

REVISED CORRECTED TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into 2004–05 budget estimates

Melbourne – 16 June 2004

Members

Mr W. R. Baxter
Ms C. M. Campbell
Mr R. W. Clark
Mr L. A. Donnellan
Mr B. Forwood

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Mr G. K. Rich-Phillips
Ms G. D. Romanes

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Deputy Chair: Mr B. Forwood

Staff

Executive Officer: Ms M. Cornwell

Witnesses

Mr R. Hulls, Attorney-General;
Ms P. Armytage, secretary; and
Ms E. Eldridge, executive director, legal and equity, Department of Justice.

The CHAIR — I welcome our new witnesses, Ms Penny Armytage, Secretary of the Department of Justice, and Ms Elizabeth Eldridge, executive director, legal and equity, in the Department of Justice. An hour and a quarter has been allocated to this section of your portfolios, Minister, so we would appreciate it if you would again keep to time with your overhead presentation, and we will conclude at 12.45 p.m.

Overheads shown.

Mr HULLS — We will run through the slides. The first slide shows the graph for the Department of Justice budget of \$2.41 billion. My portfolio makes up about 20 per cent of that — \$478.9 million. The next slide sets out achievements. The justice statement — a groundbreaking document, I believe — brings together many different strands of the portfolio in a coherent strategy for long-term change. It is based around two key themes: modernising justice, and protecting rights and addressing disadvantage. There are 25 major initiatives to be implemented over the next 5 to 10 years.

The Aboriginal justice agreement is all about a working partnership with the Koori community through the Aboriginal Justice Forum; the regional Aboriginal justice advisory committee; and the Koori court pilot program, which was launched in Warrnambool in 2003 following successful pilots in Shepparton and Broadmeadows. The Victims Support Agency has been set up and was launched on 20 May 2004 providing a more integrated response to victims. Recent legislative amendments have been made to the Victims of Crime Assistance Act to empower registrars of the Victims of Crime Assistance Tribunal (VOCAT) to approve interim awards for immediate counselling and other assistance up to \$1000, so victims no longer have to wait for counselling.

Native title: there were two significant achievements in native title claims last year — the Yorta Yorta agreement, which commences operation on 1 July, and the Wotjobaluk in-principle agreement. We are very thrilled about both of those. Capital works currently under way include new courts being built in Warrnambool and Mildura.

Judicial appointments: 52 per cent of the total number of magistrates this government has appointed have been women. Overall in all jurisdictions, 45 per cent of appointments made by this government have been women, and, as you know, we now have the first ever female chief justice in this state.

Mr FORWOOD — A bit late.

Mr HULLS — I do not remember the former Kennett government ever appointing a woman chief justice.

Mr FORWOOD — At least we appointed them on time and did not have to change the legislation in order to do it.

Mr HULLS — And I thank you for supporting it. You can see there are a huge number of legislative achievements. Again, a quiet revolution is taking place in the Attorney-General's portfolio, as you can see by the amount of legislation that has been brought forward, including the Wrongs (Remarriage Discount) Act, which was a very interesting piece of legislation.

Budget initiatives: as you can see, we have initiatives under the Aboriginal justice agreement, and they really speak for themselves — the Koori night patrol, youth programs and the like. Some \$12.7 million was allocated over four years by the department as a result of the success of initiatives to come out of the Aboriginal justice agreement so far.

Slide 10 deals with further funding for the court referral for evaluation for drug intervention treatment (CREDIT) program. Some \$2.99 million per annum was allocated over four years for the continuation of this very important program. This program provides assistance for drug-dependent offenders at an early stage in their interaction with the justice system by providing drug treatment as a condition of bail. It is currently available in 13 Magistrates Courts — metropolitan and regional. Evaluation of the program has indicated that 80 per cent of offenders successfully complete their drug treatment plans and that there are much lower recidivism rates as well.

In relation to future initiatives, the justice statement has given the department and myself the opportunity to look towards the future and fashion a vision for the portfolio. The foundation of this vision is embodied in the justice statement. It flags 25 major initiatives, including such things as reform of criminal justice legislation; improving coordination between jurisdictions; providing new approaches to civil disputes; a Gateways to Justice project, which will examine the needs of disadvantaged groups and how information, advice and assistance can be better

provided to them and their advisers; human rights — and in relation to this one, the justice statement will also establish a process of discussion on how human rights and obligations can best be promoted and protected in this state; and problem-solving courts.

Some Aboriginal justice initiatives include the expansion of the Koori court to Mildura and Gippsland and also to the Children's Court jurisdiction as well. I should add there that although the formal evaluation of the Koori court is under way, statistics so far have been very promising in terms of rates of recidivism. The family violence division of the Magistrate's Court — I recently announced that the family violence division will be trialled at Heidelberg and Ballarat. This will be a specialist court providing improved response to women and children who experience family violence. An amount of \$5.2 million was allocated over four years for these courts.

Legal profession reforms will continue. I announced a proposal in 2003 for regulating the legal profession, which is in line with the recommendations of the Sallman Wright review. They are being implemented, and we hope to have legislation in the spring session of Parliament.

It is anticipated that the Sentencing Advisory Council will commence operation on 1 July. We are in the final throes of appointing people to that council. It is a unique opportunity for informed community views to be incorporated into the sentencing process on a permanent and formal basis. When you look at these slides — as you will tonight when you take them home — you will see that there are a number of very important initiatives in place that are being developed over the next 12 months. They are part of a strategically focused work program for the portfolio that will deliver long-term and fundamental change within the community.

The CHAIR — Thank you, Minister. The first question relates to asset confiscation. DoJ's output relating to court orders on budget paper 3, page 171 refers specifically to asset confiscation order processing. Would you explain to us a little more on that, particularly in relation to output figures?

Mr HULLS — We already have some of the strongest asset confiscation laws in the country, with reverse onus provisions requiring a person to prove that their property was lawfully acquired to avoid automatic forfeiture. Basically the current Victorian provisions require a crook to 'prove it or lose it', in effect. As we all know there are different approaches to asset confiscation throughout Australian jurisdictions, ranging from conviction-based forfeiture to civil forfeiture. Under civil forfeiture a person's property can actually be confiscated where the court is satisfied, on the balance of probabilities, that the person committed an offence without that person having to be convicted. This can happen even where that person has not been found guilty of any offence on the criminal standard of proof.

