

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-SIXTH PARLIAMENT  
FIRST SESSION**

**Thursday, 24 May 2007**

**(Extract from book 7)**

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### **Joint committees**

**Scrutiny of Acts and Regulations Committee** — (*Council*): Mr Dalla-Riva, Mr Eideh, Mr Elasmarr and Ms Pulford.  
(*Assembly*): Mr Brooks, Mr Carli, Mr Jasper, Mr McIntosh and Mr Thompson.

### **Heads of parliamentary departments**

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Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP



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**Thursday, 24 May 2007**

The **PRESIDENT (Hon. R. F. Smith)** took the chair at 9.33 a.m. and read the prayer.

## BUSINESS OF THE HOUSE

### Photographing of proceedings

The **PRESIDENT** — Order! I remind all members that an official photograph for the 56th Parliament of members of the chamber will be taken following the ringing of the bells at 2.00 p.m. and prior to the commencement of question time. I ask all members to be prompt in returning from the luncheon break.

## PETITION

Following petition presented to house:

### Springvale Road, Nunawading: parking bays

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

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the need for the state government to intervene in the proposed parking changes to Springvale Road in the Nunawading shopping strip.

Your petitioners therefore pray that the Minister for Roads and Ports, Mr Tim Pallas, intervene in the plans of VicRoads to close the 13 parking bays along the eastern side of Springvale Road between Whitehorse Road and Market Street during the hours of 6.30 a.m. to 9.30 a.m. and 3.30 p.m. to 7.00 p.m. in order to create an additional traffic lane.

We pray that the minister recognises and considers the needs of the local business owners to keep this small number of parking bays available for their customers at these most crucial trading hours and understands that the closure of this parking will be so detrimental to local business as to cause their closure.

**By Mr ATKINSON (Eastern Metropolitan)**  
(25 signatures)

Laid on table.

## VICTORIAN CHILD DEATH REVIEW COMMITTEE

### Report 2007

**Mr JENNINGS (Minister for Community Services),** by leave, presented report.

Laid on table.

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Budget estimates 2007–08 (part 1)

**Mr PAKULA (Western Metropolitan)** presented report, including appendices, minority report, extracts from proceedings and minutes of evidence.

Laid on table.

Ordered to be printed.

**Mr PAKULA (Western Metropolitan)** — I move:

That the Council take note of the report.

In doing so I wish to go only to a couple of matters in the report. The first page at the front of the report contains an outline of the basis upon which the committee presents the report to the house. Part 1, which is the part being presented today, contains departmental reviews based on the responses provided by departments to the committee's questionnaire, an index of the key matters at the first 23 budget estimates hearings to 11 May, questions taken on notice, unasked questions, a list of documents and transcripts of the proceedings.

The Liberal Party has presented a minority report which criticises the report on the basis that the latest report of the committee contains no analysis, no key findings and no recommendations. It was a matter that was discussed by the committee prior to the commencement of the estimates hearings. Because the committee did not see much utility in having the estimates report come to the Parliament in September or October, months after the budget had been handed down, our decision was that we would have a document which contained the transcript — the questions and answers — which we would get into the Parliament in a timely manner before the votes on the appropriation bills.

The document that I referred to, which is at the front of the budget estimates report, makes it clear that the report will be in three parts. Part 1 has been tabled today, part 2 will be the report of the outstanding hearings, which are yet to be conducted, and part 3 will contain an analysis, key findings and recommendations relating to the budget estimates for 2007–08. That matter was discussed by the committee prior to the start of the hearings. In the view of government members — in fact in the view of a majority of the committee — it is a worthwhile exercise to get a report of the committee into the Parliament while the appropriation debates are on foot and prior to their being concluded. There is no intention to not have an analytical report.

That will be contained in part 3. I think the committee ought to be congratulated on getting a report into the Parliament in a timely way.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I rise to speak to Mr Pakula's motion and note that, as he said, the Liberal members of the committee oppose the adoption of this report, which is entitled *Report on the 2007–08 Budget Estimates — Part One*. It has been a longstanding practice of the Public Accounts and Estimates Committee to produce thorough analytical reports on the budget estimates. Indeed over the last six years — from 2001 to last year, 2006–07 — the committee made more than 700 recommendations to government arising from the estimates process. The vast majority of those recommendations were adopted by the government. The report that has been tabled by Mr Pakula this morning contains no analysis whatsoever, no key findings and no recommendations.

Over the last 15 years the Victorian public accounts committee has gained an enviable international reputation for the quality of the work it does, particularly with respect to the estimates process. This report today undermines that reputation. As Mr Pakula noted in his take-note comments, this report contains merely transcripts of hearings, departmental responses to the committee and a one-page summary of the topics that were raised in the course of the hearings, but it does not contain any of the qualitative analysis that the committee traditionally undertakes. I note Mr Pakula's reference to part 3 — that the committee will produce a part 3. Until these concerns were raised by the Liberal members of the committee there was never any intention to produce a part 3 of the report. If Mr Pakula refers to the draft of the report, he will see there is no reference to a part 3 in the draft of the report.

At the end of the 55th Parliament considerable criticism was heaped on the government members of the public accounts committee for the work that went into the report on public-private partnerships. The chair and the government members were criticised by the government for producing a report that was critical of the government.

**Mr D. Davis** — It told the truth.

**Mr RICH-PHILLIPS** — A report that told the truth. But I might add, Mr Davis, that it was substantially edited between the draft and the final version that was publicly released. The report that is being tabled today is a response to what occurred at the end of the 55th Parliament. It is a dumbing down of the estimates process and a substantial weakening of the

scrutiny under which this government is placed by the committee.

The Liberal members of the committee do not support the adoption of this report as an estimates report. As a summary of hearings, it stands on its merits; as an estimates report, it does not. If the government members of the committee had been willing to consider this report as a summary of hearings, it would have had the support of the Liberal members, but they have not. It was the government's position that this must be considered as an estimates report, despite the fact that it does not contain the essential elements of an estimates report. The Liberal members of the committee call on the government to restore the proper estimates process and to restore scrutiny of this government.

**The PRESIDENT** — Order! I call Mr Rich-Phillips. I am sorry, that should be Mr Dalla-Riva.

**Mr DALLA-RIVA** (Eastern Metropolitan) — I think the only similarity between Mr Rich-Phillips and me is that our names both have hyphens. I could go further on that one, President, but I will leave it at that.

*Honourable members interjecting.*

**Mr DALLA-RIVA** — I have been referred to as Mr Della Bosca before, and that hurt me as well.

**Mr Pakula** — You couldn't wear Della Bosca's shoes!

**Mr DALLA-RIVA** — I would expect that from the factional hack across the road. I am equally pleased to rise and speak on this report following its presentation. Those taking note of this report would review it and say, 'There we are! There is the report of the budget estimates, aren't they efficient, aren't they quick?'. In fact even though the document is quite large, more than 50 per cent of it is just the transcript of the hearings, which can be accessed via the Public Accounts and Estimates Committee (PAEC) website. As Mr Rich-Phillips pointed out, the components contained therein relate essentially to just the tabling of a report by each of the departments that are so far referenced in this preliminary report, part 1.

It is what I would have expected from this government. It is a government is renowned for baffling the masses with bulldust, so to speak, and the reality is that it does that. We saw that last year, with the government dumping something like 200 to 300 annual reports over a couple of days. Government members come out with a mantra that this is a government that is open, honest and transparent. What it is trying to do is to say, 'Look

how open, honest and transparent we are. We are giving all these reports to the community, and aren't we wonderful?'. The problem is that it just overwhelms the people with so many reports and dumps them in such a way that it makes it almost impossible to analytically review the issues that were raised during the committee's estimates hearings.

Those who wish to do that would have to go through the large number of pages here, reference back to the Hansard transcript, reference back to what was said by the minister, reference back to the department's report that was submitted and then do their own analytical understanding of where things are at — whether that is positive, negative or otherwise.

The interesting thing that fascinates me is that we have a situation where, as Mr Rich-Phillips pointed out, during the discussions there was no mention of part 3. The government was proposing to put out only parts 1 and 2, saying, 'You do the analytical work, you do the key findings and you do the recommendations'. There was no indication of that.

I note in the committee's minority report that this latest report of the committee contains no analysis whatsoever, no key findings and no recommendations. Yet when we turn to the page at the start it refers to 'analysis, key findings and recommendations relating to this budget for 2007–08'.

**Mr Leane** — What about the chips?

**Mr DALLA-RIVA** — I think you should stop eating the chips. Judging from here, I think you need to stop eating them, to be honest.

Part 3 was never considered until the opposition raised it as a concern. While those on the other side like to see large, voluminous reports that look good and feel good for them — because they are all about the spin —

**Mr Atkinson** interjected.

**Mr DALLA-RIVA** — You're right, it is good for keeping the door open.

What I am concerned about is that we have the wonderful PAEC staff out there working diligently. I am sure they have been told they are the best committee. They have been given additional resources, and they were told to put this type of stuff together. I would like to see the PAEC staff, who have done a wonderful job in coordinating this, actually being supported by the government, the opposition and the other parties for their work in producing an analytical report that develops key findings and key

recommendations which will make this government more accountable than it currently is.

**Mr BARBER** (Northern Metropolitan) —  
Openness and transparency: I suppose it is going to be a competition over the next four years as to whether I get sick of saying it or the government gets sick of hearing it. The Public Accounts and Estimates Committee is the audit committee for the state of Victoria. If it were an audit committee of a company listed on the Australian Stock Exchange, then it would have to have a non-government majority on it. As a result it is now a matter of history how we voted on amendments that the Greens put up to give the PAEC a non-government majority and an independent chair.

Last year, before I was an MP, I sat in on the hearings of the Public Accounts and Estimates Committee. This year I got to be a member of PAEC. If anything, the standard of questioning has gone down and the level of control by the government has gone up. The way this estimates committee operates is not a credit to the government, particularly by the standards of other estimates committees you could look at in other Westminster leaders, such as Canada and the UK.

To deal with the specific matter of this report, the Greens did think it was an acceptable compromise to quickly produce a report to fit within the time line of the appropriation bill debate which summarised in a pretty non-value-judgement-laden way the work of the committee, the questions that were asked and so forth. However, when it comes to that part of the report that deals with the analysis, the recommendations and the findings of the committee itself, the Greens will be extremely rigorous in making sure that report reflects the view of the committee as a whole.

**Motion agreed to.**

## PAPERS

### Laid on table by Clerk:

Anti-Cancer Council of Victoria — Report for the year ended 31 December 2006.

Statutory Rules under the following Acts of Parliament:

Accident Compensation Act 1985 — No. 35.

Magistrates' Court Act 1989 — No. 33.

Subordinate Legislation Act 1994 — No. 34.

**BUSINESS OF THE HOUSE****Adjournment**

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

That the Council, at its rising, adjourn until Tuesday, 5 June.

**Motion agreed to.**

**MEMBERS STATEMENTS****HMVS *Cerberus*: restoration**

**Mrs COOTE** (Southern Metropolitan) — I call on the Bracks Labor government to fund as a matter of urgency the stabilising of HMVS *Cerberus*. The responsibility for the *Cerberus* is actually with the state government, but the federal member for Goldstein, Andrew Robb, lobbied the federal government successfully to have the *Cerberus* registered on the National Heritage List in December 2005. This highlighted to the community the importance of the *Cerberus* and that additional work should be done on it.

Since that time the Bracks government has done absolutely nothing to support or to fund the *Cerberus*. I would like to refer to some facts about the *Cerberus*, for those members who do not know about it.

It was launched in 1868. It is the only monitor — which is the first generation of modern battleships — left in the world. It not only has a hull but it has its gun turrets and its guns. The design for the *Cerberus* was the first in the world to incorporate the combination of a central superstructure with fore and aft gun turrets. It is the only substantially intact surviving warship of any of Australia's pre-federation colonial navies. The *Cerberus* is the only surviving warship to have served in the Royal Australian Navy. As members can see, the *Cerberus* is a very important ship for Victoria and for Australia at large. I welcome the fact that it has been registered on the National Heritage List. I call upon the Bracks government to do something soon.

**Sunshine Swim and Leisure Centre: FINA pool relocation**

**Ms HARTLAND** (Western Metropolitan) — I would like to use my members statement today to speak about the Sunshine pool. Every time I have raised the issue of the pool I have been assured by my colleague Mr Pakula that everything will be fine and that the government will keep its pre-election promises to completely fund the outdoor pool. With the

announcement by council last week that negotiations had been completed, the great news is that the outdoor pool will be finished.

Before I congratulate the government, I would like to acknowledge that the council will have to put its hand in its pocket to the tune of \$600 000 to build the changing rooms. I am, however, happy to congratulate the government and the council on coming to an agreement, as the pool is incredibly important to the community and should always have been above party politics.

The other people who need to be congratulated are the Save the Sunshine Pool group, the mothers group and especially the Harvester ward councillors, including the Greens member Miles Dymott. These groups ran a long and often difficult campaign to save the pool when some ALP councillors wanted to close it down. Pools play an important role in the community. The western suburbs have a far lower rate of pools per head of population, particularly the youth population, than other areas, but they have a higher rate of diabetes.

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

**Aboriginals: referendum anniversary**

**Ms PULFORD** (Western Victoria) — Today I would like to acknowledge the 40th anniversary this Sunday, 27 May, of the referendum that saw indigenous Australians receive recognition in this country's constitution. While it was not a referendum to decide whether or not the indigenous population had a right to vote — that was changed in 1962 for federal elections and in every Australian state by 1965 — it was an important vote in terms of allowing the indigenous population to be counted in the census and giving them the same rights as any other Australian citizen.

The referendum also allowed for the commonwealth government to legislate specifically for the indigenous population, which is seen as one of the first steps towards reconciliation. It is shameful for both sides of politics that it took so long for this country to recognise the first Australians this way. Some 90.7 per cent of Australians voted yes to the proposed changes, which just goes to show how slow successive federal governments were to catch up with the Australian people's thoughts on the issue.

While this Sunday is a day of celebration for the indigenous community, it is also a time of reflection on how we can and must improve the living conditions,

life expectancy and prospects of Aboriginal people around the country. The Howard government has had complete disregard for native title after the significant steps that were made under the Keating government in regard to the Mabo and Wik High Court decisions. The reconciliation process and standards of living have also stalled under this federal government, and I hope that people take this into consideration when voting in this year's federal election.

**Public Accounts and Estimates Committee:  
budget estimates 2007–08 (part 1)**

**Mr D. DAVIS** (Southern Metropolitan) — I also wish to make some comments today following the tabling of part 1 of the Public Accounts and Estimates Committee 2007–08 budget estimates report. I think 'report' is perhaps an overestimation of what is here. It is really a collection of documents. I have no problem with the departmental reports being made public. When I was a member of the Public Accounts and Estimates Committee I long argued for that, but some members were not in favour of it. However, I note that the departmental reports have become thinner and contain much less detail and much less controversial data than they have in the past.

**Mrs Peulich** — Useful!

**Mr D. DAVIS** — 'Useful' or 'controversial', I think, is the key point. Like Mr Barber, I also attended the estimates hearings last year, and in fact I am a former member of the Public Accounts and Estimates Committee. This year I attended the hearing relevant to my portfolio at which Mr Theophanous made his presentation. I have to say it is clear to me that the chair of the committee, Mr Bob Stensholt, the member for Burwood in another place, is not up to the job. I think that he is —

*Honourable members interjecting.*

**Mr D. DAVIS** — No, this is about the performance of a member on a committee. I am quite entitled to express a view on that and about the way in which he is conducting himself. I do not believe he is open and transparent in the way that is required by the community. I am quite within my rights.

*Honourable members interjecting.*

**The PRESIDENT** — Order! I thank members of the house for their assistance.

**Aboriginals: referendum anniversary**

**Ms MIKAKOS** (Northern Metropolitan) — The date of 27 May 1967 will always be a significant date in Australia's history. The largest ever yes vote in a referendum was achieved on that day — a massive 90 per cent. There was also support in every state for a referendum to change the Australian constitution to allow our indigenous people to be counted in the census for the first time and to allow the commonwealth government to legislate for indigenous affairs. I am proud that Victoria had the highest yes vote of any state — it was 94.68 per cent. The referendum had enormous symbolic significance and some practical significance, providing a constitutional basis for landmark legislation like the 1993 Native Title Act. On its 40th anniversary I pay tribute to those individuals who championed that referendum.

This occasion also provides us with the opportunity to take stock of what has been achieved since 1967. A great hero of mine, Gough Whitlam, strongly canvassed for a yes vote and said that if the referendum was passed, there would be no alibis in the future for a failure to improve the condition of Aboriginals. Sadly, as a nation we have failed our indigenous people. We need real national leadership on this issue. We should draw inspiration from the 1967 referendum to steel our determination to finally achieve true equality of outcomes and equal opportunity for indigenous Australians.

**Palliative care: volunteers**

**Mr ATKINSON** (Eastern Metropolitan) — I wish to acknowledge that this is National Palliative Care Week. I want to congratulate and express my admiration for all of those people who are involved in palliative care services throughout Victoria, particularly those who volunteer their services and support people who are going through trauma, serious illness or, in many cases, managing conditions the ultimate outcome of which will be their death. Many of these services are not simply about working with the individuals who are ill; they are about working beyond that with families. Many volunteers are involved in bereavement counselling and a range of support services. They are using their knowledge and, when it is needed, connecting people with other services to ensure those people are able to cope at a very difficult time of their lives when a loved one is nearing death.

In the eastern suburbs, the Eastern Palliative Care Services has been established for a good many years. I have had quite an association with that service over the years through both the Whitehorse City Council and its

predecessor, the Nunawading City Council. As a member of Parliament, I am aware of the outstanding and difficult work done by its volunteers. On behalf of members of the house, I express admiration for that work.

### **Sunshine Swim and Leisure Centre: FINA pool relocation**

**Mr PAKULA** (Western Metropolitan) — I also want to deal with the Sunshine pool matter. I want to congratulate the Minister for Sport, Recreation and Youth Affairs in the other place for the delivery of the pool in accordance with the government's election commitment. I also want to thank Ms Hartland for her words. It is a \$2.5 million pledge not just for the pool but for its installation, a children's water-play area, seating, shading and a barbecue. The council is building the change rooms, as indeed it ought to do. The pool is the dividend from the FINA championships. Those funds are not only for Sunshine but are also for Frankston, Geelong and East Bentleigh. Obviously I want to focus on Sunshine.

Over recent weeks in this place Mr Finn has been trying to deal himself into the outcome on this issue, calling on the government to commit to something we have already committed ourselves to, and calling on us to deliver something we were always going to deliver. Labor's commitment to the west is grounded in bricks and mortar. Examples are the pool; a grade separation of Taylors Road, St Albans; \$52 million for the transit city in Footscray; new schools and school refurbishments in Melton, Hume, Wyndham, Altona and Laverton; \$25 million for the upgrade of the Western Hospital; and \$20 million for the stage 1 redevelopment of the Sunshine Hospital. I note also that there has been an announcement this morning about improvement works in Bladin Street in Laverton. This is further proof that actions speak louder than words — even very loud words.

### **Bushfires: fuel reduction**

**Ms DARVENIZA** (Northern Victoria) — I want to take this opportunity to congratulate Victorian firefighters on exceeding the targets set for the fuel reduction burns for this year. Through fire prevention and control programs it was aimed to carry out 360 fuel reduction burns. In fact 131 000 hectares have been involved in those fuel reduction burns. This exceeds the number of hectares originally set.

Burning conditions have been really quite good this autumn. Reaching the target is definitely a credit to our firefighters as well as the Department of Sustainability

and Environment (DSE) and the other agencies that have been involved. This year's fuel reduction burns were the largest achieved since 1996–97. As well as this, DSE has undertaken some 247 regeneration burns across 4295 hectares to ensure regrowth of native vegetation.

Firefighters are definitely to be praised, as they went straight into fuel reduction burning and fire recovery efforts after a very long, difficult fire season. Some spent Christmas as well as New Year's Eve and Easter away from their families as they fought the many bushfires across Victoria, protecting life as well as property. Reduction burns will be stepped down during winter, but burns will be able to be carried out again in the future when weather conditions are suitable.

### **Clunes: rural township renewal**

**Ms TIERNEY** (Western Victoria) — On Sunday I had the pleasure of attending an event in Clunes held by the Clunes Tourist and Development Association in conjunction with the Hepburn Shire Council. The event was called a 'Book town for a day'. It was part of a project called Creative Clunes, which received \$15 000 from the Department for Victorian Communities to develop a proposal for rural township renewal.

Anyone who was there would have thought that gold had been found in Clunes all over again last Sunday. Thousands of people turned up. It was a stunningly successful event, and people could not be daunted by the rain or the very cold wind. Whilst it appeared to be a hugely successful one-day event, in itself of course it will not bring about sustainable renewal. The Ballarat *Courier* on Monday reported 'Clunes stacks up as visitors pour in'. It was an event that put Clunes on the map and gave people an opportunity to study the external and internal beauty of its Victorian architecture. It gave people an opportunity to imagine just what it might have been like to live in a Victorian goldmining town in the mid-1850s through to the late 1890s.

Hopefully this will add to the tourism potential of the area and bring inquiring minds back to explore the many historic buildings of the town on perhaps less hectic days. In doing so, visitors may contemplate a lifestyle that is family friendly and has readily accessible services.

### **Visy Cares Hub, Sunshine**

**Mr EIDEH** (Western Metropolitan) — I wish to make a statement regarding the Sunshine youth hub. As a member for the Western Metropolitan Region, I wish

to acknowledge and congratulate the Minister for Victorian Communities and the Bracks Labor government for funding the Visy Cares Hub in Sunshine. This facility will greatly assist young people with their future. In one place they will be able to obtain information about and support for their legal rights, education, housing and employment matters.

Brimbank City Council, Visy, Smorgon Steel, Victoria Police and local businesses were amongst those who saw the great merit in this project. This is a project of true vision and one which will benefit the youth of the west by allowing them easy and ready access to information that is critical to their welfare and prosperity.

## STATEMENTS ON REPORTS AND PAPERS

### Essential Services Commission: Victorian renewable energy target scheme

**Mrs KRONBERG** (Eastern Metropolitan) — The Victorian renewable energy target scheme rules of March 2007 are in fact the rules of the Essential Services Commission for the purposes of the Victorian Renewable Energy Act 2006, under section 113(1) of that act. The rules will take effect on the date of publication in the *Government Gazette*.

For power stations to receive accreditation and be issued with renewable energy certificates, their eligibility is dependent on the power station being in the national electricity market. It is required, inter alia, to use compliant metering. A power station using non-eligible renewable energy sources must have developed an energy source methodology or a methodology proposed by a registered person whose registration to act on behalf of the relevant power station has been approved by the Essential Services Commission.

Such rules must operate in accordance with any relevant commonwealth, state, territory or local government planning and approval requirements. In order to comply with section 17(6) of the act the pre-scheme capacity of the power station is to be determined by rules 5.2 and 5.3. Rule 5.2 states:

The pre-scheme capacity for a power station that generates electricity for the first time on a commercial basis on or after 1 January 2007 is nil.

Rule 5.3 states:

The pre-scheme capacity for a power station that has generated electricity on a commercial basis before 1 January

2007 is equal to the nameplate capacity of the power station on 31 December 2006.

The general requirements for a renewable energy source are that the source is approved as such by a commonwealth, state, territory or local government authority, that it meets the three tiers of government planning and approval processes, that it is used to generate electricity and that the electricity generated is used to meet demand directly for electrical energy.

Rule 7.3 sets out the special requirements for wood waste. Wood waste is not deemed renewable unless it is a biomass derived from non-native environmental weed species which are harvested in accordance with the planning and approval processes of the three tiers of government; a manufactured wood product such as packing cases, pallets or recycled timbers; waste such as timber offcut from the construction of buildings or furniture manufacture; sawmill residue; or the by-products of forest harvesting in areas managed by all applicable laws, codes and regional forest agreements.

Rule 7.4 states that the biomass from native forests is not an energy crop. Coal or natural gas, coal seam methane, waste coalmine gas and other products derived from coal or natural gas are not eligible renewable energy sources, and that is stated under rule 8.

As far as the generation utilising scheme capacity is concerned, the report sets out a general formula for total eligible generation. This formula is to be applied each year to determine the total eligible generation by an accredited power station. The Essential Services Commission must be satisfied that metering within the power station complies with rule 4.2 and must also be informed of the extent of applicability both of the energy source methodology and the scheme generation methodology.

Small generation units have rules covering things such as the meaning of a small generation unit, when a certificate may be created, how many certificates may be created, and the number of certificates for hydro-electric, wind, solar or photovoltaic small generation units. The report also provides a schedule of components of an electricity generation system.

### **Auditor-General: *Maintaining Victoria's Rail Infrastructure Assets***

**Mr DRUM** (Northern Victoria) — It is with pleasure that I take the opportunity in the chamber to rise and make a statement on the Victorian Auditor-General's report entitled *Maintaining*

*Victoria's Rail Infrastructure Assets.* In his introduction he mentions that each year Victoria's 5000 kilometres of rail system carries more than 140 million passengers and 17 per cent of the state's total freight. That gives us a really good indication of just how expansive the rail network is and how important it is that the infrastructure and assets are maintained adequately.

Obviously this report centres around the metropolitan rail system servicing the residents of Melbourne, but also it touches on the regional and intrastate network carrying passengers throughout Victoria. It also investigates into and reports on the interstate infrastructure, which links Victoria with New South Wales and also South Australia in both passenger services and freight.

The Auditor-General's report mentions that in recent years there have been some upgrades to parts of the system and additional services which, coupled with lower fares — which The Nationals had been calling for for a year before the Commonwealth Games and which have only recently been introduced — have resulted in a real surge in passenger numbers across Victoria. The increase in fuel prices is another driver that is forcing people off the roads and onto the rails. The report says:

The freight task in Victoria is also expected to grow significantly over the coming years and these changes place greater demands on the rail system.

