresh in my memory it is as though I had spoken to them yesterday.

One story that comes to mind is that of a father of a young family in his late 30s who had profoundly damaged his back when he had been pushing one of those enormous charity bins, where we all put our jeans after a spring clean. His English was not so flash — he had not been in Australia for so long. His wife was raising their two young children at home.

The impact the injury had on this gentleman, who was caught in a common-law black hole, was profound. The effect that it had on his sense of his role in his family as the breadwinner was profound. It troubles me to this day. His income was radically affected. He was entitled to weekly payments but his income was radically affected because a great proportion of his wage consisted of shift penalties and regular overtime.

Another story is that of a poultry processing worker. She was not confident about whether she would retain her job if she were to complain about the twinge in her shoulder. She kept it to herself and kept working; her work was very repetitive. She relied a little more on the other shoulder and ultimately wound up with both of her arms so broken down that she could not return to

her pre-injury employment or in fact any employment at all.

There was a woman who worked in the office of a warehouse and another person who performed a similar job at the warehouse who was made redundant. The employer expected the officer worker to perform the work of two people — a completely unreasonable expectation of the employer about what one person is capable of. Everyone works hard when they go to work but no-one can perform the work of two busy people. That woman acquired a stress injury. The impact of that injury on her caused her and her family a great deal of difficulty; however, happily she was able to return to work. The underlying issue was resolved. That was a happier ending for her, but she had an injury that she had to manage over many years.

I have thousands of stories like those. I think members would all be in furious agreement that, if possible, we would prevent every workplace injury. We need to always strive for the best possible workplace safety. While we talk about compensation and common-law damages for those people who are most profoundly impacted by a permanent or long-term work injury that denies them the capacity to earn what they used to earn, there are many people for whom the resolution of their injury involves a couple of trips to the physiotherapist and one prescription of anti-inflammatories, after which they are back to work, but even these people must make a massive adjustment in their lives.

We talk about compensation, the big amounts in settlements for a significant loss and the $100 or $200 claims for medical expenses plus a couple of weeks off work. For all those people, the best compensation scheme in the world does not put their lives back to where they were before the injury. Even all the people who make a good recovery, who have a successful return to work and a good experience of the system, would, I am sure, be in furious agreement that they would be much better off without their injuries.

So many of the injuries that can be prevented are not actually prevented. Through WorkSafe the government does a great deal of work in promoting safe work practices and a cooperative return-to-work relationship; it encourages people to speak up for their rights at work, if they are ever at risk. I am sure that you, Acting President, will recall from your time as a union organiser before coming to this place that it would be common that what would prompt a phone call from someone at a non-union workplace to join the union or get some advice about rights would be a near miss, a risk to someone's safety. It would be more common that that would motivate such a call than would a new employment contract or a less than ideal wage offer on the table.

The types of people who are at risk will be of no surprise to members. They are young workers, people who do not speak English as their first language and have limited capacity to communicate with their workmates and, of course, people in vulnerable employment such as casual workers and others for whom it is a little harder to have the confidence to speak up.

In all those years of representing injured workers I had a lot of arguments with WorkCover agents about entitlements and whether claims ought to be accepted. There were robust discussions with employers about the best way to organise a return to work. There were a whole lot of things that niggled. In the context where the Kennett government had abolished common-law rights, there were still a whole lot of other things that really niggled. People who had perhaps been unable to work for a year would call and say, 'I have had a look at my pay slip. I am not getting my superannuation. That is not fair. It is not my fault that I got injured'.

There were instances — happily they were incredibly rare in my experience, but there was one from time to time over the years when I worked in this area — of workplace fatalities. I recall the case of a young man with no dependants who was killed at work. The young man still had to be buried; his family still had to provide a suitable or appropriate burial for that gentleman who just ought not to have died at work. The definition of 'dependants' in the context of the need to be able to assist people to bury a loved one in circumstances of a tragedy such as a workplace death was another one of those things that used to niggle me and others.

I knew of the frustration in somebody being injured at work, after having worked there for 20 or 30 years. They had been injured quite late in their working life with the organisation and then suffered further bad luck — insult upon injury, as it were — with their position being made redundant. They were faced with the situation where their colleagues would get their redundancy payments and their accrued annual leave and long service leave. While the injured worker would also get those payments, their weekly payments would be suspended for the number of weeks equivalent to those payments. That, too, used to niggle.

Another thing was what happened to labour-hire workers, who in so many cases were doing the work that nobody else would do and that sometimes was less than safe work. For the labour-hire workers it was near enough to impossible to get back to work, because the

host employer at the place where the unsafe work had been done and the injury had been sustained had an arrangement with the labour-hire company. They did not want those people to come back. They were contracting out the risk and their compensation obligations. Over the years I have spoken to many people who were caught up in that.

In the legislation some remedies are being proposed for some of those real injustices that had a profound impact on particularly long-term injured workers. The bill is the government's action in response to the Hanks review. Previous speakers have spoken of the work of Peter Hanks, QC, and the considerable work undertaken also by members of the stakeholder reference group, often on a monthly basis, over a long time. That includes the 100-odd submissions, the 100 or so hours of face-to-face consultations and the 150 recommendations made to government.