We did act last year to introduce significant reforms to the Confiscation Act to strengthen the conviction-based forfeiture regime, and these reforms included increasing the scope of automatic forfeiture, giving police greater powers to gather information about suspects' bank accounts and also the ability to freeze withdrawals from these accounts. We now plan to introduce significant changes to Victoria's civil asset forfeiture regime. Currently applications can be made to seize assets under the civil confiscation regime where a person has actually been charged with an offence but not convicted. We are going to radically change that system to allow police to seize the assets of suspected criminals even without a charge having to be laid. We believe that this will be a massive disincentive to crooks who think they have got away with their ill-gotten gains. These changes will be introduced after consultation with the Victoria Police. There has already been consultation with them. They will be based on the New South Wales civil forfeiture scheme. We will continue to work with agencies to ensure we have tough and extensive confiscation laws.

I know that some people have described these laws as draconian, and I know that, even though the opposition supported the legislation we introduced in 2003, it described those laws in some speeches as draconian. I am sure most of us sitting here have some sense of civil libertarianism in us and we understand that a person is entitled to be deemed to be innocent until proven guilty by a court. Nonetheless, we are living in troubled times and we have to ensure that our legislation meets the issues that arise at a particular time. Yes, this is tough legislation, but we believe it is appropriate. We cannot continue to allow people who have profited from ill-gotten gains to snub their noses at authorities.

The CHAIR — Could you provide the committee with information, if you do not already have it with you, on asset confiscation to date?

Mr HULLS — I will.

Mr CLARK — I refer you to an answer you gave to a question from the member for Pascoe Vale in the Legislative Assembly on 3 June inquiring about the powers afforded to the Ombudsman. You said that the powers that had been given to the Ombudsman meant that the Ombudsman would have all the powers of an integrity commissioner seen elsewhere. I also refer you to the report of the previous Ombudsman on the complaint about use of information from the police LEAP database and to the Ombudsman's finding that he had no jurisdiction to investigate the actions of the Minister for Police in relation to that complaint. Is it correct that, even under the new powers that have been given to the Ombudsman, the Ombudsman has no jurisdiction to investigate the actions of other parties that might have been involved with police corruption or malfeasance such as ministers or those involved with organised crime? If that is correct, does the government intend to change that either by extending further the powers of the Ombudsman or by establishing a freestanding integrity commission?

Mr HULLS — I do not know if you have read the Ombudsman's report, but this is a very important issue, because in my view people have either to support the Ombudsman and the integrity of the Ombudsman or they do not.

Mr CLARK — It does not go to the integrity of the Ombudsman; it goes to the Ombudsman's powers.

Mr HULLS — No, this goes to the integrity of the Ombudsman, because in his report, *Ceja Taskforce — Drug-related Corruption*, the Ombudsman himself makes it quite clear that he now has extensive powers, the powers of a standing royal commission. He has coercive powers, and he makes it quite clear that when combined with the powers that are being given to the police this is the appropriate way to tackle police corruption and also to tackle so-called underworld killings and organised crime. There have been calls for a standing integrity commission or a royal commission. I notice that your party has made a whole range of different calls on this particular issue. You have not personally, but your leader has; he has gone from supporting the extra powers to the Ombudsman to then calling for some sort of integrity commission to then calling for a royal commission and then calling for a caped crusader to investigate these matters.

Mr FORWOOD — Rather than someone in a cardigan!

Mr HULLS — Well, rather than someone in a cardigan, which seems to suggest to me that he is getting his comments out of some sort of comic. The fact is that the government has made a decision, which is that the best way to tackle organised crime and also police corruption is to beef up the powers of the Ombudsman, to give the Ombudsman coercive powers — —

Mr CLARK — Only over police and evidence in relation to police corruption and malfeasance.

Mr HULLS — No, coercive powers in relation to police corruption, and that gives the Ombudsman a very wide brief in relation to police corruption. It also gives him a wide enough brief to appoint special investigators as well, and he has done that in the appointment of Tony Fitzgerald, QC. On top of that, he says in this report — I cannot find exactly where — that he now has substantial powers when you combine those powers with the extra resources that he has, including 100 extra staff to sustain ongoing major investigations, and vigilance over the public sector. He says in his report that with the combined powers that the police commissioner will have this is the best way to tackle these things. Therefore he is right when he says that preoccupation with labels and form is actually missing the point in all this. The debate in my view should not be about what you call something. I can understand your political point — let's call something a crime commission; let's call it a royal commission — but what we should be debating is the powers.

Mr CLARK — Exactly, and that is the question: are the powers adequate?

Mr HULLS — Absolutely the powers are adequate. If you do not believe me, please believe the Ombudsman, because he himself has said the powers are adequate. So in criticising the path down which the government has gone — the dual track system of increased powers for the Ombudsman and increased coercive powers for the police commissioner — you are really criticising both the Ombudsman and the chief commissioner.

Mr CLARK — I am asking what powers has the government granted and whether you believe they are adequate.

Mr HULLS — The answer is yes, they are adequate. Is this going to be a short-term fix? No, these powers will be permanent. This is an issue, as the police commissioner herself has said, that will not be resolved overnight. I think she has said it will get worse before it gets better.

Mr CLARK — So there will be no power to investigate a minister in relation to the LEAP database, for example — to come back to my question.

The CHAIR — It was in relation to new powers and whether they are adequate.

Mr CLARK — That is correct, and for example could the Ombudsman now investigate the minister for police in relation to the police LEAP database issue.

Mr HULLS — The Ombudsman now has substantial powers to investigate any aspect of police corruption.

Mr FORWOOD — I have a very specific supplementary question, and it does not relate to any existing person. Does the Ombudsman have the capacity under the new powers to investigate a minister?

Mr HULLS — I believe the Ombudsman now has powers that are adequate enough to address police corruption.

Mr FORWOOD — That is not my question. My question — —

The CHAIR — Hang on, let him finish!