In referring to 'these changes' the Auditor-General is talking about fuel prices continuing to increase, so getting further upgrades will be crucial for freight.

The audit found that, although the maintenance arrangements for both the metropolitan and interstate infrastructure are satisfactory, there is room for improvement and an ability to apply the existing lease in a better manner. Those of us who have an interest in this field realise that these leasing agreements have changed recently and that the government has purchased back the lease from Pacific National to the tune of around \$138 million. The report was done under the old lease. It highlights the challenges that were then facing Pacific National, or whoever was in control of the lease. Those challenges will now fall within the responsibility of the Victorian government.

It is interesting, given the problems we have highlighted in the chamber in the last few days of delays on the Melbourne metropolitan rail system clogging up the regional rail system, to find that the Melbourne infrastructure is far better than that of the regions. The report mentions that of all passenger delays only about 10 per cent can be put down to

infrastructure problems and that 90 per cent are caused by signalling problems that the Department of Infrastructure has recognised it needs to improve. The report states that the government's recent buyback of the regional infrastructure lease provides it with the opportunity to reassess practices and define service levels that are consistent with established policies and objectives, and to reconcile the level of resources necessary to meet agreed service levels. It is quite clear that the Auditor-General is effectively putting the pressure back onto the government to ensure that the way it goes about maintaining its regional infrastructure services in the future is consistent with its plans and also meets demand levels.

The Auditor-General agrees with what The Nationals openly state they realise with hindsight is the case — that is, as the report states:

The arrangements established in 1999 did not provide for the adequate maintenance and renewal of the infrastructure.

The report also states:

This situation was not substantially changed when the lease was transferred to Pacific National in 2004.

When the current government had the opportunity to do so, the leasing arrangements were not improved. This is a really interesting report which greatly clarifies the existing state of our rail infrastructure throughout the state of Victoria.

### **Ombudsman: police bullying and harassment complaint**

**Ms PENNICUIK** (Southern Metropolitan) — I wish to make a statement on the Victorian Ombudsman report of April 2007 entitled *Investigation into a Disclosure about WorkSafe's and Victoria Police's Handling of a Bullying and Harassment Complaint*. My observations do not relate to the circumstances of the case in question but to questions about the capacity of WorkSafe Victoria to effectively prevent bullying and harassment at work or to effectively investigate and deal with alleged instances of bullying and harassment at work.

I have a longstanding concern with this issue, emanating from my work at the Australian Council of Trade Unions (ACTU) occupational health and safety (OHS) unit. In 2000 the OHS unit coordinated a national health and safety campaign on bullying at work entitled 'Being bossed around is bad for your health'. This campaign generated a huge public response. The ACTU received thousands of calls over many weeks from often distraught employees about the



bullying behaviour they were experiencing at work and how it was affecting their health and wellbeing.

I spoke at length to many of those callers, which was at times harrowing. This campaign really came out of the campaign three years earlier entitled 'Stop stress at work', which found that the most reported causes of stress at work were difficult relations with management, including bullying and harassment. We produced a brochure which describes what workplace cultures with bullying look like, including unreasonable demands or impossible targets; restrictive and petty work rules; being required to perform tasks without adequate training; being forced to stay back to finish work or additional tasks; compulsory overtime; unfair rostering and allocation of work; no say in how the job is done; shouting and abusive language; open or implied threat of the sack or demotion; and people being afraid to speak up about conditions, behaviours or health and safety.

Part of this campaign was to alert the OHS regulators around the country, including WorkSafe Victoria, to the seriousness of this problem and its effect on the health and safety of employees. Intimidation and bullying are serious workplace issues and rising workplace hazards, particularly under the WorkChoices regime. Bullying occurs when there is a workplace culture that allows it.

In February 2003 WorkSafe produced a guidance note 'Prevention of bullying and violence in the workplace'. The Ombudsman's report noted that operational procedures for inspectors were still in draft form until September 2006 and that inspectors involved in cases being investigated were unaware of the final document in November 2006. It is a concern that WorkSafe took three and a half years to finalise its internal operational procedures for its own guidance note.

It is also of concern that it took three and a half years for there to be an internal procedure for inspectors to make referrals to internal WorkSafe investigators. It raises the question as to whether WorkSafe has effective procedures for other key risks and hazards, including violence, stress and musculoskeletal injury.

The Ombudsman noted his lack of confidence in the method of WorkSafe's investigation, and I note his observation that:

... if this case is symptomatic of a wider issue, more people will be affected if the identified WorkSafe shortfalls in responding to complaints about bullying continue.

I was also concerned by the narrow definition that WorkSafe appeared to have regarding who are complainants and the criteria for deciding which

apparently serious allegations are pursued or not pursued. More worrying for Victorian employers and employees is the revelation by the Ombudsman that WorkSafe's actions as a regulator were mitigated by political considerations.

I note that WorkSafe has agreed to the Ombudsman's recommendations and is conducting a review of its procedures. I look forward to hearing about the results of the review. It is critical that WorkSafe is able to deal effectively and in a timely manner with bullying at work. At worst, the health effects of bullying at work can result in serious physical illness, alcohol and drug use, depression or suicide. Other symptoms include headaches, sleep difficulties, high blood pressure, digestive problems, tearfulness, anxiety, nausea, anger, irritability and loss of motivation, concentration, self-confidence and morale.

The effects of bullying at work place pressure on family and friends. The significant effects which working conditions have on the health and safety of workers are largely underestimated or ignored in this country. I commend the report to members.

### **Bendigo Regional Institute of TAFE: report 2006**

**Ms BROAD** (Northern Victoria) — I wish to make a statement today on the Bendigo Regional Institute of TAFE 2006 annual report. The 2006 year saw BRIT, as it is known, make further progress towards its vision to be a major contributor to the economic and social development of the region by being the leading provider of workforce skills for industry. In 2006 BRIT made a very significant contribution to skilling, delivering around 1.7 million student contact hours. Particularly pleasing was a 7 per cent increase in 2006 in the number of trade apprentices in training, and that amounts to an extra 100 apprentices in training compared to 2005.

Growth has been strongest in the electrical, plumbing and construction trades, which are all areas of significant skill shortage, as anyone who lives in country and regional Victoria knows only too well. As well as the two main campuses in Bendigo, BRIT is also a TAFE provider in Castlemaine, Echuca, Kerang, Kyneton and Maryborough. That means that BRIT services an area of approximately 25 000 square kilometres in central and northern Victoria with a residential population of 220 000 people — not quite as large as my electorate, but a very large area.

Bendigo Regional Institute of TAFE continues to be amongst the top four of 19 TAFE providers in Victoria

for the delivery of vocational education and training to the youth market, with 30 per cent of students in the 15 to 19 years-of-age group. I especially want to draw attention to the youth pathways program that serviced around 114 students across the BRIT campuses in 2006. This program is particularly designed to assist 15 to 19-year-olds who are not engaged in education, training or employment to make the transition to BRIT study.

Bendigo Regional Institute of TAFE also continues to work hard to improve its delivery to mature-age students, including existing workers and workers attempting to re-enter the workforce. In line with that commitment, BRIT continues to offer the only adult Victorian certificate of education program in the region.

The report strongly indicates that there has never been a time in the institute's 152-year history when vocational education and training has been more relevant and important. The report refers to an analysis by the Australian Industry Group that identifies a very substantial mismatch between the skills required for current and future jobs and the current qualifications profile of our workforce.

The analysis shows that although it is estimated that 62 per cent of jobs require a vocational qualification, currently only 30 per cent of the Australian workforce have a vocational qualification — that is, less than half the proportion that is actually required. Not surprisingly, the report points out the need to dramatically increase the number of working-age people who participate in vocational education and training and the negative impacts of not meeting that challenge ahead of us.

I am pleased to say that the Bracks government is meeting this challenge with \$38 million allocated in the budget to upgrade TAFE infrastructure, bringing the total investment in TAFE capital to \$359 million since 1999. That allocation means that more Victorians than ever before will have more skilled training facilities and opportunities to help address the skill shortage and drive further job growth into the future.

### **Auditor-General: *Giving Victorian Children the Best Start in Life***

**Mrs COOTE** (Southern Metropolitan) — I want to speak about *Giving Victorian Children the Best Start in Life*, the Victorian Auditor-General's report of May 2007. This report actually contains some very interesting statistics and details, and it is a welcome report because it gives a very clear and, I think, quite

objective view of what is happening within the child protection and childhood services sectors in this state.

In its introduction the report states that the Department of Human Services is responsible for overseeing early years services and that in 2005–06 it allocated \$250.7 million for this program. This is an enormous amount, and it is important and imperative that this money is used wisely, effectively and efficiently to make certain that the children in this state do in fact live in the best state possible.

The Department of Human Services implemented three major initiatives, which are what this report basically deals with. The first is the Best Start initiative, which is focused on forging partnerships at local levels between service providers, service users and other stakeholders to collectively identify and better meet local service needs. The second one is the municipal early years plans which are prepared by councils and are designed to provide a strategic direction for the development and coordination of educational, care and health programs, activities and other local developments.

The third one is an analysis of the children's centres. Children's centres were an initiative brought forward by the former Minister for Community Services and Minister for Children in the other place, Sherryl Garbutt. The intention with these children's centres is to provide a single point of access to services by locating them together in a single building or in connected buildings.

All of these initiatives are worthwhile. There are statistics throughout the report which support that statement. There are underlying systemic concerns mentioned in the report. The concern that worries me most is the collection of data. If we are to make and implement policies that will work for the people we are providing them for, we need to build on proper empirical evidence. In this report the most damaging criticism is that the databases are insignificant and the reporting is not accurate and that this is a reflection upon the policy making and decision making in relation to these three programs. In these days when we live in an electronic age data collection can be both rapid and accurate, and it is important that this is recognised. I hope in the funding for this sector allocated to the Department of Human Services in this year's budget additional support and resources will be given to data collection. As I have said, how can policies be made and how can we identify whether the programs that are being run are having the benefit they are intended to have if we do not have relevant data.

I read from page 2 of the executive summary under the heading 'Audit conclusion', and it states that for Best Start sites:

... there was insufficient quantitative data at the local level that showed the initiatives directly contributed to increased participation in maternal child health and kindergarten services.

It goes on to say:

While all three initiatives had a focus on identifying and engaging with vulnerable children and families, it is difficult to establish whether participation by all vulnerable families and children has increased. This is, in part, due to:

the inconsistent way vulnerable clients are classified  
existing systems not being designed to maintain a record of their existence ....

It also states that the process whereby IT systems collect information about the same child at different stages of their life is complicated. These difficulties are not insurmountable with proper funding and analysis. It can make a great difference. This is a worthwhile report. There is much in it that I would like to speak on, and I believe I will probably put this report on to the notice paper in the sitting weeks ahead because there are many details within it that I would like to expand upon. I welcome the report. I urge the government to make certain that data collection becomes a priority in its policy-making and decision-making processes. I look forward to speaking on this report in this chamber again into the future.

### **Deakin University: report 2006**

**Ms TIERNEY** (Western Victoria) — I wish to make a statement on the Deakin University annual report 2006. I remind the house that Deakin University was originally established under a 1974 act. The primary specialisation of the institution in the 1970s was the promotion and facilitation of higher education through external studies, which was quite new to this country at that time. In the electorate I represent Deakin has three campuses. One is in Geelong central. It is called the Geelong waterfront campus and opened in 1996. There is also a Waurin Ponds campus, which is the original home of Deakin University, and a Warrnambool campus, which was brought into the Deakin family as a result of a consolidation with the Warrnambool Institute of Advanced Education in 1990.

What I would like to focus on this morning is the priority of Deakin as it stands now — that is, its real commitment to community responsibility and rural and regional engagement. It is quite spectacular not only in that it has a set of words it is committed to but in that it

actually lives that out in a vigorous way in a whole range of teaching and intellectual activities right across the institution. It is worthwhile reading out Deakin's goal in respect of this. The report states:

To work in partnership with local communities in Burwood, Geelong and Warrnambool, and with governments, industry, business and the professions, to advance the interests of Victoria and Australia; to champion equity and access; and to be committed to providing: flexible teaching programs, distance and online education; workplace-based learning and the continuing education; and research and teaching programs that advance the needs of south central and south western Victoria.

One of the major significant announcements made in 2006 was of the establishment of the medical school at Deakin. Not only will this assist regional Victoria but it will have a specific positive spin-off for western Victoria, particularly the Geelong and Warrnambool areas, given the amount of money and resources that the Bracks government has now committed to the Warrnambool Hospital. The interface between the Warrnambool Hospital and the new medical school at Deakin will bring about an alleviation of some of the shortages we have seen in western Victoria.

Beyond that, in terms of its commitment to genuine partnerships, Deakin has also entered into a significant partnership with the University of Ballarat, which is also located within the upper house electorate of Western Victoria Region. There are three components of this partnership. The first is a partnership in relation to the new medical degree from Deakin University and a new health science degree from the University of Ballarat. The other very good news in respect of all of this is that a joint university department of rural health will be located at Ballarat. There will be ongoing interaction between the Deakin campuses and the University of Ballarat in that respect.

Deakin's activities involve not only the provision of external studies or distance education, not only the new medical school and all the other allied health education services that will be provided, but also a whole range of other areas. They include the Deakin motion lab, which is positioning Victoria's industry at the forefront of international developments. It has also established two cooperative research centres. One is for cast metals manufacturing and another relates to advanced manufacturing. Both centres are located in Geelong and are central and key elements in the ongoing development of manufacturing in Geelong. I commend the report and look forward to a long and ongoing association with Deakin University.

### **Law Reform Committee: de novo appeals to the County Court**

**Mr DALLA-RIVA** (Eastern Metropolitan) — I am pleased to make my contribution this morning on the government response to the Victorian parliamentary Law Reform Committee report on de novo appeals to the County Court. It is an odd report to be discussing, but it emanates from the Law Reform Committee's report tabled in this house in October last year. I was then a member of the committee. Under its terms of reference the committee inquired into and reported on appeals from the Magistrates Court to the County Court with a view to making recommendations as to whether these appeals should continue to be hearings de novo.

For people who are not legally astute, like me, a de novo hearing is a new hearing in which a matter is heard afresh. Fundamentally persons who are found guilty in the Magistrates Court have historically had a capacity to have their matter heard de novo in the County Court, which has meant they have been able to have the entire case reheard.

There were a number of concerns raised by Victoria Police, by the bar council and a variety of other people, and they were discussed during the tabling of the report. However, this response gives me great hope that the processes and the grind of bureaucracy does slowly make its way forward to legislative reform. There are only four recommendations, the main one being the fourth:

That de novo appeals from the Magistrates Court to the County Court be retained in their current form ...

Obviously the government has agreed with our recommendation, and I do not think there will be any further move.

Although we did suggest three other recommendations to assist the court and indeed the whole process, I think those are going to be part of the legislation that I look forward to seeing, obviously tacked onto some other matters that will come up.

The first recommendation relates to the Magistrates' Court Act 1989. We recommended:

That the Magistrates' Court Act 1989 be amended to require the County Court judge hearing an appeal under section 83 of the Act to give an appellant a warning, as early as possible during the hearing ...

We found evidence that those who had been convicted would automatically lodge an appeal. If they had been given, say, four months imprisonment, they would automatically lodge an appeal. They would get to the

County Court, start moving forward and the judge would say, 'Well, Mr Smith' — or Mr Bloggs, or whoever he might be — 'you are looking at a year in jail'. Of course the appellant would probably get a bit sweaty under the armpits and say, 'I had better retreat from this appeal process and serve my four months'. I am pleased that the government supports our recommendations, because it will free up the County Court system.

The second recommendation is:

That clause 6 of schedule 6 of the Magistrates' Court Act 1989 be repealed so that an appellant is not required to seek the County Court's leave and to demonstrate 'exceptional circumstances' in order to abandon an appeal.

It seemed to be an administratively inefficient process, and we recommended that that no longer be required. The government agrees with the committee, as it says in its response to the report, and we are pleased with that.

The third recommendation is:

The committee recommends that audio tapes of the proceedings in the Magistrates Court be retained for six months.

Whilst there is not a legislative framework for the period allocated — in fact it is under section 16A of the Magistrates' Court Act 1989 where that determination comes — a practice note issued by the chief magistrate says how long those recordings should be retained for; it is currently three months. Whilst the government makes no recommendation, I would strongly suggest that the Attorney-General or the department make a representation to the chief magistrate to suggest that, on the evidence that we have taken, it would appear that three months is not significant enough in terms of ensuring procedural fairness and efficiency.

Other than that, I am very pleased the government is moving forward, and I look forward to the legislation coming into this house, when I will vote for it.

### **Law Reform Committee: de novo appeals to the County Court**

**Ms MIKAKOS** (Northern Metropolitan) — I am also pleased to rise to make a brief contribution in relation to the government's response to the Victorian parliamentary Law Reform Committee's (LRC) report on de novo appeals to the County Court. I begin by saying that the government's response, which has accepted the LRC's recommendations in their entirety, is a very good example of how well the parliamentary committee system can work and how a bipartisan

parliamentary committee can consider a particular issue in a great deal of detail and come up with recommendations that are seriously considered by government.

As I said, the government has considered the committee's report and has accepted all the recommendations made by the committee. I want to begin by thanking all members of the committee. Mr Dalla-Riva has indicated that he was a member of that committee, and I thank the other members, including the chair, Rob Hudson, the member for Bentleigh in another place, and the staff of the committee for the important work they did. They spent a considerable amount of time on the reference from when they received it.

In looking at this issue they consulted very widely with relevant stakeholders in the justice system, the courts themselves, police prosecution and many others, including members of the legal profession. They also considered the research that was available to them of alternatives that applied in other jurisdictions, including those overseas.

In particular the committee looked at reforms that had been made several years ago in New South Wales, which had abolished de novo appeals, and they took submissions from practitioners and other stakeholders from New South Wales who were quite critical of the system that New South Wales now has.

On page xvi of the executive summary to its report, the committee concluded:

... this comparative analysis of alternative forms of appeal, including the New South Wales model, convinced the Committee that Victoria's system of de novo appeal is both comparatively efficient — when seen in the wider context of its place within the criminal justice system — and comparatively fair. In the committee's view, Victoria's system of de novo appeal achieves a remarkable synthesis of justice and value for money.

In looking at the government's response and the committee's report itself it is important that one considers the very important right that people have in our criminal justice system, which is based on the British tradition system of having a right of appeal. We have always had those rights, and they were further strengthened and protected by being enshrined more recently in the Victorian Charter of Human Rights and Responsibilities.

The issue of an appeal is a reconsideration by a higher court of a decision that has been made by a lower court. 'De novo' is a Latin term meaning 'afresh' or 'anew', which describes the form of appeal in which a decided

case is heard again from the beginning. So a de novo appeal is a form of rehearing, but one that operates as an entirely new trial without reference to the decision of the lower court or the evidence heard before that court. There is an opportunity for fresh evidence to be presented as of right to that court.

It is important that we see this government response and the report in the context that the Magistrates Court is the decision-maker in respect of around 98 per cent of the criminal sentences imposed in Victoria every year, which is a very significant load. Approximately 95 000 defendants are sentenced in the Magistrates Court across 54 locations around Victoria. In terms of the numbers of de novo appeals, the committee report found that in 2004–05 there were 1851 de novo appeals from the Magistrates Court. That is not a significant number but a large number nevertheless, and I think the government response is one that will ensure that our criminal justice system can operate efficiently in this state and that defendants do have access to fair trials.

#### **Auditor-General: *State Investment in Major Events***

**Mr ATKINSON** (Eastern Metropolitan) — I wish to comment on the Victorian Auditor-General's report on state investment in major events. I note that this is a report of some interest to all Victorians, because it assesses the government's handling and particularly its accountability for the major events program in Victoria.

Obviously a number of major events attract more interest than others. The grand prix event, for instance, has been the subject of a running battle with some sections of the community since it was first started in 1996. Activities such as the recent FINA swimming championships also caused some controversy because of concerns about levels of support from the public, which were below expectations.

With recent events we have seen an increasing trend for security costs to be used as a cloak to hide cost overruns in the management of the events. We have also seen tickets distributed to schools and volunteers to boost audiences for these events. Whilst it is certainly noble to recognise the efforts of volunteers in a number of areas — and I note particularly that people associated with the bushfire fighting activities were accorded some volunteer tickets — the reality is that this largesse from the government has the added benefit of disguising the shortfall in ticket sales.

The report of the Auditor-General has looked to focus on event selection and seeks the government's attention to assembling a lot more evidence of the benefits and

the risks of running events where it plans to introduce new activities into Victoria. The report calls for a better post-event evaluation and more rigorous and transparent analysis, and certainly an improved economic analysis, but also calls for a focus on the triple bottom line and evaluation of social and environmental issues, which will no doubt appeal particularly to those people who have been opposed to the grand prix for over a decade. The report also suggests the government ought to be looking at continuous improvement initiatives and that in terms of cost benefit it should establish more performance indicators, which are not evident to date.

In my estimation far too many assumptions have been made on the benefit of these major events. Whilst I support a major events program here in Victoria, and I think there are a number of events that have contributed significantly to Victoria, we should be doing better. That is what the Auditor-General is saying. It is interesting from my point of view that the Melbourne Major Events Corporation in fact changed its name to the Victorian Major Events Corporation, another piece of very clever spin by this government. But the reality is that when you look around Victoria there are no major events going on outside Melbourne.

**Mr Drum** — Hear, hear!

**Mr ATKINSON** — There are no major events outside Melbourne, so where is the economic benefit to rural and regional Victoria of these events?

You have activities like the Heineken Classic, which came in and killed the Victorian Open, which was in fact a notable golfing event on the world calendar. The Heineken Classic killed it, and yet the Heineken Classic went away when the sponsor withdrew its dollars and the Victorian Open is still on its knees. We need to look at these projects a lot more rigorously, as the Auditor-General says.

Apart from the Australian International Airshow, which I believe does have some economic benefit in attracting investment to Victoria, I cannot get the government to define any single company that has invested in Victoria as a result of the grand prix or FINA, or any of these other events that it has been running of late. Despite the fact that Victorian taxpayers have a substantial investment in major events, I think we are far too often carried away with our own publicity and the fact that we see ourselves as the sporting capital of the world. We are not being rigorous enough in our assessment of what these major events are supposed to achieve and we are not going after them in a management sense to make sure we get better benefits for Victoria.

### **Auditor-General: *Giving Victorian Children the Best Start in Life***

**Mr SCHEFFER** (Eastern Victoria) — *Giving Victorian Children the Best Start in Life* is a report from the Auditor-General's assessment of three important program initiatives, devised and implemented by the government to improve the wellbeing of Victoria's children. The three initiatives are: Best Start, municipal early years plans and children's centres. Members will be familiar with these programs and know that each of them aims to improve the care of young children in a particular way.

The Best Start program aims to foster local collaboration among service providers and users in a community to build better children's services that are worked out to meet the needs of specific communities. The point here is to enable local communities to identify their own needs and to support them to develop solutions that suit them. The Auditor-General's report states that the government established 13 demonstration sites, including 2 that were Aboriginal specific, which were funded out of the 2002–03 budget. Last year's budget enabled a further 15 sites to be established. I attended the opening of one such initiative in Sale with the former Minister for Children, the Honourable Sherryl Garbutt, in 2006.

The Municipal Association of Victoria was funded by the Department of Human Services (DHS) to develop a framework, a municipal early years plan, to assist local councils to work out their own plans for developing a strategy for improving and coordinating educational, care and health programs, and other sorts of activities that would result in benefiting young children. The Auditor-General's report states that as at February 2006, 63 of Victoria's 79 municipal councils had developed such a plan.

The third initiative which the Auditor-General assessed and which is included in this report is the children's centres. As of October 2006, 18 such centres were in operation.

These three initiatives were established on the basis of the evidence that demonstrates that putting resources into supporting children when they are in the early years of their growth has many benefits for the children themselves, as well as for their families and of course the community. How well did these programs go in contributing to achieving their policy objectives?

In general the result was that the programs were successful but that there is room for improvement. The objective of the audit was to assess whether families

and their children — especially vulnerable families — experienced improved access to and participation in universal children's services in their communities. The Auditor-General's report points out that the quality of the services themselves was not part of the assessment. The report concludes that where the services were well run, all three initiatives contributed to improving the access to and participation of families and their children in the children's services.

However, the report found that for each of these three initiatives there is some difficulty in working out precisely whether the vulnerable families improved their access to and participation in children's services. The lack of clarity in relation to the vulnerable families was the result of data not being gathered in a way that would enable these conclusions to be drawn. The clients were not consistently classified, and the Auditor-General recommends that a single statewide database for universal services should be established.

The report concludes that general access to maternal and child health services is good and generally met the targets set by the Department of Human Services, or where they are not, are trending up. The report also found that the initiatives are soundly based and generally well implemented but that the DHS evaluation framework could be improved by establishing more consistent indicators at the local level in such a way that they could be incorporated into statewide evaluations.

This is an interesting and useful report into an important area of public policy and service delivery, and I commend it to the house.

### **Auditor-General: *State Investment in Major Events***

**Ms LOVELL** (Northern Victoria) — I rise today to give a statement on the Auditor-General's report, *State Investment in Major Events*, which is dated May 2007. The Liberal Party strongly supports major events in this state. In fact the major events strategy was established under the Kennett government. What this report does is add to the concerns the Liberal Party has had for sometime about the Bracks government's management of major events. The report shows damaging data for the cost-benefit analysis of the 2005 grand prix under the management of the Bracks government.

If we turn to page 83 of the report, we find that it shows the total cost of this race was \$69.8 million. On page 84 it shows us that the benefits from this race, including visitor spending, sponsors and benefits to the wider community, totalled only \$63.1 million, so the

cost-benefit analysis was a net economic benefit to the state of minus \$6.7 million.

