Herbert, Mr
Holding, Mr
Howard, Mr
Trezise, Mr
Wynne, Mr

Motion agreed to.

WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2011

Statement of compatibility

Mr CLARK (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Wills Amendment (International Wills) Bill 2011.

In my opinion, the Wills Amendment (International Wills) Bill 2011, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill amends the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT convention providing a Uniform Law on the Form of an International Will 1973 (the convention), which was signed in Washington DC on 26 October 1973.

The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will, for example where a will deals with assets located overseas or where the will-maker's country of residence is different to the country in which the will is executed.

The convention's uniform law provides for an additional form of will — an international will — that sits alongside other forms of will. An international will that complies with the uniform law will be recognised as a valid form of will by courts of other states party to the convention, irrespective of where the will was made, the location of assets or where the will-maker lives, and without the court having to examine the internal laws operating in foreign countries to determine whether the will has been properly executed.

The uniform law sets out requirements for the form of the will and the process for its execution; it does not deal with issues such as the capacity required of the will-maker or the construction of the terms of a will. These are matters that will continue to be dealt with by existing Victorian law.

By a decision of the Standing Committee of Attorneys-General in July 2010, all Australian states and territories have agreed to adopt the uniform law into their local legislation to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions.

Human rights issues

1. ***Human rights protected by the charter act that are relevant to the bill***

The bill does not engage any of the rights under the charter act.

2. ***Consideration of reasonable limitations — section 7(2)***

As the bill does not engage any of the rights under the charter act, it is not necessary to consider section 7(2) of the charter act.

Conclusion

I consider that the bill is compatible with the charter act because it does not engage or limit any of the rights under the charter act.

Robert Clark, MP
Attorney-General

Second reading

Mr CLARK (Attorney-General) — I move:

That this bill be now read a second time.

The bill amends the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT Convention providing a Uniform Law on the Form of an International Will 1973 (the international wills convention), which was signed in Washington DC in 1973.

UNIDROIT — the International Institute for the Unification of Private Law — is an intergovernmental organisation that formulates uniform law instruments aimed at harmonising and coordinating private laws between countries.

The international wills convention is one such uniform law instrument. The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will — for example, where a will deals with assets located overseas or where the will-maker's country of residence is different to the country in which the will is executed.

The international wills convention came into force on 9 February 1978 and currently has 12 state parties and an additional 8 signatories. These include the United Kingdom, the United States of America, Italy, France, Bosnia and numerous provinces in Canada.

While Australia has been a member of UNIDROIT since 1973, it is not yet a signatory to the international wills convention. However, in July 2010 the Standing Committee of Attorneys-General (SCAG) agreed that all Australian states and territories would adopt the convention's uniform law into their local legislation to

allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions.

This bill therefore meets that commitment and is based on a model bill prepared by Parliamentary Counsel's committee at the request of SCAG.

The international wills convention requires contracting states to introduce the uniform law on the form of an international will (the uniform law) into their own law. Contracting states must reproduce the actual text of the uniform law or translate it into the official language or languages of the state.

The uniform law provides for an additional form of will — an international will — that sits alongside other, existing forms of will. An international will that complies with the uniform law will be recognised as a valid form of will by courts of other states party to the international wills convention, irrespective of where the will was made, the location of assets or where the will-maker lives.

The uniform law sets out requirements for the form of the will and the process for its execution; it does not deal with issues such as the capacity required of the will-maker or the construction of the terms of a will. These are matters that will continue to be dealt with by existing Victorian law.

The formalities required for international wills executed under the uniform law are similar to the requirements for other wills under the Victorian Wills Act 1997. For example, an international will must be made in writing and be signed by the will-maker in the presence of two witnesses.

The main difference is that the uniform law contains an additional requirement that the will-maker must also declare the will in the presence of an 'authorised person', who is required to attach to the will a certificate to the effect that the proper formalities have been performed. The certificate, in the absence of contrary evidence, is conclusive of the formal validity of the instrument as an international will.

The international wills convention allows contracting states to designate these authorised persons. Through SCAG, states and territories have agreed that authorised persons should have an understanding of local laws concerning wills and of the uniform law's form requirements. The bill therefore designates Australian legal practitioners and public notaries as persons authorised to act in connection with international wills.

Australia will not accede to the international wills convention until states and territories have the necessary implementing legislation in place. Further, the convention provides for a mechanism so that entry into force of the convention occurs six months after accession. The Victorian amendments will therefore not commence operation until the convention comes into force in Australia, which may not be until 2013.

When the uniform law is operating in all states and territories, there will be a consistent approach to the recognition of these types of international wills across Australia. Australian courts will no longer need to look to the internal laws operating in foreign countries to determine whether such wills have been properly executed. In uncontested cases, this may make assessment of probate for wills that involve international elements quicker. Further, an expanded number of foreign countries will be required to recognise wills made in Australia in compliance with the uniform law.

This means that a testator, wherever they or their assets are located, and whatever their nationality or language, can choose this form of will knowing that it will be recognised as a valid form of will anywhere in Australia, as well as in any country that is party to the international wills convention.

I commend the bill to the house.

Debate adjourned on motion of Mr DONNELLAN (Narre Warren North).

Mr CLARK (Attorney-General) — I move:

That the debate be adjourned for two weeks.

Mr WYNNE (Richmond) — I move:

That the word 'two' be omitted with the view of inserting in its place the word 'three'.

Those who have had the opportunity to listen to the second-reading speech of the Attorney-General in relation to the Wills Amendment (International Wills) Bill 2011 will note the most germane aspect of this bill. We agree that this is an important piece of legislation that will bring us into line with uniform conventions. The most important aspect of this particular second-reading speech is that the Victorian amendments will not commence operation until the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973 comes into force in Australia, which may not be until 2013 — at least 12 months and perhaps longer away.

In moving this amendment the question I put to the house is: why is there an urgency that this matter be brought on now when there are a number of other pressing matters that could be dealt with? As you are aware, Speaker, the Leader of the House, on a division, has moved that we have a deferral of a number of pieces of legislation, one of which I was intending to speak on this evening — that is, the Mines (Aluminium Agreement) Amendment Bill 2011. I was going to speak only from the point of view of seeking some clarification in relation to some aspect of that particular bill as it pertains to the Aboriginal Heritage Act 2006, but I may not be afforded that opportunity because these second-reading speeches have been brought on at quite an inopportune time in what is a busy schedule and one in which a number of my colleagues would seek to speak on a number of these bills.

With respect, Speaker, I put to you that a deferral of this debate for at least three weeks, as I am suggesting, is quite appropriate because, frankly, there is no urgency in this bill being debated given that the amendments, if they are passed through the Parliament this year, will not be enacted until at least 2013. We respectfully submit to you, Speaker, that there are a range of other matters we have sought to prosecute here this evening — so far unsuccessfully — particularly in relation to general business, notice of motion 318, which is on the notice paper. We would — —

The SPEAKER — Order! I ask the member to stick to the motion before the house and his amendment.

Mr WYNNE — I am speaking to my amendment, Speaker, and in doing so I suggest to you that there is no urgency in relation to this particular bill. As I put to you, the second-reading speech makes it explicitly clear that these amendments could not be enacted before 2013 at the earliest and, as you can see, the third-last paragraph of the second-reading speech clearly states that. We submit respectfully to you and to the house that we regard a range of other matters as being much more urgent and much more important in terms of the use of this Parliament. They are much more important in terms of providing opportunity for both sides of the house to address a range of pressing questions that have framed the way that this week has progressed. In that context, I submit that affording the opposition the opportunity to bring forward other, more urgent matters for the attention of the house is an appropriate course of action. I respectfully submit to you, Speaker, that notice of motion 318 listed on the notice paper is in fact — —

The SPEAKER — Order! I ask the member to return to his amendment before the house. This is not about notice of motion 318.

Mr WYNNE — I am simply putting to you one of a range of other options that are potentially available to the house.

The SPEAKER — Order! The member is seeking for the bill to be adjourned for three weeks?

Mr WYNNE — Yes, indeed I am.

The SPEAKER — Order! I would like the member to stick to that part of the debate.

Mr WYNNE — I am seeking not only to stick to that part of the debate but to offer a suggestion to you that a range of other matters could be brought before the house in the context of debate not only tonight but certainly also not to curtail debate tomorrow, which will be on a range of very important bills, particularly the Independent Broad-based Anti-corruption Commission Bill 2011, and bringing the second-reading speeches on at this stage does curtail the opportunity for the opposition to debate these crucial matters.

Dr NAPTHINE (Minister for Ports) — This is just another time-wasting tactic from a lazy opposition whose members are not prepared to do the work in two weeks to study a fairly simple piece of legislation and come in here and debate it in the house. This is a lazy opposition whose members are not prepared to do the work. This is an opposition that is about political stunts rather than political hard work. This is an opposition that is not prepared to allow the democratic processes to take their place. Opposition members complain about the lack of opportunity for debate, yet they are wasting time on these stupid motions and stupid amendments. This is a political stunt from a lazy opposition bereft of the ability to do the hard work necessary to represent its constituents and to do the right thing by Victoria.

Ms D'AMBROSIO (Mill Park) — I rise to support the amendment moved by the member for Richmond, but in passing and within the context of this debate I note that the importance this government has placed on the priority that its members have given to the Wills Amendment (International Wills) Bill 2011 can be summed up in less than 1 minute. The 1-minute of contribution from the government on this procedural motion speaks volumes in terms of the priority this government gives to the important questions before this house.