I understand the stakeholder reference group members are still involved in providing input into the return-to-work compliance framework. The stakeholders are employer groups, and unions and other players in this area. The bill seeks to strike the right balance between fair compensation, encouraging a return to work and rehabilitation, and ensuring that our premiums are at a manageable level for Victorian employers, as well as ensuring that it complements the health and safety regime we have in Victoria that is the envy of the world. The bill ranges widely in its scope. Outworkers are again deemed workers. They are one of the most vulnerable groups in the workforce. Local councillors are provided with workers compensation coverage. By contrast, time frames are addressed for medical and like compensation claims only. They are often minor in nature when compared to claims for weekly payments.

The $90 million package of improved benefits includes $20 million for superannuation benefits, $20 million for weekly payments, $11 million to extend from 26 weeks to 52 weeks the period for which pre-injury average weekly earnings apply, $12 million for an increased lump sum benefit for the dependants of deceased workers and $5 million for the increase to the maximum payment rate for average weekly earnings.

As previous speakers have indicated, the bill has many clauses. It is a complex piece of legislation, but it is important because it covers a great range of different types of statutory benefits. Some of the highlights include a modernisation of the claims process. On many occasions I have assisted workers to complete a complex and lengthy form. It was to be completed in triplicate; it opened up to three pages. The bottom page, which was the one the worker kept, would be barely legible by the time the triplicate had done its job. The claims process, or at least that front end of it, is moving into the 21st century. Claims will be able to be lodged by fax and email, making it easier for people to get their claim process started.

The bill provides for a court to be able to order reimbursement for the expenses of family members of a deceased worker of up to $30 000 per family in the event of financial hardship. The maximum amount of lump sum benefits that can be paid to workers with a permanent impairment will be increased to 25 per cent. Having assisted many workers in warehouses, I have seen more than a few people with a bad back injury. I am particularly pleased that the bill improves lump sum benefits by 10 per cent for workers with spinal injuries.

The bill removes a differentiation that existed between lump sum benefits for physical injuries and psychiatric injuries which addresses the important question of equity. A superannuation benefit for long-term injured workers is a real highlight of this legislation. Ms Pennicuik said she would like this to kick in from day 1. I am sure every injured worker would love to have their superannuation maintained at the full rate for the duration of their injury and for there to be no interruption.

The people who have undertaken the Hanks review and the consideration of all those recommendations that have been discussed within government have determined that in making Victoria the first jurisdiction in Australia to provide superannuation for long-term injured workers, people who receive weekly payments after 52 weeks will be able to receive superannuation benefits at the superannuation guarantee rate of 9 per cent. This is a fantastic benefit.

Some members have mentioned International Women's Day, which we are celebrating this week. Frequently the differences in superannuation outcomes at the end of a working life are very different for women, because they more commonly experience a break in earnings and employment to undertake family responsibilities and care for young children. Likewise long-term injured workers experience that disadvantage in their retirement. I am just delighted that this is something the government has been able to address, at least in part, in this legislation.

The bill increases weekly payments from 75 to 80 per cent in the second period. Again this is an improvement on the 60 or 70 per cent that I used to advise injured workers they were entitled to, depending on their circumstances. Many people need their compensation scheme to provide them with income support that will

enable them to put food on the table, keep a roof over their head and pay the bills. For so many injured workers, passing this legislation will be the most important thing we can do. The questions about justice and about compensation for a permanent loss are very important, but income support has a profound impact on people from very early on, at the point when they are injured. The maximum amount of weekly payments that can be made is to be significantly increased. The bill proposes a significant increase to $1753, which is double average weekly earnings.

The bill also importantly provides a mechanism for the WorkCover scheme to provide weekly payments to a person who has been injured and who has perhaps been off work, gone back to work doing a lighter version of their old job or even gone back to their old job, which enables them then to have weekly payments for a period where they are not at work because of surgery.

It was always an incredibly complicated thing for someone to receive weekly payments when they were clearly jumping between definitions of incapacity — that is, total incapacitation or not total incapacitation. As in so many other areas, this is an injustice that has existed in our workers compensation scheme. It is an impracticality for somebody who clearly has an entitlement to have their surgery paid for to be off for a period to recuperate. It is incredibly important that people get an opportunity to recover properly from surgery, to minimise the risk of aggravating an injury.

The bill clarifies arrangements around the return to work, and it provides a performance-based return-to-work model. But in my experience the thing that matters most in supporting a successful return to work is open communication and a good relationship based on mutual trust and respect; there is no substitute for that. The bill also endorses not only the role of the injured worker but also the roles of the employer, the treating doctor and the occupation rehabilitation providers in supporting the injured worker back into the workplace. WorkSafe will be provided with additional powers to support a return to work. The return-to-work inspectorate will have a greater ability to enforce non-compliance to ensure that people are being supported appropriately in returning to work.

The legislation also introduces new discrimination provisions, which are consistent with those in the Occupational Health And Safety Act. I could probably speak about this for hours, but I am conscious of the time.

The bill also makes some improvements to the Accident Compensation Conciliation Service's function and removes the maximum compensation limitation in the Magistrates Court jurisdiction to enable the Magistrates Court to hear all matters relating to statutory benefits, which will enable a quicker and better resolution of disputes. But in saying that, the fewer disputes there are in the system, the better it is for injured workers and their employers.