Mr HULLS — And his investigative powers are such that he himself has said they are now adequate to investigate all aspects of police corruption. If you do not believe that the Ombudsman is correct in his assessment, in my view that is a indictment of your assessment of the Ombudsman. The Ombudsman himself has said that he now has adequate powers to investigate police corruption. They are his words in his report.

The CHAIR — So the supplementary question was answered.

Mr FORWOOD — No, it was not. I asked a specific question.

The CHAIR — You asked was it possible to investigate a minister, and the minister answered that question.

Mr FORWOOD — Yes or no? What is the answer?

The CHAIR — We do not have to tell him to answer yes or no. He is not to be instructed how to answer.

Mr MERLINO — If you do not like the answer, Bill, you cannot just keep asking the same question.

Mr FORWOOD — It is a legitimate question.

The CHAIR — And the answer was given.

Mr FORWOOD — I move dissent from the Chair's ruling.

Mr MERLINO — Do you really?

The CHAIR — No, he does not.

Mr MERLINO — I refer to the department's output statement at page 165 of budget paper 3 in relation to dispensing justice. Those outputs involve supporting the state's judiciary in carrying out its work. Are there any plans to further modernise the judiciary?

Mr HULLS — Yes, there are always further plans to modernise the legal profession and the judiciary. As a government we have been a leader in Australia in appointing appropriately qualified legal practitioners, the best and brightest regardless of gender, to the bench. This policy has enabled us to search beyond male, Anglo-Saxon, private-school educated lawyers, which I have to say has been the preference of some previous governments. As I

mentioned previously, under this government the number of women appointed to the bench has substantially increased, but gender equity is just one way to modernise our courts.

I am currently considering a proposal to introduce short-term judges in the Supreme and County courts to assist the courts in dealing with periods of high demand. The use of short-term or acting judges would provide the flexibility required of a modern and responsive court in addition to creating more flexible working conditions for judicial officers. Short-term or acting judges would be drawn from the ranks of barristers, solicitors and academics and would introduce a level of flexibility in our courts that I believe would benefit our community, the courts and judicial officers. Currently in Victoria we do have a reserve judge system where the government can appoint exclusively from the ranks of retired judges who are aged between 70 and 75 years. Predominantly they are of a particular gender, as you would expect. The current system of reserve judges not only narrows the pool for acting judges but, I believe, inevitably excludes women from undertaking this role.

The United Kingdom has a very successful recorder system, which allows barristers to be appointed as short-term judges. The barristers are appointed on a five-year contract to work between 15 and 30 days per year. I am travelling to the UK later this month, and I will be meeting with the recorders and also with departmental officers to discuss this initiative and how it works in the United Kingdom. My department has been preparing a discussion paper on the proposal, which will be distributed to key stakeholders, including heads of jurisdiction, the Victorian bar, the law institute and the like.

I know there will be some, and some sitting at this table, who will have an objection to the notion of short-term or part-time judges — acting judges at least. I have got to say that some of the people I expect will object are those same people who objected to the modernisation of the courts and our legal system. I am happy to hear their views as part of the broader consultation phase. I do understand the doctrine of the separation of powers and the need to ensure that you do not make judicial appointments based on a person's politics, but the recorder system has existed in the UK for many years. If there is a blow-out in a particular list at a court, I will be approached to appoint a particular judge with expertise to clear that list. What I am doing, though, is appointing that person for life. Let us not forget that. Judicial appointments are, in effect, life appointments. I think we need to have the debate as to whether or not that should continue. Should the government be able to appoint somebody with, let us say, expertise in the criminal jurisdiction, who has been at the bar, let us say, for 30 years, who does not want to be a judge permanently but who has the expertise to clear up a backlog, let us say, in the criminal list, and can do so over a six-month period? I think it is flexible and workable, and it is something I am very keen to look at.

Mr RICH-PHILLIPS — On a supplementary, how then do you address the issue of appointing someone at the pleasure of the Attorney-General, thereby being beholden to the particular political orientation of the Attorney-General of the day?

Mr HULLS — Well, I guess it could be argued now that all judicial appointments could be subject to the favour of the Attorney-General.

Mr RICH-PHILLIPS — Because they are life appointments, once they are appointed they are no longer — —

Mr HULLS — Correct. That is the argument we have to have. It is the debate we have to have, because it would be totally inappropriate for any politician to interfere with the independence of the judiciary. Nonetheless, it is important that we look at flexible approaches in relation to our court system generally. The recorder system which enables acting judges to be appointed under contract for a period of time is something, by the way, that happens at the Victorian Civil and Administrative Tribunal. Let us remember that VCAT appointments are, in the main, for five-year terms. It takes it outside the election cycle, certainly, but VCAT appointments are for a set contractual period. I do not know of any accusations that have been made against me in relation to my political favouritism concerning VCAT appointments. There were no accusations made of the former Kennett government in relation to contracts that were given to people at VCAT. I do not see why there should be any problems with seriously having a look at a recorder-type system like that that exists in the UK. I am keen to do it, but obviously there will be consultation.

Mr RICH-PHILLIPS — Would it then be for a much shorter period?

Mr HULLS — That is something we need to discuss. In the UK I think they are five-year appointments. Here we will have a look at the term of appointment. For instance, I have been told that sometimes if there is a

blow-out in a particular list at a court it could take 6, 8 or maybe 12 months to clear. Does that mean that we can appoint somebody for that period, or should it be two years to get them used to the jurisdiction and then to wind down that list as it comes to an end? That is something we need to discuss.

Mr RICH-PHILLIPS — I would like to take you back to the issue of police corruption and the underworld links. The government's response so far has been somewhat piecemeal. There has been a series of announcements of varying sorts over the last couple of months. Can you tell the committee if there are going to be any further announcements of further powers or resourcing for the Ombudsman or, more generally, are there going to be other resources and other powers put into government, either the Director of Public Prosecutions or elsewhere, to address this issue? Or is what you have announced to date the final level of resourcing powers?

Mr HULLS — I think it is a good question. It is important that these issues be tackled on a whole range of fronts. Again let us not get held up on what you call certain bodies. Yes, it is true that extra powers — substantial and coercive powers — have been given to the Ombudsman, so much so that, as I said, he refers to himself as, in effect, a standing royal commission. Further to that extra powers will be given to the Chief Commissioner of Police, to give her coercive powers to force people to give evidence about particular matters. There will be oversight in relation to that, and that oversight will be by way of a Supreme Court judge. So the chief commissioner will have to make an application to a Supreme Court judge to use these coercive powers. She will have to make out, in effect, a *prima facie* case. Once the Supreme Court judge is satisfied that the case has been made out, the chief commissioner will be able to use substantial coercive powers.