The government's second-reading speech makes it quite clear that there is absolutely no urgency for this bill to be debated within a two-week period — absolutely no urgency whatsoever. Why this is important to the opposition is very palpable, and it is

palpable through the attitude this government has displayed during the whole of this debate. This government has taken a vexatious and mendacious approach to its government business program and its re-prioritising of bills to be brought forward for debate in this house. This speaks volumes about the lack of clarity that this government displays in terms of what the priorities should be for Victorians and for this state. This action signals all of the wrong priorities to the Victorian community about what this government represents.

This government seeks to put the wills bill ahead of the Mines (Aluminium Agreement) Amendment Bill 2011, which is an extremely important bill for jobs in this state. The mines bill has been deferred and debate on it has been curtailed through the actions of this government. What explanation have the opposition and the Parliament been given for this very action? Simply none — only because government members can.

Governments owe more to the Victorian community than simply 'because we can'. The fact of the matter is that this is a government that does not have the courage of its convictions to get up and spend a full 5 minutes explaining to Victorians why government members have done what they have done to their business program — which only yesterday was so important to put up — and moved to delay debate on the mines bill.

Dr Napthine — On a point of order, Speaker, The member is straying from the debate. The debate is about whether debate on this bill should be adjourned for two weeks, and the amendment of the member for Richmond proposes that it be adjourned for three weeks. This debate is not about the mines bill and not about the government business program. It is about whether debate on this bill be adjourned for two weeks or three weeks. It is a very narrow debate about time, and I ask you to bring the member back to that debate.

The SPEAKER — Order! I uphold the point of order, and I ask the member to come back to the debate.

Ms D'AMBROSIO — The point remains that an explanation needs to be given to this house as to why the government has chosen to change its business program around. It needs to explain why this bill needs to be dealt with in the time frame that is being proposed. The point is simply this: we on this side of the house contend that there are many other issues of greater priority. We contend that this government reflected that in its business program yesterday — the business program that it presented to this house yesterday and which it passed and is now revising. The message is very clear, Speaker. It is that this government has no idea of what its priorities should be — —

The SPEAKER — Order! The motion is very clear also. The motion is that debate be adjourned for two weeks, and the amendment is for three weeks. That is what I am asking the member to get back to debating.

Ms D'AMBROSIO — Absolutely. The point is this is not an urgent bill. The fact is the second-reading speech makes it quite clear that it is not urgent. In fact the second-reading speech makes it clear that it might be put into place by 2013. That is an extraordinary admission in the government's second-reading speech. That speaks volumes for the lack of priority that this government places on this bill. It is incongruous therefore that the government is proposing that it should be done within two weeks when the fact remains that there is other, more urgent business. Certainly three weeks is a more appropriate period of time in which to consider this bill. It is not an urgent bill by any stretch of the imagination, and the government should see fit to support the amendment to provide that this bill be returned to this house in three weeks.

Mr KOTSIRAS (Minister for Multicultural Affairs and Citizenship) — If anyone wants an example of a lazy Labor Party, they only need to listen to its members. There have been 11 years of very little consultation with the opposition. It is a lazy Labor Party.

The SPEAKER — Order! The minister will return to the debate before the house on whether this bill should be adjourned for two weeks or three weeks. There is an amendment before the house, and I ask the minister to return to the debate before the house.

Mr Wynne — On a point of order, Speaker, I know that it is a bit frustrating for the government — —

The SPEAKER — Order! What is the member's point of order?

Mr Wynne — My point of order is that this is a very tightly contained debate — —

The SPEAKER — Order! I have already raised this issue with the member who was on his feet. I have raised the issue, and he is coming back to debating the issue before the house. I uphold what you are saying, but I have already ruled on it and I have asked him to come back to debating the issue before the house.

Mr Wynne — He should stop abusing people.

The SPEAKER — Order! The member for Richmond can take his seat.

Mr KOTSIRAS — To research this bill, do their homework and come back to the Parliament and debate, members of the opposition have two weeks, but they are too lazy and incompetent to do it.

Ms THOMSON (Footscray) — I know I am short, but I am standing. I also would like to support the amendment proposed by the member for Richmond in relation to changing the time for adjournment of this bill from two weeks to three weeks. The reason I do so is not because of the opposition's position in relation to preparing for the bill but rather because the government is so lax in giving an opportunity to the opposition to be properly briefed on the bill so that consultations can occur. This happens time and again in this place. The government brings forward second readings and will not properly brief opposition members so that they can have adequate consultations with the people to ensure that they are properly representing the interests of Victorians and bringing an alternative view to the house. As long as the government has that practice, there should be a longer period for members of the opposition to be properly briefed so that we can go out and adequately consult with people.

We know why we are having those second readings now: it is so that The Nationals can go home early.

The SPEAKER — Order! The member should return to the debate before the house

Ms THOMSON — This is about our preparedness to do the hard yards, to actually get out there and to really consult with Victorians about how this legislation will affect them. We have a right and an entitlement to ensure that we consult from a position of understanding the implications of the legislation before this house, and that requires opposition members to be briefed sooner than they are being briefed by the government. I deplore the way this house is being treated by the government; it is held in contempt. The opposition has a right to understand what the legislation means in detail; it has a right to be able to then take that detail out to the community and consult with it about the way in which the legislation will be implemented, the way it may impact on them and the effect it may have. We are continually being stifled in doing that properly. With every piece of legislation that is currently coming before this house there is inadequate time for the opposition to be properly briefed and to consult, because the briefings are occurring very late, often on either the Thursday or Friday before they are debated in this house. Some shadow ministers are still waiting for briefings.

This is outrageous, not just for members of the opposition but for the people of Victoria. The way in which the government is holding this Parliament, and therefore Victorians, in contempt has been evident all week in its attitude about what has priority and what is important. Government members care about themselves and not about the people of Victoria. They are hiding the truth from the people of Victoria. If we are going to adequately do our jobs and meet our responsibilities as members of Parliament — and all of us on this side want to do that — the government needs to give opposition members more time; it needs to brief them earlier about bills and their implications. We need time to be able to go out and consult with the Victorian people and be able to come back and properly represent their needs and requirements in this house.

There is no reason why the government cannot extend the adjournment of debate on this bill for a further week. After all, it is not likely that we are going to see this legislation implemented until 2013; that is a very long time away. As a matter of fact this bill could be postponed for six months and it would not make any difference. We cannot deal with notice of motion 318 on the notice paper, which is really important to the integrity of government, but we can have this second reading and not wait until tomorrow. It just shows that this is about making sure the government is comfortable; it is not about representing the people of Victoria. It is time government members started thinking about what people need from the government, not what their needs are.

The SPEAKER — Order! The question is:

That the word proposed to be omitted stand part of the question.

House divided on omission (members in favour vote no):

Ayes, 44

Angus, Mr	Mulder, Mr
Asher, Ms	Napthine, Dr
Baillieu, Mr	Newton-Brown, Mr
Battin, Mr	Northe, Mr
Bauer, Mrs	O'Brien, Mr
Blackwood, Mr	Powell, Mrs
Bull, Mr	Ryall, Ms
Burgess, Mr	Ryan, Mr
Clark, Mr	Shaw, Mr
Crisp, Mr	Smith, Mr R.
Delahunty, Mr	Southwick, Mr
Dixon, Mr	Sykes, Dr
Fyffe, Mrs	Thompson, Mr
Gidley, Mr	Tilley, Mr

Hodgett, Mr
Katos, Mr
Kotsiras, Mr
McCurdy, Mr
McIntosh, Mr
McLeish, Ms
Miller, Ms
Morris, Mr
Victoria, Mrs
Wakeling, Mr
Walsh, Mr
Watt, Mr
Weller, Mr
Wells, Mr
Wooldridge, Ms
Wreford, Ms

Noes, 43

Allan, Ms
Andrews, Mr
Barker, Ms
Beattie, Ms
Brooks, Mr
Campbell, Ms
Carbines, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Edwards, Ms
Eren, Mr
Foley, Mr
Garrett, Ms
Graley, Ms
Green, Ms
Halfpenny, Ms
Helper, Mr
Hennessy, Ms
Herbert, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Hutchins, Ms
Kairouz, Ms
Knight, Ms
Languiller, Mr
Lim, Mr
McGuire, Mr
Madden, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Amendment defeated.

House divided on motion:

Ayes, 44

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

Noes, 43

Allan, Ms
Andrews, Mr
Barker, Ms
Beattie, Ms
Brooks, Mr
Campbell, Ms
Carbines, Mr
D'Ambrosio, Ms
Donnellan, Mr
Duncan, Ms
Edwards, Ms
Eren, Mr
Foley, Mr
Garrett, Ms
Graley, Ms
Green, Ms
Halfpenny, Ms
Helper, Mr
Hennessy, Ms
Herbert, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Hutchins, Ms
Kairouz, Ms
Knight, Ms
Languiller, Mr
Lim, Mr
McGuire, Mr
Madden, Mr
Merlino, Mr
Nardella, Mr
Neville, Ms
Noonan, Mr
Pallas, Mr
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Richardson, Ms
Scott, Mr
Thomson, Ms
Trezise, Mr
Wynne, Mr

Motion agreed to and debate adjourned until Wednesday, 23 November.

The SPEAKER — Order! I inform the gentleman in the gallery who just took a photograph that taking photographs in this chamber is not allowed — do not let it happen again.

CRIMINAL PROCEDURE AMENDMENT (DOUBLE JEOPARDY AND OTHER MATTERS) BILL 2011

Statement of compatibility

Mr CLARK (Attorney-General) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011.

In my opinion, the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

This bill amends the Criminal Procedure Act 2009 to:

(a) reform the common-law rules against double jeopardy by providing that a person may be tried again in certain circumstances;

(b) improve early prosecution disclosure in summary proceedings;

(c) clarify that deemed convictions from an infringement notice form part of an offender's criminal record for the purposes of sentencing.

WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2011

Second reading

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

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

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

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

According to International Institute for the Unification of Private Law, the convention is currently in force in Belgium, Bosnia and Herzegovina, Cyprus, Ecuador, France, Italy, Libya, Nigeria, Portugal and Slovenia. It is also in force in the following Canadian states: Manitoba, Newfoundland, Ontario, Alberta, Prince Edward Island, New Brunswick and Nova Scotia. The following countries are also signatories to the convention: the Holy See, Iran, the Russian Federation, Sierra Leone, the United Kingdom and the United States of America. The fact that a nation-state is a signatory to an international convention does not automatically mean that it becomes local law. As the constitutional arrangements in Australia outline, there are a range of mechanisms that need to be adopted in order for that to find expression in domestic law.

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

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

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

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

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

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

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

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

The matters of potential concern voiced by the law institute in 2009 are not issues that we find so persuasive that they outweigh the positive benefits of acceding to the international convention, which of course will be further enhanced by additional states and countries acceding to it as well. We think it is important that Victoria do its part. I commend the government for taking this step and ensuring that we implement and continue the momentum that was established under the previous government at the SCAG level. It is my view that the more states and countries that accede to the convention, the better coverage and recognition these international wills will have across the world. As I have previously said, the greater the certainty, reach and consistency there is, the better it will be for the law of succession and for the families of the deceased who are grieving. For those reasons I wish the bill a speedy passage through both chambers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Clause 5 of the bill inserts a new division 7— International wills — into the principal act, which is the Wills Act 1997. It includes a new section 19D — Witnesses to international wills — and this makes it clear that the legal requirements for witnesses to wills, including international wills in Victoria, remain those as determined by the state. The main change brought by the bill is the addition to the principal act of a new section 19C — Persons authorised to act in connection with international wills. This specifies that an authorised person must be a legal practitioner or a public notary. At the end of the bill is a new schedule to be inserted into the Wills Act. It requires the authorised person to attach a certificate verifying that the will is in the prescribed form to comply with an international will.

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

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

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

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

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

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

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

I would like to make comment on the question of which countries are signed up to the convention. I note that there are currently 12 state parties to the convention and an additional 8 signatories. The state parties which have legislation that has already come into effect include Belgium, Bosnia, a number of Canadian provinces, Cyprus, Ecuador, France, Italy, Niger, Portugal, Slovenia and Yugoslavia. There are a number of other parties that have signed the convention but it has not yet come into force in those countries. They include Iran, Laos, Russia, the Holy See, Sierra Leone, the United Kingdom and the United States of America. Absent from this list of countries that are within a bull's roar of being able to affect changes are India, China, Vietnam and Greece. Historically the largest migrant groupings in Victoria have been from Italy, Greece, Vietnam and China. With the volume of overseas students studying in Victoria and taking up permanent residence in this state we have a situation where a very strong cohort of Victorians will not have the benefit of the provisions of the bill before the house at the moment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Wills Amendment (International Wills) Bill 2011 is important because it will provide some degree of uniformity and harmonisation. I wish to take this opportunity to extend my appreciation to the minister at the table, the Minister for Innovation, Services and Small Business, who was kind enough to allow me to ask a couple of technical questions in relation to it. I appreciate that. The convention's uniform law provides for a form of international will that sits alongside other forms of wills. An international will that complies with the uniform law will be recognised as a valid form of will by courts in states that are party to this convention.

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

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

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

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

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

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

The SPEAKER — It is nice to be here.

An honourable member interjected.

Mr LANGUILLER — I will not take up those interjections.

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

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

Ms Green — Don't go, Telmo!

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

The other matter you would appreciate, Speaker, is that there are lots — people have spoken of some 220 or thereabouts — of communities, languages, cultures, faiths and so on, and many do not have a tradition of organising a will per se. I guess I include myself in the groups of families that do not have such a cultural tradition. I assume this is predominantly because there is not much to leave behind in terms of assets; consequently, why would you worry about making a will? But Australia has treated most of us reasonably well as we have taken up its opportunities, and there might well be assets that we might wish to facilitate handing to the next generation.

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

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

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

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

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

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

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

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

In July 2010 the Standing Committee of Attorneys-Generals (SCAG) agreed that states and territories would adopt the convention's uniform law in their domestic legislation to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions. The commonwealth will only accede to the convention once each state and territory has in place the necessary implementing legislation. It is particularly important for Victoria that this legislation proceeds, because, as has been mentioned before, we have people from 200 different countries here in this state, which adds to the beauty of the state but can cause complications for those new residents when wills that may have been made in other countries need to be executed.

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

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

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

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

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

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

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

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

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

The convention we are seeking to incorporate into the act by this bill deals with issues we are familiar with through discussion, particularly among some of your party colleagues, Acting Speaker, and they are cross-border issues. In this case we are not talking about domestic borders and the issues that so often vex those who live close to them in Australia; we are talking about international cross-border issues. We are talking about the management of foreign assets and how they might be disposed of on a person's passing. We are talking about having the capacity to reside in one place and deal with assets in other places around the world.

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

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

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

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

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

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

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

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

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

The uniform law provides an additional option within the framework already available. The current arrangements remain; they are extended. I understand some consultation was undertaken prior to consideration by the Standing Committee of Attorneys-General. The legal profession, the Supreme Court, the Law Institute of Victoria, the Victorian Bar and State Trustees were all consulted. I understand the majority of those, with the exception of the Law Institute of Victoria, supported the initial move and still support the move. The law institute has a slightly different view and some reservations about the basis of necessity and whether it will be a wide benefit or not. But apart from that, the profession and those most closely affected support it.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The uniform law then also sets out requirements for the form of the international will and the process for its execution — again, a couple of key points — but it does not deal with issues such as the capacity required of the will-maker or the constructive terms of the will. They are matters that will continue to be dealt with under existing Victorian laws, and that is a very appropriate approach to be taken in relation to this matter. We are not wanting to delve into those particular aspects of the will in question but rather the more general international aspects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Moving back to the bill, of course — —

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

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

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

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

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

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

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

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

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

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

The member for Eltham suggested that the Victorian government needs to work with the commonwealth government on this issue. We as a government are more than happy to work with the commonwealth government, but I would have thought it was fairly plain to all of us here that this is an important bill because it has a clear purpose. I would have thought it behoved the federal government to support this important bill. I would not have thought it was up to us to convince the federal government but that it would have recognised the benefits of this legislation. I hope a bipartisan approach is adopted and, more importantly, that at a federal level the necessary actions will be taken by the federal government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The institute has other concerns as well. It:

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

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

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

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

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

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

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

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

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

The uniform law outlines the form that the will must take — that is, that it needs to be in writing and signed by two witnesses in the presence of the person making the will. An additional component for the international will is that the declaration is made in front of an authorised person who can certify that it meets international requirements. The uniform law also outlines the process of execution. It does not provide for any of the other things, such as somebody's capacity or mental powers to make a will or whether something has been done in error. It is simply about providing uniformity.

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

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

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

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

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

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

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

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

As members know, the seat of Bentleigh which I represent is a multicultural electorate. My constituents represent numerous communities such as the Greek, Jewish, Chinese, Russian, Indian, African and other communities. All these people came to Australia, to Victoria, to Bentleigh, and they may have come directly from their native country. Associated with that is the fact that they may very well own a home in their own country. People may own a block of land, a business or a retail or commercial property. If a will is made in another country and the person then chooses to live in Bentleigh — and I am delighted that they do — when the will is read, and given that the death of an individual is always stressful, sadly it can potentially compromise relationships. If there are inconsistencies or confusion in relation to the clarity of a will, unfortunately that is when those sorts of things arise, and it is not what you want to deal with at that time. This legislation will simplify things and make the process more consistent.

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

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

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

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

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

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

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

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

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

Debate adjourned on motion of Mr CRISP (Mildura).

Debate adjourned until later this day.

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

AUSTRALIAN CONSUMER LAW AND FAIR TRADING BILL 2011

Second reading

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

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

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

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

9. Schedule 7, page 267, line 7, omit "2011" and insert "2012".

10. Schedule 7, page 267, line 13, omit "2011" and insert "2012".

11. Schedule 7, page 269, line 5, omit "2011" and insert "2012".

Third reading

The SPEAKER — Order! As the required statement of intention has been made under section 85(5)(c) of the Constitution Act 1975, the third reading of this bill must be passed with an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2011

Second reading

Debate resumed from 13 March; motion of Mr CLARK (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

LEGAL PROFESSION AND PUBLIC NOTARIES AMENDMENT BILL 2012

Second reading

Debate resumed from 14 March; motion of Mr CLARK (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT (SUPPLY BY MIDWIVES) BILL 2012

Second reading

Debate resumed from earlier this day; motion of Dr NAPTHINE (Minister for Ports).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house now adjourns.

Western suburbs: trucks

Mr NOONAN (Williamstown) — I wish to raise a matter for the Minister for Roads. I am very pleased that he is in the house, and I look forward to hearing his response. The action I seek is for the minister to conduct a review of the truck curfew arrangements across the inner west. The previous Labor government introduced truck curfew arrangements on Somerville Road and Francis Street back in 2002 to limit the number of trucks using these local roads during overnight and weekend periods. Under Labor's curfew arrangements all trucks with 4.5 tonnes gross vehicle mass and over are prohibited from using Francis Street and Somerville Road between the hours of 8.00 p.m. and 6.00 a.m. from Monday to Saturday and 1.00 p.m. to 6 a.m. from Saturday to Monday.