The report contains a number of findings and recommendations, including that the preparation of the pre-event assessments submitted for funding approval could be improved. It says that the approach currently taken by agencies when conducting post-event assessments does not directly address costs and benefits; that agencies should be introducing more comprehensive methodologies, which better reflect how the economy works, when assessing the economic value of the more significant major events; that there is scope for greater transparency in economic assessments; and that there is scope to broaden the post-event assessment focus beyond the economic to embrace important considerations such as social and environmental impacts, the degree to which the risks were effectively managed and opportunities to introduce further improvements for future events.

It went on to make a number of recommendations as to how those things could be achieved. But, as I said, the Liberal Party supports major events and the benefits that they can bring to the state. Our concerns are about the Bracks government's management, or mismanagement, of these events, and this has been confirmed by this Auditor-General's report. The Bracks government needs to learn from the report. It is vital to Victoria that we are able to grow, not blow, these events. The government needs to ensure that the events are fresh, and that the major events calendar is better managed.

This year we saw in March a very crowded major events calendar that included the grand prix, the FINA swimming championships, the international flower and garden show, the fashion festival, the airshow, the launch of the Australian Football League season and several other events. A leading figure in the tourism industry advised me that during March you could not get a hotel bed in Melbourne — which sounds great, but it did restrict the ability to attract additional patrons to these events, and if they were spread further over the year we would be able to attract more visitors and also provide better access for Victorians to attend these events.

The Auditor-General's report raises points which are of grave concern to the Victorian community about the management of these major events under the Bracks government, and the Minister for Tourism must take notice of this report and put in place a strategy to better manage major events and the major events calendar in Victoria.

### **Rural and Regional Services and Development Committee: retaining young people in rural towns and communities**

**Ms PULFORD** (Western Victoria) — In early 2006, by resolution of the Legislative Assembly, the Rural and Regional Services and Development Committee (RRSDC) commenced an inquiry into retaining young people in rural towns and communities. The committee examined several things and specifically concerned itself with what makes young people move from or stay in rural communities and what makes those that leave either come back to or stay away from rural communities, and it tried to develop some strategies to increase the number of young people who stay in or return to rural communities.

The committee called for submissions and held public hearings in the first half of last year. Its work was extensive and included a consideration of 16 case studies. It made 22 findings and 56 recommendations. The paper that I am speaking to today is the whole-of-government response to the RRSDC's report.

It has always been a battle for regional town centres and townships to keep their populations, especially young people, and this is an issue that I am constantly confronted by in my travels throughout Western Victoria Region. The attraction of a large and exciting city like Melbourne, with its educational, occupational and social opportunities, not to mention major events, makes it difficult for rural Victoria to hang on to its youth. As this trend continues, ageing populations in regional Victoria will pose problems. This report and the government response looks at how we can try to buck this trend.

The report and the outcomes it looks to achieve are important, as I believe retaining rural youth in regional Victoria is one of the state's greatest challenges and is important in ensuring that the prosperity that Victorians enjoy is shared throughout the state. In many ways this report hits home in a personal way. I left regional Victoria as a young person, but now of course I have happily returned with my family and enjoy the lifestyle that Ballarat and the region provides. Certainly when I was growing up there was an expectation that my brother, my sister and I would move to Melbourne when we finished year 12, and we all fulfilled that expectation.

The report and response note that the primary reasons young people leave regional Victoria are for late high school or tertiary education, employment opportunities or change of life experience, which is also often tied to educational or occupational aspects of the move. The

report finds that most young people who complete secondary school in regional Victoria stay in regional Victoria. The reason most people stay in their regional community is their community being able to provide them with, according to the original report 'economic, educational, and social opportunities of interest to them'.

A good example of this is a situation in Ballarat. A recent study conducted for the University of Ballarat by the Western Research Institute found that 79 per cent of graduate students from the University of Ballarat who came from regional Victoria took up initial employment after graduation in regional Victoria. I met with David Battersby, the vice-chancellor of the University of Ballarat, who indicated to me that this study they have done — which is not quite but almost unique to tertiary institutions in assessing the destination of graduates — was inspired by the work of the committee and this report. There is no doubt that tertiary institutions in regional centres assist with the retention of young people.

The government's response to the inquiry has many recommendations. I will highlight a few in the time I have today. Recommendation 11 is that the state government continue to pursue the development of a national rural mental health strategy through the Council of Australian Governments as a matter of priority. The response notes that Victoria will continue to support a national health approach to mental health through the Council of Australian Governments. There are recommendations about connecting schools, and the government has made a substantial commitment in this regard with the announcement during the state election of connecting schools through the ultranet.

Recommendation 19 talks about the state government assisting the public, private and non-government sectors to provide rural scholarship programs.

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

### **APPROPRIATION (PARLIAMENT 2007/2008) BILL**

#### *Statement of compatibility*

#### **Mr LENDERS (Minister for Education) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility



with respect to the Appropriation (Parliament 2007/2008) Bill 2007.

In my opinion, the Appropriation (Parliament 2007/2008) Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The purpose of the Appropriation (Parliament 2007/2008) Bill 2007 is to provide appropriation authority for payments from the consolidated fund to the Parliament in respect of the 2007–08 financial year.

**Human rights issues**

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

The bill does not raise any human rights issues.

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

As the bill does not raise any human rights issues, it does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006 because it does not raise a human rights issue.

JOHN LENDERS, MP  
Minister for Education

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).**

**Mr LENDERS (Minister for Education) — I move:**

That the bill be now read a second time.

**Incorporated speech as follows:**

The bill provides appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2007–08 financial year including ongoing liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2006/2007) Act 2006 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2007–08 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the presiding officers, appropriations in the bill are made to the departments of the Parliament.

The total appropriation authority sought in this bill is \$92.1 million — in clause 3 of the bill — for Parliament in respect of the 2007–08 financial year.

I commend the bill to the house.

**Debate adjourned on motion of Mr RICH-PHILLIPS (South Eastern Metropolitan).**

**Debate adjourned until Thursday, 31 May.**

**EQUAL OPPORTUNITY AMENDMENT BILL**

*Second reading*

**Debate resumed from 3 May; motion of Hon. J. M. MADDEN (Minister for Planning).**

**Mr RICH-PHILLIPS (South Eastern Metropolitan) —** The mechanics of the bill before the house this morning, the Equal Opportunity Amendment Bill 2007, are quite straightforward but the politics that underpin it are quite obscure.

I will start with the mechanics of the bill. It is a simple bill with only five clauses. As the purpose clause sets out, the purpose of the bill is to amend the Equal Opportunity Act 1995 to include a new attribute of employment activity on the basis of which discrimination is prohibited. The way the Equal Opportunity Act 1995 works is that it contains provisions which set out what discrimination is. Section 6 of the act lists the attributes of discrimination, including things like discrimination on the basis of age, marital status, race, sex et cetera.

There is a fairly extensive list of attributes on which discrimination can be claimed. The act sets out that discrimination on those grounds is an offence. It also sets out a series of remedies for parties who believe they have been the subject of discrimination, such as conciliation, and various forms. The act also sets out a list of grounds on which a party can claim exception. Some of these are things such as religious schools and certain exceptions for small business. There is quite an extensive list of exceptions under that act.

What the bill does is quite straightforward. It inserts into the act a new attribute of ‘employment activity’. The definitions section provides a definition of ‘employment activity’ and a definition of ‘employment entitlements’. It states:

employment activity means an employee in his or her individual capacity —

- (a) making a reasonable request to his or her employer, orally or in writing, for information regarding his or her employment entitlements; or
- (b) communicating to his or her employer, orally or in writing, the employee's concern that he or she has not been, is not being or will not be, given some or all of his or her employment entitlements;

employment entitlements, in relation to an employee, means the employee's rights and entitlements under an applicable —

- (a) contract of service, including a workplace agreement, employment agreement or award within the meaning of the Workplace Relations Act 1996 of the Commonwealth; or
- (b) contract for services; or
- (c) Act or enactment; or
- (d) law of the Commonwealth ...

The operation of the bill is quite straightforward. It inserts into the principal act definitions and a new attribute on which discrimination can be claimed. What is not clear is why we are doing this. To find out why this is occurring we need to look at the second-reading speech. It was first delivered by the Attorney-General in the other place. When you read the speech it becomes apparent that this bill is not about discrimination but is about the political agenda of the government. It is yet another example of the government attempting to use the statute book to make a political point in a federal election year.

The rhetoric of the Attorney General's second-reading speech is quite extraordinary. In the first paragraph he launches into an attack on the commonwealth government in respect of industrial relations. This theme runs throughout the speech. He makes wild claims about discrimination being experienced or being likely to be experienced by Victorian workers. He uses that as a basis for introducing new grounds for discrimination via this legislation.

The Attorney-General in his second-reading speech did not provide any evidence at all that this form of discrimination he seeks to outlaw is even occurring. The Attorney-General seems to be completely oblivious to the facts. The only example we are seeing of dubious workplace practices involves the wife of the federal Leader of the Opposition, which were reported on the front page of the *Herald Sun* today; but I will put that case aside.

We do not see articulated in the Attorney-General's second-reading speech, in any government document or in the press any examples of the discrimination that the Attorney-General is seeking to outlaw with this bill.

There is no evidence. It is yet again an attempt by this government, particularly by the Attorney-General, at scaremongering in regard to the Victoria work force. It seems that the government and the minister are oblivious to the Victorian working environment. They seem oblivious to the fact that for the first time in more than 30 years, Victoria has virtually full employment.

We have a skill shortage in Victoria. The Treasurer likes to point this out from time to time and blame the commonwealth for it. In my electorate there are numerous employers who are unable to get the work force they require, yet the Attorney-General has introduced a piece of legislation in this place because he believes employers in this state are out to attack and discriminate against their work forces. The premise of this legislation is that an employer is going to discriminate against their employees simply because the employees have asked about their employment entitlements. This is absolutely bizarre stuff. Again, I make the point — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! This chamber is starting to sound a little like Trades Hall. I am having a bit of *deja vu*, and I am not sure that it is appropriate.

**Mr RICH-PHILLIPS** — There is no evidence in any of the material presented by the Attorney-General in bringing this bill forward of any discrimination of the type that he seeks to outlaw by this legislation.

I would like to pick up some serious aspects of this legislation. This bill seeks to undermine the unitary system of industrial relations that we enjoy in Victoria. One of the key achievements of the previous government was the referral of the industrial relations powers to the commonwealth government. There is no doubt that Victorian employers and employees have benefited from that referral. There have been no serious attempts by the current government to rescind that referral, but we are now seeing an effort by this government to undermine that unitary system. Over the course of the last 12 months, state governments went to the High Court to have the commonwealth government's WorkChoices legislation struck down as unconstitutional. The High Court found that the commonwealth legislation was in order. Now we are seeing a backdoor attempt to nobble that commonwealth legislation.

The Australian Chamber of Commerce and Industry has been very critical of the attempts by a number of state governments, not just the Victorian government, to undermine by way of legislation such as this bill the

commonwealth industrial relations system and this attempt to undermine the unitary system which we enjoy in Victoria and which gives us a unique competitive advantage. It is regrettable that the government is attempting this. When you read through the detail of the Attorney-General's second-reading speech you get a sense that the government realises this, because there are numerous attempts in his speech to read down the language of the bill and put constraints around the way in which the bill is used. This is effectively an acknowledgement by the Attorney-General that the bill is unnecessary and undermines the competitive advantage that Victoria enjoys. The language of the Attorney-General's second-reading speech puts constraints on the bill.

We note that the budget of 1 May has provided some minor funding — I think it is in the order of \$200 000 — for the implementation by the Equal Opportunity Commission of this new provision being considered by the house today. No doubt we will see that funding used for yet another propaganda campaign against the commonwealth government. The cynic in me suggests that the \$200 000 appropriated in this year's budget is a very suitable sum for the type of propaganda campaign we have seen from the Minister for Industrial Relations in the other place, through his officers, here in Victoria.

One of the concerns members of the opposition have is the vexatious manner in which this legislation will be able to be used when there are workplace disputes. Legal advice that members of the opposition have seen certainly raises questions about the scope that this legislation opens up, in particular in the definition of employment entitlements. Given that the reference to 'employee's rights' is combined with the reference to 'law of the Commonwealth', there is certainly concern among employer groups that that gives scope for an employee to claim discrimination if they are seeking information about any common-law right. That would be a very broad interpretation of the legislation, but it is certainly not read down in the minister's second-reading speech.

**Ms Tierney** — What are workers saying about it?

**Mr Pakula** — He wouldn't know!

**Mr RICH-PHILLIPS** — I take up the interjections from the peanut gallery in the corner. Workers are not saying anything about this, because workers are happy with their lot. Employees in this state have seen the massive growth in real wages under this government over the past decade, which is a complete contradiction to what occurred under the previous federal Labor

government during the Hawke and Keating years, when real wages fell. Workers in Victoria are enjoying the growth in real wages and of being in a situation of near full employment, and they are certainly not marching in the streets calling for this legislation. This is about the hobbyhorse of the Minister for Industrial Relations — and nothing more.

Ms Pennicuik on behalf of the Greens has foreshadowed in discussion that she will move amendments to this legislation in the committee stage. I certainly will not pre-empt her amendments by discussing them in detail. In the party room members of the Liberal Party have considered the draft proposed amendments. We have some concerns with their scope in that they appear to seek to dramatically widen the purpose of the bill by reading back certain exemptions under the legislation. On that basis, the Liberal Party will not be supporting the Greens' amendments — and the Liberal Party also will not be supporting this bill.

This is now the second time in this 56th Parliament that we have seen legislation put forward by the government for political purposes. The first was the nuclear power plebiscite bill, which was appropriately voted down in this chamber. It is not appropriate for this or any other government to be using the statute book of Victoria for its political ends. If the Minister for Industrial Relations wants to make a political point to the commonwealth, he should put out a press release. He should not waste this Parliament's time by introducing legislation that is designed purely as a political tool to push one of his barrows. This is bad legislation, it is a political stunt and the Liberal Party opposes it.

**Mr HALL** (Eastern Victoria) — To my mind there is only one reason why we are debating this legislation today — that is, because 2007 happens to be a federal election year. We know that members of the Labor Party, through their federal branch and every state branch, want to make WorkChoices the election issue. That is their right. I do not deny them that whatsoever — and good luck to them in that — but neither I nor my colleagues in The Nationals will be helping them in that regard. This bill before us is simply another plank and effort in the Victorian government's campaign against the federal government.

The bill is purely politically motivated and the need for it is completely unsubstantiated. If members of the government honestly believe that there is a genuine reason for the bill and give genuine examples of people being discriminated against purely because they ask for details of their workplace arrangements, as was put to the chamber this morning, then I reckon I would

support this legislation. But to this point at least no substantiated case has been made for this legislation.

I know that members of the Labor Party will argue that people in the workforce are discriminated against and that AWAs (Australian workplace agreements) are not good for workers. I invite members of the government to wheel out some cases of workers having been discriminated against purely because they have asked for workplace details, and I promise that I would think again.

The bill amends the Equal Opportunity Act to insert a new attribute of employment activity as the basis on which discrimination will be prohibited. That definition of employment activity is in clause 3:

employment activity means an employee in his or her individual capacity —

- (a) making a reasonable request to his or her employer, orally or in writing, for information regarding his or her employment entitlements; or
- (b) communicating to his or her employer, orally or in writing, the employee's concern that he or she has not been, is not being or will not be, given some or all of his or her employment entitlements ...

Again, I would be the first to agree that any employee should be able to ask, without fear or favour, for details about their employment entitlements. I think probably a great number of employees do that from time to time. They would do it through a number of avenues. They would do it by looking at the details on their payslip that they are handed regularly. They might ask for details of their workplace arrangements from their employer or their union if they are a member of one or they might even go to the Office of the Workplace Rights Advocate, a body set up by the Victorian government. Indeed, each of those is a legitimate avenue. In fact I have sent constituents of mine to the workplace rights advocate if they preferred that to directly asking their employer.

I can remember that recently a lady employed in the aged-care sector came to me and said that she was not sure about her entitlements on leave from work to participate in the bushfire response effort. I referred her to the workplace rights advocate for advice in that matter. In that instance she would rather go to a third party than to her employer, and that is absolutely her right. That is not to say that she would have been discriminated against by going and talking to her employer. I go back to that issue again: that there has not been a case substantiated that people are being actively discriminated against purely for seeking information about their workplace arrangements.

I think most employers and employees generally enjoy a pretty good relationship — I say that honestly. Of course it is in the mutual interest of both parties to cooperatively work together because they are reliant upon each other for the particular endeavours they are undertaking. An employer relies on a good workforce to ensure that his or her business profits and survives, and employees rely on having regular employment at a satisfactory level. Sure, there are issues from time to time. There are at times unreasonable employers, and I would suggest that at times there are also unreasonable demands placed upon employers by employees. That is why we have an industrial relations (IR) system to resolve those disputes from time to time as they arise, and so we should.

**Ms Tierney** interjected.

**Mr HALL** — We do have it. We have a unified system; we have a national IR system. I note the point Gordon Rich-Phillips made that Labor has never sought to repeal the national IR system that has been put in place when those powers were referred to the federal government some years ago now. I do not think the Labor Party is advocating the dismantling of that system now. I heard by way of an interjection from the Leader of the Government to the previous speaker that federally Labor was simply going to make it better when it gets to government. It is not going to dismantle the federal system of IR; it is just going to change it to suit its perceived needs, and that will be its right if it wins government at the next federal election. What this bill does, though, is meddle with the uniform IR system that we have in our country. As I said, I understand the Labor Party does not like the coalition government's model, but it will be its right to change it if it is successful in winning the next election.

I go back to the basic points that I made at the start of my contribution. I believe that this legislation is grossly unsubstantiated in its needs. It is purely politically motivated in the Labor Party's effort at branch and federal level to make WorkChoices a federal election issue. If it is, that is well and good — let both parties fight it out on the ground and convince the voters of Australia which is the better system being advocated by those parties. But let us not meddle with it. The Nationals are not prepared to support legislation that is a politically motivated stunt. It is unsubstantiated, there is no demonstrated need for it, and that is why The Nationals have found good reasons to oppose this bill.

**Ms PENNICUIK** (Southern Metropolitan) — I am pleased to contribute to the debate on this bill to amend the Equal Opportunity Act 1995. The stated purpose of this bill is to make amendments to the Equal

Opportunity Act to include a new attribute of employment activity on the basis of which discrimination is prohibited. Part 2 of the Equal Opportunity Act lists attributes on the basis of which discrimination is prohibited in the areas of activity set out in part 3, except where the act confers specific or general exemptions, which I will return to in a little while.

Clause 3 of the bill inserts into section 4(1) of the act the following definitions:

employment activity means an employee in his or her individual capacity —

- (a) making a reasonable request to his or her employer, orally or in writing, for information regarding his or her employment entitlements; or
- (b) communicating to his or her employer, orally or in writing, the employee's concern that he or she has not been, is not being or will not be, given some or all of his or her employment entitlements;

The first part of that definition is designed to cover questions such as: what is my rate of pay? How many holidays have I accrued? Do I have entitlement to maternity leave? Have I been paid for those extra hours worked? The second part covers questions such as: I am worried that I have not been paid the overtime allowance; why am I not being paid at the current rate of pay?

This bill also aims to provide a definition of employment entitlements in relation to an employee. The Greens are supportive of these aims of the bill. I heard Mr Hall say that there is no evidence that this is required. I say to Mr Hall that in my experience of working at the Australian Council of Trade Unions, I heard many times the story that people are discriminated in their workplace for asking those simple questions. I could not even tell him how many times I have heard that. In fact I was distressed this morning to receive a text from an old friend of mine who is experiencing this sort of intimidation in her workplace at the moment. We are talking about a mature aged, skilled person. I would like to ensure Mr Hall and others that this in fact is rife in the workplace.

This bill is required because there is nothing in WorkChoices, which covers many Victorian employees, which requires an employer to supply information about basic pay and conditions to their employees. The onus is on the employee to ask for those. This puts the employee in the position of having to ask for their basic entitlements rather than having them provided, and then potentially being discriminated

against for raising that issue. Obviously not all employers will discriminate against employees in this regard but some will, and, as I said just before, many do.

Mr Hall said that he referred people to the workplace rights advocate if they would rather not speak to their employer. I would say that is the exact argument why we need this bill. If they do not want to speak to their employer, then one asks: what is the reason they do not want to speak to their employer? It is because they are afraid to be discriminated against.

Advice provided to me from practitioners in the field of industrial relations and equal opportunity is that people are increasingly afraid to speak about their pay and conditions for fear of retribution. I mentioned this morning in my statement on the report of the Ombudsman about bullying that not only are people being discriminated against if they have the guts to ask these questions, but many of them do not even get that far. They know they are going to be discriminated against so they do not ask. Worse still, people may know that they are not being paid the minimum wage or any penalty or overtime rates and that they are being denied rest and meal breaks, but they are afraid to raise these issues.

People are not being paid their legal entitlement to superannuation, for example. I personally know of many cases of this. People do not raise the issue. Employer contributions to superannuation funds, which are legally required to be made, are not being paid but employees are too afraid to raise the issue in case they are discriminated against or sacked for doing so.

In the current industrial relations climate, which is one of increasing confusion, fear, uncertainty and insecurity that was created in the first instance by the 1996 Workplace Relations Act and now made much worse by WorkChoices, too many employees across industries and occupations, particularly young workers, women, people from non-English-speaking backgrounds, newly arrived migrants and refugees, and people in low-paid and precarious employment, are losing previously protected award conditions and are in a vulnerable position with respect to employment security and employment conditions.

This situation is totally unacceptable in Australia and is an insult to those who fought long and hard for industrial democracy and fair treatment at work, which is derived from the Universal Declaration of Human Rights, article 23, which says:

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Everyone, without any discrimination, has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration ensuring for himself —

or herself —

and his family —

or her family —

an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Work is a significant part of our lives. What happens in workplaces can have profound effects on people's lives. If people suffer harassment, discrimination and intimidation in the workplace, it can have far-reaching effects on their physical and mental health. It also affects the workers around them.

The Greens strongly believe in a fair and equitable industrial relations system, where all people have the right to pursue their wellbeing and conditions of respect, freedom and dignity, economic security and equal opportunity. Workplaces are not private places, they are public places, and community standards should apply in all workplaces in a transparent and open way. Industrial relations laws should aim to create a fair and non-discriminatory industrial relations climate in society and at the workplace level. Tragically this is not the climate that is being created by the WorkChoices regime.

Forty-one per cent of respondents to a New South Wales Galaxy poll said they knew someone who had been negatively affected by WorkChoices. In particular the removal of unfair dismissal laws, which has legalised discrimination against workers in businesses with less than 100 employees, has created a worsening climate of uncertainty and insecurity, even amongst long-term employees, so that people are increasingly fearful of speaking up.

There has been a 60 per cent increase in complaints to the Human Rights and Equal Opportunity Commission (HREOC) since the unfair dismissal laws were removed. Research from RMIT indicates that the removal of these protections is negatively affecting human relations practices and procedures. The loss of the first and second warning system, which is basically just procedural fairness and natural justice, negates any sense of job security, even for permanent workers. Lack of job security mutes the voices of employees to speak

out about any issue — for example, on health and safety, to query their entitlements and correct wage rates, and so on. The RMIT researchers have spoken to people in all states who have been dismissed for doing that.

To add insult to injury, the federal government has made it illegal for workers or employers to include unfair dismissal processes — that is, basic procedural fairness and natural justice — in agreements. It is illegal to include measures to ensure that people are not treated unfairly at work. How could an Australian government make such a repugnant law?

The workplace rights information line report on its calls shows that procedural fairness complaints account for 10 per cent of all calls, and the problems of dismissal and termination dominates the calls. They accounted for around 20 per cent of all problems reported to the information line between March and August. The removal of unfair dismissal laws has paved the way for discrimination at work. There is no recourse to protect a worker's reputation when false accusations are made as the basis for dismissal. It is a shameful disgrace.

Evidence is also emerging that women are faring worse under WorkChoices and that the gains of the last 30 years have been annihilated. It was reported in the *Age* of 13 April that the acting sex discrimination commissioner and president of HREOC warned that two extremes are being created under the industrial relations regime, with some being grossly disadvantaged by the changes while others are reaping awards. He said there was a risk that people in jobs where demand for workers was low, particularly women, could be disadvantaged by WorkChoices. He is quoted as saying:

When you're dealing with the gender-segregated employments like the hospitality industry, health and so on, particularly where people are working for small employers, the ability to actually negotiate is ridiculous ...

Again, the workplace rights information line report says that women are much more likely to call about discrimination and harassment issues in the workplace. 'Do not ask for favours such as family friendly rosters', workers said during this study. We all know that the ability to negotiate being ridiculous is the elephant in the room. The advocates of the WorkChoices regime are simply wilfully ignoring this truth to the detriment of many thousands of working people. Regrettably that is why the provisions of this bill are necessary.

It is not a perfect remedy because of WorkChoices. People will still be reluctant to speak up, but its existence in the law will act as a deterrent to some

employers and assist workers who have been discriminated against due to their simply asking questions about their entitlements. What is actually needed is a return to an industrial relations system that applies fair and decent standards across industries and occupations, with reference to the principle of equal pay for equal work, where that is not dependent upon how generous or mean, competent or incompetent, law abiding or non-law abiding individual employers are.

Despite the rhetoric and the empty assurances that WorkChoices will result in better-paying conditions, it is designed to achieve the exact opposite. There was never any impediment to employers paying their staff above award wages or offering improved conditions: the impediment was against employers offering below award wages and conditions. Workers in positions of little bargaining power had their pay and conditions protected by awards, so the only conclusion that can be drawn is that the purpose of the Workplace Relations Act and WorkChoices in particular is to enable employers to pay below the award and to offer conditions less than those provided for in awards.