Further to that, the Director of Public Prosecutions has been given extra resources. It is important that once people are charged the DPP is not outresourced, if you like, by a defendant. So it is important that we properly resource the DPP to ensure that he has appropriate resources to bring these matters before the courts as soon as possible and for the justice system to work, so an extra \$3 million was announced in relation to the DPP. You have asked if anything else is going to be done or is this the last of the announcements. I reject your assessment that this has been piecemeal; it is quite the opposite. This has been a well-planned strategy to ensure that appropriate resources and powers are given to the Ombudsman and to the police without jeopardising trials. Let us remember, and it is absolutely crucial, that what the public wants is for people to be brought before the courts and for justice to take its course. As the Premier has said, and as I have said, I have advice from the DPP that to set up a royal commission, which has public hearings and the like, will jeopardise or at least delay for a long period of time matters that are currently before the courts or about to go before the courts.

Mr CLARK — Could you make that advice available to the committee?

Mr HULLS — That is like saying to the Kennett government, 'Can you give us the legal advice you had when you tried to hide the casino tendering documents and why it was okay to hide them?'

The CHAIR — You just need to answer, Minister.

Mr HULLS — The fact is no government releases legal advice — you know that.

Mr CLARK — You can release it if you want to.

Mr HULLS — It is covered by legal professional privilege. If you want a lecture about legal professional privilege — —

Mr CLARK — You are the client, if you want to know about legal professional privilege, and you can waive it.

Mr HULLS — I am not going to. I am not going to waive legal professional privilege. The advice — —

Mr FORWOOD — As interpreted by you.

Mr HULLS — Not just as interpreted by me, but as interpreted by the Director of Public Prosecutions. If you had been following this debate you would know that the DPP himself put out a media release just a week and a half ago confirming the advice he had given to me that trials would be delayed if a royal commission was set up. You either accept the DPP and the integrity of the DPP or you do not. To get to the nub of your question — are there going to be further announcements? — the Premier has made it quite clear that with the powers and resources the Ombudsman requires we will do everything we can to grant those resources and extra powers. If the

Ombudsman or the DPP were to request further powers or further resources, of course the government would consider them and of course the government would make a public announcement in relation to that. It is a hypothetical question, but of course we would consider any extra request for resources.

Mr RICH-PHILLIPS — Just to come back to that figure, was it \$3 million for the DPP?

Mr HULLS — Three million dollars.

Mr RICH-PHILLIPS — That is around about 10 per cent extra?

The CHAIR — If you have the figures here, that would be handy. Otherwise you can take it on notice.

Mr HULLS — We made an announcement, from memory, of \$3 million which included extra resources in relation to the prosecution unit and asset confiscation. From memory it was \$3 million, but I will get the exact figure to you.

Mr RICH-PHILLIPS — That takes it to about \$30 million or thereabouts in total.

Mr HULLS — About \$29.72 million, I think.

Mr CLARK — Can you provide a copy of the DPP's media release to the committee?

Mr HULLS — Absolutely. More than happy to.

Mr CLARK — It does not appear to be on the web site.

Mr HULLS — Doesn't it? I am more than happy to, and hopefully I can have it before this meeting is finished.

Ms ROMANES — A very important output initiative outlined on page 291 of budget paper 3 is the expansion of the Aboriginal justice agreement. Could you update the committee on the implementation of the Aboriginal justice agreement? Could you advise the committee what performance measures the department is using to assess the effectiveness of initiatives under that agreement?

Mr HULLS — The Aboriginal justice agreement was launched in June 2000. I think it is at the forefront of indigenous public policy development in this state and also nationally. Central to that agreement was the development of an ongoing partnership with the Koori community here in Victoria. The justice agreement has been built on the principles which run through the recommendations of the 1991 final report of the Royal Commission into Aboriginal Deaths in Custody and our ongoing commitment to the communiqué from the 1997 ministerial summit on indigenous deaths in custody.

The justice agreement provides local Koori communities with capacity to be positively involved in the justice system through a range of initiatives including regional Aboriginal justice advisory committee networks, which bring together community leaders and justice agency representatives at a local level to identify issues and prioritise responses. The Aboriginal Justice Forum brings together the heads of justice agencies, including Penny Armytage, and community leaders from across the state to monitor the implementation of the justice agreement. Annual indigenous community justice awards recognise the efforts of Kooris and non-Kooris in achieving improved outcomes. The number of Koori courts will be increased from the current three to six by July 2005. We have a Koori recruitment and career development strategy through which the Department of Justice has become an employer of choice for Kooris seeking employment in the Victorian public sector. Other initiatives include the appointment of Kooris as bail justices, as registered mediators with the Dispute Settlement Centre of Victoria and as official prison visitors.

A wide range of youth activities has been piloted through the community initiatives program and has received ongoing funding in the last budget, including a statewide youth patrol program and sporting activities. We have funded a community legal education program with the Victorian Aboriginal Legal Service targeting Koori women and children, and we have funded the Victorian indigenous lawyers and law students association to promote careers in justice for the Koori community.

Further initiatives include the expansion of the men's residential diversionary program from one to two initiatives with the development of a project at Mount Teneriffe in central Victoria. Further to this, \$12.7 million has been provided to expand the existing agreement over the next four years. I know the Chair was an original signatory to this agreement. The way it has developed since it was signed has been beyond everyone's expectations. It has been a huge success — so much so that we have national glare upon us in relation to some of the initiatives arising out of the justice agreement. It is something all Victorians should be proud of. It goes to show that the only way to address some of the most alarming incarceration figures ever is through partnership with the Koori community. That is what the justice agreement is all about.

The CHAIR — Given the success you have just outlined, could you give us some data in relation to performance measures and the outputs you have identified? It can be provided later.