Trucks with a local origin or destination along Francis Street, Somerville Road or any road adjoining these two roads have been exempt from these curfew arrangements. VicRoads also has some other definitions for what might be considered a local truck for the purposes of the curfew exemption. Together with Maribyrnong City Council, VicRoads has been conducting annual truck counts since 2002 to monitor the effectiveness of the truck curfews. These counts have shown that the truck curfews were relatively successful in reducing truck movements during the curfew hours in the early to mid-2000s, but the

have a meritorious claim but lack the resources to support their case. Mr O'Brien spoke a lot about that in the chamber not long ago. The bill also represents a win-win for the legal fraternity — reducing red tape through the removal of unnecessary regulation and expanding the scope of legal support available. An example, as Mr O'Brien touched on, is corporate lawyers providing assistance in cases of emergency such as floods and bushfires. The people in my electorate of Whittlesea still live with the effects of that tragic bushfire of 2009, as do communities such as Kinglake, Kinglake West, Strathewen, Arthurs Creek and Marysville. Here is an opportunity to support communities such as those.

Perhaps the final words of my contribution should be a quote from George Toussis, senior legal counsel for Hewlett-Packard Australia, who said:

> There is a great sense of satisfaction in being able to apply our skills to those less fortunate than ourselves.

That really goes to the nub of what this bill is all about. It is about supporting those who do not have the necessary resources to support themselves through the legal process. I commend this bill to the house, and I encourage its speedy passage.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

WILLS AMENDMENT (INTERNATIONAL WILLS) BILL 2011

Second reading

Debate resumed from 15 March; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms MIKAKOS (Northern Metropolitan) — The opposition does not oppose this bill. I am pleased to be able to speak on it, as it is a bill that originated some time ago as part of a SCAG (Standing Committee of Attorneys-General) process that was supported by the previous Labor government.

I note that it was only earlier today that the Leader of the Government gave notice that at the conclusion of the second-reading debate the bill would be referred to the Legal and Social Issues Legislation Committee, of which I am a member. The reasons for doing so are not clear; however, as a member of that committee I certainly welcome the opportunity to finally have a piece of legislation for this committee to consider. After 15 months of the Baillieu government and this upper house legislation committee being in operation, we finally have a piece of legislation to consider. I do wonder, however, whether there is some drafting flaw in the bill that has caused the government to refer the bill to the committee.

I particularly raise that issue in light of the fact that the bill was brought to the Parliament four months ago. It was introduced in the Legislative Assembly on 8 November 2011. If there had been a problem with the bill, there would have been ample opportunity for the government to have addressed that issue through proposing amendments in the Legislative Assembly. The bill has passed through the lower house, and it is now being debated in the Legislative Council.

I look forward to getting some further clarification as to the reasons why this bill is going to be sent to the committee, particularly, as I understand, as the Law Institute of Victoria has not raised any objections to the changes proposed in the bill. That was the advice the opposition received at the departmental briefing on this bill. As I understand it the law institute's position, which was expressed in 2009 to the Department of Justice, was that it did not believe there was any practical purpose being served by the adoption of the convention. If those at the institute think there is no purpose being served in this respect, it would be interesting to know what argument would be put in relation to why this bill should go to the Standing Committee on Legal and Social Issues Legislation Committee. I will certainly be seeking some clarification of those reasons from the government when the bill is discussed in the committee. I will be very keen to seek the views of the law institute and other legal professionals about the matter.

As I understand it, this is a relatively straightforward bill. It is significant, because wills have been a fundamental part of our legal landscape in the English legal system for millennia. The oldest known will in the world belonged to an Egyptian man and dates back to 2600 BC. I understand from the knowledgeable, authoritative source known as Wikipedia that the longest ever will was over 1000 pages long and the shortest was only 3 words long. Wikipedia says that the shortest known legal wills are those of Bimla Rishi of Delhi, India, who said 'All to son', and Karl Tausch of Germany, who said in his will, 'All to wife'. Both of those wills contained only three words. Writing those

three words is a pretty innovative way to dispose of your assets after your death. It usually takes a few more words than that, and during my time as a legal practitioner I had the opportunity to assist clients to prepare their wills. They are very important documents, because they provide an opportunity for people to plan for the future and make their wishes clear as to the transfer or disposal of one's property upon their death.

The issues which have given rise to the introduction of this bill to the Parliament are about the multicultural nature of our nation. Those issues are particularly relevant to our state of Victoria, which has a large multicultural community with over 40 per cent of residents either having been born overseas or having at least one parent who was born overseas. All of us have diverse electorates which have people from many different backgrounds, faiths and languages. My electorate of Northern Metropolitan Region is particularly diverse.

Many people who have migrated to Australia have decided to call Victoria home; however, they still have strong connections with their homelands, which include the ownership of land and other assets. For these Victorians to own an overseas property may not have impact on their day-to-day lives, but it may become a burden to them when they are seeking to create a will. At the moment many of these individuals would have legal expenses and would have to travel overseas, which is time consuming, in order to establish a separate will for the disposal of their assets. That may be financially impossible for many.

In response to this issue the International Institute for the Unification of Private Law, also known as UNIDROIT, developed an international convention on wills which was signed in Washington, DC, in 1973. As the Attorney-General outlined in the second-reading speech:

> UNIDROIT ... is an intergovernmental organisation that formulates uniform law instruments aimed at harmonising and coordinating private laws between countries.

The convention aims to eliminate the issues that may arise when establishing a will across international borders, including where a person making a will wishes to deal with the disposal of assets in another country or when a person seeking to make a will has as their residence a country which is different to the country in which the will is to be executed. According to the International Institute for the Unification of Private Law there are currently around 20 signatories to this convention, which include Belgium, Bosnia and Herzegovina, Cyprus, Ecuador, France, Italy, Libya, Niger, Portugal and Slovenia. It is also in force in a number of Canadian states.

Under our Australian constitution, becoming a signatory to an international convention does not automatically mean that the convention becomes part of our domestic law, which is why this bill is before us. In July 2010 the decision was made by the Standing Committee of Attorneys-General to formally accede to this convention. It is necessary for each of the states and territories to formally adopt the provisions of the convention into state law. It was agreed at that SCAG meeting that all Australian jurisdictions would adopt this uniform law as their local law. Once this bill has passed in Victoria and other jurisdictions have passed their bills, we will be able to formally recognise international wills across Australian jurisdictions.

The bill amends the Wills Act 1997 to align Victorian law, and thus wills made under that act, with the uniform law of the convention. The bill includes the convention as a schedule to this bill. In particular, article 1 of the uniform law is a key provision. It provides that, irrespective of the place where a will is made, the location of the assets and the nationality, domicile or residence of the testator of the will, if it is made in the form of an international will complying with the provisions contained in this uniform law, the will is valid. It goes on to list a range of provisions which are very similar to those applying to making valid domestic wills — for example, the will needs to be made in writing, be properly witnessed et cetera. There are, however, some differences between what is required for making valid domestic wills and what is required for making international wills, and I will come to those in a moment.

The proclamation and commencement of this bill will occur after the convention has come into force — that is, as I understand it, six months after Australia accedes to the convention. Because every jurisdiction in the country needs to pass equivalent laws on this convention or uniform law, there is the real possibility that the provisions of this bill may not come into force for some time yet. However, once it comes into force, it will be very useful.

Clause 5 of the bill inserts a new division into the Wills Act, titled 'International wills', which includes a new section 19D. This proposed section outlines that the legal requirements for witnesses to wills, now including international wills, remain those as determined by Victorian law. The issues around the capacity of the will-maker, or testator, remain the same as they are under Victorian law. Issues to do with the construction of the terms of a will also are not changed. They

continue to be matters that are dealt with by existing Victorian law.

The main difference between the making of a will under Victorian law and the making of an international will comes as a result of new section 19C, headed 'Persons authorised to act in connection with international wills'. This new section specifies that international will-makers must also declare the will in the presence of an authorised person who must be a legal practitioner or a public notary. It also requires this authorised person to attach to the will a certificate verifying that all proper formalities have been undertaken in relation to its construction.

In conclusion, the opposition does not oppose this bill. As I said, it is part of a process that commenced whilst Labor was still in government. Once all the other jurisdictions have passed the uniform law and signed up to it in their respective parliaments, international wills will have legal validity under Victorian law and be recognised as a valid form of will by our courts and the courts of other states that will be party to this convention. It will be an important reform once it is adopted. I certainly look forward to hearing in the Legal and Social Issues Legislation Committee whether there are concerns that stakeholders have about this bill, because I am not aware of any at this point in time.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting the bill and its referral to the Legal and Social Issues Legislation Committee. Like Ms Mikakos, I have only just been informed of that referral, and I am not quite sure of the reason or reasons for it. However, if there are issues — and I am interested to hear Mr O'Brien raise those issues during his contribution — it is good practice to refer bills to that committee.

This bill basically adopts into Victorian law the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will, which was signed in Washington, DC, on 26 October 1973. Model legislation on which this bill is based was agreed to by the Standing Committee of Attorneys-General in 2010.

The bill basically affords legal protection to and recognition of wills that have cross-border issues, such as those made by residents of countries other than that where the will was made or those where assets are located overseas. The convention provides a specific form for an international will which is additional to that for a domestic will, and that form will be recognised by courts that are parties to the convention. The form is inserted by clause 6 into the Wills Act 1997 as a schedule.

As far as we know, the countries that have ratified the convention include Belgium, Bosnia and Herzegovina, Canada, Cyprus, Ecuador, France, Italy, Libyan Arab Jamahiriya, Niger, Portugal, Slovenia and the former Yugoslavia. Others that have signed but not ratified the convention include Iran, Laos, the Russian Federation, Sierra Leone, the United Kingdom and the United States of America. I would be interested to learn if the government knows of any other countries that are planning to or are looking as if they are going to ratify the convention. Mr O'Brien might address that in his contribution.