As I indicated earlier, the bill will remove the ability for a host employer to engage a labour hire company on the basis of arrangements that include a hold-harmless clause. It will make such clauses unenforceable and in doing so I surely hope will provide labour hire companies with an important stake in workplace safety induction and in having good and clear relationships with host employers to ensure that labour hire workers are not disproportionately represented in workplace injury statistics. A wide-ranging series of measures are dealt with in this legislation.

I will make a couple of comments about the proposed amendments foreshadowed by Mr Rich-Phillips and Ms Pennicuik. Mr Rich-Phillips's amendment proposes to retrospectively apply arrangements for the appointment of conciliation officers. That amendment would be impossible for the government to support. The group of conciliation officers, who do a really important job in ironing out disputes in the system to ensure that people get their compensation in a timely manner and to minimise the extent to which disputes wind up in the court system, have very recently been appointed. For that reason it is not possible for us to support a proposal that would move the goalposts on the appointments that have just been made.

I will comment briefly on some of Ms Pennicuik's amendments. There are a great many of them, as members who have them in their possession will see, and they have consequential renumbering. It was an intimidating number of amendments at first blush, but there are just a number of matters of substance.

One seeks to include the higher rate of pre-injury average weekly earnings after 12 months. Currently pre-injury average weekly earnings are assessed to include the broader definition, including shift penalties and overtime, for workers for a finite period. This seeks to acknowledge and accept that often a great proportion of the income of injured workers comes from other than the base wage.

It is also difficult to assume that overtime and shift penalties will continue for all time. This is an area where the government has had to make a decision balancing the cost and the apportionment of the $90 million a year of improved benefits and balancing

having a fair benefits regime with having the right incentive for a return to work in a manner which the scheme can afford to support.

I am a little puzzled by the approach to seek to remove the provisions that relate to blood alcohol content. These provisions have been recommended through the review of the act and seek to mirror the arrangements that are in place in the Transport Accident Commission sphere. They are different in some respects but are a similar compensation scheme in others.

The current provisions provide for compensation to be not payable in circumstances of serious and wilful misconduct. There is a total removal of rights under that arrangement. This amendment seeks that in some circumstances there be the capacity to reduce compensation payments, in circumstances where drinking and driving has been mixed with work. It is incumbent on all of us to send a very clear message to the community about drinking and driving, and this is no exception.

Amendment 28 relates to the point at which superannuation contributions commence. I have already indicated that this is an additional benefit for long-term injured workers.

Amendment 32 relates to the appointment of senior conciliation officers. Perhaps in the committee stage Ms Pennicuik might be able to elucidate why the advice of the senior conciliation officer is not appropriate; I would be interested to hear a little more on that.

Amendments 42, 43 and 44 deal with the reasonableness test for an employer in a return-to-work situation, which has been modelled on what we believe is a highly successful occupational health and safety test that has delivered good outcomes.

Amendment 45 relates to the role of an employer's representative in a return-to-work situation. It is of the utmost importance that a worker can be assisted through the return-to-work process by someone who is perhaps a little better versed or more experienced in these matters, but to substitute the experience and the very personal circumstances of the injured worker with the expertise of another person provides no service to an injured worker at all. To refer to my earlier examples, only the person with the crook wrist knows how many chickens she can bone in an hour; only the person with the crook back knows just where their threshold is for a reasonable weight without aggravating their injury.

Amendment 46 seeks to reinstate risk-management program arrangements, but these arrangements exist in occupational health and safety legislation, so we believe that doing so would be an unnecessary duplication that would have no specific impact. The government will be opposing the amendments for those reasons.

There are some concerns. We have probably all received a few emails in the last couple of days from people who are concerned about certain matters associated with the bill. Matters have been raised with members through emails, meetings and conversations, particularly by the CPSU (Community and Public Sector Union) Victoria branch. They include the matter relating to blood alcohol content and the proposed new application of notional earnings to a worker who may be unable to return to work for reasons other than their injury — for example, they may have moved out of the state.

For people who are totally and permanently incapacitated the proposed legislation would provide that they continue to get their weekly payments. The notional earnings test would be significantly narrowed — and this idea of notional earnings is one of the special numbers cooked up by the Kennett government — but the proposal is that notional earnings would apply only to somebody who had actually returned to work or had the capacity to return to work but had not done so because of circumstances unrelated to the injury.

There has been discussion in the newspapers, and in the last few days we have been inundated with emails that relate to the proposed changes to compensation for people who have experienced a psychiatric injury in their workplace. It is suggested in a media release from the CPSU that there will be a $90 million increase in benefits proposed by this legislation, and the suggestion is for a $130 million cut by narrowing eligibility. I can only assume this relates to the overall annual cost of the scheme of psychiatric injuries incurred in people's workplaces. I think that is misleading at best, and I would like to — —

Mr Dalla-Riva — Keep going. Thirty seconds!

Ms PULFORD — I am not going to try to do this in 30 seconds.

The government firmly believes any worker who is subject to bullying, harassment, victimisation, excessive monitoring or unreasonable management behaviour that results in a psychiatric injury ought to be, currently is and will be under the proposed changes entitled to compensation.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING PRESIDENT (**Mr Leane**) — Order! The question is:

That the house do now adjourn.