Mr BAXTER — I would like to turn to the Yorta Yorta agreement which the Attorney-General mentioned in his slide presentation and also to the press release when he made the announcement at the signing that \$1.4 million would be applied to the committee that is being set up. I wonder if he could tell the committee how that \$1.4 million will be spent. However, I would also like to refer to the official signing of the agreement in Echuca in my electorate last Thursday. I have an email here to a third party which sets out in the beginning the formal parts of the proceedings held in Echuca last Thursday and then goes on to say this:

Peter Newman, who by the way had never met Rob Hulls before, went up to speak to him and straightaway Hulls started in on the Nationals. Bill Baxter got the brunt of it followed by Nationals in general, then the Liberals, got a tongue lashing. The attack was vicious and uncalled for and made Peter angry, who then asked why the sitting members weren't there. Hulls said they weren't invited, who would want them there.

... He was shouting at them.

Kelvin and Peter were shocked to the core. Never in all their days had they ever heard a politician behave in such a disgraceful manner.

Did you verbally assault my electors last Thursday?

Mr HULLS — No, not all. In fact it was a great day. I have to say that it was one of the proudest days I have had since I have been Attorney-General. I am extremely proud, privileged in fact, to have been able to be there to sign the historic joint management agreement with the Yorta Yorta people. The cooperative management agreement with the Yorta Yorta commences on 1 July. A signing ceremony did take place in Echuca on 10 June. I think there were about 200 people there. I do not know whether Mr Baxter was invited or not — —

Mr BAXTER — Yes, I was.

Mr HULLS — You were invited. If you were invited — —

Mr BAXTER — Parliament was sitting, you might know.

Mr HULLS — Okay. But if you were invited it confirms absolutely that the conversation you have just relayed to us could not have occurred.

Mr BAXTER — Mr Maughan, who is the local member in the Assembly — they were not sitting — was not invited.

Mr HULLS — There were about 200 people there. The agreement was celebrated as a great success. You probably remember, following the Federal Court's dismissal of the Yorta Yorta claim in December 2001, that we announced that we would negotiate as a government a land management settlement with the Yorta Yorta people outside the native title process. We have always been open to entering into an agreement with the Yorta Yorta people. Negotiations were based on the principle that all third-party interests in the claim area were to be protected. These included grazing rights, camping arrangements, public access and the like. It is a pity Parliament was sitting at the time, because I am sure, Mr Baxter, you would have been absolutely thrilled by the joy and the sheer pleasure — —

Mr BAXTER — I certainly would have been at the function, there is no doubt about that.

The CHAIR — Thank you, Minister.

Mr BAXTER — Could I have answer on the \$1.4 million?

Mr HULLS — Yes, the \$1.4 million is funding over four years, of which \$850 000 will go direct to the Yorta Yorta for administrative support, research and cultural heritage, as well as to enable the process for informed consent so that the Yorta Yorta can meet its obligation to consult its members as required under the agreement.

Mr BAXTER — Will the members of the committee be paid to sit on the management committee?

Mr HULLS — As I have said, I think there is some \$850 000 that will go direct to them for administrative support. But can I also say — and I cannot let this opportunity go by, and I know you want to move on — that those people who have said in effect that this is going to be a disaster for — —

The CHAIR — No, that has not been said, and I really do want to move on.

Mr HULLS — For graziers and the like are really doing no more than repeating what Jeff Kennett used to say after the Mabo decision, that people's backyards — —

The CHAIR — Minister — —

Mr HULLS — This should be a celebration for you, Mr Baxter, and for your constituents.

The CHAIR — Mr Baxter, are you satisfied in relation to the \$1.4 million over the four years?

Mr BAXTER — I am taking it from the minister's answer that members who sit on this management committee will receive a direct emolument. I am not objecting to it; I am simply trying to ascertain the facts.

Mr HULLS — I will get back to you with full details.

Mr DONNELLAN — I refer you to budget paper 3 at page 161, which refers to the major output of legal policy — namely, research, consultation and advice on law reform projects. Can you advise us whether this output relates to law reform in the area of establishing a specific court for family violence and, if so, what is planned?

Mr HULLS — Interestingly enough I noticed in today's *Age* there was an article headed 'Violence in the home: report reveals hidden toll on women' on the fact that domestic violence is the single greatest risk factor associated with death, disease and disability for younger Victorian women a new study has revealed. This study I guess highlights the importance of work already commenced by the government in relation to family violence. It initially is to be trialled at, as I said, Heidelberg and Ballarat. The family violence division of the Magistrates Court will provide I think a more responsive, integrated and supportive justice system for women and children who experience family violence. We have allocated \$5.2 million over four years for the family violence division as a trial until the end of the 2006–07 financial year.

Let us not underestimate how widespread family violence is in this community. There are 29 000 family violence incidents reported to the police each year. That is about 80 a day — 80 reports of family violence, domestic violence, being made to Victoria Police every day. If you put that together with the fact that something like 80 per cent of women never report the violence they suffer, you see that this is a huge problem in our community. Eighty reports to police per day, 80 per cent of women never report violence. We absolutely have to break the communal silence in relation to domestic violence, and in my view we need to have a court that is proactive in breaking the cycle of violence.

The family violence division will be a one-stop shop, so that as many proceedings as possible relating to family violence can be heard at the one place at the one time. The family violence division will have the capacity to hear matters within the jurisdiction of the Magistrates Court which involve family violence. These matters will include things like intervention orders, criminal prosecutions, crimes compensation and family law matters, and wherever possible the court matters will be consolidated to reduce the number of court appearances required. Court procedures will be simplified to encourage access to courts and to make proceedings less intimidating, and we will also have magistrates with expertise in this area who will be further trained up. We will also have the expertise of people such as social workers, counsellors and police, and registrars will also have specialist skills as well. We have to think outside the square a bit. The court will also have the power for the first time to mandate to direct men who have used violence against women to a counselling program to help stop their violent behaviour. It is called a

mandated men's behavioural change program, and magistrates will have the power to direct men to undergo that program.

Is the current system working? The legal system currently provides various different responses to family violence at various different courts under various different acts, and as a result I have to say many people who have experienced domestic violence or family violence find the legal system and court proceedings somewhat confusing and intimidating and also isolating. That is why we think a trial of this one-stop shop is the way to go. These figures are horrific and need to be addressed.