All other matters related to wills — for example, legal capacity to make a will or the construction of the terms of a will — will continue to be dealt with under Victoria's existing Wills Act 1997. The main difference between wills prepared under this bill and those prepared under existing laws is that a will-maker must declare the international will in the presence of an authorised person who is an Australian legal practitioner or a public notary. Interestingly, public notaries are the subject of a bill that members have just debated. The authorised person must attach a certificate stating that the proper formalities have been performed, and that certificate makes the international will valid.

I was very interested in what Ms Mikakos had to say about the history of wills. It is very important that the desires and wishes of a person making a will are carried out. This bill will assist with the issues I mentioned before — that is, residents of countries other than where the will was made and where assets are located overseas. Ms Mikakos's contribution made me think of a historical will that I remember — that of William Shakespeare. He left his wife, Anne Hathaway, his second-best bed. That was taken by many people to be not the greatest thing he could have left his much-loved wife, but in fact when you look into the historical record someone's second-best bed was the best thing they could leave someone, so in fact it was a good thing that he left his wife, Anne Hathaway, his second-best bed. It is interesting that the will of William Shakespeare is one of the few documents about him that are extant. There are not a lot of documents that he signed during his life that are left, apart from a couple of legal documents for the purchase of property et cetera. That is why he is such a mysterious figure. I digress.

Returning to the bill, research by the Greens has not unearthed any issues with the bill except those that were raised by the Law Institute of Victoria, which I

will return to in a moment. UNIDROIT is an intergovernmental agency which is based in Rome, and its website states:

> Its purpose is to study needs and methods for modernising, harmonising and coordinating private and in particular commercial law as between states and groups of states and to formulate uniform law instruments, principles and rules to achieve those objectives.

This seems a good thing. It appears that through the agreement of the Standing Committee of Attorneys-General (SCAG) in 2010 that Australia is agreeing to cooperate in this exercise.

We know the Law Institute of Victoria wrote to the Department of Justice in August 2009 about this issue, and I have read the letter, but the main point of the letter was that complying with the convention was unnecessary. The letter states that when making an international will it is an onerous and time-consuming requirement to obtain a certificate from an authorised person, that the Wills Act already has foreign wills provisions which Victoria's jurisdiction extends over wills as in sections 17, 18 and 19 and that lawyers can practically operate under those provisions. The letter also makes the point that the Supreme Court of Victoria can adjudicate on the matter. At that time the law institute could see no practical purpose being served by the adoption of this convention. I think they were valid points to raise, and maybe they are points that can be raised if the bill is referred to the Standing Committee on Legal and Social Issues. I am not sure if the concerns and queries raised by the law institute remain its view, and it could certainly clarify them during any potential committee inquiry into the bill.

However, this is a legitimate international issue being dealt with cooperatively in Australia, and it would not be practically feasible for Victoria not to follow this path if every other Australian jurisdiction is following it. I would be interested to know if the government speaker could enlighten us as to the status of the other states of Australia with regard to implementing the provisions of the convention and the uniform legislation as agreed to by SCAG in 2010. With those comments, we will support the bill.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the Wills Amendment (International Wills) Bill 2011, and I note that the opposition will not be opposing the bill nor opposing the anticipated motion to refer the bill at the conclusion of the second-reading debate to the Standing Committee on Legal and Social Issues, of which I am a member.

The bill has been well summarised by speakers in the other place and the speakers before me in this place. The bill amends the Wills Act 1997 to adopt the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973, otherwise known as the convention or the uniform law. In doing so it also implements a decision of the Standing Committee of Attorneys-General, or SCAG, in July 2010, whereby all Australian states and territories agreed to adopt the uniform law into their local legislation. I am pleased to say Victoria is the first jurisdiction to bring a bill into its Parliament to adopt this very important international convention, or the uniform law, into its local legislation.

The primary objective of the convention is to eliminate problems that occur when you have cross-border issues affecting a will. Cross-border issues are issues that have concerned many members of The Nationals and my coalition colleagues for many years in many areas, and they extend to issues crossing borders beyond the state's jurisdiction to international borders and international assets. These issues can occur with a will where the will has been executed in an international jurisdiction, where the assets are located in an international jurisdiction or where the will-maker's country of residence is different to the country in which the will was executed.

The bill will provide a vehicle for international wills to be considered and enforced in accordance with the other countries and states that will adopt the uniform legislation. This arrangement works alongside the existing Wills Act and Victorian probate and will requirements, so that the international will in effect will be recognised in terms of probate. It is designed to sit alongside the existing regime. The sitting alongside aspect and the necessity of undertaking this exercise were the principal concerns of the Law Institute of Victoria. I am advised those concerns remain, but I will turn to that shortly.

An international will that complies with articles 2 and 5 of the uniform law will be recognised as a valid form of will by the states and countries that are party to the convention, irrespective of where the will was made and the location of the assets. The international laws operating in foreign countries will not have to be examined to determine whether the will has been properly executed.

Under this bill the formalities required for making an international will are similar to the requirement for other wills under the Wills Act — for example, they must be in writing and must be signed in the presence

of the will-maker and two witnesses. It is also important to note that article 6 states that the will must be signed on each page by the testator, or if they are unable to sign, by the person signing on his or her behalf, or if there is no other person, by the authorised person. In addition, each sheet must be numbered.

A key difference between an international will and another form of will is that the maker of the international will must also declare the will in the presence of an authorised person who must certify that the formalities required by the uniform law have been met. An authorised person's certificate is then attached to the international will. In the absence of contrary evidence, the certificate of the authorised person will be conclusive evidence of the formal validity of the will and will be accepted in Victorian courts. A uniform will does not deal with issues such as capacity of the will-maker; these remain a matter of evidence for the satisfaction primarily of the witnesses, those who draft wills and those responsible for the will's execution and the construction of the terms of the will.

The formalities required for a will to be an international will under the uniform law also require that the will cannot be a joint will, so each person must have a singular will. As I have said, the will must be in writing, it must be declared by the will-maker before two witnesses and an authorised person, and it must be signed by the will-maker and the signature acknowledged in the presence of two witnesses and the authorised person. If the will-maker is unable to sign the will, the authorised person must note on the will the reason for the will-maker's incapacity.

Those formalities in the uniform law will not affect the validity of a will under Victorian law if for some reason those signatures have not been properly executed under the international law or if the formalities have not been complied with. An international will will not necessarily be rendered invalid if those requirements have not been met. As I said, if it is rendered invalid because it does not comply with the required formalities, it may still be valid under Victorian law. By way of example, it may be a will to which foreign laws apply, the validity of which can be determined under division 6, part 2, of the Wills Act 1997.

I am receiving advice on this matter, but as far as I am aware Victoria is the first state in Australia to bring a bill like this into its Parliament. There are currently 12 state parties to the convention and an additional 8 signatories. The following state parties have legislation that has already come into effect: Belgium, Bosnia and Herzegovina, numerous Canadian provinces, Cyprus, Ecuador, France, Italy, Niger, Portugal, Slovenia and the former Yugoslavia. These are countries that will recognise international wills made in Australia, and they are countries whose international wills Australian jurisdictions will also recognise once the convention comes into force here. The following state parties have signed the convention, but it has not yet come into force: the Holy See, Iran, Laos, Russia, Sierra Leone, the United Kingdom and the United States of America. The United Kingdom has prepared legislation to adopt the uniform law in anticipation of the convention coming into force. The Australian Capital Territory has also introduced its own bill, and other states and territories are intending to proceed by mid to late 2012.

This takes me to an issue that has been raised by both Ms Mikakos and Ms Pennicuik — namely, the reasons for referral of this bill to the Legal and Social Issues Legislation Committee. I am advised that the reason is that Victoria is the leading state in the country in the adoption of uniform law and the law will not be able to come into effect until the other states have adopted it. It is important that legislation such as this, which is very beneficial, be given consideration. It is appropriate that this bill be referred to the committee so that its benefits as well as any potential criticisms or concerns can be considered. These include the concerns of the Law Institute of Victoria (LIV).

I will turn to some of matters that it has identified, but before doing so I should say that the Supreme Court and the Victorian Bar Council remain supportive of the bill. They have noted that the uniform law simply requires that the court be satisfied that the bill complies with the uniform law rather than the relevant foreign law. This issue removes the requirement to apply complex conflict-of-laws rules to determine the primary issue of whether the will is in a valid form.

The LIV and State Trustees both initially argued that it was not necessary for Victoria to adopt the uniform law, given the existing provisions in the Wills Act and the limited effect of the uniform law in only applying to the form of the will. State Trustees has reviewed the bill and advised that it will achieve the purpose of giving effect to the convention under the law of Victoria, that the bill clearly sets out the formality requirements for the making of an international will and that it gives a clear description of the persons authorised to act in connection with an international will. I can advise, though, that despite this decision by SCAG the LIV remains of the view that the international wills regime is unnecessary because it imposes more burdens and formalities on will-makers than are otherwise required under the Wills Act. The LIV also argues that the uniform law would be of limited benefit, given that

only certain countries are party to the convention and because complexities will still arise when considering the construction of a will executed in a foreign place.

In response to this, the thing to note is that all states and territories have agreed, through SCAG, to adopt the uniform law into their local laws to allow Australia to accede to the convention. We have a situation where we go with the rest of the states and territories or we sit on it alone. In relation to an international will that sits alongside it, the preferred thinking of the government is that it is best, whilst still protecting the existing regime, to adopt this law and allow this international will to be available to persons wishing to avail themselves of its benefits. This is simply an additional form of will; it is not mandatory. However, if a will-maker chooses to make their will an international will, they must meet the specific form and process requirements for that will to be valid, as is prescribed in the uniform legislation.