We do not have the full facts of the effects of WorkChoices up to the present time because the Howard federal government has refused to release any more data on what is happening to pay and conditions under Australian workplace agreements. If the news were good, it would be trumpeted high and low. We know from the Senate estimates hearings in 2006 that 100 per cent of Australian workplace agreements cut at least one award condition; 22 per cent provided workers with no pay rise, some for up to five years; 51 per cent cut overtime loadings; 63 per cent cut penalty rates; 64 per cent cut annual leave loading; 46 per cent cut public holidays payment; 52 per cent cut shift work loadings; 40 per cent cut rest breaks; 36 per cent cut declared public holidays; and 44 per cent cut days to be substituted for public holidays.

We have heard a lot lately from the Prime Minister and the federal Minister for Employment and Workplace Relations, Mr Hockey, about making sure that workers get fair compensation for loss of overtime, penalty rates, meal breaks, annual leave, rest breaks, shift allowances and public holidays. If this were not such a serious issue it would be a joke. Quite apart from the virtual impossibility of judging what fair compensation is when comparing apples with oranges in terms of unrelated conditions, the fact is that the statements by the Prime Minister and Mr Hockey completely miss the point for workers and totally undermine the original purpose of the working conditions and the protections they provide.

As recently as this morning I heard Mr Hockey on *AM* trying to justify his fairness provisions and stumbling over the things he is going to do, as poor as they are, for the workers who have already been on Australian workplace agreements for a year. They just get left like a shag on a rock. Mr Hockey offered that the loss of overtime or penalty rates could be compensated, for example, with a car park. Unfortunately a worker cannot use a car park to pay for their mortgage or their groceries. Many thousands of workers, especially those in low-paid occupations, depend on overtime and penalty rates to make ends meet.

The whole point of these penalty, overtime and shift allowance conditions is to protect workers from exploitation and to provide a disincentive for people to work excessive hours — too many hours or days in a row — without a break, or to do too much shift work, especially night work. Penalty rates, overtime, shift allowances and rest and meal breaks serve to compensate workers for shift work and work during extra or unsocial hours, and they are also very important instruments to protect health and safety.

We have seen a huge shift towards a 24/7 society and the myth put about by certain sections of business that workers should be paid a flat rate for the hours they work, regardless of the time at which they are worked or however many hours are worked in a day over an average period of time. This idea erroneously assumes that all hours are the same. I worked a lot on these issues at the Australian Council of Trade Unions. The ACTU guidelines published on shift work and extended working hours, which are based on sound evidence, state:

From a health and safety perspective, all hours are not the same. Night work and extended hours which carry into the night ... are particularly difficult and hazardous. Overtime also increases the risk of fatigue, particularly when large amounts of overtime are worked. Fatigue can lead to accidents and near misses.

The guidelines further state:

Each hour of night work imposes a greater workload than the same hour worked during a day shift (3.00 a.m. versus 3.00 p.m.) because of the effects of circadian rhythms.

I assume we are still governed by our circadian rhythm and have not turned into automatons who can work for over 24 hours at the same rate. The guidelines further state:

Night work combined with extended hours is extremely hazardous in terms of sleep debt and fatigue, and may result in increased risk of accidents at work.

The guidelines also state:

The more shift work (particularly night work) and extended working hours that people are exposed to per day, per week and so on, the greater the effect on the quality of off-duty periods.

Rest days may increasingly be experienced as periods of recovery and recuperation from work. Social and domestic activities may still be possible, but fatigue, lack of motivation and a general sense of tiredness will be experienced.

Social and domestic activities are not luxuries. They are essential features of life in our society. The off-duty period should not become a 'breather' in an endurance test of wall-to-wall work.

We all need common time with the community or we should be compensated for the loss of that time.

We are supposed to be living in a civilised, modern society, but we have laws that guarantee workers only five basic working conditions. It takes us back not to the 1950s, but to the 1850s before the 8-hour day was won. Those five conditions in no way reflect what is supposed to be a sophisticated and modern society. It is ironic that parties that espouse family values so loudly can support legislation that is so entirely contrary to the interests of working people with children.

It is good that the government is proposing measures in this bill that will go some way to protecting workers in Victoria, but as I have said, it is by no means a perfect remedy. The Greens believe that the government could go further. We have advocated that the government take back the powers that were ceded to the commonwealth. It seems that the reason it does not do this is that it supports a unitary system. That is fine in theory, but when faced with national legislation such as WorkChoices and the fact that no other state has ceded its powers, the inescapable, practical effect is to leave Victorian workers exposed to the excesses of WorkChoices, with only piecemeal measures implemented to alleviate that exposure. We also advocate that the government put in place employment arrangements to ensure that employees who work for state corporations and local government are taken out of the WorkChoices vortex.

We believe this bill could go further as well. The explanatory memorandum states in relation to clause 3:

It is not intended, however, that the attribute provide a mechanism for enforcing employment entitlements or for negotiating a pay rise or other terms and conditions of employment more generous or different than those to which an employee is currently entitled.

I have to ask: why does the bill not include protections for workers who wish to convey to their employer that

they are not happy or satisfied with their current entitlements and intend to or do ask for different entitlements? At the present time there is no protection from discrimination at work for an individual employee who takes this step. An example of that would be for an employee to follow on from asking, 'What are my conditions? I am concerned that I will not receive my conditions', to say, 'I'm not happy with working on Saturdays because I have family responsibilities on Saturdays and I would prefer to work later on a Monday or something'. That is the sort of question that I am saying should be included in this bill, because the reality is that those are the sorts of things people are afraid to ask for in case they are discriminated against in the workplace and the sorts of things in relation to which they can be discriminated against if they do ask for them.

Under the federal Workplace Relations Act, for example, a worker who is a member of a union and who is dissatisfied with their industrial conditions and is seeking better conditions is protected. Employees who are members of unions are arguably covered in such an instance by the definition of industrial activity in the Equal Opportunity Act, but it appears that individual employees are not. I would argue that this is the category of workers that is most in need of protection from discrimination for enquiring about their working conditions or expressing a desire to improve or differ them. At present there is no protection for them. Therefore I will propose an amendment to the bill to prohibit discrimination on the grounds of a person expressing dissatisfaction with their entitlements and/or seeking better entitlements, by adding to the proposed definition of employment activity in clause 3 of the bill the following paragraphs:

communicating to his or her employer, orally or in writing, the employee's dissatisfaction with his or her employment conditions; or

making a request to his or her employer, orally or in writing, for terms and conditions that differ with his or her employment entitlements.

I think these would be an improvement to the bill, because the bill does not go far enough by not including such provisions. These are the types of questions that employees are afraid to ask in the workplace or in relation to which they are discriminated against if they do ask.

The amendment is not about introducing a new bargaining round; it just provides that if a worker wants to request higher wages or different or better conditions, the request can be refused but the worker cannot be discriminated against just for asking. It cannot be okay



to discriminate or sack someone just for making a simple request.

On Tuesday I gave notice that, contingent upon the Equal Opportunity Amendment Bill being committed, I would move that the committee consider an amendment and new clauses to repeal the exception for small businesses from the prohibition of discrimination relating to employment and to ensure that the exception for religious schools from the prohibition of discrimination did not extend to anything done in the course of employment in such schools.

The reason I wish to see these provisions included in this bill — provisions which broaden the scope of the bill or are outside the current scope of the bill — is that if they are not included, the effect will be that the amendments in the bill as put forward by the government will not, under section 21 of the act, apply to small businesses that employ less than five people, which is arguably where they are needed most, and will not, under section 76, apply to employment in religious schools.

There is no justification for small businesses and religious schools having general exemptions under the Equal Opportunity Act, which essentially means that employees in small business and in religious schools have fewer rights than people in the rest of the community and can be discriminated against for any attribute listed under part 2 of the Equal Opportunity Act.

I just remind members of the attributes for which people in small business and religious schools can be discriminated against. They can be discriminated against on the basis of age, breastfeeding, gender identity, impairment, industrial activity, lawful sexual activity, marital status, parental status or status as a carer, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation and personal association. I am not sure how those exemptions got into the act in 1995. I presume small business put the case that they were under a terrible regulatory burden and that the world would fall in if they could not discriminate against people, and so they got away with it. They should not be getting away with it any longer.

All religious schools receive public funding. Schools that receive public funding should comply with the law, and they should not be given carte blanche to discriminate. The Greens education policy has a paragraph which states:

... all schools that receive public funding are subject to the same level of accountability, transparency and

non-discriminatory staff recruitment and student enrolment policies.

We also have a policy for gay, lesbian, bisexual and transgender people, and that policy commits us to:

Ending all forms of homophobia, bi-phobia, trans-phobia and harassment, abuse, vilification, stigmatisation, discrimination, disadvantage or exploitation because a person is (or is perceived to be) —

lesbian, gay, bisexual, transsexual or intersexual —

by amending the Equal Opportunity Act 1995 or where otherwise possible.

The policy also commits us to:

Amending the Equal Opportunity Act 1995 to remove exemptions for religious organisations to discriminate on the ground of sexual orientation and gender identity.

What possible reason or justification can there be for that type of arbitrary discrimination? We have seen many bills — even just yesterday — come forward amending a whole lot of acts, and we have had bills come forward amending different parts of acts, so I am seeking the support of the chamber to broaden the scope of this bill. While we have the opportunity to remove discriminations that should not be in that act with relation to employment in religious schools and employment in small business, we should take that opportunity and thus extend the protections that the government's bill is trying to extend to workers with regard to employment activity.

The Greens believe that discrimination is not a relative concept. It is not okay to discriminate against some people because of their place of employment. This is again contrary to the Universal Declaration of Human Rights, which states in article 2:

Everyone is entitled to all the rights and freedoms set forth in this declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Discrimination is either right or wrong in principle, and it is wrong to allow discrimination if there are only five employees in a workplace or if a person happens to be employed in a religious school. These provisions are not acceptable, and they should be removed. I commend my amendments to the house.

**Mr LEANE** (Eastern Metropolitan) — Although I obviously 100 per cent support this bill, I think it is a

shame it has become necessary to be introduced for the sake of Victorian workers. It is a terrible indictment of the federal government that the Bracks Labor government has to introduce this bill, along with 11 other previous bills, to protect Victorian workers from some of the nastiest parts of the federal Liberals' recent attack on workers that has been WorkChoices. I can say 'WorkChoices'; but if I worked for the federal industrial relations advisory line, I would be instructed that I could not say 'WorkChoices', which is a bit strange.

This is a simple bill that is a deterrent for bad employers who may choose to discriminate against an employee if the employee inquires about their employment conditions. Fair and decent employers have nothing to fear from this bill. I have dealt with and worked for a large number of good employers in my working life, and if an employee asked one of those employers for information regarding their employment conditions, the employer would make it a priority to respond to them in an honest and expedient manner and get on with business — no problems! If that inquiry resulted in adjustment in the employee's pay or conditions, the employer would be more than happy to facilitate that — job done!

I have also dealt with a number of bad employers who would rather sack a worker or relocate that worker to a site on the other side of town from where they live than deal with an inquiry that may result in their having to fork out an entitlement. Those employers would rather move or sack a worker if they could get away without paying that entitlement.

Previous speakers have said there is no evidence that people would be discriminated against for asking questions regarding their working conditions. I would say those members have never worked in the construction industry, as I have. When at times while working on a construction site I asked a question such as, 'How come the plumbers are getting paid a site allowance and the sparkies aren't?' in a couple of days the response would come, 'Sorry, Shaun, we've run out of work. We're going to have to move you on. We're going to have to finish you up'. It happens all the time, and I have lived it, breathed it and seen it.

The Liberal Party members of this chamber, by opposing this bill, have outed themselves today as the champions of bad, unfair and unethical employers. They are the champions of bad employers. They champion bad employers and they barrack for them. Bad employers fall into their born-to-rule mindset that makes them pine for the good old days of the master-slave industrial relations system where workers

were told, 'You just put your head down, keep going, don't ask any questions and pray to whichever god you worship that you have a job!'.

As I have said, good employers — who are in the majority — are not unhappy if an employee brings up a question concerning their employment conditions. Whether it be about pay or whether it be about safety equipment — in fact, anything! — they are happy to answer it. What good employers do not like — in fact, what they hate! — is being undercut by dodgy employers who intend to pocket entitlements owed to their employees to make up the profit margin when tendering for a job. Good employers cannot compete with that.

When I was working as a union official there were a number of times when different employers contacted me and tipped me off that a company had undercut them on a tender by a ridiculous amount by not paying a certain entitlement. Although it was another employer who had alerted me to this, that would not stop the employer who was not paying the entitlement from going on a witch-hunt of his employees after the situation had been remedied and asking, 'Who rang the union?'. No-one can tell me there is not discrimination of workers for asking questions about their entitlements.

As a result of the WorkChoices legislation employees at companies that have fewer than 100 employees now do not have any legal recourse because the unfair dismissal rules have been taken away and there is no legal recourse if they are terminated for inquiring about their working conditions — none at all. I am waiting to hear the contributions of further speakers on the other side, and I hope one will say, 'That is not true, Shaun, because they have access to unlawful termination legislation'. That is not right, because these instances do not fall under the specific grounds that permit an application alleging an unlawful termination. In this situation workers who work for companies with fewer than 100 people are worse off in these situations. I am a bit concerned that since this bill went to the Assembly the Prime Minister and the federal industrial relations minister have held a press conference and said, 'We never meant for workers to be worse off because of WorkChoices'. Liberals in this house need to get with the new program. They should be supporting the bill and getting along with the program together with their federal counterparts.

The Liberals know that workers have been made worse off and should support the bill, but the best they can do is say that this is a stunt. Maybe the Liberals can train some parrots to be perched over there to scream out,

'It's a stunt, it's a stunt, it's a stunt', or even after yesterday's effort maybe the Liberals can train two sets of parrots, one set to scream out, 'It's a stunt', and another set to scream out, 'It's a conspiracy, it's a conspiracy'. Then they could have so much more time walking around in circles looking for conspiracies rather than being here.

Legislation that protects workers from being discriminated against for asking about their conditions and further develops a level playing field for good employers is not a stunt. Hanging off a signpost sideways is a stunt. The Liberals, and it happened yesterday as well, can cast aspersions after reading a newspaper article on a politician's wife. They can say, 'Here we go with a baseless, cowardly attack on a politician's wife'. If the Liberals actually read that article they would know that there was a fair bit of information about how common-law agreements cannot contract for conditions outside an award. You cannot have a common-law agreement that contracts out a condition that has been fought for for over 100 years. The only way that can be done is through an AWA (Australian workplace agreement). An AWA is the only way you can contract out a hard-fought condition.

I know the Prime Minister and Mr Hockey — especially the Prime Minister — have tried to say they are wrong. The Prime Minister has tried to say, 'I have done the wrong thing'. He cannot say the word 'wrong', and amazingly he cannot now say the word 'WorkChoices'. What he did was replace Kevin Andrews with Joe Hockey as the industrial relations minister. He said, 'Joe Hockey is a soft and cuddly person, he is like your uncle'. He may be like the Addams family's uncle, because WorkChoices has been a festering sore for whoever has had to handle it. It is then said, 'Look, we have probably been wrong so what we will do is have a fairness test for AWAs'. When the Prime Minister was asked how he would gauge that something is fair, his answer was, 'Good old-fashioned Aussie common sense'. I thought *Keating! The Musical* was supposed to be a comedy, but maybe not for the actor who portrayed John Howard, because he gets there and sings a song about, 'I'm your mate, I'm your mate; trust me, I'm your mate; we'll work it out, we'll sort it out, good old-fashioned common sense, I'm your mate'. The Howard government's attack on workers has been severe. This bill mitigates part of it. It is not a stunt. It is a reality that workers are being discriminated against in this fashion. I commend the bill to the house.

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

**Mr ATKINSON** (Eastern Metropolitan) — I say at the outset that I actually saw *Keating! The Musical* the other week. I suggested to my wife that if a bomb were to hit the Comedy Theatre on that evening it probably would have got only two Liberals. Nevertheless it was an enjoyable night. I have to say that the actor who played Paul Keating put in a marvellous performance. It was one of the best performances I have seen by an Australian actor in a musical comedy. I hope he goes on to bigger and better things, because it really was a splendid performance. It was a good musical that brought back a number of political memories. The portrayal of Alexander Downer was interesting. I also thought that the actors in the roles of Gareth Evans and Cheryl Kernot put in an interesting cameo performance.

Turning to the legislation, I apologise to the house that I was not in the house for all of Mr Leane's contribution; I was meeting with somebody else just before coming in. Nonetheless, the part of his contribution that I did catch was quite instructive to me, because whilst it was certainly an animated speech to the house, it was also very much focused on federal politics. In my view it really gave the lie to any pretext that this legislation is about a state issue or a need for the state to establish some further jurisdiction in regard to workplace relations. It was very much a presentation that indicated clearly the government's intention with this bill — that is, to throw a hand grenade into the federal political scene and to try to establish a basis upon which the state government can continue to try to support and augment a union campaign and a federal Labor campaign to address workplace relations issues in the lead-up to the federal election, which will be held presumably later this year.

As other speakers have indicated — particularly Mr Hall, whose remarks I concurred with entirely — it is obviously within the right of the government to pursue, perhaps even by press release, its concerns or views on workplace relations. But when it comes to bringing this sort of bill before the house and seeking to try to give some extra substance to that campaign for political purposes rather than apparently because of a genuine need for state jurisdiction in this area, then there is some cause for concern.

Much of the reference that is suggested by this legislation in terms of the Equal Opportunity Commission Victoria being able to investigate matters of discrimination against employees is already available to employees who are aggrieved with their

circumstances in the workplace. It is available from the Office of the Workplace Rights Advocate, which was established by the government by legislation that passed through this house. I note — rather cynically — that the workplace rights advocate is carrying out an investigation at the moment into the use of AWAs (Australian workplace agreements) by the hospitality and retail industries. These two industries extensively use AWAs, in part because of the large number of young people who are employed in those industries, and also because of the significant level of part-time or casual employment that is involved in those industries because of the nature of both those industries. Given that it is part of his responsibility under legislation passed by this house — although it was not supported by my party — it is appropriate that he conduct that investigation.

Where the cynicism comes in is that the report he is to give is to be timetabled just before the federal election. In other words, we have a state bureaucrat who is being invited by this government, through the same minister who introduced this legislation — the Attorney-General in another place — to enter the political fray and the political debate rather than to simply go about protecting the rights of workers, which is the real impetus of the job description that was passed by this house in legislation. I think that is a most unfortunate development.

Given that the advocate has been appointed, it is hard to see why we would now be extending another agency's jurisdiction into this area to cover the rights of the same people. It is providing a second referee to exactly the same area. The Office of the Workplace Rights Advocate was established by this government not 12 months ago to do this exact job. Why do we have a second agency now proposed to do the same job? Is the workplace rights advocate so busy preparing the political case for the government against workplace relations laws that he is simply unable to defend the rights of workers who believe they are aggrieved in their workplace conditions or is this just another way of ratcheting up the political dimension of this issue?

If I am to listen to Mr Leane's contribution in this house, then I must say that I have to draw the conclusion that this is more about the federal election campaign and ratcheting up the issue for the sake of the federal politics debate than it is for any genuine interest or concern about the rights, benefits, award conditions and working conditions of workers in this state. It is lamentable that the Parliament is put in the position of having to consider legislation that is being introduced purely for political motivation rather than for a fair and proper purpose in terms of people's rights.

I notice that, quite apart from the workplace relations advocate in this state, there is also a federal agency that is established under legislation passed by the federal government. Of course Victoria's industrial relations regime is part of those federal laws because we passed those responsibilities to the federal government previously. It was either Mr Hall or Mr Rich-Phillips who commented in their address to the Parliament earlier that there had been no attempt made by this government to take back those powers. There has been no attempt to re-establish an industrial relations system in Victoria as such. There have only been these attempts to come in from the sides and nobble the process, such as with the appointment of the workplace relations advocate or now bringing in the equal opportunity commission. It is almost an all-care-but-no-responsibility approach. As I said, I do note that a federal agency is available and that it has actively pursued the interests of workers who have been duded by employers. It has taken those claims very seriously and is in place as a referee.

I am not going to stand here and defend all elements of workplace relations or get involved in the tittle-tattle of who said what, what the name of this ought to be and the sorts of advertising campaigns that have been slung backwards and forwards, particularly with the union movement getting very heavily involved in this debate, as is its right. I am simply going to say that with workplace relations it is important for us as a country to ensure we have as much flexibility in workplace relations as we can and that that flexibility works for employees as much as it does for employers. From my perspective I do not want to see anybody exploited. I particularly do not want to see young people exploited on their first experience of entering a workplace. I know there are some unscrupulous employers about. My point of view is that we should come down on unscrupulous employers like a ton of bricks, but there are also some employees who have rather a picnic at the expense of employers with the pursuit of claims that are not always valid in the context of their workplace experience.

This is an area that is always going to be vexed. Courts, tribunals, many learned people involved in the industrial relations system, such as employer advocates, union advocates and members of the legal fraternity, have been involved in these issues. We need a system that is balanced and fair.

Whilst the workplace relations legislation and WorkChoices have attracted significant criticism by some people, it is interesting to note that the federal Labor Party has yet to finalise its industrial relations policy; that it has yet to finalise and establish a coherent

position in terms of where it would go in the future if it were to win government at the next election. Indeed I note that on a number of occasions pronouncements have been made by the people you would expect to be in a position to actually commit the Labor Party to policy directions, such as Julia Gillard and Kevin Rudd, the leaders of the federal Labor Party, and then on the following day we have had retractions or at least significant leaps backwards or sideways from those statements.

It does not escape me that because his position was obviously seen to be a lot softer than Julia Gillard's, Kevin Rudd went to talk to people in Western Australia. That state's Labor government was very concerned that abandoning WorkChoices, or particularly cramping or reducing the availability or flexibility of AWAs, could have a significant impact in that state. As I said, that was not the opinion of the Liberal Party or indeed other external commentators, if you like, on industrial and workplace relations but rather of the state Labor government there.

This is an interesting area where we need fairness and balance. In the context of this legislation I think it is unnecessary because we already have the workplace relations advocate here in Victoria, established not 12 months ago, with a mandate to actually take up issues where employees have been hard done by on the part of employers and where in fact there have been issues of people's rights being trampled upon or where they have lost conditions that they ought to have expected would be part of their employment.

This legislation does not get us any further ahead. In my view it is simply part of a political manifesto rather than part of a serious attempt to establish greater rights or to protect the rights of ordinary Victorians — or extraordinary Victorians for that matter. I often have a concern when I use the term 'ordinary Victorians' that it might have other connotations in some people's minds.

I also point out that from time to time I have some concerns about the Equal Opportunity Commission in terms of some of its mandate and the fact that it occurs to me, as I have said on previous occasions when debating legislation in the house, that it is an agency that is keen to make extra work for itself, keen to extend its jurisdiction and keen to become involved in areas of investigation even where there is not a complaint or any apparent concern in a workplace about any form of discrimination.

I am concerned that this legislation again takes us in a direction which I do not believe is particularly

constructive. I note in that context that the second-reading speech includes a paragraph towards the end that says:

In determining whether or not an employer has discriminated, it will not be relevant whether the employer intended to discriminate or treat the employee less favourably. This is consistent with the general principle under the Equal Opportunity Act that a person's motive is irrelevant to discrimination.

That is a very broad gate that has been left open to enable a range of issues to be explored by this agency, which I am not sure is necessarily productive and in the interests of employees or employers.

This legislation does not deserve to pass this house. I think it is superfluous. As I said, it simply duplicates what is already available in this state by way of an opportunity for people who feel aggrieved with their workplace conditions to seek some support and redress. I conclude with the observation that this legislation looks a lot more like a political manifesto than a genuine attempt to provide a service within workplace relations.

**Mr TEE** (Eastern Metropolitan) — I am very pleased to stand and support this amendment to the Equal Opportunity Act, although I must say that the fact that such an amendment is necessary is in itself very disturbing.

Under WorkChoices, if you work for an employer who has less than 100 employees, you can be sacked at any time, almost without reason, including merely querying your pay and/or conditions. It is disturbing that this Parliament has to legislate to stop someone being sacked because they have asked about their wages and other entitlements. It is a sad reflection that Parliament has to provide an employee with protection so that she or he can ask about whether or not they are getting the right pay.

Unfortunately, the fact that this bill is necessary is a reflection of the current reality created by WorkChoices — a reality that I note the Liberal Party, at least federally, is trying to hide from by dropping the name 'WorkChoices'. But the reality is that WorkChoices by any name has been and will continue to be responsible for an employment climate characterised by fear and intimidation. This bill tries to curb the WorkChoices obscenity, under which you can be sacked simply for asking a question about your rate of pay.

WorkChoices is without doubt an abomination. Its removal of the unfair dismissal protections is an affront to decency. WorkChoices has at its black heart a

complete disregard for any pretence of morality. The electorate knows this, and belatedly even the Prime Minister is waking up to the nightmare that he has forced on working families.

Just this week we saw a typical example of how bad things are under WorkChoices. This week the independent Victorian workplace rights advocate released a report about what happens in workplaces today to employees who dare to ask a question. The employee concerned, Ms Susan Mercieca, was working at Scicluna's, a retail outlet in Mentone, a job she had had for 18 months. By all accounts she was a good and well-regarded employee. No-one had ever raised any concerns about her work. In fact her supervisor had on a number of occasions congratulated her on the standard of her performance and her level of commitment. But notwithstanding her good work record, she got sacked, and her crime was ringing Wageline and asking about her entitlements. She committed the offence of asking about her rate of pay. Her concern about whether she was being paid correctly was enough to get her the sack.

In a decent society families do not spend the day worrying if the breadwinner will be sacked because they might ask if they are being paid correctly. I would be happy to make a copy of the report available to Mr Hall, as he seeks evidence of people who have been affected in a way that will be remedied by this legislation. Of course the champions of WorkChoices dismiss these concerns. For 18 months now we have heard members of the Liberal Party ignore the plight of individual workers. In fact they rejoice in the dismissal of people like Susan. They argue that people like Susan should be grateful that they can get thrown on the scrap heap.