Caulfield Racecourse: public access

Mr KAVANAGH (Western Victoria) — My adjournment matter is for the Minister for Environment and Climate Change, Gavin Jennings, and relates to public access to the Caulfield Racecourse. The minister recently promised to improve public access to the centre of the Caulfield Racecourse and to develop the centre as a public park — that is, the land that is surrounded by the racing track.

I ask the minister to expeditiously, firstly, fulfil his promise to develop a park in the whole of the central area of the racecourse; secondly, act to improve access and infrastructure and opening times for that public space; thirdly, to publicly campaign to let the public know that the land is public land and accessible by them; and fourthly, to act to alter the fence along Queens Avenue so that the public can see the property that belongs to them in the hope that they will access it more frequently.

Police: Bendigo

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Police and Emergency Services. It is a matter that not only concerns me but is also an issue that the Liberal candidate for Bendigo East, Michael Langdon, has asked me to raise on his behalf. It regards police resources in Bendigo.

My request and the request of Michael Langdon is for the minister to finally accept responsibility for his portfolio and ensure that additional police officers are stationed in Bendigo to improve community safety and reduce crime in the city. The minister last week announced that a new operations response unit would target metropolitan and regional trouble spots, including Bendigo. Unfortunately these officers will not be stationed in Bendigo permanently, but the fact that Bendigo is to be one of the first regional cities to be targeted by the operations response unit is an admission that the police in Bendigo are underresourced and are in urgent need of additional resources.

Mr Langdon is particularly concerned about the lack of interest that the member for Bendigo East, Jacinta Allan, now the Minister for Regional and Rural Development, has shown towards police resources, given that in Parliament on 15 October 2002 she identified crime prevention as an important issue affecting Bendigo. Unfortunately that was the first and last time Ms Allan has raised the issue of Bendigo police resources.

Of particular concern to Ms Allan in 2002 were police numbers in Bendigo and how important they were to crime prevention and reducing the rate of crime in the city. The Labor member has stopped caring and has not raised the issue again. In 2010, almost eight years after Ms Allan raised police resources in Bendigo as an issue, crime prevention and community safety remain serious issues that the Brumby government has not addressed in Bendigo.

Bendigo police are doing their best with limited resources; however, from 2001 until 2009 in the city of Greater Bendigo the incidence of rape increased by a massive 300 per cent, sexual assaults increased by almost 56 per cent and assaults increased by almost 70 per cent. The Police Association is constantly talking about police resources in Bendigo. The association's Save Our Streets campaign has found the city of Greater Bendigo is 81 police officers short. Police patrols in the Bendigo area have not increased since the mid-1980s when the region's population was about 73 000. Back then there were two police divisional vans on Bendigo's streets. The number of divisional vans has remained at just two despite the city's population booming to 100 000. Under the Brumby government, Victoria has the lowest number of police per capita of all Australian states and territories.

The minister cannot wipe his hands of this important issue when the funding allocated to the police budget is a decision of the government, and this government chooses to spend the least amount per capita of all Australian states and territories on police resources. My request, and the request of Michael Langdon, is for the minister to finally accept responsibility for his portfolio and ensure that additional police officers are stationed in Bendigo to improve community safety and reduce crime in the city.

Disability services: respite care

Ms HARTLAND (Western Metropolitan) — My matter tonight is for the Minister for Community Services. Last week I received a phone call from a Footscray resident, Lidia Cammarano. Lidia has a severely intellectually and physically disabled son, Steven. Steven is 31 and he needs total care, routine and a highly predictable environment. Steven lives with Lidia and her husband, Romano, and on weekdays attends a day program in Altona. Accessing respite care

for Steven is a big issue for Lidia. Lidia and Romano have had two holidays in the last 20 years. They were not able to attend a function in Sydney last year when their daughter received a national media award because they could not get care for Steven.

Lidia and Romano have planned a six-week holiday to Italy in September this year. They are both originally from Italy, and Romano is wanting to catch up with his 10 siblings whom he has not seen for 12 years. They planned this trip 18 months ago and well over a year ago put in a request for respite care for Steven for the time they will be away. Steven regularly has short-term respite at the Curlew Centre in Altona, so he knows the staff and the routines there and he settles quite well.

Lidia has been told that the six weeks at Curlew is not possible. He can stay the first two weeks at Curlew and the last two, but in between he will have to go somewhere else where he has never been before. This will be in Sunshine, Taylors Lakes or Ascot Vale. This will be incredibly disruptive to Steven. He will need to travel by taxi to and from his day program for the fortnight, which will be expensive, time consuming and stressful.

People at the Curlew Centre say they are not able to have Steven for the six weeks because they are concerned about maintaining enough capacity for the 107 families for whom they provide respite services. Understandably they want to be able to cope with things such as medical emergencies. I do not want to suggest that the Curlew Centre is being unreasonable. The problem is arising because of a lack of respite care in the system, especially in the west. All Lidia and Romano are asking for is continuity of care that will work for Steven, so they can have their first decent holiday in 10 years. Lidia has not booked her tickets yet as she is too worried about Steven's care. The action I ask of the minister is to ensure that Steven is able to access six weeks of respite care at the Curlew Centre later this year and to increase funding to disability respite services so that such circumstances do not arise in the future for this family and other families in the west.