An international will may be an additional form of foreign will — that is, a will made overseas — but it will sit alongside other foreign wills recognised by the Wills Act. The Supreme Court will still be able to consider the validity of a foreign will that is not an international will. However, an international will will be made in compliance with the uniform law, which will remove the need for the court to determine whether jurisdictions' rules should be applied to determine whether the will was validly executed. As the uniform law goes only to the issue of the formality of a will to be admitted to probate in Victoria, it does not affect the substantive law to be applied to the administration of estates and assets in Victoria or the rules about the construction of wills.

The government considers it appropriate to send this bill to the Legislative Council committee for review so that it can consider these issues and other issues in relation to the detailed provisions of the bill. Given that Victoria has led the country by bringing this bill into its Parliament, hopefully it will enjoy careful consideration and an appropriate assessment or otherwise by that committee.

I wish also to support Ms Mikakos's comments and those of other speakers in relation to the importance of the bill in terms of its multicultural or international aspects and in relation to reconfirming Victoria's commitment to multiculturalism and the important issues that apply to all Victorians, whether they are of indigenous, colonial or recent immigrant heritage and whether or not they have assets within Victoria or overseas.

I was reminded again of the importance of fresh waves of understanding in the area of immigration in poignant terms today during the moving state funeral for the late Jim Stynes, which I attended. His brother Brian Stynes commenced and concluded his eulogy in Gaelic. As co-convenor of the Australian-Irish parliamentary friendship group and as a Melbourne supporter and great admirer of Jim's, along with everyone else, I found it was a moving ceremony. In relation to the specifics of this bill, something the late Jim Stynes said on the video that was played — I think it was his closing comment — sat with me as of great moment. It was that he had had a meeting with the Dalai Lama and that what he had gained from it and indeed from his illness was the importance of dealing with death as an essential and important part of life.

That is something that applies not just to the discussion of wills. The same committee of which I am a member, the Standing Committee on Legal and Social Issues, is also presently considering and debating issues in relation to organ donation, which is another aspect of morbid or black consideration relating to death and which is also important to be considered in furthering life. I would urge all Victorians to embrace Jim Stynes's words and deal with issues relating to death as bravely as they can and to bring forward discussions with their families in relation to aspects of assets and wills, whether they are within Victoria's jurisdiction or overseas. Certainly if one does not have any assets, one does not necessarily need to make a will, but when people leave behind assets unfortunately they can bring families into conflict. That has been particularly heartbreaking in relation to many farming families and communities. It is best dealt with through early discussions, family and estate planning, living wills and now the vehicle of the international will.

In conclusion I will pick up and continue the theme of quoting epitaphs started by the other co-convenor of the Australian-Irish group, Frank McGuire, the member for Broadmeadows in the other place. Rather than Shakespeare, I prefer to quote Spike Milligan's epitaph, which I remember. It is again a form of black humour, but it brings out the importance of having discussions in relation to death while a person is alive. His famous epitaph — and I will read it in Gaelic, so forgive me, because I do not know how to pronounce it in Gaelic — is: 'Dúirt mé leat go raibh mé breoite'. It means 'I told you I was ill'. I am reminded of another epitaph, which a friend of mine said was another Irish black-humoured epitaph or blessing: 'May you die in bed aged 99, or be shot by a jealous mistress'. I leave you, Acting President Finn, with that particular blessing, and I commend the — —

The ACTING PRESIDENT (Mr Finn) — Order! That could be construed as a reflection on the Chair. However, I will allow the member to continue.

Mr O'BRIEN — I meant it in goodwill, and if you do die in bed aged 99, that will be sufficient for many of us. May you contribute in this chamber long into those years, Acting President.

Returning to the bill, I note this is an important bill, one appropriate for referral to the Legislative Council committee. I commend it to the house.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Wills Amendment (International Wills) Bill 2011. As my colleague Ms Mikakos already indicated to the house, we are not opposing the bill or the referral to the Legal and Social Issues Legislation Committee. The bill's objective is to standardise Victorian law, as it pertains to present-day Victorian wills under the existing Wills Act 1997, with the prevailing international conventions concerning cross-border protection of wills and with the 1973 uniform law on international wills.

The fact that a nation state is a signatory to an international convention does not automatically mean that the convention becomes local law. That is why Victoria, in conjunction with the rest of Australia, is standardising the international wills law. The passage of this bill will codify and uphold Victoria's commitment, made through the Standing Committee of Attorneys-General. It will represent, when joined with the bills of other Australian states and territories, finalisation of the recognition of the international wills convention and of Australia's accession to the convention. Put in plain English, this means an international will shall be recognised as valid by Victoria for the purposes of deceased estates, whether those estates are in Victoria or overseas and whether the deceased person who made the will lived here in Victoria or overseas.

Importantly, according to the International Institute for the Unification of Private Law, the convention is currently in force in Belgium, Bosnia and Herzegovina, Cyprus, Ecuador, France, Italy, Libya, Niger, Portugal and Slovenia. It is also in force in the following Canadian states: Manitoba, Newfoundland, Ontario, Alberta, Prince Edward Island, New Brunswick and Nova Scotia. Other signatories to the convention are: the Holy See, Iran, the Russian Federation, Sierra Leone, the United Kingdom and the United States of America.

It is important for families to know that their final wishes can be executed in a valid and legally enforceable document. I support the bill, and I am pleased the government has taken this step towards legislating uniform processes that will assist grieving families to rightfully access estates and/or property left by their predecessors. This legislation continues the momentum that was established under the previous government.

Ms CROZIER (Southern Metropolitan) — I also am pleased to rise and speak on the Wills Amendment (International Wills) Bill 2011. Other members in the chamber who are in support of this bill have raised the point that although it is relatively minor in terms of its technical nature, it will have major implications for many people throughout Victoria. I commend the Attorney-General for bringing it to Victoria's attention and into the Parliament last November. I understand the Australian Capital Territory has also adopted a similar bill, and other states are in the process of undertaking that as well and will be doing so later this year.

It was interesting to listen to Ms Mikakos's contribution and her opening remarks, in which she described the importance of a will. I think we would all agree that a will is extremely important, and I, like Mr O'Brien, highlight the importance of urging everybody to make a will. Ms Mikakos highlighted a definition from Wikipedia and gave a bit of background about how long wills have been in existence. It is quite fascinating to think that wills, or the process of wills, have been around for as long as they have and have stood the test of time. That was a very interesting bit of background information. In this day and age, when we live in a so-called global village where technology and communication are extremely important, this piece of legislation and this reform will enable the process of wills and will making to have more relevance to those people to whom it applies.

By way of background in relation to what this bill will do, as has already been highlighted, it amends the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will, a convention that was signed in Washington, DC, in 1973. The bill does this as part of Australia's responsibility under that convention. Australia has been a member of UNIDROIT since 1973.

The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will, where a will deals with assets located overseas or where the will-maker's country of residence is different

to the country in which the will is executed. This bill fulfils Victoria's obligation to the UNIDROIT Convention providing a Uniform Law on the Form of an International Will. It will enable Victoria to be in line with the law of the UNIDROIT member nations that are signatories to that convention.

As has been highlighted, a number of countries are signatories to the convention. The convention has been ratified in Belgium, Bosnia, Herzegovina, Cyprus, Ecuador, France, Italy, Nigeria, Portugal, Slovenia and some Canadian states. I also understand that the United States and the United Kingdom are signatories but have not yet ratified the convention. This convention pertains to a number of countries, and for the Victorian community — which is a large multicultural community made up of people from all parts of the world — it will give peace of mind to those people who can apply this legislation to those areas they may have come from. I think it was Ms Mikakos who reminded the chamber that 40 per cent of the residents of Victoria were either born overseas or have a parent who was born overseas, so this piece of legislation may potentially affect a significant number of people.

As has also been said, members all have electorates made up of large multicultural and diverse communities. Essentially, this aspect of the bill will enable those people to have peace of mind when they are disposing of and distributing those assets, should they have assets in other jurisdictions. It will give those people and their families the ability to distribute their assets and property in a far more succinct way.

As has also been highlighted, this legislation has been in train for some time. It was put in place back in July 2010, when there was a decision of the Standing Committee of Attorneys-General from all states and territories to adopt the uniform law into local legislation. It will allow Australia to formally accede to the convention, and it will provide a consistent approach to the recognition of international wills across all Australian jurisdictions. As has been highlighted, I think there is a time lapse of around six months for that to take place, as it needs all Australian jurisdictions to have passed similar laws. The convention states that that commencement should take place after a nation has acceded, so we look forward to other states and territories partaking in that process later this year.

Hon. M. P. Pakula — Partaking of.

Ms CROZIER — I thank Mr Pakula for that correction. This bill is a relatively straightforward, technical bill that will provide great peace of mind to many people across Victorian communities. It will provide a simplified process to individuals who have assets in multiple jurisdictions.

In conclusion, no matter where somebody has come from or the language they speak, it is good for them to know they are able to have an international will so that their assets and property will be disposed of in the manner they wish. I would urge all Victorians to ensure that they have a legitimate will to ensure that, following their death, their assets and wishes are recognised. I commend the bill to the house.

Hon. M. P. PAKULA (Western Metropolitan) — I rise to speak briefly on this bill, and I do so as part of the 40 per cent Ms Crozier referred to, because my mother was born in the former Union of Soviet Socialist Republics. It also just occurred to me as I listened to Ms Crozier summing up that I do not yet have a will of my own, which is probably an oversight.

Mrs Coote interjected.

Hon. M. P. PAKULA — I say to Mrs Coote that it is not a function of any eternal life fantasy; it is just a function of slackness on my part and the fact that I have very few assets to distribute.

Honourable members interjecting.

Hon. M. P. PAKULA — I will take all that on board, Mrs Coote. I am sure I will not require your assistance.