Using their distorted logic members of the Liberal Party want the community to believe that the worse it gets for workers and the worse it gets for families, the better off we all are. For 18 months we have been given the twisted WorkChoices logic. It is a logic that says WorkChoices is good because it makes it easier to sack mum and that WorkChoices is good because it makes it harder for families to pay the bills. The Liberal Party has tried to sell the WorkChoices tale of human misery as the bad medicine we need for the good of the economy. The view that WorkChoices is somehow good for the economy does not stack up. It has never stacked up, and the opinion polls suggest that no-one believes that WorkChoices stacks up.

To give one example, employment growth during the first 11 months of the operation of WorkChoices was 2.6 per cent — 2.6 per cent employment growth was

the reward for allowing mums and dads to be sacked for no good reason — yet when we contrast that 2.6 per cent employment growth under WorkChoices with the employment growth in the first 11 months following the introduction of the unfair dismissal rights we find that employment growth in those first 11 months was 3.9 per cent. It was 2.6 per cent under WorkChoices and 3.9 per cent when employees were protected from unfair dismissal. It should be remembered of course that the WorkChoices period of employment growth was during a period of record growth produced by the booming Chinese economy — —

**The PRESIDENT** — Order! Minister Theophanous knows the inappropriateness of conversing with people in the gallery. His staffer should know better. The member, to continue.

**Mr TEE** — So making it easier to sack the breadwinner does not create jobs. It creates insecurity, fear and pain, and it does not create jobs. Then the Liberal Party points to wages growth to justify the human misery that is WorkChoices. Yes, in the past 12 months wages have grown by a very healthy 6.2 per cent in the mining industry as a product of a mining boom that has nothing to do with WorkChoices and everything to do with the Chinese economy. But what about the retail industry and the hospitality industry? What does WorkChoices do in those areas where there is no skill shortage caused by the Chinese economic boom? In those areas WorkChoices has cut wages and conditions. WorkChoices has removed penalty rates, overtime rates and shift allowances. WorkChoices has seen the unravelling of gains that have taken more than 40 or 50 years to achieve. In retail the annual pay gain in the last 12 months has been 2.8 per cent and in hospitality 2.9 per cent. The pay of workers in those industries who are under WorkChoices is barely keeping up with inflation.

Families understand what WorkChoices is doing to them, and they know that the architect of their misery is none other than John Howard. But the electorate will not forget the role of Howard's cheer squad in Victoria, a cheer squad that said it stood shoulder to shoulder with Mr Howard on WorkChoices. Voters will not forget Mr Howard's loyal Victorian foot soldiers crowing here in Victoria about WorkChoices. The cheer squad was left decidedly flat footed when Howard belatedly checked the opinion polls and worked out that he had gone too far. Mr Howard has effectively acknowledged that the Victorian government was right all along when it tried to ameliorate the worst excesses of WorkChoices.

When the Victorian government stood up for Victorian families, opposition members turned their backs on Victorians. They were and will always be Liberals first and Victorians second. This bill is an opportunity for those opposite to turn around their record on industrial relations — a record that has seen the Liberal Party oppose every bill put forward by the government for Victorian families. This is an opportunity for those opposite to stand up for Victorian families.

I want to just turn briefly to the amendments that have been proposed by Ms Pennicuik. In particular I turn to the small business exemption and the proposal to remove that exemption. The difficulty we have with that is there is a disconnect between the exemption and what is being proposed in this bill. The disconnect is that the exemption for small business only applies prior to your being employed and prior to your having the very conditions that are covered by this bill. Once you have the employment rights, the small business exemption does not apply, so the amendment to the small business provision is not relevant to this proposal.

It is similar to the exemption sought for religious schools. That exemption, as I understand it, relates to discrimination by religious schools where that discrimination is in accordance with the religious principles or beliefs of those schools. A religious school is not protected by legislation if someone asks about their wages. This amendment is not necessary because it does not apply in the circumstances envisaged by the bill.

The third amendment, as I understand it, goes to extending the coverage of the bill from existing employment conditions to new employment conditions, from existing rights to the seeking of new employment rights. Again, we will be opposing that amendment, not because the amendment itself causes difficulty but because of the nature of the legal and constitutional environment in which we find ourselves — that is, the bill at the moment deals with equal opportunity matters, and it deals with discrimination on the basis of existing rights. The moment we cross the line and look at extending those rights to new rights we move into the sphere of industrial relations, we move into the sphere covered by the Workplace Relations Act. The difficulty there is that we run into the constitutional limitation on inconsistency, and for that reason the amendment cannot be supported by those on this side of the house.

This is a good bill. It goes a long way towards addressing the abhorrence and difficulties in the community caused by WorkChoices. It goes as far as we can go, and for those reasons I urge the house to support the bill.

**Mr O'DONOHUE** (Eastern Victoria) — Yesterday, in his contribution to the debate on the budget, Mr Barber commenced by saying that he feels like he lives in a parallel universe. I feel like I live in a parallel universe too. Yesterday government speakers on the budget would have had us believe that the public transport system works beautifully, the roads are unclogged, the water crisis has been fixed or addressed, and all the other ills of Victoria have been addressed. Of course those of us who do not live in metropolitan Melbourne know that if you need to travel to Melbourne during peak hour, you should allow yourself at least 3 hours travelling time even though the trip in non-peak times takes only an hour or so.

We also know that Victoria's reservoirs continue to drain despite the minor, piecemeal —

**Ms Pulford** — On a point of order, President, I wish to question the relevance of the member's comments. We are debating amendments to the equal opportunity bill, as I understood it, not the budget or the transport system.

**The PRESIDENT** — Order! The member has just started his contribution, and I have allowed a fair degree of latitude during the course of this debate, so in this circumstance I do not uphold the point of order.

**Mr O'DONOHUE** — The point of raising the 'parallel universe' comment is to bring me to the legislation before the house. I thought I had been elected to the Victorian Legislative Council as opposed to the Australian Parliament.

I will refresh the memories of members opposite about industrial relations powers. The Kennett government referred the industrial relations powers to the commonwealth in 1997, and the year before that the Workplace Relations Act 1996 was enacted. The Bracks government was elected in 1999, eight long years ago. If you believe the comments of the members opposite, the workplace relations liberalisation of the last 10 years has destroyed Victoria, has destroyed families and has destroyed working conditions for Victorians.

I ask the rhetorical question: if the liberalisation of the industrial relations platform is so bad, why — eight years after being elected, after eight years of being in power and after a full term of the 55th Parliament when it controlled both houses of Parliament — has this government not attempted even once to take back the industrial relations powers? Until the High Court decision on WorkChoices, which clarified the scope of the corporations power, was handed down in November

last year the Victorian government had the capacity to repeal and take back the industrial relations powers. I ask members and the community to consider the substance of the government's actions, not its words. If you look at the substance of the government's actions, you will see that it has made no attempt to take back industrial relations powers. I can only conclude that the Bracks government actually likes the liberalisation — —

**Mr Tee** — On a point of order, President, I think the member is being factually inaccurate when he suggests that there has been no attempt to withdraw the referral — —

**The PRESIDENT** — Order! That is not a point of order. The member, to continue.

**Mr O'DONOHUE** — The government has made no attempt whatsoever to take back the industrial relations powers. Because of that I can only conclude that the government likes the liberalisation which has resulted from the federal changes to the industrial relations system and the consequential growth in employment. I will remind members of the house that 2 million jobs have been created as a result of the commonwealth government's good economic management. This has led to higher real wages as opposed to what was achieved in the years under the Keating government.

In her contribution Ms Pennicuik spoke about the right to work pursuant to the Universal Declaration of Human Rights. I agree with her comment in relation to that issue. I clearly remember the recession we had to have, when there were 1 million unemployed people in Australia. I remember the early 1990s and the fears of my friends and me, which came after the years of the Cain and Kirner governments, about not being able to find a job. I compare that fear to the optimism of young people now in a country where there is full employment. That is a direct result of the liberalisation of the industrial relations system. This point is reinforced by looking at examples from around the world. The French have recently realised their mistakes of recent years. They have realised that ingrained regulation and a complicated employment system puts millions out of work and relegates millions to the unemployment queues. The Germans have also realised this; over 4 million people were unemployed in Germany.

The arguments of the members opposite are superfluous and irrelevant. Those arguments concern an issue which is a commonwealth concern. I want to echo the comments of Mr Hall and say that the unions, the ALP and others all have the right to advocate their

positions in regard to this issue, but the issue is the responsibility of the federal Labor Party and not of the Labor Party members in this chamber or in this Parliament. If this issue was a state concern, the state government would have attempted to have the powers returned to Victoria. As I said before, it has not done that.

The bill before the house will amend the Equal Opportunity Act 1995. I commend the Kennett government for introducing and passing the Equal Opportunity Bill 1995; it is a good piece of legislation. Providing employees with equal opportunity is very important, and ensuring discrimination does not exist is equally important. I think it is important to read to members the attributes which are prohibited under the current act. They are: age, breastfeeding, gender identity, impairment, industrial activity, lawful sexual activity, marital status, parental status, status as a carer, physical features, political beliefs or activity, pregnancy, race, religious beliefs or activity, sex and sexual orientation. None of those worthy attributes should be used to discriminate against a person. To me this amendment bill diminishes the principal act. This is a point which has not yet been raised in this debate. The principal act is worthy legislation that protects people in the workplace from discrimination. This amendment bill does nothing but diminish the act, and the government should be ashamed of that.

Moreover, I think this bill is political in nature and is an attempt to support the federal opposition. To have members in this chamber debating this piece of legislation, which has nothing to do with the Victorian jurisdiction, is another example of a waste of Victorian taxpayers money and time. If the government had an agenda for its third term, it would introduce legislation to prosecute that agenda. We have debated bills that have been machinery bills in nature and function and we have debated political bills. Those seem to be the only types of bills that come before this chamber. That is an indictment of this government. After eight years in power this government has run out of steam and ideas and is left with nothing to do but support the activities of the federal Labor opposition.

In conclusion, I have often wondered what it would be like to be in a meeting at Trades Hall or to see a group of shop stewards and listen to the activities they discuss. I now know.

**Sitting suspended 12.56 p.m. until 2.06 p.m.**

**Business interrupted pursuant to standing orders.**



**QUESTIONS WITHOUT NOTICE**

**GJK Facility Services: Office of Housing contracts**

**Mr D. DAVIS** (Southern Metropolitan) — My question is for the Minister for Industry and State Development. I refer to the minister's statement on Tuesday that Mr Stamas wanted to meet the then Minister for Housing to confirm that GJK Facility Services would not employ staff on AWAs (Australian workplace agreements). Why did that issue warrant the minister encouraging the housing minister to meet Mr Stamas?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and State Development) — Actually I said two things, but, as usual, whenever the honourable member asks anything or makes any statement in the house, it is always done on the basis of half-truths and half-information. As I indicated to the house, it almost makes me think of his previous — —

**Mr D. Davis** — Not interested in using AWAs!

**Hon. T. C. THEOPHANOUS** — No wonder you were a chiropractor — —

**The PRESIDENT** — Order! The minister will not debate the member's interjection.

**Hon. T. C. THEOPHANOUS** — The member does not know how close he came. Can I just say in relation to the question that I did in fact say two things: I said that Mr Stamas was keen to try a pilot program which involved actually using the residents of social housing units as part of the workforce in the cleaning of the social housing. He was doing this in conjunction with a Brotherhood of St Laurence program, which in fact took place.

I indicated that, and I also indicated his view in relation to AWAs. It just shows Mr Davis that there are in fact employers out there who do not agree with the federal government's WorkChoices legislation. They do not agree with it, they do not agree with Mr Davis and they do not agree with the way in which people on his side of the house treated people in public housing. They do not agree with all of those things. The way in which the honourable member has asked the question, by omitting the first part of my answer, again shows what, in his former occupation as a chiropractor, a manipulator he was.

*Supplementary question*

**Mr D. DAVIS** (Southern Metropolitan) — That was pathetic. For those who read *Hansard* there is no doubt that the minister said AWAs — —

**The PRESIDENT** — Order! The supplementary question is?

**Mr D. DAVIS** — My supplementary is: is it the government's practice to only engage contractors who support its industrial relations policies, which renounce AWAs?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and State Development) — I can tell the honourable member that on our side of the house we do not support the federal government's WorkChoices legislation.

**Mr D. Davis** — On a point of order, President, the minister did not respond to the question about the engagement of contractors.

**The PRESIDENT** — Order! As the house is aware, I cannot compel a minister to answer or advise how he should frame his answer. Once the minister decides to answer, he is encouraged to be relevant. Whether Mr Davis accepts that or not in terms of relevance is a matter for him. The fact is the question was asked and answered.

**Economy: performance**

**Mr SCHEFFER** (Eastern Victoria) — My question is to the Minister for Industry and State Development. Victoria's economy continues to perform strongly, and I ask: can the minister update the house on any recent industry or economic data that shows that Victoria is a great place to live, work, raise a family and do business?

**Hon. T. C. THEOPHANOUS** (Minister for Industry and State Development) — I thank the member for his excellent question. The Bracks government has been working very hard to protect Victorian families and support our business community as we continue to produce budget surpluses, as we have every single year that we have been in government. At the same time we are reducing stamp duty, land tax, payroll tax and WorkCover premiums. That is not a bad effort from the point of view of reducing the inputs for business.

Let me just give some figures in relation to the way in which the economy is going in Victoria, because it is important for them to be put on the record. Over the last

five years the Victorian gross state product has outgrown Australian gross domestic product, with Victoria recording growth of 18.1 per cent between 2000–01 and 2005–06 compared to 17.6 per cent nationally. In terms of national accounts, the Victorian economy is on track to meet the forecast of 2.75 per cent GSP growth for 2006–07, and Victorian state final demand grew by 2.3 per cent over the last six months of 2006.

In terms of employment, in April Victorian employment increased by 24 400 jobs. Over the year to April there have been almost 85 000 — —

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — Listen! Those opposite do not like this, I know, but there have been 85 000 new jobs created in this state in 12 months. Have a think about what that means, President. It means that somewhere around 1600 to 1700 jobs have been created every single week in this state by this government in conjunction with the private sector.

On regional jobs growth, we had the situation under the Kennett government where it considered regional Victoria to be the toenails of the state, and now we have the circumstance where in the three months to April more new jobs have been created in Victoria — 18 366 — than in any other state. We created more jobs in regional Victoria than were created in any other regional area across the whole of Australia — 18 366. No wonder regional Victoria has abandoned the conservatives. It has abandoned the Liberal Party.

In terms of population growth for 2005–06, which was 1.36 per cent, we have again outpaced the national average of 1.31 per cent.

**Mr D. Davis** interjected.

**Hon. T. C. THEOPHANOUS** — I advise Mr Davis that Melbourne added more people than any other capital city in 2005–06, with 941 persons coming into Melbourne per week compared to Sydney's 714, Brisbane's 566 and Perth's 575. Melbourne is the place to be, but it is also the place that people want to come to, and these figures show it. They want to come here because the economy in Victoria is so strong and they can get a decent job to help live in the best state in the commonwealth.

### Schools: upgrades

**Mr P. DAVIS** (Eastern Victoria) — I direct a question without notice to the Minister for Education. I refer the minister to the *Education Times* and his

message regarding this year's budget in which he claimed that 131 schools have been selected to be rebuilt. It is a fact that included in those 131 schools are 40 schools that will receive an upgrade of between \$300 000 and \$500 000. I therefore ask: is the minister claiming that an upgrade of between \$300 000 and \$500 000 constitutes rebuilding a school?

**Mr LENDERS** (Minister for Education) — I am pleased Mr Davis has gone through the budget, and I am delighted he has read through the *Education Times* — it is great publication that is good news on schools. Yesterday I got a letter from a seven-year-old girl from Warrandyte Secondary College, Katie Waugh.

**Mr Jennings** — In anticipation of the question!

**Mr LENDERS** — It is a letter; I will table the letter in her handwriting.

**Mr Atkinson** — Remarkable girl if she is in secondary college at seven!

**Mr LENDERS** — No, Warrandyte Primary School, Mr Atkinson. Her father said, 'I am seeing the minister tonight. What would you say about schools as a snapshot?'. What she says about her school is that she would like — —

*Honourable members interjecting.*

**Mr LENDERS** — No, her father is a Liberal voter, incidentally.

*Honourable members interjecting.*

**Mr LENDERS** — Because he told me, that is right. Katie said what she would like for her school is more grass on the oval, which is fair enough; more time for snack time; and this is a classic one, she said, 'My school doesn't need much because it is already good'. There are a couple of other things she suggested.

I am just putting it into context for Philip Davis — and I suggest Mr Davis check the handwriting. What I would say to the Leader of the Opposition is that there is a lot more to be done in education in Victoria. I am pleased that this student, Katie, thinks her school is actually very good, but there is a lot more to be done. But the point of Mr Davis's question was: are 131 schools enough? It is the biggest rebuilding in this state. There will be at least another 369 during the next four years, if not more, and the Premier has made a commitment on behalf of the Labor Party that in the next 10 years every school in this state will be rebuilt or modernised. To the point made by Mr Davis about

modernisation, that is exactly what the Premier said at election time. It is exactly what the then Minister for Education and Training in another place, Lynne Kosky, said at election time — every school will be rebuilt or modernised.

In some cases a school has new facilities and some of the other facilities are aged and it will need more. In some cases schools need complete rebuilding. If the Leader of the Opposition is suggesting with a school like, say, Yarram or Foster in his electorate — where I was just completing stage 2 announcements the other day and where stage 1 was built a few years ago — that we bulldoze it and rebuild it, then it would be good for the construction industry, I am sure, but it is not that good for the Victorian budget, or necessary.

What we do say is that every school will be rebuilt or modernised. There has been a definition of modernisation for a period of time. I know that those 1594 schools in this state that were neglected during the Kennett government would welcome any attention by government. We are rebuilding, we are modernising and we are making our education system a far better one for our children.

*Supplementary question*

**Mr P. DAVIS** (Eastern Victoria) — I thank the minister for his answer. I refer to the expanding maintenance backlog problem in schools — for example, as my honourable colleague Mrs Coote mentioned, the Lloyd Street Primary School, which requires an estimated \$506 000 in backlog maintenance funds. The Labor Party, prior to the election, promised this school — that is, Lloyd Street — \$1.5 million to upgrade existing school buildings and replace portable classrooms. Therefore I ask: when will schools like Lloyd Street Primary School, which have major maintenance funding requirements and were given election commitments, have those needs honoured?

**Mr LENDERS** (Minister for Education) — Julie Bishop would be proud of the Leader of the Opposition as an acolyte. What I will say to the Leader of the Opposition and his mentor, Ms Bishop, is that we care about education. I find it extraordinary that the Deputy Leader of the Opposition would prompt her leader about Lloyd Street Primary School, which is a school in the city of Stonnington, where the Kennett government closed down every single secondary school. Other than Melbourne High, a select-entry school, there is not a single government secondary school in the city of Stonnington.

What this government is about is building schools and providing educational opportunity, and Lloyd Street Primary School, I am sure, is a very good school. I would be happy to go with the deputy leader and visit the school in our electorate — and Mr Thornley could come with me because he cares about public education. I would be happy to do that. But what I can say to the deputy leader and the leader is that this government is rebuilding every school in the state.

In answer to Mr Davis's question, 'What are we doing for Lloyd Street?', I reply that we have a commitment to every school — 131 schools this year, at least 369 in the next three years, and over 10 years the lot will happen. We build schools, we do not close them — and in the city of Stonnington we do not leave a situation where there is no government secondary school access for any student, which was the legacy left to us by the Kennett government.

**Small business: government initiatives**

**Ms DARVENIZA** (Northern Victoria) — I have a question for the Minister for Small Business, Mr Theophanous. I ask the minister to inform the house of the progress of some of the current initiatives of the Bracks government to boost the success of small businesses here in Victoria.

**Hon. T. C. THEOPHANOUS** (Minister for Small Business) — I thank the member for her question. Of course it is the case that we work in partnership with the Melbourne City Council to help boost our retail sector in Melbourne. Members might be interested to know that last year we launched a six-year strategy to boost the retail sector. During the lunch break it was my pleasure to unveil with the Lord Mayor, Cr So, what we called the one-year report card.

We went to this launch, which was an important launch, because we are trying to develop the retail sector in Melbourne in partnership with the Melbourne City Council. It is a very important initiative, and it has delivered some positive effects that I will go into.

I was pleased to see that the opposition was represented at the event. It is good to see some bipartisanship in promoting Melbourne at these kinds of events. It is a very good thing. But guess who came along to this event representing the opposition? I was very happy to acknowledge him there. Was it David Davis, the opposition spokesperson? No, it was not David Davis. No, in fact it was Bruce Atkinson who represented the opposition at this event.

I understand that Bruce Atkinson was invited to this event, and he was invited because I do not think David Davis has actually bothered to tell anyone that he is the small business spokesperson on the other side. He certainly has a reputation of not being interested in anything that promotes Melbourne. He is not interested in anything that might deliver something positive to the City of Melbourne or to Victoria. People out there in the business community know — —

**Mr P. Davis** interjected.

**Hon. T. C. THEOPHANOUS** — I take up the Leader of the Opposition's interjection and challenge him to find the last statement that he ever made that was nice about David Davis. We would all like to hear it.

**Mr Finn** — On a point of order, President, in clear contravention of your ruling on this matter, the minister is debating the subject, and I ask you to call him to order.

**The PRESIDENT** — Order! The point of order is correct. I ask the minister to be more definitive in his answer rather than debating it.

**Hon. T. C. THEOPHANOUS** — President, we are keen on this side of the house to develop initiatives which promote Victoria and Melbourne. I know that Philip Davis is keen to do those kinds of initiatives. It is very clear that Bruce Atkinson is very keen to be involved in those sorts of initiatives. I dare say Andrea Coote is very interested in those sorts of initiatives. But I am afraid that — —

**Mrs Peulich** — On a point of order, President, only a few seconds ago you made a ruling calling the minister to order because he was debating the question. He is clearly disobeying that ruling, and I ask you to enforce what I thought was an absolutely outstanding ruling made earlier.

**The PRESIDENT** — Order! I can say to Mrs Peulich that she has no idea how pleased I am that no-one argued her point. I did in fact vigorously make a ruling about the issue of debating, and I am conscious of the fact that the minister has reined it in, and may he continue to do that.

I might just expand a little and inform the house that I had formal discussions with a number of people over lunch on this very matter, with a view to tightening up and improving the guidelines during adjournment debates, question times, debating questions and the like, to help everyone, and the Chair in particular. But I do suggest that during question time ministers have to be

particularly cognisant of my views about debating, and more importantly about the standing orders. I thank the Clerk for assisting me in this matter.

For the edification of the house I refer to standing order 8.03. It states:

In answering any such question, the minister or member will not debate the matter to which it refers.

I have to say that I do not believe at the minute that the minister is contravening that standing order. The minister, to continue.

**Hon. T. C. THEOPHANOUS** — I do not have much more to add. I think I have made the point about cooperation between both sides of the house in promoting Melbourne. I want to congratulate Bruce Atkinson for going along today and for participating in the event, because it is important that both sides of the house show they are actually interested in and want to develop our retail sector and our magnificent city of Melbourne.

### Schools: Bendigo education plan

**Ms LOVELL** (Northern Victoria) — My question is to the Minister for Education. Is it not the case that the government has used the cover of the Bendigo education plan to close Golden Square Secondary College by stealth?

**Mr LENDERS** (Minister for Education) — I welcome Ms Lovell's question on education. As I have said in the house before, my only regret in being education minister is that every question is not on education, because I love education. I welcome the member's interest in education in Bendigo. Bendigo is a great regional city in Victoria with a great education system. That system has led the way with the Bendigo Senior Secondary College under the extraordinary stewardship of Ron Lake during his time as principal of the college. He is now of course the regional director for the area. This government takes education seriously. We have something that works very well. We get the best people in the best positions so that we can carry that model out further.

My predecessor as education minister, Lynne Kosky, now the Minister for Public Transport in the other place, announced in Bendigo in the lead-up to the last election that of the four feeder schools to Bendigo Senior Secondary College in the years 7 to 10 band we would, as part of the building program that Ms Lovell's leader is a tad sceptical about, actually rebuild three of those schools as feeder schools to Bendigo Senior Secondary College.

As part of that program of course — as any prudent government would do in negotiations — the government was seeking a land swap with La Trobe University for a site for one of those schools to be built on. Unfortunately that land swap has not worked. La Trobe University was putting conditions on the negotiations that were just unacceptable to the government. But because we are serious about education and we are not acolytes of Julie Bishop — there are at least two of those in this house — we actually engage communities and work on education.

We will deliver the three feeder schools for Bendigo Senior Secondary College that we committed to before the election and that we have committed to in the budget. We may need to reschedule the sequencing of those three feeder schools to meet the contractual difficulty that we have with La Trobe University in Bendigo, but we will deliver those schools.

**Mrs Peulich** — On the never-never.

**Mr LENDERS** — Ms Peulich says ‘On the never-never’. I say to Mrs Peulich that she should hold us to our word on this. We will deliver 500 schools in these four years, and we will rebuild or modernise all Victorian schools over the time line the Premier has set. We believe in schools in Bendigo. Bendigo has a fantastic record. Its senior secondary college is exemplary and its feeder schools are great schools that we will make even better by doing a rebuild. Ms Lovell can rest assured that we care about education in Bendigo. We will deliver on the schools. The only thing that will change is the sequencing of those schools.

In the end, if you are in a commercial negotiation and your partner does not want to sell the land to you to build a school on or does not want to do a swap, you clearly have to find another piece of land. We are not going to recklessly go about wasting taxpayers money, but we will deliver good schools in Bendigo.