Western Highway: Ararat and Beaufort bypasses

Mr KOCH (Western Victoria) — The issue I have is for the Minister for Planning, and it relates to the omission of bypass arrangements for Ararat and Beaufort in the proposed VicRoads study that will examine road duplication of the Western Highway. The Western Highway is the main route between Melbourne and Adelaide. This section of the highway represents an important component west of Burrumbeet to Stawell and accommodates tourist vehicles, buses, heavy transports, including B-doubles, as well as local transport needs, yet the highway is plagued by inadequate passing lanes and an undulating dangerous terrain. Despite being known as a driver fatigue section of the road, this vital inter city, high-volume highway has been left to languish as a single-lane corridor for far too long.

VicRoads is in the process of conducting a study to examine the possibility of the future duplication of the Western Highway and the establishment of regional bypasses. It is imperative to towns in western Victoria that this planning stage is undertaken to achieve the best possible outcome for all communities, especially smaller rural townships along this route.

The Western Highway Action Committee is a group of dedicated councillors from all seven municipalities between Ballarat and the South Australian border who are concerned about the lack of planning for town bypasses in the scope of the current study. The exclusion of Ararat and Beaufort from the study will make it difficult for road authorities to plan and gain land acquisitions to ensure land reserves are available for future development. Currently there is uncertainty as to where exactly the highway might bypass these rural townships. Both the Pyrenees and Ararat municipalities have given in-principle support for the highway development, but they need to be able to plan for bypasses around their towns. The future growth of their communities will, in part, depend on getting the best traffic management outcome through highway linkages and future bypasses.

To date the Western Highway Action Committee has been frustrated that no planning provision or capital funding has been allocated to these vital bypass corridors. The committee understands that the success of this important infrastructure depends on including these bypasses as they will offer better road safety and reduce driver fatigue in the future. My request is that the Minister for Planning ensure that adequate funding is available for VicRoads to include road construction planning for Ararat and Beaufort in its proposed study of the Western Highway. This will ensure that construction can be completed at the earliest opportunity, affording a safer interstate travel corridor for all future users of the Western Highway, which is the major road link between Melbourne and Adelaide, and for all those important towns in between.

Melbourne-Lancefield Road: safety

Mrs PETROVICH (Northern Victoria) — My matter on the adjournment tonight is for the Minister for Roads and Ports. I would like to highlight once again the issue of Melbourne-Lancefield Road between Sunbury and Lancefield. This road continues to carry an increasing number of local traffic movements and commuter traffic at peak times throughout the day. There have been a number of fatal and serious accidents on this road. VicRoads's own accident data cites 10 run-off road crashes, 10 rear-end crashes, 2 head-on crashes, 4 cross-traffic-related crashes, 2 car-pedestrian collisions, 1 collision with animal — I do not think that is quite accurate on a country road — 1 passenger falling from a vehicle, 1 U-turn-related crash and 1 crash involving a vehicle leaving a driveway. These statistics relate to the period from January 2004 to December 2008. There have been a number of fatalities, with the most recent being a triple fatality on 20 November 2008.

VicRoads is well aware of the issues around this road but seems unwilling to address the real need for resurfacing, sealing of the shoulders and an overtaking lane, and it continues to trot out statistics instead of addressing the real issues on this dangerous road. The action I seek of the minister is that he conduct an independent traffic analysis of Melbourne-Lancefield Road — —

An honourable member interjected.

Mrs PETROVICH — I know, I am going to need it. I ask that he conduct an independent traffic analysis of Melbourne-Lancefield Road to ensure the validity of VicRoads's figures and ensure that proper processes are being followed and a programmed approach to dangerous roads is being taken to stop the procrastination of VicRoads and save lives in Victoria.

Princes Freeway: safety

Mr O'DONOHUE (Eastern Victoria) — My matter is also for the attention of the Minister for Roads and Ports. On 20 February this year on the Princes Freeway at Berwick there was an horrific head-on collision in which a car collided with a truck after crossing the median. Fortunately no-one died in that accident, but a woman was seriously injured. This accident follows an accident in June last year where in a very similar location two people died after a car crossed the median and ran head-on into a truck.

This section of road between Narre Warren and Beaconsfield is carrying an ever-increasing number of trucks, cars and bikes as the population of that area and the broader area of Gippsland continues to grow. My advice is that this 5-kilometre section of the Princes Freeway between Narre Warren and Beaconsfield is the only stretch of the freeway between Waurn Ponds near Geelong and Nar Nar Goon that does not have some form of barrier along the median strip, stopping cars, trucks or bikes that lose control from crossing into oncoming traffic.

A constituent has written to me about this issue:

> It is frustrating to see the Brumby Labor government regard spending millions on those 'fairy lights' for the West Gate Bridge as a much higher priority than tackling the real dangers on our road, in areas where people have lost lives or been involved in serious accidents, such as on the Princes Freeway at Berwick.

That sums up the situation very clearly. The action I seek therefore is that the minister have his department reduce the risk that currently exists on this section of the freeway between Narre Warren and Beaconsfield and investigate the best treatment that will reduce the risk of head-on collisions on the Princes Freeway.