I want to address one element of this debate, which is the question of the referral to the Standing Committee on Legal and Social Issues Legislation Committee of this house. I want to address it because of what I see as the curious nature of this referral, even though the opposition will not be opposing it. In his contribution Mr O'Brien alluded to the reasons, it seems, for the referral — this being a beneficial bill, the benefits needing to be properly considered but also as a result of some potential criticism and concern particularly emanating from the Law Institute of Victoria.

My question, and I think it is one that has not been thoroughly addressed, is: what has changed? From the departmental briefing we had, it was pretty clear that any concerns the law institute had with this bill were fully known to the government before the bill was introduced into the other place. For the government to be aware of those concerns and to introduce the bill, pass it through the Assembly, second read it in the Council and then refer it on seems a bit curious. What we are left wondering is whether or not there is some other problem with the bill that the government has not yet revealed. Mr O'Brien made a point of the fact that

we are the first state to bring such a bill to Parliament. We hope, in being the first, the government has not, yet again, rushed it to the point where it requires alteration or rushed it without properly considering all the consequences. We do not have any greater clarity on that at this stage.

If, instead, it is simply because the government wants to use the committee process to assuage some of the concerns that have been raised by the law institute, that is of itself not a bad thing, but I simply make this point: if it is the case that the law institute has approached the government with concerns and the government has responded to those concerns by agreeing to send this bill to the relevant committee for more consideration, then I would say that stakeholders also approach the opposition and the Greens with concerns about bills all the time. We often raise those concerns in this place and ask the government, as a consequence of those concerns — whether they are raised by a stakeholder or whether they are concerns that we have raised ourselves — to send those bills to the relevant committee. On every occasion that the Greens or the opposition have asked for a bill to be referred to an upper house committee — whether it has been because of a concern that we ourselves have or whether it has been because of a concern raised with us by a stakeholder — that request has been denied by the government majority in this place.

Mrs Coote — You should be happy about that.

Hon. M. P. PAKULA — Mrs Coote said we should be happy about that. We are happy about the fact that the bill is going to the committee for further scrutiny; that is fine. If it is because there is a problem with the bill, it is incumbent on government speakers to confess to that. If it is simply because the law institute has raised concerns again — the concerns it raised before the bill was introduced, and there is nothing new about them as far as we know — that is great. If the government is referring this off because a stakeholder has gone to it and raised concerns about the bill, that is great.

Our point is that when a stakeholder comes to the Greens or the opposition with concerns and we raise those concerns in the Parliament, the government ought to agree to refer bills off in those circumstances as well. What is good for the goose is good for the gander. If a stakeholder raises a concern with the government and that causes the government to refer a bill off, why will the government never agree to refer bills off when those stakeholders raise those concerns with us and we reflect those concerns in our contributions in Parliament?

Mr O'Brien interjected.

Hon. M. P. PAKULA — Mr O'Brien says the law institute has raised it with us. It raised it with the department before the bill was introduced, but the point is that there has been no occasion on which the opposition or the Greens have come to this Parliament, advised the house of concerns that have been raised with us by stakeholders and suggested that a proper response to that would be the referral of a bill to the relevant upper house committee and the government has agreed to that. There have been only three occasions on which the government has agreed to refer a bill to an upper house committee, and on each of those occasions the motion has been moved by a member of the government.

We do not oppose the bill, and we do not oppose the referral; we just wish the government would treat stakeholder concerns raised with the Greens and the Labor Party in the same way that it treats concerns that are raised with it.

Mrs COOTE (Southern Metropolitan) — I have been looking forward to speaking on this bill, because it is an important bill and, as Mr Pakula said, there are a number of reflections we can all make in looking at it. It was particularly interesting to look at how this bill came about, its international ramifications and how that comes back to an issue that many people do not like to address. People do not want to think about making a will, because it shows up their vulnerability or their invincibility. It is one of those areas about which people think, 'That is not going to happen to me; I will do it later. I will fix this first, or I will do something else' — and then it is too late. The difficulty is, as Mr Elasmar said in his contribution, that problems are created for the people who are left behind, which is why it is seriously important to make certain that these issues are covered. For those reasons, I commend this bill that has been brought to this chamber.

It was an interesting bill to research and to look at. Mr O'Brien, on behalf of the government, did a terrific synopsis of the bill and went into great detail about the issues involved with the bill. However, there are some aspects that I would like to highlight to the chamber tonight.

The Wills Amendment (International Wills) Bill 2011 is going to help give peace of mind to many members of Victoria's multicultural communities, particularly those who may wish to have their estate go to family members living overseas when they pass on. In light of that, it is interesting to look at an article in the *Herald Sun* of 13 March about the number of pensions paid by

the Australian government to people overseas. It was in the vicinity of $600 million, which I thought was fairly excessive, as the article points out. The article had some important elements to it, one of which has implications and ramifications for the bill we are debating today because it shows the technical reason a bill such as this is important. In this article it says:

> A *Herald Sun* investigation has found about 75 000 Australians living abroad were sent federal government payments last year, including about 65 000 pensioners.

That is a lot of people living in all parts of the world, and if they are pensioners, the necessity of having a will is all the more relevant. The article goes on to say:

> Benefits are being sent to pensioners living in more than 70 different countries.

The highest number were in Italy, Greece and New Zealand. There is an interesting trend here. Senior Americans are moving offshore to live in the Bahamas and other areas because they want to have a better retirement. We are starting to see a trend in this country as well. We are seeing senior Australians, including senior Victorians, moving to the Philippines and to other places in Asia, including Indonesia. Of pensioners registered in Asia in June 2010, there were 91 in Indonesia, 73 in Vietnam, 320 in Thailand and 436 in the Philippines.

The reason pensioners are going to live in these places is that they can have a better lifestyle, but there will be a drawback. Presumably these people will have wills — we hope they have made wills. We hope the discussion and debate on this wills bill today will highlight for them the necessity of making certain that their affairs are in order. It is an interesting trend. I hope the people who are moving to these countries are going to be fit and well and happy, but I also hope that they have looked at making the proper arrangements here in Australia. Before I put down this *Herald Sun* article I will mention that it says:

> In 2000, $1.4 billion in pension payments flowed into Australia, more than four times the $310 million sent offshore. By 2010 this had fallen to $1.2 billion, little more than double the decade-high $571 million sent offshore that year.

The interesting issue here is that a lot of people from the UK living in Australia are on UK pensions, and arrangements have been made at the federal level on these issues. But that brings us back to this bill and to making quite certain that people's affairs are in order.

In July 2010 the Australian Standing Committee of Attorneys-General agreed to adopt the uniform law contained in the UNIDROIT (International Institute for the Unification of Private Law) Convention providing a Uniform Law on the Form of an International Will 1973. The history of this is quite interesting. It was initially created by the League of Nations back in 1926, but the collapse of the League of Nations during the Second World War meant that it needed to be re-established, and this occurred in 1940. The reason was that it was important that wills were recognised around the world. The International Institute for the Unification of Private Law, which is an independent intergovernmental organisation, is currently based in Rome.

There are 63 countries that have become signatories to this convention. A country has to opt in; it is not something which countries automatically become part of. Australia is becoming a signatory, alongside the US, the UK, Japan, some Canadian provinces and China, which are all signatories to this UNIDROIT convention. This bill fits very neatly within this, as the Standing Committee of Attorneys-General of Australia has recognised. As I just said, some of our largest trading partners are members.

In an increasingly international sphere where people are moving and living internationally far more frequently than they have ever done at any point in the past it is really important that their wills are recognised right around the world and that people can feel confident that should there be a mishap, things are going to be organised properly. We have two groups of people: we have pensioners who are choosing to live overseas, and we have people who came from another country to become Australian citizens and then returned to the lands from whence they came. We also have people who are moving with their jobs and people who have extended families all around the world. It all comes back to the importance of a will being an internationally recognised document, which is what we are discussing here.

We pride ourselves in Australia on being multicultural. It is very important that we understand our expatriates and non-residential Australians and help them to feel confident that Australia and Australia's laws are going to be able to protect them. All of the provinces in Canada, with the exception of Quebec, have acceded to the convention. Here in Australia Victoria is leading the way among the Australian states and territories. We are going to be one of the first to join the Australian government in ratifying the convention.

I want to detail what the convention means, because it is important to understand the technicalities that are ticked off when someone makes this type of a will.

When creating a will there are certain requirements that must be carried out before the will can be executed in Australia — for example, wills must be in writing, must be signed by the will-maker in the presence of two witnesses and must also be signed by the two witnesses. When executing a will these requirements must be met for the will to be valid. If the beneficiary lives overseas, they must prove that the will has been validly made before they can receive the proceeds of the estate. This is a very important aspect. It can be quite arduous because it requires them to prove that the will has been made correctly in Australia.

The uniform law in this convention means that in addition to the will being in writing and signed in the presence of two witnesses by the will-maker, it must also be signed by an authorised person. As I said, it is an arduous process, but it is an important process because the validity of the bill must be established. An authorised person could be a legal practitioner or a public notary. If someone is going to the effort of preparing a will, it is important that they get it right — they will want to get it right.

When an international will is created in Australia and carries the signature of an authorised person foreign courts will recognise that the will has been validly made in Australia and therefore the beneficiary will not have to undergo the lengthy procedure of proving this; it will just be accepted. That is a very important point. As members who have read the memorandum are aware, an international will that complies with the uniform law will be recognised as a valid form of will by the courts of other states that are party to the convention, irrespective of where the will was made, the location of assets or where the will-maker lives, and without the court having to examine the internal laws operating in foreign countries — that is to say, Victoria — to determine whether the will has been properly executed.