*Supplementary question*

**Ms LOVELL** (Northern Victoria) — I am disappointed to hear that the minister intends to build only three schools when we were promised four. In the past month the government has given two good reasons for us to doubt its commitment to the Bendigo education plan: firstly, it failed to put funding for the Weeroona P-10 College and the Eaglehawk Secondary College in the forward estimates of this year’s budget; and secondly, it announced this week that the Bendigo education plan has been suspended. Will the minister give a commitment that the government will still

deliver the four new schools to replace those included in the Bendigo education plan in this term of government?

**Mr LENDERS** (Minister for Education) — I am absolutely delighted that Ms Lovell for the third time in Parliament has raised the issue, but I am slightly stunned that she should put it in these terms of commitment. If Ms Lovell looks at what the government has done and is doing, she will see we are injecting in this budget alone \$555 million into capital — I will repeat it — \$555 million into capital!

**Ms Lovell** — Tell us about the Bendigo education plan.

**Mr LENDERS** — In a way that would do Julie Bishop proud, Ms Lovell is sceptical of what we are doing in Bendigo. I reiterate that we have a nation-leading senior secondary college in Bendigo, and we are dealing with the four feeder schools in partnership with the local community to rebuild them — in partnership. What Ms Lovell does not understand, and I guess what her side of politics does not understand, is that partnership actually involves discussions with local communities. I am not going to be coming up with solutions from on high here. We have had a changed circumstance because of La Trobe University, but our commitment is that we will work with Bendigo to deliver the schools we promised — unequivocally.

**Ms Lovell** interjected.

**Mr LENDERS** — Ms Lovell is waving digits around and quoting numbers. She should actually go back to Bendigo and look at what the plan is, look at what has been worked out with local communities, look at those four existing schools and look at the sites they are going on to. She should go forward and should work this through, and if she does she will find that fundamentally we are committed to public education in Bendigo, that we are committed to modern facilities in the feeder schools for Bendigo Senior Secondary School and that we will deliver.

**Planning: activity centres**

**Mr ELASMAR** (Northern Metropolitan) — My question is to the Minister for Planning. Can the minister outline to the house what recent measures have been taken by the Bracks government to facilitate development proposals in Melbourne activity centres?

**Hon. J. M. MADDEN** (Minister for Planning) — I welcome Mr Elasmars’ interest in this matter and his interest in elements of this in his own electorate.

President, as you would appreciate, following comments from my ministerial colleague about the significance of growth and of the increased growth in not only Melbourne but also regional areas, I can add that this unprecedented growth is also driving investments in construction and other activities right across the state. This growth is not happening just in the regions, it is happening in the growth corridors and it is happening right across Victoria.

Melbourne is blessed with existing infrastructure and with a rich network of activity centres linked together by transport services and transport corridors. We appreciate the value that these centres bring to their local communities, and residents right across Victoria also recognise that being connected to these centres enriches their lifestyle. It complements their lifestyle, because we are seeing people with the opportunity to be entertained, to shop and also to live in some of these activity centres.

**Mr Finn** interjected.

**Hon. J. M. MADDEN** — We have put in place a long-term metropolitan plan, which Mr Finn might be interested in, to encourage investment in housing, jobs and services in these centres. We have invested \$10.5 billion —

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I will say it again, because opposition members are not listening. We have invested \$10.5 billion to enhance the transport infrastructure in and between these centres. We have also provided \$22 million to local government to improve the streetscapes and landscapes in those centres. We have also selected Dandenong and Footscray as flagship areas for urban renewal projects, and we have committed more than \$330 million towards delivering new infrastructure into those centres.

But there is more. We have established the priority development panel (PDP) to help collaborate with those involved in and facilitate approvals for a range of significant redevelopment precincts across Melbourne. Just a few examples of the redevelopment precincts that have benefited from the advice of the PDP include the former Burwood brickworks, Monash University at Caulfield and the redevelopment of the former Laverton air base. The PDP has also provided advice on the redevelopment of key sites within the Victoria Street East precinct in Richmond, which I expect to be making further announcements about in the very near future.

Today I am pleased to announce two further projects which have benefited from the facilitation by the PDP. Today I have directed that a planning scheme amendment be prepared for the renewal of the Monash Homemaker Centre site in Clayton.

**Mr Jennings** — It's worth having a drink over!

**Hon. J. M. MADDEN** — There is so much to be said I cannot get it all out at once. The centre is strategically located close to Monash University, the Monash specialised activity centre. It is currently an older-style homemaker centre and offers significant redevelopment potential.

On advice from my priority development panel this scheme amendment will provide accommodation for 350 apartments and up to 100 serviced apartments as well as a range of local and other retailing uses for the site. This amendment will pave the way for the strategically located site to be transformed into a vibrant mix of housing and retailing uses, breathing life into the site and the precinct more broadly.

There is even more. Today I have also approved new planning controls which will facilitate and rejuvenate the Preston Market site in Melbourne's north. I expect members on the other side of the chamber would be interested in Preston in particular. Following advice from the PDP, I have today designated the Preston Market as a priority development zone. The redevelopment of the market will see that market's ambience retained and enhanced with more shops and activities on offer, longer opening hours, and a new seven-day-a-week convenience shopping area and better access to public transport. Access to the market will be improved, not only through the construction of upper levels at a later date to meet future housing needs, but in all sorts of ways. The renewal of the centre provides opportunities for future shopping and recreational needs of people in the region and the area in conjunction with people being able to access these services close to home in existing pockets in and around that area.

I congratulate the Darebin City Council and Preston Market Developments for working so closely and so collaboratively — the word I use time and time again, collaboratively — through the planning process for this centre. I am confident that with so many of Melbourne's activity centres, the Preston central activity centre will evolve to become a great place and enhance the reputation of Melbourne and Victoria as a great place to live, to work and raise a family.

**Disability services: vehicle modification**

**Mrs PETROVICH** (Northern Victoria) — My question is to the Minister for Community Services, Gavin Jennings. Since the election the government has been promising to fund the modification of vehicles for those families with wheelchair-bound children and young adults. Funding for this promise is fuzzy, at best. Young people like 15-year-old Brendan Hart and his family, who live in rural Victoria, are in urgent need of vehicle modifications. I ask: what is the time line for providing this service to all families that are waiting for vehicle modification?

**Mr JENNINGS** (Minister for Community Services) — I thank the member for her question and her concern about people in our community who care for the needs of perhaps their loved ones who would like to go about their normal daily lives, and that is by getting around in their car, getting in and out of their car, getting around their home in a comfortable way, and getting around their neighbourhoods in a comfortable way. That is what is at the heart of the new program the member referred to.

**Mrs Petrovich** interjected.

**Mr JENNINGS** — It was an inadvertent connection between the individual family that the member referred to and her heartfelt concern that the member brought to her contribution. It was an inadvertent play on words, but I am quite happy for us to all be interactive in the way in which we deal with this question and answer.

As Mr Dalla-Riva knows, he asked me the very same question during the Public Accounts and Estimates Committee hearing into the estimates. In fact I gave a very detailed answer, and I will repeat the elements of that detailed consideration.

Firstly, as it is a new program we have not had a pre-existing waiting list for the program. Secondly, in terms of the allocation of funding and the best way in which we can provide these funds in an efficient fashion and in a way that meets the greatest range of needs, either on the gravity of individual needs or the breadth of needs that may occur in the community, we are exploring with people who want to get on the waiting list what might be the best fit for their needs and exploring with the sector that already provides for car modifications what is the most effective way of getting public purchasing of that activity where currently we have not had public purchasing of that activity.

As I indicated to Mr Dalla-Riva during the Public Accounts and Estimates Committee hearing, we are embarking upon a process at the moment to scope the dimensions of this need and the best way for us to develop this program. I did acknowledge that I would prefer that I be able to outline to the member and to the community at this point in time how the scheme may run, but it is a work in progress.

I indicated during the Public Accounts and Estimates Committee hearing that we will be doing some considerable work in the next few months to try to make sure that we do in a timely way respond to these needs in a most effective fashion and in a way that provides some confidence to people in the community, in particular for those in the business of car modifications, that they can effectively tender, or put in expressions of interest, into a process where they know what the rules are, so there is no insider trading.

We will provide for the most cost-effective way in which we can roll out this program, and in the coming months we will be doing that work. In the first quarter of 2008 I anticipate we will be providing this very useful service and underpinning a better quality of life for people, such as the Hart family, who are in those circumstances.

*Supplementary question*

**Mrs PETROVICH** (Northern Victoria) — I ask the minister whether it is true that there are problems with the guidelines relating to this program and that there is no hope of anyone getting vehicle modifications before 1 July 2008?

**Mr JENNINGS** (Minister for Community Services) — I do not think what I have just described to the chamber and to the community indicated there are problems with the guidelines, because we were talking about a work in progress to develop them in the first instance and work out a commercial way in which the government will either make these funds available to individual families or purchase the modifications through providers of the service. We are in a deliberative stage of the work rather than it being a problem. I would anticipate there will be families assisted through this program prior to the date the member mentioned.

**Planning: electronic conveyancing**

**Mr TEE** (Eastern Metropolitan) — My question is to the Minister for Planning. Can the minister advise the house how the \$6 million in funding for electronic conveyancing will position Victoria as a leader in

streamlined property transactions, reduce the regulatory burden for business and the community and minimise costs to business?

**Hon. J. M. MADDEN** (Minister for Planning) — I thank Mr Tee for his question, because I know he has a specific interest in this area. No doubt people in this chamber would appreciate that the budget provided a huge \$1.5 billion commitment to maintaining Victoria's competitive business environment. Not only has land tax been slashed but WorkCover premiums have been cut by 10 per cent, providing immediate and obvious benefits for investment in Victoria.

I am delighted to advise the house that this budget provides \$6 million to complete the development of and to switch on our new electronic conveyancing system to support faster, more efficient property settlements. Cutting red tape is imperative for business and the community and is a hallmark of this government. Cutting business costs is an integral part of supporting economic growth. We appreciate that the small business statement released by the Bracks government in August 2006 commits to the reduction of red tape by 25 per cent over the next five years. This government has consistently stripped away layers of unnecessary and time-wasting processes to allow Victorian businesses to remain competitive.

The introduction of electronic conveyancing for property transactions is part of our very clear intention to cut red tape in business. It puts Victoria at the forefront of the Australian states and indeed makes it a world leader in financial property settlement and lodgement of land transfers and mortgages. Financial institutions like Westpac, ANZ, Commonwealth Bank, National Australia Bank, Macquarie Bank and Bendigo Bank are already using mortgage transactions as part of the electronic conveyancing system.

Even greater benefits will emerge in stage 2, and that will do away with the paper shuffle that often goes on with these transactions where a number of parties have to come together and shuffle papers in order to settle a transaction. This will mean a saving on average of up to \$395 per four-party settlement on an average saving of up to \$108 for each vendor and purchaser.

That might not seem a lot on each transaction, President, but let me reinforce that more than \$70 million of annual savings for the industry and community are forecast from this initiative. The Bracks government recognises the challenges of the future, and we are delivering on our promises to reduce cost to business and invest in services that matter to Victorian businesses — and all that will flow on to jobs and make

Victoria a great place not only to do business but to live, work and raise a family.

### **Disability services: student funding**

**Ms PENNICUIK** (Southern Metropolitan) — My question is to the Minister for Education. There have been reports in the press recently regarding students with disabilities. Yesterday's *Age* reported on the case of Rebekah Turner and referred to the case of Dylan Beasley. It is claimed that changes to the department's disability criteria for students has removed students from the funding list, which is estimated to have saved the government at least \$50 million. My question is: how much has the Department of Education spent on defending claims by students with disabilities under the Equal Opportunity Act in the Victorian Civil and Administrative Tribunal and other jurisdictions in the last five years?

**Mr LENDERS** (Minister for Education) — I thank Ms Pennicuik for her question. I will endeavour to answer the question in general terms, but the disabilities program is an issue that is the responsibility of my colleague Jacinta Allan in the other house, as the minister responsible for education services.

Firstly, I note that this year we are investing \$350 million in programs for students with disabilities. If we actually go through what our spending has been since we got into government, we have seen an increase of almost 80 per cent. They are statistics, and there is no question that those statistics do not address the concerns of families — the families of Rebekah Turner and others, who understandably seek absolutely the best possible opportunity for their children. So I cite figures to say that this government has increased its effort extraordinarily, but I acknowledge that that does not address the concerns of individual families who wish the best opportunities for their children.

In general terms that is what the government has sought to do in these particular areas. However, I will take on notice the specific nature of the question Ms Pennicuik asks for the attention of the Minister for Skills, Education Services and Employment.

### **Aboriginals: referendum anniversary**

**Ms MIKAKOS** (Northern Metropolitan) — My question is to the Minister for Aboriginal Affairs, Gavin Jennings. Can the minister inform the house what will be happening in Victoria to commemorate the 10th anniversary of the *Bringing Them Home* report and National Reconciliation Week?



**Mr JENNINGS** (Minister for Aboriginal Affairs) — I thank Ms Mikakos for her ongoing concern, consideration and support of Aboriginal people in the state of Victoria in her role as Parliamentary Secretary for Justice. She has a proven track record of commitment to the wellbeing of and engagement with the Aboriginal people.

I am pleased to inform the house that on the 10th anniversary of the *Bringing Them Home* report on National Sorry Day next Saturday there will be a number of ways in which this community can come together to support Aboriginal people to mark the importance of this occasion and indeed to try to build a greater sense of reconciliation and solidarity within our community.

Indeed this is a Parliament that has a proven track record in relation to this matter. In fact it is almost the 10th anniversary of this chamber and indeed the other chamber in the Victorian Parliament acknowledging the adverse effects of the stolen generations and commemorating the *Bringing Them Home* report, obviously by a degree of sincerity that is not dripping out of opposition benches at this point in time. In September 1997 this chamber passed the following motion:

That this house apologises to the Aboriginal people on behalf of all Victorians for the past policies under which Aboriginal children were removed from their families, expresses deep regret at the hurt and distress this caused and reaffirms its support for reconciliation between all Australians.

The Bracks government has taken that spirit, that engagement, that bipartisan — in fact beyond bipartisan — support throughout the Victorian community to try to engage with Aboriginal people to try to assist that process of healing. Indeed we established Australia's first and only, to this point in time, stolen generations organisation to be able to provide support and encouragement to those members of the stolen generations. Part of the \$675 000 allocation in recent budgets to that organisation will go towards a number of events that will be available for public participation during the course of the week.

At Melbourne Town Hall at 10.30 a.m. on Saturday there will be a partnership event which will bring together a range of service providers that provide support to members of the stolen generations under the auspices of the stolen generations organisation. Community members and providers of community-based services will participate in that event, which will kick-start a march that will go via Parliament House. That will enable participation in activities at Parliament House, culminating in a

community event which will involve entertainment and family day activities at Federation Square at 1.00 p.m.

That is not the end of the public demonstration of the importance of this day on Saturday. At 4 o'clock at Federation Square people will gather to commence this year's iteration of the long walk, with the Long Walk to the Dreamtime game at the Melbourne Cricket Ground. That game will be a celebration of the great talent, spirit and capacities of Aboriginal people and indeed will guarantee that the President's enthusiasm to cheer on his beloved Tigers will know no bounds. He will be joined by any number of members of the Aboriginal community, who will be happy — —

**Mr Finn** interjected.

**Mr JENNINGS** — I know Mr Finn is desperate to write himself into this story, and I hope he engages in activities to support Aboriginal people on that day. I will be engaged in the spirit of reconciliation, but in this matter, President and Mr Finn, I will be supporting the Bombers on that night. Hopefully all of us will find something that we can hang our hats on that night.

Beyond that day, which is a very important day in itself, in the Parliament of Victoria we will be marking the 40th anniversary of the referendum which led to constitutional change in 1967 to provide for commonwealth responsibilities and amendments to the constitution, which were designed to improve the rights and opportunities of all Aboriginal people. In that 40 years we have travelled some distance, but we have a heck of a long way to go to achieve a quality of life for Aboriginal people.

Therefore whilst we celebrate the 40th anniversary we also should take stock of where we need to go as an Australian and Victorian community, and we will be doing that in a community event which will be held in Queen's Hall on Sunday — in fact at some length, as the Parliamentary Secretary for Justice and I have been discussing. It will be an opportunity for many members of this Parliament and of the community to come together to celebrate the great capacities and talents of Aboriginal people, to celebrate what has been achieved during the last 40 years and to anticipate what might be achieved in the years to come.

A number of other community events are taking place during the course of National Reconciliation Week. At the Shrine of Remembrance on Thursday, 31 May, there will be an important event to mark the participation of Aboriginal people in theatres of war, where they have represented our nation — and much of

that participation, courage and selfless involvement in community life well preceded the 1967 referendum.

Indeed while Aboriginal people had been denied rights one after another right across this nation, people of Aboriginal descent fought and many lost their lives for the wellbeing of this nation — selfless acts which will be marked on 31 May. I look forward to the appropriate engagement of all members of this chamber and members of the community in this important week in the name of reconciliation and the wellbeing of Aboriginal people in the years to come.

## QUESTIONS ON NOTICE

### Answers

**Mr LENDERS** (Minister for Education) — I have answers to the following questions on notice: 66, 67, 120.

## EQUAL OPPORTUNITY AMENDMENT BILL

### *Second reading*

#### **Debate resumed.**

**Ms TIERNEY** (Western Victoria) — As previous speakers on this side of the chamber have stated, the Bracks government is serious about protecting Victorian workers and their families from WorkChoices wherever constitutionally possible. This bill will make it unlawful to discriminate against an employee who has raised his or her concerns about pay or conditions and it will enable workers to ask questions about their employment without fear. Those are the two things that I would like to talk about today — fear and fairness.

If we turn to the first concept, unfortunately fear is something I became closely acquainted with in the lead-up to the implementation of the WorkChoices legislation and have remained acquainted with since. I received many calls in the union office prior to the last state election in my capacity as state secretary of the Vehicle Builders Union. But it was not just me; the clerical staff, the organisers and the research staff were constantly on the phone taking calls from ordinary workers who were really worried about their situation.

They were scared to ask about basic things in their workplace, such as how much they should be getting paid and what their entitlements were. Members might think that this is all a bit ridiculous, but I can assure

them it is not, because as I live and breathe, it is out there. Unfortunately the type of society that has been created by that legislation is one in which ordinary men and women cannot sit down at the tea table, look their kids in the eye and say to them, ‘We will have jobs this year and next year, and there will continue to be tea on this table’. We have lost that — and we will not get it back as long as that legislation is in place.

What would happen with those phone calls to the union office was that it would take a long time to build up trust and rapport with the people who would ring in. You did not know anything about them and you would have to talk to them more and more until they felt comfortable with having a face-to-face meeting. Those face-to-face meetings often happened in places like car parks and often at night. They took place at McDonald’s, at the back of meeting rooms and in sporting clubs and hotels. This is the sort of secret society based on fear that people in this country are now living in.

Whilst no legislation can force people to genuinely communicate, what we have now is federal legislation that engenders a my-way-or-the-highway approach and leaves very little room whatsoever for families, particularly families in rural areas. Such families do not have too many choices because for them choosing the highway means having to go and find a job in another town up the road. They have to find another school, another house and do everything else, and that places enormous emotional and financial stress on families. I cannot fathom why there is opposition to the amendment in this bill. It might be a situation where people are trying to hide behind technicalities or are coming up with some hypothetical scenario so that they cannot be seen to be giving up on their mates in Canberra. I do not know. Maybe it is just that people on that side of the chamber are completely out of touch. All I can say to them is: you have really got to get out more. Because I do not know one person who either has not been personally affected by the federal legislation or does not know someone very close to them who has been negatively affected by it.

The Australian public deserves something much better than the cosmetic changes that keep on coming up from those in Canberra. Trickery and underestimating the intelligence of the public unfortunately seem to be the name of the game. Surely as a group of mature adults, people should be sitting back, reflecting, listening to others and saying, ‘Maybe we have got it wrong. Let us just admit that we have got it wrong on WorkChoices’ and starting to rectify the situation instead of making name changes or coming up with some other brain twisters that are now called ‘fairness tests’.

I would like to bring the chamber into my confidence: we actually tested out the new fairness tests early this week. People at the union that I am a member of, the vehicle builders union, tested the system. They rang the help line. Unfortunately they did not get too much help, but I think it is worth taking the chamber through the course of events. They asked a number of questions. Leading on from Ms Pennicuik's contribution earlier in this debate, one of the questions was, 'My boss is giving me an Australian workplace agreement that cancels my penalty rates. I am not getting any more money, but the boss is going to asphalt the car park in exchange. Can he do that?'. The answer from the hotline was, 'To give up protected conditions, monetary or non-monetary, compensation must be given'. The caller asked, 'So, is that fair?'. The hotline operator said, 'If monetary or non-monetary compensation is provided'. The caller then asked, 'What if I start riding my bike and don't use the car park?'. The operator said, 'Well, I'm not sure'.

The next question was, 'Does that mean it's fair? Do you have a definition for fairness?'. The operator said, 'No. It's all very new'. Our person said, 'How do I know what's fair if the government doesn't know what is fair?'. The operator said, 'Well, it's all a bit hard'. The caller said, 'It's not fair on you either, is it?'. And the operator said, 'No, it's not'. The caller was then forced to ask another question. That question was, 'So if my boss gives me a plastic, one-eyed spaghetti monster and says that it is of non-monetary value, could that be fair?'. The answer was, 'I suppose. I would have to speak to my supervisor. I'm not sure here, I'm not sure I could give you the correct advice'.

So nothing has changed. WorkChoices might have a new name but it is still the law and it is still unfair — and the federal government has not figured out even in the last week what is fair. All I can say about the issues before us is that there is no argument whatsoever, given the experiences and the opportunities I have had, for not just talking with workers and their families about what is happening to them in their day-to-day lives. There is no other option but to support the amendments in the bill.

I have to say that being newly elected to this chamber, I have been surprised by the fact that the fairly constant comments from members on the other side of the chamber tend to be quite anti-union. As recently as just before lunch today the implication was they are anti-shop steward — and indeed, I think, anti-worker — because I have not heard one comment that leads me to believe they accept that people are living with issues in their workplaces and their homes as a result of the legislation.

Where I come from we respect the right of employers to have employer organisations such as the Australian Industry Group, Victorian Employers Chamber of Commerce and Industry and a plethora of other organisations. We might not like their positions on many things, but we acknowledge that they are legitimate institutions speaking on behalf of their members. Why is it so difficult for those on the other side of the chamber to acknowledge that the members of many Australian working families are also members of unions? Their voices should and must be heard without the ranting interjections of individuals who still believe that we are in the cold war and that unionists have got some pro-Peking or pro-Moscow line. Members opposite should stop looking under their beds for ghosts. They should go out and have a conversation with real people. They should not denigrate what they do not know about, and they should understand the needs of people who deserve to be protected in the workplace. Those people will be protected as result of this amendment.

**Mr DALLA-RIVA** (Eastern Metropolitan) — I am pleased to rise on behalf of the Liberal Party to contribute to the debate on the Equal Opportunity Amendment Bill 2007. It makes amendments to the Equal Opportunity Act 1995.

It has been interesting to listen to contributions to debate from the government side of the house. Neither of the last two speakers, Mr Tee or Ms Tierney, referred to the actual legislation now before the house.

We heard the question, 'What type of society do we want created?'. I heard that, and I must respond to Ms Tierney on what type of society people want. They want record low unemployment, which they have got. They want low interest rates, which this government never seemed to deliver in the federal sphere.

A suggestion has been put forward in a worrying way by Mr Leane. There is a trembling in the voices of the unionists on the other side of the chamber. It is almost as if they are sitting around a fire in a 44-gallon drum talking about the old days, how bad employers are, how great unions are and how they represent the union movement. Ms Tierney said that many workers are union members. Unions now represent 14 per cent of the work force in Australia. That is a great representation, if the Labor Party is hanging its hat on that! We heard a diatribe from the previous Labor speaker about a conversation, which I suppose cannot be verified unless Ms Tierney is prepared to lay the tape on the table. I question whether the conversation was legitimately recorded. She seems to have a very detailed recollection of a discussion. There may or may

not have been notes taken at the time. I am concerned about the relevance to this of federal telecommunications legislation governing the recording of conversations. Ms Tierney laboured those things with a trembling voice and said, 'The union movement is protecting the workers of Australia. Save us all from the sky falling in!'. We have heard the Chicken Littles on the opposite side of the chamber talking about the collapse of the industrial system and the despair of workers.

Employer groups exist to provide a support mechanism. Yes, there are going to be one or two employers that do the wrong thing, we know that. You would have your head firmly in the sand if you thought the world was perfect. State and federal Labor members have a fascination with picking out the one or two examples of second-rate employers who clearly breach legislation. They cannot hang their hats on examples of those employers. There is record low unemployment. We need to have a more holistic approach to the industrial relations system to allow for competition.

Labor members may not be aware that we are actually in a global environment. If you go and visit the Holden factory, you will see that there are no Australian-produced items on the assembly line. The engine blocks, for example, come from Mexico and engine valves come from somewhere else, but all the parts are assembled here. This system makes it easier for manufacturers, for example, to lift up their shop and put it somewhere else. They can do that. Manufacturers no longer need to be in Australia because of the global economy and global industrialisation. You can now produce a product using materials sourced from anywhere. How efficient you are as a manufacturer, supplier or employer determines how you deliver those services.

To have unions continually breathing down the necks of employers when they represent only 14 per cent of the working population is just astounding. As I said, these issues can be heard in the trembling voices of the previous speakers. Mr Leane was almost red-faced in terms of his — —

**Mr Leane** — It was my tie, Richard!

**Mr DALLA-RIVA** — He says it was his tie, but it was his passion. I applaud the passion. Ms Tierney is pointing her finger at me as if to say, 'How dare you criticise a member on this side of the chamber and question the arguments we have put forward during this debate'. I am counting the government's arguments. If she does not like it, she should put up a better argument next time. That is what this chamber is about.