Buses: Dingley Village

Mrs PEULICH (South Eastern Metropolitan) — I also wish to raise a matter for the Minister for Roads and Ports. I have raised this matter before — that is, the plans of the Brumby government to install dedicated bus lanes through the Dingley Village, reducing the capacity of the road by 50 per cent. It is causing very widespread concern in the community.

This idea was announced in a 9 September 2009 press release by the Minister for Roads and Ports, in conjunction with the members for Mordialloc and Carrum in the Assembly. We found out this was proceeding when it was unearthed by local residents Dawn and Wal Woods, Greg and Linda Jones and Kevin Poulter, who formed the No Bus Lanes for Dingley Village group.

In response to inquiries from Dingley Village residents the member for Mordialloc, Ms Munt, says:

> Dear Mr …
>
> Thank you for your email, and I apologise for my delay in responding. I was also unaware of these works until I was contacted by a number of concerned residents.

This email was sent despite the fact that she had announced it several months beforehand; she pretended not to know.

Out of frustration the local council convened a public meeting, attended by 300 local residents, at 6 o'clock on a Friday night. To pre-empt that, Ms Munt sent a letter to all of Dingley Village, saying again that this was proposed by the Kingston council and advising that it was going to be deferred until 2013, when a section of the Dingley bypass was going to be completed — the section connecting Perry Road and the Dandenong Bypass. Quite clearly in announcing it and in being able to defer it, she is making it crystal clear as to who is in charge.

In the meantime there is this hoax and blame, shifting and pointing of the finger. Of the gathering of 300 people as well as the 1000 respondents to a survey I undertook, 99 per cent were totally opposed to any dedicated bus lanes being installed through their village, which would destroy the amenity of Dingley, which is quite unique.

The No Bus Lanes for Dingley Village group, as well as all of those Dingley Village residents, are now calling on the minister to abandon plans to install dedicated bus lanes — not now, not in 2013, never. It is inappropriate, it is a bad plan and it has been exposed as a sham. If this group and the community had not rallied together, we would have had those dedicated bus lanes, which were in effect in preparation for a bus expressway that would have ruined an entire neighbourhood or suburb. I call on the minister to abandon these plans forthwith, to make sure that alternate routes are found for a bus expressway and to keep this road for local buses and local traffic.

State Library: noise levels

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the attention of the Minister for the Arts. It is to do with the noise levels at the State Library of Victoria, which is an iconic landmark — and I am exceedingly proud of it. Many members in this chamber have heard me speak about it. As Redmond Barry said at its inception in 1864 that the library was 'the people's university'. The library board's annual report of 2008–09 states that he conceived of the library as:

> … a place where the world's knowledge and information would be freely available to all citizens of the growing colony of Victoria regardless of their social status or financial resources.

That was from the.

I was therefore shocked and disappointed to read articles by Dr Leslie Cannold in the *Age* of 23 and 25 February explaining in great detail that the noise levels in the magnificent reading room of the library were totally out of control. I was equally disappointed to learn that significant Victorian writers such as Helen Garner and Arnold Zable were also distressed at the noise levels and in fact are hesitant to use the library anymore. These are two writers the library itself uses in promoting the library and people using its resources.

I totally accept that the library has to move away from the bluestockinged noise police of the past, but it has a responsibility to all citizens, just as Redmond Barry suggested. As a community we have to acknowledge that there are changes in technology and accompanying protocols.

There is a letter to the editor which I think says it all in relation to the library and the noise in the library. Rosenna Hossack of Edithvale wrote:

> What is of concern is the increase in noise we are all exposed to in libraries, theatre, cinema and public transport, where there is a constant presence of music players, mobile phones with associated applications, and loud conversations. There is a decline in public courtesy and a disregard for the peace and comfort of others.
>
> We may talk about a more relaxed social culture than some older people are accustomed to, but this should not come at the expense of the peaceful enjoyment of such places as the State Library.

The action I seek is that as a matter of urgency the minister address the problems highlighted in the *Age* articles of 22, 23 and 25 February regarding the unruly behaviour of some of the library users and to ensure that processes are introduced to ensure that the State Library of Victoria enforces its user rules and conduct.

Harness racing: Stawell facilities

Mr VOGELS (Western Victoria) — I raise a matter for the attention of the Minister for Environment and Climate Change concerning the relocation of the Stawell trotting club to a shared facility with the Stawell Harness Racing Club. This proposal has been on the books for a number of years and would cost approximately $2.6 million. The present site of the Stawell trotting club is no longer ideal for harness racing — the length of the straight and other factors mean that it does not meet modern standards. It is my understanding that Harness Racing Victoria, the Stawell Harness Racing Club, the Northern Grampians Shire Council and the Stawell community are all in favour of the move; however, the Department of Sustainability and Environment (DSE) is concerned about what the impact will be on native flora if a new track is laid at the race club.

I find it amazing that we can duplicate the Western Highway — let me add that the sooner that is done, the better — through the same localities with the same native species and provide two or three lanes for a couple of hundred kilometres and there is no problem with native vegetation, but the Stawell Harness Racing Club and the Stawell racing club cannot put down 1 kilometre of track if it means disturbing native vegetation. I am sure that it will, but if you look at the difference — 200 or 300 kilometres of the Western Highway compared to 1 kilometre of track around the racetrack — it beggars belief that this project cannot go ahead. I am told that DSE is the only organisation that is holding up this new racetrack.