The CHAIR — There is a supplementary from Mr Forwood, but it was Mr Donnellan's question.

Mr DONNELLAN — Just a quick question. With regard to the court itself, will it link into DHS associated entities? You were talking of social workers and so on, but will there be a direct link into providing services for homeless families?

Mr HULLS — The court will have the ability to provide referrals to address longer term needs as well, such as housing, community care, things like Centrelink, also children's support programs and the like, so not just a one-stop shop for the immediate issues but also for long-term referral as well. I made the announcement on Sunday and magistrate — —

Mr FORWOOD — At Heidelberg?

Mr HULLS — At Heidelberg, yes, and Mr Forwood was invited.

Mr FORWOOD — No, I was not.

Mr HULLS — You were advised about it.

Mr FORWOOD — No, I was not.

Mr HULLS — No, a letter has been sent to you.

Mr FORWOOD — I got the letter afterwards, but I fully support this, and I am really cross that I was not invited. My office is a kilometre away, and I did not know it was on until afterwards. I think it is disappointing with a project like this that some of us would like to support that we were not given the opportunity to attend.

Mr HULLS — Your support is certainly welcomed, and I hope that you will be a great advocate for this proposal because there are some in the community who believe that specialised courts are not the way to go. As you know, we have received some criticism, not from you but from others, in relation to the Koori court and some criticism in relation to the drug division of the Magistrates Court, and we certainly welcome your support in relation to the domestic violence division.

Mr FORWOOD — Can you find out why I was not invited?

Ms GREEN — I was not either, Bill.

Mr FORWOOD — It is in my electorate.

The CHAIR — By way of supplementary, Minister, I would say there is a high degree of interest from members of this committee in this initiative, and we would be particularly keen to look at what you have as performance measures for the success of this project. Given the dimensions of the problem, has any consideration been given to making public the results of the work and the performance measures that you have taken? For example, there was a lot of debate this morning on one of the radio programs about why women are removed from houses when the perpetrators tend to stay in the family homes and women and their children are the subject of being carted around through the refuge system. Those would be the kinds of performance measures this committee would be particularly interested in, and also the extent of the success or otherwise of the men's involvement in the family violence education process.

Mr HULLS — I will have to get back to you about that. As you can understand, we have — —

The CHAIR — I know it is early days.

Mr HULLS — The model has been finalised and performance measures are being worked up, and we are more than happy to write to you about the sorts of things we are looking at. I am pleased there is a fair amount of interest in this, because when I became aware of these figures I found the figure of 29 000 per annum was so overwhelming that it is hard to understand, and I just looked at them on a daily basis. When you actually bring it down to a daily rate you know that throughout Victoria 80 complaints on domestic violence have been made each day to the police. I was speaking to the police out at the Heidelberg court and they indicated to me that a substantial amount of their work time is taken up in dealing with domestic violence.

Mr FORWOOD — Minister, in your slide presentation you mentioned the Sentencing Advisory Council. If you turn to page 206 of last year's budget papers, you will see it talks about it being established then. You will recollect that you allocated \$1.9 million for the establishment of the Sentencing Advisory Council. Page 15 of the department's answer to the committee's questionnaire shows that in fact the actual expenditure on the Sentencing Advisory Council for the year 2003–04 is \$1.9 million — in other words, apparently you have spent \$1.9 million — but it has yet to be established. It starts on 1 July, yet its ongoing cost in future years is \$1.4 million. The first question is: how have you spent the \$1.9 million in the last financial year if you have not established the court? And why will it cost less to run into the future when it is up and running?

Mr HULLS — I will get back to you about the exact figures, but there was a one-off establishment cost, I am advised, of \$500 000 in relation to the Sentencing Advisory Council, and that includes things such as premises and the like. But in relation to the specifics of your question, I am more than happy to get back to you in relation to that, save to say that in relation to the Sentencing Advisory Council there have been substantial interviews — first of all consultation — but interviews have been concluded. I actually received earlier this week or late last week final recommendations in relation to the make-up of that Sentencing Advisory Council. I hope to make an announcement in relation to the membership of that council, including the chair, within the next couple of weeks. I think it is a pretty important initiative that will bring the community into the debate in relation to sentencing and how it works. My view is we will have an appropriate chair, somebody with expertise, and also I am advised an executive officer has been appointed already.

Mr FORWOOD — That is what the papers say.

Mr HULLS — I will get back to you in relation to those figures. In relation to an earlier question that was asked about a press release from the DPP, I have that.

The CHAIR — That is good, thank you.

Ms GREEN — Budget paper 3, page 39, refers to the provision of \$13 million over four years for the expansion of the Aboriginal justice agreement, which was touched on earlier and which includes a range of initiatives including a Koori court. Could you provide further detail to the committee on the progress of the Koori courts for both adults and children in Victoria?

Mr HULLS — Yes, you are right, \$13 million over four years for the expansion of the agreement. The Koori court was one of the AJA initiatives. It essentially aims to reduce representation of indigenous people in the criminal justice system, and also to reduce perceptions of intimidation and cultural alienation suffered by indigenous defendants. The Victorian adult Koori court model, which is a pilot project, was developed by the local Koori community and is unique to Victoria.

As I said earlier, there are three adult Koori courts operating in Victoria — Shepparton, Broadmeadows and Warrnambool. The Warrnambool court is the first one to sit on circuit as well. I think Magistrate Michael Coghlan is the magistrate in Warrnambool, and he has taken the court on circuit around the Warrnambool area as well. The Koori courts will be extended to Mildura and Gippsland in close consultation with the Koori communities. The adult Koori court is not mandatory. It is only available at this stage to Koori offenders who plead guilty. The magistrate is advised and assisted by Aboriginal elders or respected persons and a Koori court officer as well as other dedicated court personnel. The range of sentencing options has not changed from the ordinary divisions of the Magistrates Court. However, emphasis is placed on an option of least intervention.