As has been mentioned before, it is important to note that in clause 2 the bill does not set out a specific date of commencement. This is because the bill will be proclaimed once the commonwealth has acceded to the convention, which will occur once all the states and territories have adopted the uniform law. It is very important to understand that Victoria is at the forefront of signing this convention. We believe it is very important. We have a huge multicultural community here in Victoria. We pride ourselves on this. So it is important and necessary for Victoria to take the lead in this regard. I was therefore very disappointed to hear Mr Pakula's contribution, in which he actually intimated that there may be some hidden agenda in this referral. There is no hidden agenda in our wanting to refer this bill off to the legislation committee. This is a very important piece of legislation. It is important that people have an opportunity to look at it. We are going to be leaders in the country on this issue, so we want to use the framework of this Parliament to send it off to the legislation committee to make quite certain that all avenues have been properly looked into.

Mr Pakula challenged us to confess that there were some sort of sinister undertones to this. There is no sinister undertone to this. Mr Pakula himself went on to say he believed the legislative committee process was a very good process and that in fact this was quite a good thing to happen, so he was a little bit duplicitous in his commentary. I think he was probably clutching at straws, trying to find something that was going to be bad about this bill so that he could criticise it, in true opposition form. But I have to say I am certain that upon reading the record of his contribution tomorrow people will find that on the whole, as the rest of the opposition members have said, the opposition will not be opposing this bill.

As I have said, Victoria has a very large multicultural and ethnically diverse population. People from all over the world have chosen Victoria as their home. A lot of people who have migrated here, as I have said before, have chosen to go back to the lands of their origin and to live overseas. But this bill will give them the peace of mind that when their will is executed their loved ones in foreign countries will not have the arduous task of proving that their will has been validly made. Instead there will be a straightforward process for their beneficiaries to receive their share of the estate.

In commending this bill to the house I also want to end on the note on which I began — that is, to encourage all people in this chamber to have a valid will.

Mr Jennings — Why don't we do one now?

Mrs COOTE — Mr Jennings asks, 'Why don't we do one now?'. We could — does he have a pen? I am sure we have enough witnesses. That would be extremely interesting for someone as wealthy as Mr Jennings; it would be very interesting to see. However, I do not mean to be derogatory towards this bill because in fact it is very important. I think young people — and Mr Jennings is a young person — are very dismissive about making a will. It is really important that people make a will; obviously it is not for the person who passes away, it is for their beneficiaries. It is really important that people's affairs are left in such a way that makes it easy for those for whom they care to be well looked after into the future. This bill enables that to occur.

This is certainly legislation with which Victoria can lead the way. I commend the bill to the house. It is a worthwhile exercise. It is important for us all to have had an opportunity to speak, to reflect upon making a will and to understand what that means. The other aspect that I wanted to mention very briefly is that it is not just a will that is important, but granting a medical power of attorney here in Victoria is also a very important part of sorting out your affairs, because you do not want your loved ones to have to deal with issues that might be too difficult for them into the future. I commend the bill to the house.

Mr ONDARCHIE (Northern Metropolitan) — I rise today to speak on the Wills Amendment (International Wills) Bill 2011, and it is a delight to follow the contribution of Mrs Coote again. It is my lucky day, because once you have followed someone with the skill and abilities of Mrs Coote you are often left with very little to say. However, just to make sure you are not disappointed, Acting President, I will have a bit to say on this bill today.

The bill amends the Wills Act 1997 to adopt into Victorian law the uniform law contained in the UNIDROIT — which is the International Institute for the Unification of Private Law — Convention providing a Uniform Law on the Form of an International Will 1973, part of the international wills convention, which was signed in Washington, DC, in 1973. UNIDROIT is an intergovernmental organisation that formulates uniform law instruments aimed at harmonising and coordinating private laws between countries. The international wills convention came into force on 9 February 1979 and currently has 12 state parties and an additional 8 signatories. These include the United Kingdom, the United States, Italy, France, Bosnia and numerous provinces in Canada. While Australia has been a member of UNIDROIT since 1973, it is not yet a signatory to the international wills convention.

As Mrs Coote told us, in July 2010 the Standing Committee of Attorneys-General (SCAG) agreed that all Australian states and territories would adopt the convention's uniform law into their local legislation to allow Australia to formally accede to the convention and to provide a consistent approach to the recognition of international wills across Australian jurisdictions.

This bill brings Victorian law and wills made under the existing Wills Act 1997 into line with the prevailing international conventions concerning the cross-border protection of wills and the Convention providing a Uniform Law on the Form of an International Will 1973. The bill gives expression to the international convention. The primary objective of the convention is to eliminate problems that arise when cross-border issues affect a will — for example, where a will deals with assets located overseas or where the will-maker's country of residence is different to the country in which the will is executed.

This will bring peace of mind to Victoria's multicultural community. I am from a migrant family. My parents were born in Ceylon, now known as Sri Lanka. Dad was born in Colombo, Mum was born in Kandy, and they emigrated here. There are a large number of Sri Lankans who live here in Victoria. In fact last Sunday the Sri Lankan community in Victoria — and I was a part of that — got to celebrate Sri Lankan New Year. But often we see older generations joining the younger migrants in Australia. Whether they be Nonna and Nonno, whether they be Yiayia or whether they be Papa G, often grandparents come here to Australia to join the younger generation. As the song well says — and I note Mrs Coote almost touched on *Advance Australia Fair* — we are one, but we are many, and from all the lands on earth we come.

Mrs Coote — Sing it.

Mr ONDARCHIE — I am not going to sing it.

This bill meets that primary objective of the convention to eliminate problems that arise when cross-border issues affect a will. It is based on the model prepared by the parliamentary counsel's committee at the request of SCAG. The international wills convention requires contracting states to introduce the uniform law on the form of an international will — the uniform law — into their own will. Contracting states must reproduce the actual text of the uniform law or translate it into the official language or languages of the state.

The uniform law provides for an additional form of a will, an international will, that sits alongside the other existing forms of a will. It complies with the uniform law that will be recognised as a valid form within the courts of other states that are party to the international wills convention, irrespective of where that will was made, the location of the assets or where the will-maker lives. Issues such as the capacity required of the will-maker or the construction of the terms of a will are matters that will continue to be dealt with by existing Victorian law.

The uniform law sets out requirements for the form of the will and the process for its execution. The formalities required for international wills executed under the uniform law are similar to the requirements for other wills under the Victorian Wills Act 1997. For

example, an international will must be made in writing and be signed by the will-maker in the presence of two other witnesses. The main difference is that the uniform law contains an additional requirement that the will-maker also declare the will in the presence of an authorised person, who is required to attach to the will a certificate to the effect that the proper formalities have been performed. This certificate, in the absence of contrary evidence, is conclusive evidence of the formal validity of the instrument as an international will.

In Australia an authorised person is any Australian legal practitioner or, as we have discussed this afternoon, a public notary. I think even members of Parliament can deal with that. The international wills convention allows contracting states to designate these authorised persons. Through SCAG, states and territories have agreed that authorised persons should have an understanding of local laws concerning wills and of the uniform law form requirements. The bill therefore designates Australian legal practitioners and public notaries as persons authorised to act in connection with international wills.

This bill is going to make it easier for our migrant population; it is going to make it easier for those who have come to this country and feel a little up in the air about the international standing of their wills. I am grateful that those in the house today are supporting this bill. It is a bill that, as I say, brings us together as a community and helps those who are a little concerned about how their wills will play out and be dealt with in Australia. I commend the bill to the house.

Motion agreed to.

Read second time.

Referral to committee

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

> That the Wills Amendment (International Wills) Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 20 June 2012, and in particular to examine the practical benefits to Victorians of having a simplified process of recognition of international wills in Victoria, noting the large number of Victorians either born overseas or who have family residing overseas.

Ms PENNICUIK (Southern Metropolitan) — I want to make a few remarks in support of the motion, because I was not able to make them in response to Mr O'Brien's clarification as to why the bill is being referred to the Standing Committee on Legal and Social Issues. He said in his contribution that the main reason was that Victoria is the leading jurisdiction with regard to the enactment of these international wills provisions, and I have to take it at face value that that necessitates inquiry by the legal and social issues committee. He made the point that there is nothing wrong with the bill and that no issues have been raised in relation to it, notwithstanding the fact that some concerns have been raised by the Law Institute of Victoria. I am sure they will be examined during the committee inquiry.

I would like to say in support of this reference to the legal and social issues committee that the Greens are happy for bills to go to legislation committees and wish that more would go to those committees. I put on the record that we have tried to refer nine bills to those committees over the past year. Many stakeholders in the community had raised issues with those bills, but the government refused to send them to the committees. As I have said many times — and I do not want to repeat it ad nauseam — it would be good if this signalled a new dawn in which the government will agree to refer bills to committees for inquiry when significant issues are raised by either side of the house.

Motion agreed to.

JOINT SITTING OF PARLIAMENT

Victorian Responsible Gambling Foundation

The ACTING PRESIDENT (Mr Finn) — Order! I have received a letter from the Minister for Gaming requesting that arrangements be made for a joint sitting for the purpose of appointing three members to serve on the Victorian Responsible Gambling Foundation board. I have also received the following message from the Assembly:

> The Legislative Assembly has agreed to the following resolution:
>
> > That this house meets the Legislative Council for the purpose of sitting and voting together to elect three members of the Parliament to the board of the Victorian Responsible Gambling Foundation and proposes that the time and place of such meeting be the Legislative Assembly chamber on Wednesday, 28 March 2012, at 6.15 p.m.
>
> which is presented for the agreement of the Legislative Council.

Hon. P. R. HALL (Minister for Higher Education and Skills) — By leave, I move:

> That the Council meet the Legislative Assembly for the purpose of sitting and voting together to elect three members for appointment to the board of the foundation and, as proposed by the Assembly, the place and time of such