The action I seek from the minister is that he investigate why there is a hold-up in this project. The Stawell Harness Racing Club conducts 12 race meetings per year, which are very important to the local economy, and the failure of DSE to sort out this problem will impact on Stawell when Harness Racing Victoria decides the present track no longer meets its standards.

Melbourne Wholesale Fish Market: future

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Premier. I draw his attention to a situation that has emerged today which casts doubt on whether the Melbourne Wholesale Fish Market will exist beyond 1 January next year. The market has operated for more than half a century, in the main at the present site in Footscray, and has long served as the largest and most influential market for fish in Australia.

The government agency VicTrack is finalising arrangements to take over the market site after its former owner, the City of Melbourne, decided to divest itself of that interest. The fish market was not seen as a core business of the city, and there was a consideration that the site would serve a better purpose if it were devoted to activity allied to the expanding of the port of Melbourne precinct.

Pending completion of the sale to VicTrack on 31 January 2011, the city has presented firms operating at the market with a new lease containing a clause that requires them to vacate the market by next January. Market tenants have been negotiating with a developer to relocate to a new building at Brooklyn, but two of the major wholesalers withdrew on the basis of tenancy costs associated with the new location. Another has withdrawn in recent days, and I understand a meeting of market tenants earlier today concluded there is virtually no prospect of the new development proceeding.

There had been considerable optimism around the proposal — only a couple of weeks ago the fishing industry at Lakes Entrance held a meeting to discuss capital raising to finance the fit-out of the new market sites for the tenants. The City of Melbourne's position is understandable, but the government has hung the fishing industry out to dry, despite the government's involvement in the wholesale fruit and vegetable market project at Epping and the fact that one of its own agencies is buying the existing fish market site.

The Minister for Agriculture, who generally has responsibility for fisheries, last year indicated the government would offer space at Epping for the fish market, although the industry assessed that site as being unsatisfactory. The minister has abrogated the government's responsibility for the fish market, but it has come to a critical point at which government intervention is essential if the market is to continue, and I believe this intervention should be at the highest level.

I therefore ask that the Premier, as head of government, acts to work with the Victorian fishing industry and agents of the wholesale market to assist in resolving the question of the market's future.

Maroondah Hospital: waiting list

Mr D. DAVIS (Southern Metropolitan) — I raise a matter for the attention of the Minister for Health. It concerns the situation of a Melbourne pensioner, Paulina Holmer, a 70-year-old woman who lives in Ringwood and who has been on an appointment list at Maroondah Hospital for the best part of 12 months. She has not yet been able to get to see the orthopaedic surgeon she needs to see to as part of a formal process through which she will be able to go onto the waiting list.

She was referred by her general practitioner — a letter was sent — and X-rays and other examinations were undertaken by the general practitioner, who has sent her into the hospital with the explicit focus on having an orthopaedic surgery appointment that would enable her to proceed to what it appears from the clinicians she has been to see already — some private, including an orthopaedic surgeon — would be a series of steps towards an operation. She needs some assistance with her hip.

Maroondah Hospital has struggled to meet its elective surgery targets for category 2 patients, who are meant to be treated within 90 days, and for category 3 patients, who are required to have surgery within 12 months. The hospital has also struggled to achieve its targets in the emergency department and has failed to meet most

of the key measures over the last five to six years for emergency department outcomes and for accessibility that you would expect.

Further to this, Mrs Holmer is a delightful woman who has had a very difficult life history — she was in a Japanese concentration camp as a young person in what is currently Indonesia, and she suffered terribly there. Indeed her father was killed in that process. She has been in Australia for many decades and has contributed to Australia, but she has not got the treatment from the Maroondah Hospital and the Victorian health-care system that you would expect.

It is for that reason that I raise her case tonight and seek the assistance of the Minister for Health in investigating what has gone wrong at the Maroondah Hospital. Why has a patient like Mrs Holmer not been able to get the orthopaedic appointment she requires to put her on the formal waiting list? She is one of the patients on the waiting list before the waiting list — the list that is not declared by this government — so I seek the assistance of the minister in investigating what has gone wrong in Mrs Holmer's case.

Migrant Resource Centre North West Region: membership

Mr FINN (Western Metropolitan) — I raise a matter for the attention of the Premier in his capacity as the Minister for Multicultural Affairs. The matter concerns the Migrant Resource Centre North West Region (MRCNW), the website of which says:

> … is a not-for-profit, community-based organisation governed by a voluntary committee of management. The organisation was established in 1989 to provide support for refugees and migrants and support those who work with this target group.
>
> Our goal is to assist clients and community groups to improve their ability to access participation in the life of the Australian community while respecting and supporting people to maintain their individual culture and heritage.
>
> MRC North West provides settlement services in the cities of Brimbank, Hume, Moonee Valley, Maribyrnong, Hobsons Bay and the shire of Melton. Our aged and disability services operate across the western region of Melbourne.

I would like to draw the attention of the house, and particularly the attention of the Premier, to a section on the website that refers to membership. The section reads:

> Membership of the MRCNW is open to individuals who support the aims and work of the Migrant Resource Centre North West Region and costs $5 per year.
>
> Each year the members of the MRC elect 11 representatives to the committee of management. The committee of management then governs the organisation on behalf of the members of the Migrant Resource Centre North West Region.
>
> As a member you are not only showing your support for the work of the Migrant Resource Centre North West Region but you are also eligible to stand for election to the committee of management after 12 months of membership and you are eligible to vote in annual elections.