You asked about some of the results. In early December 2003 there had been approximately 167 defendants appearing at the Shepparton and Broadmeadows Magistrates Courts with approximately eight instances of reoffending over that period. A formal independent evaluation is under way. I expect to receive a final evaluation report in November 2004. But for anybody who has had any experience working in the criminal jurisdiction with

Kooris, I can say the rates of recidivism are quite extraordinarily low — 167 and only eight instances of reoffending, so it has been a huge success. I encourage people if they get the opportunity, and I know it is difficult, to sit in on a Koori court. Have a word to Magistrate Bob Kumar out at Broadmeadows. I was going to say Kate Auty at Shepparton, but unfortunately Kate is leaving us.

Mr FORWOOD — I thought she had gone already.

Mr HULLS — She has gone to Western Australia. Or to Michael Coghlan at Warrnambool, and you will be amazed by what you see, I have to say.

Mr FORWOOD — My supplementary is I know she has gone, and it is my understanding that there is a gap and no-one has been appointed, and the Koori court in Shepparton is now in abeyance. I would be encouraging you to fix that quickly.

Mr HULLS — You say a gap?

Mr FORWOOD — I think it is true.

Mr HULLS — Because of the expertise that Kate Auty had and the passion she showed for this project, she will be very hard to replace, but the allocation of magistrates is entirely a matter for the Chief Magistrate. Again it is that issue we raised when we were talking about part-time judges or acting judges. I do not appoint Bill Forwood to the Magistrates Court.

Mr FORWOOD — But you can tell him to fix it.

Mr HULLS — Just so we are clear, I do not appoint Bill Forwood and say, ‘I am appointing you as magistrate and you will go to Shepparton’. I would appoint you, if I was so inclined — and I am not by the way —

Mr FORWOOD — I am very relieved.

Mr HULLS — But I appoint a particular person to be a magistrate and the Chief Magistrate allocates where they will go. I understand Angela Bolger, who has some expertise and passion in this area, has either been considered for or will indeed take over the Koori court in Shepparton.

Mr CLARK — Are you aware that the commonwealth Attorney-General, Mr Ruddock, has announced this morning that if Victoria were to establish a properly formulated independent commission, such as those in Western Australia, New South Wales and Queensland, the commonwealth government would move quickly to confer telephone intercept powers on such a body? If you are aware of that, in light of that announcement will the Victorian government reconsider the issue and reconsider establishing an anticorruption commission?

Mr HULLS — Can I say a couple of things about that. Yes, I am aware of Mr Ruddock writing to the Premier in relation to this matter. I think at the time Mr Ruddock indicated that he had not been asked first off and he would have to give consideration to this. I indicated that I expected he would grant powers to the state government, or the Ombudsman, because he had a choice. He could either help Victoria in its fight against corruption or he could stand side by side with the crooks. I said that somebody who is prepared to lock kids up in detention surely is going to give the Ombudsman the powers to investigate corruption in this state. It appears that he has decided, at least at this stage, that he is not going to grant the Ombudsman the powers to independently tap telephones.

Despite Mr Ruddock and his playing politics with this matter — and my guess is that his announcement today absolutely confirms that a federal election is just around the corner — Victoria’s fight against corruption will continue. We have extended powers to the police ombudsman to empower his office and enable him to comprehensively and without fear or favour investigate any allegations of police corruption. As you would know, the new powers we have given the Ombudsman include the power to self-initiate any investigation, the power to coercively question and require answers from police or any person relevant to an investigation even if those answers might be self-incriminatory and the powers of search and seizure subject to obtaining a warrant from the courts. The police ombudsman also has powers to appoint special investigators — he recently appointed Tony Fitzgerald. We believe we have appropriate measures in place for dealing immediately with corruption in Victoria.

As you say, it is true that the Premier today received a letter. In fact from memory, I think the Premier received the letter after Philip Ruddock made a public announcement on the radio, which again confirms the politics that are being played here.

Mr FORWOOD — That is exactly what you did with Tony Fitzgerald. Sprung again!

Mr HULLS — This is an absolute indictment of Mr Ruddock and his colleagues. If you, Mr Clark, and your colleagues are serious about helping Victoria Police and the Ombudsman wipe out police corruption and attack organised crime as it exists here in Victoria, you will immediately after this meeting contact Mr Ruddock and urge him to reassess the situation. He has made an outright decision without giving the Victorian government or the Ombudsman the opportunity to discuss or consult with his office on how the Victorian model will work, so this is certainly politics at its worst. We will continue to lobby the federal government in relation to this matter, but let us be clear, the Ombudsman nonetheless has powers in relation to telephone taps. He has the ability to utilise information obtained from the police in relation to telephone intercepts. The extra powers we have given him will not deter our fight against corruption in this state, and we will be giving extra powers to the police commissioner. But if Mr Ruddock wants to play games with this — —

Mr CLARK — Does this not prove our point, that the Ombudsman is not freestanding from the police, which is the nub of the argument? The Ombudsman does not have similar powers to New South Wales, Western Australia and Queensland, which is what Mr Ruddock is saying ought be done in order to advance the issue.

Mr HULLS — In making that comment you are therefore telling me that you do not have faith in the Ombudsman in this state. In his report, which I am sure you have read, he says that he now has the powers of a standing royal commission. He makes it quite clear about the combination of his extra powers and police powers — and I quote from page 17 of his report, which states:

The combination means that the Ombudsman has all the power of the integrity commissions seen elsewhere, and police have the powers of a crime commission, subject to safeguards.

So you either stand by the Ombudsman or you stand against him. Mr Ruddock has made his choice; I hope you do not make the same choice.

The CHAIR — Minister, my question goes to legal aid. I understand the current agreement is due to expire, and I ask you to outline to the committee where legal aid in Victoria will be progressing over the next 12 months, particularly in relation to the federal government's involvement in legal aid.

Mr HULLS — Again this is an issue on which I would hope to get bipartisan support, because we came to government with a strong commitment to legal aid in Victoria. We have worked consistently to improve the provision of legal aid services, both in dollar amounts and to improve local access to justice. The 2004–05 budget provides an additional \$1.3 million in funding for the VLA. This brings our funding for the VLA in 2004–05 to \$35.2 million. How much does the federal government put in? It is \$27.75 million. It used to be a 60–40 funding arrangement, where the federal government put in 60 per cent of the funding and the state government put in 40 per cent of the funding. It has now changed, and the Victorian government is putting more into legal aid than the federal government.