I will talk about this legislation. We have not heard much from Labor members. Perhaps the next government member will stand up and talk about a tsunami approaching Australia. They will say that the union is so great it will stop the tsunami hitting the coast of Australia! The fact is that we now have record low unemployment and we have low interest rates because of the commitment of employer groups, employees and unions. Why on earth does the government want to bring in legislation like this? In a backhanded way this legislation creates a Victorian-based unfair process. The government is bringing in a notion of unfair dismissal. This legislation will allow employers to be struck down by rogue employees. This notion is supported by the trembling government members on the other side of the chamber. We previously heard a diatribe from those members. The opposition is opposing this legislation because we think it is unreasonable.

Members should refer to the principal act. I implore government members to talk about it. Perhaps the next government member who speaks on this bill will mention it. Part 2 on page 15 relates to prohibited discrimination. A variety of issues have been raised already by members on this side of the chamber. They are age, breastfeeding, gender identity, impairment, marital status, race et cetera. Now employment activity is proposed to be added. We are now going to discriminate on the basis of employment activity. The Liberal Party thinks this will become an unfair dismissal law in Victoria. How will this bill help Victoria? As I have argued, there is globalisation, and the states are fighting among themselves for business. Other states want to outstrip Victoria — for example, other states want to take away Victoria's mantle as a manufacturing base. This proposed new law will mean there will be a decline in employer capacity. Employers will say, 'I am a good employer, but I am now lumbered with regulations regarding my employment activity. Do I need this? I can go to South Australia, I can go to prosperous Queensland or I can go to many Asian countries'.

Members opposite really ought to get their heads out of the sand, and maybe go and see some of those developing countries. They might then realise just how they are progressing in a very strategic way to actually deliver products at a low cost. As innovators we have the capacity to deliver solutions to foreign organisations but being legislative pariahs is not the way to go about it. I have heard no argument from the government side about benefits, other than references to WorkChoices, which is related to this bill. I want to hear some arguments from the government side about why this legislation would be a benefit to Victoria — that is,

Victorian businesses and Victorian workers in terms of them being provided, supported by the legislation.

My view is that this is merely window-dressing by the Bracks government leading up to the federal election. I understand the politics around it; you would be silly not to understand that there is a game under way. I also see a second tier to this — that is, it is designed to continue the support of the union movement in Victoria because that has been waning and is seen as irrelevant. As I said, 14 per cent or 15 per cent of workers are now represented by a union. I guess they have to justify why they have longwinded discussions with some poor person on the other end of the phone who is being cross-examined on some spurious sort of issue. I do not know whether it was going to happen but the very detailed communication that was reported by Ms Tierney seems odd.

When you consider the speeches from members on the government side you see why they have no foundation for supporting the bill. As I said, they are supporting it because they have a history of supporting the union first. We know that they will support the union first, even above the government of the day and even above the citizens of Victoria.

*Honourable members interjecting.*

**Mr DALLA-RIVA** — And, ‘Comrade, we support the workers. Let’s get that 44-gallon barrel fired up. Throw a few phone books in there and let’s just light it up and sit around there with a fag hanging’. The diatribe from the other side is just so stereotypical.

*Honourable members interjecting.*

**Mr DALLA-RIVA** — There we go — we have had another firing up! It is great to see the unions back in power in Victoria and indeed in this chamber. Remember, Acting President, it is union 1. The government is secondary in the consideration of the members opposite. They really do not care. You can tell because they have not argued on the legislation. It would be hard to find any argument from government members about the legislation. I do not think they mentioned the bill that is before the house; they mentioned everything else but.

We have to be fair dinkum. Have they argued the case for paragraphs (a) and (b) in the definition of ‘employment activity’ set out in clause 3? No. Have they argued for paragraphs (a), (b), (c) and (d) of the definition of ‘employment entitlements’ set out in clause 3? No. Have they argued about attributes and why they are putting employment activity under part 2 of the principal act? No. What we have heard are

spurious sorts of claims, with people going red in the face and spitting out how bad employers are. They have said, ‘They are so bad that we’ve got to bring in this sort of legislation’.

I can tell members that down the track it will be a real problem for employer groups. You can almost see it coming along. What will happen is the union movement will salivate; they will see this as a win for them. People in business will say, ‘Why do I need to be in Victoria? Why would I want to be here, with this union power base here?’. The problem is that members of the Labor Party really just do not get it in terms of business. They do not understand the process. My recommendation to the house is that members oppose this.

Employers are going to be stuck with this unfair treatment provision. They will have employees supported — or should I say encouraged — by the union movement, with its dwindling support but nonetheless the union movement. They will be in there, saying, ‘You have breached the employment activity provision in the Equal Opportunity Act. Look, we’ll leave it go if you pay out my worker mate for \$15 000, or whatever. It’ll save you actually going to the court system’.

Does that ring a bell for government members about the old days? They might recall that. I am not accusing any members on the other side here, but, just as a general supposition, I am sure that one or two members of the Labor Party may have gone into an employer’s office and demanded under an unfair dismissal claim, ‘Listen, we can settle this quite discreetly and quietly if you pay out this employee quite a nice sum of money. We won’t take you to the commission on unfair dismissal’. That is exactly what this legislation is about. If members do not understand that, then, as I said, they have their heads in the sand, because that is what will end up happening.

It is disappointing because Victoria is really under enormous stress from the other states which are going through a boom. We know that Western Australia and Queensland are really prosperous. Look at Western Australia: they do not muck around; they built a desalination plant because they have a water crisis. They have enough money and they are going to do it again, twice over. What are we doing? Nothing. We are bringing in legislation like this which actually discourages employer groups from doing it. It demonstrates that where you have prosperity, you can actually deliver things. Where you do not have prosperity, which is what members opposite appear to be trying to do with this bill, you will not only keep Victoria where it sits currently, which I think is just

ahead of Tasmania in terms of national growth, but even below Tasmania in the end.

I know that the government will use its numbers to cram this through. I understand that the amendments I have seen will be moved by the Greens during the committee stage. While what they are proposing is admirable, our view is that the bill should not proceed, full stop. We will oppose this bill, and we hope that Labor members who have the guts to stand up, instead of sitting with their union mates around the barrel, spurting out their communist views, might lead and be more supportive of employers.

*Honourable members interjecting.*

**Mr DALLA-RIVA** — That is where it all emanates from. This is a government that is for union 1, union 2 and union 3. They do not care about anyone else but themselves.

**The ACTING PRESIDENT (Mr Pakula)** — Order! Mr Dalla-Riva!

**Mr KAVANAGH** (Western Victoria) — I would like to explain the reasons for my vote on the Equal Opportunity Amendment Bill. First of all, workers should not be sacked, intimidated or punished for inquiring about their terms of employment. On the basis of this clear principle, I will support the bill, although it is probably politically motivated — and possibly unnecessary, as the opposition alleges.

I wish to address Ms Pennicuik's proposed amendments. Proposed amendments 2 and 3 either strengthen the bill or are of a technical nature, which will improve the bill, and I will support them. Proposed new clause A seeks to have the Equal Opportunity Act apply to small businesses. Why should the Equal Opportunity Act not apply to small businesses? There are many reasons, which other members more familiar with small businesses may explain better than I can.

One of the reasons which occurs to me, however, is that a work relationship inside a small business is likely to be quite personal in nature. The last thing that we want is the state telling us how to manage our personal relationships. A state which does so summons up a horrendous spectre of Big Brother.

New clauses B and C proposed to be inserted by amendment 4 seek to prohibit religious schools from discriminating in employment on grounds that include religious belief. Enacting this amendment would require, for example, a Jewish school in Victoria to treat a Muslim fundamentalist preacher who was applying for a job as a teacher of Judaism in the same way that it

would treat a rabbi who was applying for the job. Ms Pennicuik explained the Greens education platform, which argues that on the basis of receiving funding from the state, religious schools thereby assume all of the obligations of state institutions and are not entitled to pursue their *raison d'être*. Religious schools operate on a much lower level of state funding than other schools. However, in spite of the Greens speech in favour of equality and against discrimination, I heard no comment on that discrimination against students in non-government schools.

I accept that the Greens have something of a point. Accepting significant state funding involves obligations to significantly comply with the policy of the state. I have significant experience in state and non-state schools in Victoria. In my experience religious schools do not discriminate unreasonably in employment — that is, relating to jobs that do not involve teaching religious education. The Greens receive significant government funding. Should the entitlement of the Greens to discriminate on the basis of political belief be removed? For example, imagine someone applying for a job as an electorate assistant with the Greens who was perhaps a Democratic Labor Party supporter who disagreed with a lot of what the Greens say. Should the Greens be legally prohibited from saying, 'You disagree with what we say. We do not want to employ you'. Indeed in preselecting candidates, if I felt that I had a better chance of being re-elected as a Greens candidate, should I be able to apply for preselection and should it be illegal for the people preselecting the Greens candidate to say, 'You oppose our views. We do not want you as our candidate'? If the answer from the Greens to that question is no, then they are seeking to apply standards to others that they will not accept themselves.

I believe this proposed amendment is the result of consistent attacks in the media on religious schools in Australia over quite a long period of time. In my opinion these amendments should be rejected.

**Ms PULFORD** (Western Victoria) — Firstly, if can I comment on the contributions of some of the earlier speakers in the debate, it is claimed that this bill is a political stunt, but it is never a stunt for members on this side of the house when we are working to defend the rights of working people and their families. It is entirely predictable that members of the Liberal Party will oppose this. Since 2003, 11 pieces of legislation designed to protect the rights of working people have come before the Victorian Parliament and they have opposed each and every one of them.

I wish to refute the gross generalisation that we think all employers are bad. The purpose of legislation like this, as is the case with a great deal of legislation regarding relationships in our workplaces, is about maintaining a reasonable minimum standard and protecting those people who work for, in my experience, that small proportion of employers who would do the wrong thing if presented with the opportunity.

With regard to the Equal Opportunity Act, prohibited discrimination has to relate to a list of attributes, and other speakers have gone through those. This amendment aims to insert an additional attribute of employment activity and an additional definition of employment entitlements. Again, what employment entitlements are has been the subject of some discussion already today. Just so that we are all clear on what we are talking about, direct discrimination is spelt out as follows:

Direct discrimination occurs if a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances.

Part 3 of the Equal Opportunity Act talks about when discrimination is prohibited, and there are many circumstances where this act does not apply. However, the one that this amendment is about and the one that we have been talking about in the debate is really section 14 — namely, discrimination against employees. The act states:

An employer must not discriminate against an employee —

- (a) by denying or limiting access by the employee to opportunities for promotion, transfer or training or to any other benefits connected with the employment;
- (b) by dismissing the employee or otherwise terminating his or her employment;
- (c) by denying the employee access to a guidance program, an apprenticeship training program or other occupational training or retraining program;
- (d) by subjecting the employee to any other detriment.

I refer members to those parts of the act because it is important to remember that, whilst this is occurring in a context in which the federal government has done appalling things to workplace relationship laws in this country, what we are talking about is an amendment to this act to circumstances of discrimination in an employment context, which is clearly a bad thing.

This bill is about assisting workers who have been discriminated against and no-one else. Surely no-one in this house condones discrimination. We know from

experience that the Victorian Equal Opportunity and Human Rights Commission will decline frivolous claims, those that do not fall within the new definition or attribute, or those that are better considered by a tribunal or court.

The Equal Opportunity Act, if amended as we hope, will provide some protection to the most vulnerable workers. We know that the most vulnerable workers are young workers, people who are returning to the workforce after an extended break, people who do not have a strong command of the English language for reasons of literacy or because English is their second language, people who are fearful of their employer and people with a limited knowledge of their rights at work. As I stated earlier, it is an important feature of our legislative framework that we protect those who are most vulnerable.

Recent wage growth figures are starting to show the true impact of WorkChoices. The wages growth figures released last week indicate a significant drop in wages growth in the retail and hospitality sectors. We know who the people are who work in those industries. We know that they are the industries with the greatest proportion of casual workers. It is not rocket science to conclude that there is a relationship between the impact on wages and the WorkChoices laws and the climate of fear that the federal government is creating in Australian workplaces. This is the context in which we come to discuss this bill.

WorkChoices is so bad that the federal government is spending \$5 million of taxpayers money on pre-election spin to try to soften the blow. It is so bad that even John Howard has had to admit that it went too far. In an exercise that can only lead you to conclude that the federal Minister for Employment and Workplace Relations, Joe Hockey, might have just as many bureaucrats as the federal Minister for Education, Science and Training, Julie Bishop, has at her disposal, we have a whole lot of new titles for a whole lot of departments that have not been around for very long at all. It is time for a renaming of them in the great pre-election spin exercise.

We have the fairness test — capital F, capital T. I am sure this can only create more confusion, if that is possible. We have multiple agencies — again, in the spirit of confusing people about their rights in their workplaces. The Office of the Employment Advocate, as it was known, is now the Workplace Authority. The Office of Workplace Services is now the Workplace Ombudsman. The Australian Fair Pay Commission already had the most outrageous name — it has obviously been to the drawing board and the federal

government has struggled to come up with a better one. The federal government's website with the handy links to all its departments, try as it might to keep its website up-to-date with these changes, completely fails to provide a link or any mention of the Australian Industrial Relations Commission, so irrelevant has it been rendered by the federal government and its WorkChoices laws.

Unfair dismissal laws are gone for people in workplaces with under 100 employees and people employed for less than six months. We know what an enormous proportion of the workforce that is. There were some comments by earlier speakers in support of this bill. Mr Hall, who regrettably is not in the chamber at the moment — —

**Mr Drum** — I'm here!

**Ms PULFORD** — Yes, I know you are here, Mr Drum. I always find Mr Hall to be a very reasonable man. He said he would like to listen to the rest of the debate and hear some examples of workers having been discriminated against for having made inquiries about their conditions. That was only a few hours ago. I have some examples that I wish to provide to him and for the record, which I will come to now.

There is the example of the cable company which, two days after the new unfair dismissal laws took effect, sacked eight of its workers. The background to that case is that the workers had signed a petition requesting a workplace agreement.

A second example, which is currently being investigated by one of the federal government departments, involves a poultry worker. This worker was sacked for refusing to do overtime. For many years he had been asking if it was not out of the question for the employer to start paying for the overtime he was continually being required to work. Fed up, this worker decided he had had enough and he would do no more overtime until his employer started to pay him for it. He repeatedly asked about getting paid, as is his legal right — to be paid, that is, and, we would hope, to ask — and he got sacked.

They are a couple of examples to start. In an approach to JobWatch, it said anecdotally — given the relatively short time since Mr Hall asked that we provide for his benefit some examples to assist him in his consideration of what he might do on this bill — that it received a lot of calls about this type of thing, and often people are dismissed.

I made an inquiry to the workplace rights advocate, and I have some case studies I would like to present from

the workplace rights information line in relation to workers suffering detriment as a result of seeking advice as to their correct terms and conditions of employment. We have been asked to go to the detail of exactly what this is about, and here it is. This is what it is that members of the Liberal Party are opposing.

I start with example 1. In December last year a young tiler being paid \$250 a week made inquiries to the workplace rights information line and was told that the correct rate of pay was \$540 per week plus allowances. When the employee's mother queried her son's wage rate with the employer the son was dismissed.

Example 2 occurred last January when a food industry employee called a superannuation hotline to find out whether his employer was complying with legal obligations to make contributions on his behalf. Following a call from the fund to his employer the employee lost his job.

I go to example 3. In late January a furniture worker whose employer failed to pay his wages on time spoke with his employer's wife and asked about his wages. His employer's wife then threatened to call the police, and the employee resigned.

In example 4 a cleaner was being paid \$16 per hour. She checked her wage with the workplace rights information line, which told her that the correct rate was over \$18 an hour. When she informed her employer she was told that if she made an underpayment claim, she would be sacked.

I turn to example 5. Early in April the workplace rights advocate received a complaint from a former shop employee, who had been recognised by her employer as having excelled in the performance of her duties and her commitment to the job. This employee alleged, however, that after she discussed her terms and conditions of employment and revealed that she had made a call to an information service about whether or not she was being paid correctly, she was fired.

Going to example 6, late in April the workplace rights advocate received a complaint from an employee working in aged care. As members will see, this cuts across many industries. Whilst the details of these callers are confidential, I could hazard a guess that this is occurring in all eight of our regions. The employee working in aged care had asked her employer for outstanding wages and for confirmation that her employer had been complying with its legal obligations to make contributions to her superannuation fund. In the following days, and despite being recognised by her employer as having made a positive and professional



contribution to the workplace during her employment, the employee was dismissed, without notice, allegedly for abusive conduct after she had an argument with her boss about when her wages and superannuation would be paid.

In example 7 a fast-food employee recently protested against unsafe work practices and an apparent underpayment of more than \$2 an hour. She was told by her supervisor that she was just being lazy and, following significant pressure from managers and suffering from work-related stress, she resigned.

In example 8 a hospitality employee being paid \$500 a month complained to his employer about his wages and conditions of employment. Soon after this he was dismissed with the looming prospect of deportation.

Example 9 concerns a mature employee of a contract cleaning company with an unblemished and lengthy employment history who asked his employer on a number of occasions why he was not being paid on time. After joining the union in early 2007 he once again asked for his wages to be paid. Shortly thereafter he was dismissed, apparently for operational reasons.

So there are no 44-gallon drums in these stories. They are about people who are hoping to be paid the legal minimum to which they are entitled. They are people who are hoping that their legal minimum superannuation is being provided to their superannuation fund. They are people who want to work in a safe workplace and who just want to be paid on time, and they have all been terribly disadvantaged, not for getting out the 44-gallon drum but for just asking the question. Members opposite wanted some details, so there are some examples.

A climate of fear has been created in Australian workplaces. You only have to look at the federal government's own figures: 64 per cent of Australian workplace agreements cut leave loading; 63 per cent cut penalty rates; 42 per cent cut shiftwork loadings; 51 per cent cut overtime loadings; 48 per cent cut monetary allowances; 46 per cent cut public holiday pay; 40 per cent cut rest breaks; 36 per cent cut declared public holidays; and 22 per cent provide workers with no pay rise — some for up to five years.

In the context of WorkChoices creating a climate of fear in Australian workplaces, government members are proud of our efforts to assist Victorian workers with some protections at work. We make no apologies for this. I know members opposite do not understand, but this is really important to us and is not a political stunt. This legislation is an excellent example of the type of

legislation that a lot of us hope to be involved in supporting when we came to this place. The only regret we have is the extent to which federal laws limit our ability to do so.

To conclude, I will make a couple of comments on the amendments, in particular the one that would further expand the Equal Opportunity Act to have the impact — at least in my mind — of making it about industrial activity. I believe section 16 of the Workplace Relations Act places significant limitations on state governments and their capacity to legislate in areas of industrial activity. If government members thought it responsible to support the Greens' amendments, we would do so, but our fear is that those amendments, if successful, could have the consequence of placing the Equal Opportunity Act at risk of challenge and therefore in jeopardy.

There are many areas of discrimination that are outlined in the other attributes that we do not wish to put at risk. I would love to go along with this, but I do not believe it is a responsible course of action. The Equal Opportunity Act is too important, and it certainly can be enhanced by what we are proposing. I hope Mr Hall has been listening in his office, and I urge him to consider the information that I have provided by giving some concrete examples of how these circumstances happen. These events do not happen in some strange parallel universe that only Labor Party members live in, but in the real world, where Victorian workers are being seriously disadvantaged on a daily basis.

**Ms DARVENIZA** (Northern Victoria) — I am very pleased to rise and make a contribution to this debate, to speak in support of the Equal Opportunity Amendment Bill 2007 and to oppose the amendments that have been put forward by Sue Pennicuik from the Greens.

This bill is about protecting those workers who are the most vulnerable and who are probably least able to defend themselves in their workplaces. This bill and other legislation would not be necessary if every employer out there was a good employer and treated their workers and workforce fairly and reasonably.

We know that there are good employers out there. Over the years I have worked in many different workplaces and represented workers in those workplaces, and I have come across some excellent employers. Some employers really care about their workforce and have the interests of their workforce at heart. These employers understand that by treating workers well they get the very best out of them. By getting the best work from your workforce, you end up with the best possible service you can provide, you have a better

business and a better ability to be able to attract customers and make money, if that is what your business is about. If you are in the business of providing services to those people who need them and if your workforce is happy and treated well, your employees will give you 110 per cent and will make a big contribution to the provision of the services that you are offering.

If only we lived in a world where all employers were good employers, but that is not the case. Everyone in this chamber will have come across workers — through family and friends or through stories that they have read in the papers or seen in the media — who have been taken advantage of and discriminated against because of a stand or action they may have taken at work or who experience fear when they are put in a position in which they do not believe they are being treated fairly.

Some are asked to undertake duties or to carry out work that is not within the scope of their job descriptions. Some may believe they are not being paid correctly, while others may not be being paid for overtime or taking sick leave or maternity leave that they are entitled to. Some workers are not treated fairly in relation to accidents at work, leave loadings, rostering or shift arrangements. All of these areas of working experience are very important to each and every one of us and to each and every individual in the community.

We all need to feel that we are able to raise these matters in a reasonable way with our employer. It is not too much to ask that if you are employed to work in a particular workplace to do a job for a certain amount of money with certain conditions of employment and you have a query and need clarification about that or you believe that you are not getting what your entitlements are, you should have the capacity to approach your employer and discuss it with them.

The reality is we all know that out in the community there are employers you cannot talk to reasonably about these issues, and if you do raise them, you are likely to be disadvantaged or discriminated against. You are not likely to be given that extra shift, you are not likely to be given that weekend work, you are not likely to be paid exactly what you are entitled to — but they are likely to mess you around in one way or another. Workers who work for employers like that are very apprehensive and very reluctant to raise matters with those employers.

We all know this, and I know opposition members know this. I know they do not live in a different universe from me. I know that some of them have family members, particularly younger family members,

who have had concerns about what they have been asked to do as an employee or about what they are receiving pay and entitlements.

This bill is the result of the commitment this Labor government gave at the last election that it would do something to remedy the situation, and it believes the remedy is particularly necessary, given the WorkChoices legislation. I know that those on the other side are all behind WorkChoices — they are right behind it; they support it 100 per cent. Even though Prime Minister John Howard has now taken a backward step and does not want anybody to call it WorkChoices, we know from the contributions from the other side in various debates that have occurred in this chamber that they are behind it 100 per cent.

We on this side of the chamber recognise — and I believe that on the other side of the chamber there is some recognition of it as well — that there are people out there who have been badly treated in their workplace, or, if they have not been badly treated and ripped off, who certainly feel very apprehensive about their ability to make inquiries about their entitlements. In recognition of that at the last election this government gave a commitment that it would bring into Parliament legislation that would offer some protection to workers through changes to the equal opportunity legislation. It would allow workers to have that right, particularly those who are most vulnerable and least able to defend themselves in the workplace. Often they are the youngest people entering the workplace, who are in their first jobs.

This is a really good bill which will strengthen the equal opportunity legislation. I cannot support the amendments that are being put forward by the Greens because I do not think that would be the responsible thing to do. While I think they are motivated by the best of intentions, I do not think those arrangements would strengthen the Equal Opportunity Act and could lead to it being weakened in some respects.

It is a good bill; it is a bill that will protect those most vulnerable workers who need support and protection more than anybody else. The Bracks Labor government is about protecting particularly the most vulnerable people in our community, and that is what this bill does. It has come to this chamber, as have all other bills, following extensive consultation with stakeholders, not only unions but also employer groups such as the Victorian Employers Chamber of Commerce and Industry, the Victorian Civil and Administrative Tribunal, JobWatch, the Disability Discrimination Legal Service, which was very interested to see the strength given to the legislation by this bill, and the

Australian Retailers Association Victoria — just to mention a few. It is a good bill; it deserves the support of all members of this chamber, and I commend it to the house.

**Ms MIKAKOS** (Northern Metropolitan) — I am very proud to stand in this house and support this legislation. This is a very significant piece of legislation that seeks to protect the human rights of Victorian workers. It is incumbent on all of us as parliamentarians to do whatever we can to protect the human rights of the Victorian public, and I have been proud to speak previously in this chamber in support of the Charter of Human Rights and Responsibilities.

Another significant landmark piece of legislation is the Equal Opportunity Act, which for many years has sought to protect Victorian workers and the Victorian public from different types of discrimination. It is a human right that is also enshrined in our international treaties and obligations. We have a responsibility to ensure that workers are free from discrimination.

Many other members have already reflected upon the sad state of affairs we have seen since March last year, when the federal government introduced its draconian, so-called WorkChoices legislation that has sought to turn back the clock to Dickensian times, when employers would call the shots and workers would have no protection whatsoever.

The attitude to workers rights has been a critical issue of distinction between the Labor Party, which has a proud tradition of supporting workers rights and entitlements, and the opposition, which has a long track record of opposing every single piece of legislation — certainly during the seven years that I have been in this Parliament — that has sought to protect workers rights and entitlements in this state. In fact in the last seven years the Liberal Party has opposed 11 different pieces of legislation introduced by the Bracks government to protect the rights of Victorian workers.

This piece of legislation has arisen as a result of the so-called WorkChoices legislation and the fact that we have an appalling state of affairs where workers are now afraid to make simple queries of their employers about their rights and entitlements.

I represent the electorate of the Northern Metropolitan Region that has a very diverse community. It is home to people of various nationalities, many of whom have come to this country as immigrants, refugees or asylum seekers. I know from personal experience — including that of my family, my parents — that many people who have come to this country and have gone to work in

factories, on building sites and in many other areas of employment have in the past been exploited in respect of their terms and conditions of employment because they have had a very limited ability to speak English.

It is an appalling state of affairs that workers are now afraid to ask their employers about whether they have been paid the correct amount of wages for fear of being sacked.

**Mr Vogels** — Name one!

**Ms MIKAKOS** — I can tell Mr Vogels that I have spoken to one person just this week — actually I spoke to him yesterday — who is a cleaner. He is someone who is not paid a great deal of money and who has in fact not been paid the correct amount of wages over the last month or so. He is very fearful about approaching his employer to query why he has not been receiving the correct amount of wages. This is an issue that I certainly will be taking up through the workplace advocate's office, which this government established recently. There are many workers who are experiencing problems as a result of the WorkChoices legislation and who need the protection that this legislation will afford them.