This will probably come as a bit of a surprise to some people, because I am informed that the executive officer of MRCNW, Anthony Abate, a former Brimbank councillor named in the Ombudsman's report on the Brimbank council, has been denying membership to those who do not meet his approval.

MRCNW first came to my attention way back in 1996 when I attended there with the then Minister Assisting the Premier on Multicultural Affairs, Phil Honeywood, to give a bus to the centre. The next time I saw that centre was on television when that bus was full of voters for a Labor preselection. Rumours persist that the MRCNW involves itself in the internal politics and machinations of the ALP, which is not surprising when you consider that the chair is Hakki Suleyman, who is well known to us and the Minister for Planning. MRCNW is indeed the last remaining bastion of the Suleyman empire.

I ask the Premier to hold a full ministerial investigation to ensure that the results of the investigation are made public and to clear, or otherwise, this particular group.

Emergency services: property numbering

Mr DRUM (Northern Victoria) — My adjournment matter is for the attention of the Minister for Police and Emergency Services, and it regards the property numbering system that exists throughout country Victoria. Last week I was visited by a constituent, Rob Chapman, a member of the Redesdale Country Fire Authority (CFA). Rob Chapman is fed up with being unable to find various properties when called on to provide firefighting assistance. He believes that a statewide system needs to be implemented. The system should have identifiable numbering for all properties in Victoria. He believes that once a property is logged it could then also be linked to GPS (global positioning system) coordinates to make sure that all emergency services know the exact location of each property.

Every year lives are lost because ambulances cannot find the houses to which they have been called; fires cannot be put out because the CFA cannot find the houses to which it has been called; police cannot find houses to which they have been called to attend to domestic arguments; and there are a whole range of

emergency services where emergency crews cannot get to the houses to which they have been called simply because they cannot locate those houses.

The concept of having a proper numbering system throughout regional Victoria that would be uniform and would also have the GPS coordinates logged so that the information on the GPS system could be accessed by all emergency services has a lot of merit. The action I seek, as a matter of priority, is for the Minister for Police and Emergency Services to conduct a property numbering audit to ascertain how well properties are currently identified.

While Mr Chapman has his own system of numbering covering a large area and a significant number of properties, any system should be considered. We are all aware of the needless deaths that occur every year because emergency services cannot locate the properties to which they have been called. Proposals for such a system have real merit, and the government could act in a proactive manner to conduct a property numbering audit and ascertain the success levels being achieved by our current system.

Responses

Mr LENDERS (Treasurer) — Adjournment matters were raised by 13 members, and I will refer those matters to the respective ministers. I have written responses to six matters raised previously.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.34 p.m.

Tuesday, 9 March 2010

JOINT SITTING OF PARLIAMENT

Legislative Council vacancy

Honourable members of both houses met in Assembly chamber at 6.17 p.m.

The Clerk — Before proceeding with the business of this joint sitting it will be necessary to appoint a Chair. I call the Premier.

Mr BRUMBY (Premier) — I move:

> That the Honourable Jenny Lindell, Speaker of the Legislative Assembly, be appointed Chair of this joint sitting.

She is willing to accept the nomination.

Mr BAILLIEU (Leader of the Opposition) — I second the motion.

The Clerk — Are there any further proposals?

There being no other proposal, the Honourable Jenny Lindell, Speaker of the Legislative Assembly, will take the chair.

The CHAIR — Order! I draw the attention of honourable members to the extracts from the Constitution Act 1975 which have been circulated. It will be noted that the various provisions require that the joint sitting be conducted in accordance with rules adopted for the purpose by members present at the sitting. The first procedure, therefore, will be the adoption of rules.

Mr BRUMBY (Premier) — I desire to submit the rules of procedure which are in the hands of honourable members, and I accordingly move:

> That these rules be the rules of procedure for this joint sitting.

Mr BAILLIEU (Leader of the Opposition) — I second the motion.

Motion agreed to.

The CHAIR — Order! The rules having been adopted, I now invite proposals from members for a person to occupy the vacant seat in the Legislative Council.

Mr BRUMBY (Premier) — I propose:

> That Mr Nathan Murphy be chosen to occupy the vacant seat in the Legislative Council.

He is willing to accept the appointment, if chosen. In order to satisfy the joint sitting as to the requirements of section 27(4) of the Constitution Act 1975, I also advise that Mr Murphy is the selection of the Australian Labor Party, the party previously represented in the Legislative Council by Mr Theophanous.

Mr BAILLIEU (Leader of the Opposition) — Whilst I have not met Mr Murphy, I do look forward to meeting him, as I am sure do other members of this house who do not know him. However, the forms of the house suggest that I should second the proposal, and therefore I do.

The CHAIR — Order! Are there any further proposals?

As there are no further nominations, I declare that nominations are closed.

Motion agreed to.

The CHAIR — Order! I declare that Mr Nathan Murphy has been chosen to occupy the vacant seat in the Legislative Council. I will advise the Governor accordingly.

I now declare the joint sitting closed.

Proceedings terminated 6.21 p.m.