The latest budget increase comes on top of annual increases in each of the years that we have been in government. For example, the 2003–04 budget committed an extra \$14 million over four years for the VLA, which included \$1.4 million extra for community legal centres, \$1.6 million to enhance regional access to the VLA and \$11 million to provide the first increase in professional fees to legal aid lawyers in 11 years. The budget increase also saw funding of a new VLA Horsham office, which is the second VLA regional office to be opened by the Bracks government following the opening of the Shepparton office in 2002. We have certainly increased our commitment to legal aid.

We are entering into a new funding arrangement with legal aid, and negotiations are currently under way for a four-year agreement between the commonwealth and the state government. At present the funding model that has been proposed by the federal government is fatally flawed. In its recent budget the federal government announced a \$52.7 million rise in legal aid nationally over four years. We sit back and say, 'That's not bad. An extra \$52 million from the federal government over four years'. Based on population, we should be receiving one-quarter of that — that is \$3.3 million annually. Instead we are going to get \$1 million annually of this new federal money. I have

continually maintained that we have to revert back to the old funding arrangement where the federal government puts its contribution into legal aid, the state government puts its contribution legal aid and Victoria Legal Aid decides how that money should be spent and what the priorities are. Unfortunately, federal money is tied funding; it can only be used for certain family law matters, and the guidelines are so tight that VLA is not using all that money. It wants to use reserves it has and the extra funding that it cannot use for family law matters for other matters, but the federal government refuses to allow that.

We will continue to argue that the funding formula has to change. The federal government has to increase its funding for legal aid, and it has to show a real commitment to legal aid in this state and stop ripping off Victorians.

Mr RICH-PHILLIPS — In the justice statement you announced an expansion of the jurisdiction for the Magistrates Court and an intention to increase the civil jurisdiction to \$100 000 for matters. I assume that announcement follows the budget, and therefore the budget does not take into account the impact of that announcement. That being the case, can you tell the committee what extra resourcing will go into the Magistrates Court? Will that come from the County Court, being a transfer of jurisdiction? In terms of the caseload in the Magistrates Court, how much do you expect the civil caseload to expand.

The CHAIR — Before you give that answer, Minister, there is a request that everyone has the opportunity for two questions, so if you can keep your answer short, we will have the opportunity for Mr Baxter and Mr Donnellan to have another question.

Mr HULLS — I will keep my answers short. It is envisaged that the increase in the jurisdiction of the Magistrates Court will be cost neutral; I have had discussions with the Magistrates Court and also the County Court in relation to this matter. In relation to the numbers that are expected to be transferred from the County Court to the Magistrates Court, that is the estimate of those numbers. This is just one initiative that has been outlined in the justice statement.

I also want to have a look at the jurisdiction of the County Court as well, to see whether or not we should be giving in effect an open-ended civil jurisdiction to the County Court and whether we should be changing the criminal jurisdiction to some degree in the County Court as well and whether or not some County Court judges should be able to sit on more serious trials in the Supreme Court. So this is part of a whole range of reforms. In relation to the cost, I can get you material in relation to that, but I have been advised that it is estimated that the increase in the civil jurisdiction will be cost neutral. The reason we are doing it is that the most used and most easily accessible court is the Magistrates Court, and it is important that we increase the jurisdiction.

Mr RICH-PHILLIPS — Just to clarify that quickly, by ‘cost neutral’ do you mean cost neutral for both the County and Magistrates courts together? Will this be absorbed within the existing budget of the Magistrates Court, or will it be transferred from one to the other?

Mr HULLS — The original assessment, as I understand it, was that it was to be absorbed within the budgets, therefore it would be cost neutral within the Magistrates Court. But I can get you further material.

Mr DONNELLAN — I refer to budget paper 3, which refers to expenditure of \$3 million over three years to continue the indigenous community building initiative to promote community organisation capacity and community leadership. Can you outline for the committee your department’s role in the Lake Tyers community renewal project?

Mr HULLS — Yes. I do not know if anyone has been to Lake Tyers in recent times, but this has to be one of the most disadvantaged and disenfranchised communities in Victoria, if not Australia. Years ago I worked with remote Aboriginal communities in North Queensland, and what I saw at Lake Tyers when I was there recently confirms that it is a disadvantaged community in the extreme. It has high unemployment, poor education outcomes and a lot of violence in the community. People who live at Lake Tyers desperately want to feel safe in their community, and they want a vibrant and growing community. We have responded to their calls for help at the request of the community. This is not the government imposing itself on the community; the community has come to us. As a result, the Department of Justice together with the Department of Human Services and Aboriginal Affairs Victoria will lead a 10-year community renewal project for Lake Tyers. This project is being developed and implemented in partnership with the Lake Tyers community. It will bring a range of departments and agencies across all three tiers of government together, as well as community service providers.

While the project is still in its early days of being developed, the community has already identified a range of issues for inclusion, covering improved education outcomes, as you would expect; development of sustainable employment opportunities; land and environmental sustainability; a community safety plan; commerce; accessible public transport; rebuilding family structures within the community; and community management and services, amongst others. Whilst it is in its early stages, it is not yet possible to quantify the funding that will be required over the 10-year life span of this project. However, sufficient funds have been identified in the department to develop an initial project team during the 2004–05 financial year. Do not underestimate this; this is not going to be an easy task by any stretch, but you cannot allow communities such as this to die out, so it is incumbent on all of us to get behind this project. It is a 10-year project, and it is going to be a difficult task, but for too long Lake Tyers has been in the too-hard basket.

Mr BAXTER — In your announcement on the Yorta Yorta agreement when you spoke about the committee to be formed, you said it was to have five Yorta Yorta members and three from the Department of Sustainability and Environment. Does that ratio mean the committee will have the power to veto management decisions made by DSE in respect of public land in northern Victoria?

Mr HULLS — No. Ultimately the decision in relation to public land will be made by the minister. Recommendations can be made, and ultimately the responsibility is for the minister. The Yorta Yorta agreement does not take away the ultimate power of the minister.

The CHAIR — Good. Thank you very much, Minister, to you and your team. We appreciate your attendance here this morning. We will be circulating copies of the transcript to you early next week, together with any questions you have taken on notice and some follow-up questions we have not had the opportunity to ask.

Witnesses withdrew.