I think this is a very important piece of legislation that will strengthen the Equal Opportunity Act. It seeks to add an attribute to the act that relates to employment activities to ensure that people have the confidence, without fear of recrimination, to be able to ask simple, basic questions. I point out — because I know the other side has this paranoia about trade unions and their involvement — that this bill will actually enable individuals, not through a union or some other organisation, to approach their employer and ask questions about their employment, their wages and their conditions without fear of recrimination.

I strongly support this bill. I think we all have a responsibility to ensure that Victorian workers are able to work free of discrimination, and I urge all members to support it.

**Mr SOMYUREK** (South Eastern Metropolitan) — I rise to make a contribution in support of the Equal Opportunity Amendment Bill 2007, which amends the Equal Opportunity Act 1995 in order to implement a key election commitment to protect employees from discrimination if they question their wages and conditions.

I am cognisant of the fact that we are running short of time, so I will be brief. In any case I doubt whether I would have had as much to say as colleagues who are

erstwhile union officials and who bring to this debate years of practical experience.

**Mrs Peulich** — We know who your bosses are!

**Mr SOMYUREK** — Theo is not here! Contemporary party politics, with the advent of mass marketing techniques in electioneering and poll-driven policies, has resulted in a reduction in the space between the major political parties, not just in this country but in the entire Western world. Opposition parties generally engage in a bit of product differentiation, and that is just enough to give the median voter sufficient inducement to vote for them.

**Mr Vogels** interjected.

**Mr SOMYUREK** — This is what you guys do. But occasionally an issue comes along that cuts deep into the philosophical divisions that exist between the major parties. This bill is one such issue. This bill is about safeguarding the rights of Victorian employees against the federal government's WorkChoices legislation. This bill encapsulates the respective parties philosophical disposition with respect to employees, the ALP being benevolent and the Liberal Party — I will be polite — not.

One area where employees are not adequately protected from discrimination is where they question their employers about their employment entitlements or raise concerns about whether their employment entitlements are being complied with. This discrimination has been exacerbated by the introduction of the WorkChoices legislation.

This government has a tradition of caring for workers and their families and has responded to the excesses of WorkChoices wherever possible. The establishment of the Office of the Workplace Rights Advocate to ensure Victorian workers have access to information about their entitlements is an example of that. There is much more to be said about this legislation, but I promised to be brief, so I conclude my contribution. I commend the bill to the house.

**Mr ELASMAR** (Northern Metropolitan) — It is a pleasure to join the debate in support of the Equal Opportunity Amendment Bill 2007. The purpose of this bill, as stated in clause 1 of the bill, is to amend the Equal Opportunity Act 1995 to include a new attribute of employment activity. Discrimination will be prohibited on the basis of this attribute — in other words, this bill protects employees from discrimination should they question their wages and conditions.

At this point I should stress, like my colleague who spoke before me, that time is very constrained, and I will not take up too much of the time of this house. This bill is an important element of the government's response to the federal WorkChoices legislation. It reflects the commitment made during last year's state election campaign to protect the rights of Victorian employees. If these amendments are not made, there will be circumstances in which employees will be left without redress for harsh and discriminatory conduct — those employees who question their wages and conditions directly with their employer.

It should be the right of any employee to be able to approach their employer about these issues without fear of recrimination or penalty. This bill therefore will provide safeguards and protection to Victorian employees. The Equal Opportunity Act provides an important means of ensuring fair treatment for all Victorians. The act prohibits discrimination on the basis of specific attributes in certain areas of public life, one of which is in the area of employment. This bill enhances the prospect of achieving the Equal Opportunity Act's aim of equality of opportunity for all Victorians, and is an important element of the government's response to the federal WorkChoices legislation. I commend the bill to the house.

**House divided on motion:**

*Ayes, 22*

Barber, Mr	Mikakos, Ms
Broad, Ms	Pakula, Mr
Darveniza, Ms	Pennicui, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Kavanagh, Mr	Tee, Mr
Leane, Mr	Thornley, Mr
Lenders, Mr ( <i>Teller</i> )	Tierney, Ms ( <i>Teller</i> )
Madden, Mr	Viney, Mr

*Noes, 16*

Atkinson, Mr	Hall, Mr
Coote, Mrs	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr ( <i>Teller</i> )
Guy, Mr	Vogels, Mr ( <i>Teller</i> )

*Pair*

Theophanous, Mr	Koch, Mr
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**Motion agreed to.**

**Read second time.**

**Ordered to be committed later this day.**

*Instruction to committee*

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

That it be an instruction to the committee that they have power to consider amendments and new clauses to —

- (a) repeal the exception for small businesses from the prohibition of discrimination relating to employment; and
- (b) ensure that the exception for religious schools from the prohibition of discrimination does not extend to anything done in the course of the employment of people in religious schools.

**House divided on motion:**

*Ayes, 21*

Barber, Mr  
Broad, Ms  
Darveniza, Ms  
Eideh, Mr (*Teller*)  
Elasmar, Mr  
Hartland, Ms  
Jennings, Mr  
Leane, Mr (*Teller*)  
Lenders, Mr  
Madden, Mr  
Mikakos, Ms

Pakula, Mr  
Pennicuik, Ms  
Pulford, Ms  
Scheffer, Mr  
Smith, Mr  
Somyurek, Mr  
Tee, Mr  
Thornley, Mr  
Tierney, Ms  
Viney, Mr

*Noes, 17*

Atkinson, Mr  
Coote, Mrs  
Dalla-Riva, Mr  
Davis, Mr D.  
Davis, Mr P.  
Drum, Mr  
Finn, Mr (*Teller*)  
Guy, Mr  
Hall, Mr

Kavanagh, Mr  
Kronberg, Mrs (*Teller*)  
Lovell, Ms  
O'Donohue, Mr  
Petrovich, Mrs  
Peulich, Mrs  
Rich-Phillips, Mr  
Vogels, Mr

*Pair*

Theophanous, Mr

Koch, Mr

**Motion agreed to.**

**Committed.**

*Committee*

**The DEPUTY PRESIDENT** — Order! As a result of the house agreeing to Ms Pennicuik's contingent motion, this committee of the whole has been instructed that it has power to consider amendments which are now outside the scope of the bill as introduced by the government. Ms Pennicuik's amendments 1 and 4 are therefore able to be moved by Ms Pennicuik, and her amendments 2 and 3 are within the scope of the bill and would have been considered anyway in the due course

of the committee and do not require any particular instruction from the committee.

It is unusual to allow debate by the committee outside the scope of the bill, but the house has decided to that effect. I indicate that Ms Pennicuik's amendment 1 becomes a test for amendment 4 as well as the consequential amendment of the long title.

**Clause 1**

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

- 1. Clause 1, lines 2 to 5, omit all words and expressions on these lines and insert —

“The purpose of this Act is to amend the **Equal Opportunity Act 1995** —

- (a) to include a new attribute of employment activity on the basis of which discrimination is prohibited;
- (b) to repeal the exception for small businesses from the prohibition of discrimination relating to employment;
- (c) to ensure that the exception for religious schools from the prohibition of discrimination does not extend to anything done in the course of the employment of people in religious schools.”.

Paragraph (a) of that amendment actually refers to amendments 2 and 3, and paragraph (b) has to do with my wish to repeal section 21 of the Equal Opportunity Act 1995. That provision excepts small business. Subsection (1) states:

An employer may discriminate in determining who should be offered employment if the employer employs no more than the equivalent of 5 people on a full-time basis (including to whom employment is offered).

I was not around in 1995 when the act was proclaimed, so I am not sure how that provision got in there, but the effect is that people in small business are able to be discriminated against according to all the attributes listed in the Equal Opportunity Act. Those attributes are age, breastfeeding, gender identity, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation and personal association.

I do not believe that in this day and age it is appropriate for that blanket provision to exist in the Equal Opportunity Act. That is why I am proposing to amend it today. Mr Kavanagh in his speech referred to working relationships in small businesses being like personal relationships. I actually do not accept that. A working relationship is a working relationship; it is a

professional relationship, whether it is in a small, large or medium business. People should be able to behave in a professional way in a small business, and there should not be allowed to be any discrimination.

My other concern is that the amendments the government is proposing in terms of employment activity and protecting employees who make inquiries about their employment entitlements will not provide protection while this provision is allowed to remain in the act. While it says it refers to the offering of employment, that in my mind extends to people who are casual employees. People who are casual employees can be discriminated against for asking about their entitlements in terms of not being offered more shifts, so they will not be protected if section 21 remains in the act.

Paragraph (c) of my amendment states:

to ensure that the exception for religious schools from the prohibition of discrimination does not extend to anything done in the course of the employment of people in religious schools ...

This paragraph also deals with that same blanket exception from discrimination under the Equal Opportunity Act, and the argument that I just detailed in terms of small business applies to the employment of people in religious schools. This should not be allowed to continue. There should be no reason why a religious school should be able to discriminate against its employees or prospective employees on the basis of any of those attributes that I read out. The new attribute that will go into the act as the bill is passed will not apply to employees in religious schools. It is about time these sorts of blanket exceptions were removed from the Equal Opportunity Act so that people cannot be discriminated against on the basis of being employed in a religious school or in a small business.

I thank this chamber very much for allowing me to raise these matters and to put forward what the Greens strongly believe — that is, that people should not be discriminated against in their place of employment. I said in my speech in the second-reading debate that work is a very significant part of people's lives and that discrimination in the workplace can and does profoundly affect people. People employed in religious schools as we speak who have some of those attributes, particularly gender and sexual orientation attributes, are feeling discriminated against in the sense that they may not feel they can reveal that they have those attributes because they may be discriminated against or they are actively discriminated against.

Mr Kavanagh raised the point, and I agree with him, that a lot of religious schools in practical effect do not discriminate against people on the basis of race or religious belief. If Mr Kavanagh and others believe that, then why is the blanket discrimination allowed to sit in the act? It should be removed.

Those are my reasons for raising this. I think they are important public policy issues. We have a climate where discrimination can be or is being encouraged by federal industrial relations law. Discrimination in the workplace is being allowed because the law is not strong enough. In those circumstances we should do everything in our power to protect all employees regardless of where they may work.

**Mr P. DAVIS** (Eastern Victoria) — The issue I wish to raise is that I believe the matter which Ms Pennicuik has raised by way of an amendment, which as I understand it will test further amendments when it is resolved, is a major change to policy in this state. Frankly in my view, notwithstanding the debate that has occurred in this chamber today on this matter, the matters have not been canvassed effectively in the public domain. I do not believe the proposed amendments reflect the view the community held when the act was created, which in my view reflected then as it does now a need to recognise the difference in undertaking a business activity in a family business environment as distinct from what I would describe broadly as a corporate environment, which may include a government body. Typically small businesses are owner operated and involve one or more members of a family as proprietor or proprietors. Hence the exceptions to which the member was referring are exceptions which were adopted explicitly at the time to reflect the nature of small business activity.

It would seem to me on that basis it would be difficult for the house to proceed to come to a view that would properly reflect community opinion on this matter without having had the opportunity to canvass it. The Liberal Party's position is that we do not support these amendments, but having said that, it is quite clear, unless the member can advise the committee differently, that there has not been consultation with the small business community, which would inevitably be affected by such amendments.

I also refer to the exemptions with respect to religious schools. Frankly, it would be a breathtaking change of public policy to put these amendments into effect, and the impact on many religious schools would be very significant. I am not so concerned about the schools; I am concerned about the families of those members of the community who are involved in those schools and

who would be affected as a consequence of the amendments.

Again I say that the Liberal Party is clearly opposed to these provisions. But to provide an opportunity for further reflection on the amendments being moved by Ms Pennicuik, I formally move:

That progress be reported.

My motion, if accepted, would in effect adjourn debate on the committee stage so that consultation may occur with respect to these matters prior to the conclusion of the committee stage debate. That is a matter for the house — that is, to consider whether it wants to progress with the committee stage now and dispose of these amendments one way or another by a determination of the committee. However, in the event that we do not choose to report progress in line with my motion, the Liberal Party will be opposing these amendments.

**The DEPUTY PRESIDENT** — Order! I should explain to the house: the position now is that we are debating a procedural motion, and the motion is that the committee report progress and that I do leave the chair. The purpose of that motion, if passed by the committee, would be that I would advise the President that the committee was reporting progress — in other words, that debate on the amendments and the legislation would be held over, presumably until the next sitting week. The concept that Philip Davis has advanced in his speech is that that is to allow community consultation between the two sittings.

**Mr VINEY** (Eastern Victoria) — The government will not support the motion that progress be reported. We have spent most of the day debating this legislation. It has been very comprehensively covered by members in this chamber, and the government was concerned — and that was expressed at an earlier stage — that whilst it has sympathy with some of the intent of some of the Greens amendments, we would not be able to support them

The reason we supported the Greens proposition on the contingent notice of motion was so that we could get into the committee stage and deal with the bill today. That is our preference. That is the government's view. We were prepared to provide time to consider the amendments, but we want to complete this legislation today. We see no benefit in further delaying the consideration of this legislation. I take the Leader of the Opposition at his word. I hope there is no cynicism in just trying a delaying tactic on what is important legislation to protect Victorian workers.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — On the procedural motion, I rise to support Mr Davis's motion that the committee report progress on this matter. Amendment 1, proposed by Ms Pennicuik, tests amendment 4 and represents a substantial expansion of the purpose of the bill. The house, prior to going into committee, considered a contingent motion to allow those amendments, which were beyond the scope of the original bill, to be considered. It was the view of the Liberal Party and, in consideration of that motion, still is the view of the Liberal Party that these amendments should not be considered in the scope of this bill because they are far broader than the original bill. However, with the house having elected to allow the consideration of those amendments beyond the scope of the original bill — and I note the government agreed to allow the house to consider those amendments beyond the scope of bill — it is now our view that an opportunity for proper public consideration should be allowed.

If carried, the two principal amendments, which repeal the small business exception and the religious school exception, represent significant changes to the way in which the Equal Opportunity Act would operate in Victoria. They are not matters that have been canvassed in the public arena prior to being brought to the house this afternoon in this committee stage, and as such it is appropriate that the week in which the house is adjourning after rising today be allowed for public consideration of these matters before the house concludes deliberations on them.

**Ms PENNICUIK** (Southern Metropolitan) — I am not inclined to support that motion. I do not know that a week's consultation with the small business community or religious schools will make much difference to the principles that I am talking about.

Let us pick out a couple of them here. Mr Davis said that he was concerned about families, that in taking away the blanket exemption for religious schools they would be able to discriminate, for example, on the grounds of breastfeeding, marital status, physical features, sex or sexual orientation. I do not see how any of those attributes has anything to do with whether or not a person can perform their job in a religious school.

The same goes for small business. Mr Davis also mentioned that the removal of section 21 would affect family businesses, but it will not, because there is a separate exception under section 20 for businesses. The removal of section 21 will just have the effect of removing discrimination against employees and businesses with less than five people. I think we should continue.

**The DEPUTY PRESIDENT** — Order! Does the minister wish to contribute to the debate on this point?

**Hon. J. M. MADDEN** (Minister for Planning) — No, I will just support the words that already have been spoken from our side of the chamber. We do not support the Liberal Party's motion.

**The DEPUTY PRESIDENT** — Order! I will put the procedural motion. The committee should be aware that the procedural question is:

That the committee report progress and seek leave to sit again.

It is a normal procedural motion, so that if it is defeated, we will proceed to Ms Pennicuik's amendments. If it is passed, then I would report to the President and we would come back to this, presumably at the next sitting week.

**Committee divided on motion:**

*Ayes, 17*

Atkinson, Mr	Kavanagh, Mr
Coote, Mrs	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	O'Donohue, Mr ( <i>Teller</i> )
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Finn, Mr ( <i>Teller</i> )	Rich-Phillips, Mr
Guy, Mr	Vogels, Mr
Hall, Mr	

*Noes, 21*

Barber, Mr	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr ( <i>Teller</i> )
Elasmar, Mr	Smith, Mr
Hartland, Ms ( <i>Teller</i> )	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Thornley, Mr
Lenders, Mr	Tierney, Ms
Madden, Mr	Viney, Mr
Mikakos, Ms	

*Pair*

Mr Koch	Mr Theophanous
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**Motion negatived.**

**The DEPUTY PRESIDENT** — Order! The committee will now resume the consideration of amendment 1 in Ms Pennicuik's name. As indicated earlier, this amendment is a test for amendment 4, which, if passed, will change the long title of the legislation. There may be further speakers on amendment 1. Would the minister like to make remarks about amendment 1?

**Hon. J. M. MADDEN** (Minister for Planning) — I want to make a few clear points in relation to Ms Pennicuik's amendments. It was mentioned in the debate prior to the committee stage that we are very sympathetic of what the Greens are trying to achieve by moving their amendments. The reason why we are not able to support them is not because we are not sympathetic, but because we think that the amendments would render much of the intention of the bill invalid.

I want to put a few remarks on the record, but I will not speak for a great deal of time. I have some legal advice that I would like to put on the record so that members of the chamber and the community can appreciate it. As I said, there are a number of issues in regard to small business and religious schools. Predominantly our concerns relate to the validity of any amendments that might be passed and how they would render invalid what we seek to do. The advice that I have — —

**The DEPUTY PRESIDENT** — Order! When detailing the legal advice to members of the house, can the minister indicate who has provided it?

**Hon. J. M. MADDEN** — The advice has been provided by the Department of Justice. I do not have the exact details of who provided the advice to the department, but I am happy to provide the advice to the chamber. The advice reads:

3. The capacity of the state to legislate to reinstate rights and entitlements that existed under pre-WorkChoices Workplace Relations Act 1996 (commonwealth) (WR act) is limited. The limits on the state's capacity to legislate in this area arise from two principal sources. The first is the express exclusion of certain state and territory laws under section 16 of the WR act.

So basically we have a limited capacity to effect, in any sense, the Workplace Relations Act. The advice then says:

4. Section 16(1) of the WR act has the effect of rendering invalid —

and this is an important part —

'state or territory industrial laws' and certainly other types of state and territory laws specified in section 16(1).

5. The exclusion of state and territory laws under section 16(1) of the WR act does not apply to state and territory laws in so far as they deal with the prevention of discrimination or the promotion of EEO, provided that such a law is not also a 'state or territory industrial law'.

I say again that the Workplace Relations Act should not impact on the Equal Opportunity Act. It is important that state or territory industrial law is not impacted



upon. There is a very fine line of demarcation here. The advice also reads:

6. The terms in which section 16 is expressed mean that whether a state law is rendered invalid by the operation of section 16, depends upon the characterisation of the state law as ultimately determined by a court. The finding of the court cannot be predicted with certainty.

If we step too far over that line, what we are seeking to do will be rendered invalid. No doubt the more we seek to get close to that line or cross over it, the greater the likelihood the court will find it invalid. The advice continues:

7. Quite apart from the operation of section 16 of the WR act, a state law will be rendered invalid to the extent of any direct inconsistency with any provision of the WR act by the operation of section 109 of the constitution.

If members bear with me, I will try to get through this advice fairly quickly. Then I will try not to speak for too much longer after that. The advice continues — —

**The DEPUTY PRESIDENT** — Order! I ask the minister to clarify something. Is it possible for him to circulate that document? It would be a courtesy to Ms Pennicuik, who has moved amendments and needs to understand the impact of this advice on her amendments.

**Hon. J. M. MADDEN** — I am not sure it is in the appropriate form. I am actually adding remarks to the advice. I need the advice in front of me at the moment. I am not in a position to do that.

The advice also states:

8. In the event that the expanded definition of 'employment activity' proposed by the Greens was enacted, the issue of the validity of these provisions would arise if a respondent defended a complaint under the EO act on the basis that the state law was invalid as being excluded by section 16 of the WR act or directly inconsistent with the WR act. The issue would ultimately be decided by a court and potentially by the High Court of Australia.

To cut a long story short, if we expand the definitions to the point where we are either close to or crossing over the threshold in relation to the Workplace Relations Act, that may render invalid what we as a Labor government are seeking to do. We are very sympathetic to what Ms Pennicuik is trying to achieve, but our concerns are that if we overstep the mark on this it will be constitutionally invalid and thereby render ineffectual in its entirety what we are seeking to achieve by this. I hope that helps on the issues around invalidity.

Recognising that there are a few other issues that Ms Pennicuik has raised about small business, casual employment and religious schools, I will seek to answer those very quickly so that we can move through this process, and then hopefully I will not have to speak too much more.

**The DEPUTY PRESIDENT** — Order! For the sake of clarity for the committee — I understand what the minister has said about progress — I think the legal issue is a significant independent issue. Perhaps we should deal with that first and come back to the other.

**Hon. J. M. MADDEN** — All right.

**The DEPUTY PRESIDENT** — Order! Initially the minister indicated that he might be prepared to circulate that document, but then he mentioned that he was adding to it. I got the impression that perhaps the minister was not prepared to circulate it. I would like to clarify that.

**Hon. J. M. MADDEN** — My understanding is that Ms Pennicuik may have a copy of that document as supplied by the department. I am not sure of that, but I am advised that that might be the case. I have added my comments to that to try to simplify the explanation for the rest of the chamber.

**The DEPUTY PRESIDENT** — Order! As a courtesy, then, as one member has been provided with the legal advice, is it possible for the minister to also provide the legal advice to members of the other parties and the independent member?

**Hon. J. M. MADDEN** — I am not sure that I am able to do that.

**Mrs Peulich** interjected.

**Hon. J. M. MADDEN** — I have notes all over my copy as I speak, Deputy President.

**Mrs Peulich** interjected.

**Hon. J. M. MADDEN** — I am not sure that I am able to provide that information. I have notes over my copy as I speak.

*Honourable members interjecting.*

**Hon. J. M. MADDEN** — I am sure that members of the chamber would find my notes interesting.

*Honourable members interjecting.*

**The DEPUTY PRESIDENT** — Order! Can I hear the minister in silence, please.

**Hon. J. M. MADDEN** — I have made my comments. I think they explain the legal issues. We do not seek to overstep the mark in what we propose because we consider that, if we do, then what we are attempting to achieve could be determined by the courts to be invalid. I have made my comments in relation to that.

**The DEPUTY PRESIDENT** — Order! I thank the minister and take that as a no.

**Ms PENNICUIK** (Southern Metropolitan) — I am a little bit confused because I think the minister is actually referring in that advice to my other amendments, 2 and 3, and not to my amendment 1, which is a test for amendment 4. I think what we have before us now is the question of whether we want to change the purpose of the bill, as I read out before — that is, to repeal sections 21 and 76. The minister is talking about different definitions of employment activity, if I am not mistaken.

**The DEPUTY PRESIDENT** — Order! Can I rather dangerously seek to paraphrase what I think the minister was saying? It was that Ms Pennicuik's amendment 1 would substantially change the scope of this legislation and bring it into conflict with provisions of the Workplace Relations Act, which applies in Victoria. In that sense, from the government's point of view it would put this legislation at risk of being revoked or challenged in the courts. Is that a correct paraphrase of your position, Minister?

**Hon. J. M. MADDEN** (Minister for Planning) — That is not an unreasonable paraphrase. Often in the committee stage I seek to cover as many things as I can in my first opportunity to speak, under clause 1, so that we can cover a lot of the ground and I do not have to speak directly to each clause. That is what I have set out to achieve by speaking to the issue as I have.

**The DEPUTY PRESIDENT** — Order! As I understand it, and given the minister's remarks, in fact the legal advice is pertinent to amendment 1. It may also apply to amendments 2 and 3, but it is pertinent to amendment 1, as I understand it. Is that the minister's understanding as well?

**Hon. J. M. MADDEN** — Yes, that is correct.

**Mr Dalla-Riva** — On a point of order, Deputy President, as a point of clarification, we are currently discussing amendments in committee, and Ms Pennicuik, who has put this amendment forward, is in possession of legal advice which was part of an exchange just then between herself and the minister. If we are a chamber that is meant to be debating the

legislation, and if the legal advice is being given to the person who moved the amendment, then I am calling on the minister or somebody to provide us with details of that legal advice so that we can make an assessment of the amendment in relation to what has been discussed, because otherwise it is a private discussion.

I raise as a point of order the need for that legal advice to be tabled, because it has clearly been discussed as part of the amendment, and we cannot make that assessment without the legal advice, which was the subject of a private discussion just then.

**The DEPUTY PRESIDENT** — Order! The minister is not required to table such a document. I asked him if he was prepared to do so as a courtesy to the committee and to the other parties that did not have the document that had been given to the person who moved the amendment. The minister is not inclined to do that because the advice that he has is that it is not a separate document but part of some working notes that he has in respect of this legislation. He was therefore not prepared to extend that courtesy to the chamber. I, as Chair, have no opportunity — as a matter of order or the workings of the committee — to require that document to be tabled.

Are there any further speakers on amendment 1? The minister will come back on a couple of other items that Ms Pennicuik was discussing. I will just clarify in terms of this amendment whether there are any other comments in respect of the legal advice matters and then I will come back to the minister to allow him to address the other points that were raised by Ms Pennicuik.

**Ms PENNICUIK** (Southern Metropolitan) — I am not sure that the Victorian Parliament cannot make amendments to its own Equal Opportunity Act in terms of what I am proposing for section 21 and section 76 of the act or of how that would have any constitutional ramifications whatsoever. Whether we do that now or, hypothetically, if another bill comes forward to repeal sections 21 and 76 of the Equal Opportunity Act, I am not sure how that could have any possible constitutional ramifications with regard to industrial relation laws at the federal level.

**Hon. J. M. MADDEN** (Minister for Planning) — I acknowledge Ms Pennicuik's remarks in relation to some of those other elements of the original piece of legislation that she seeks to amend. I hope I can do justice to her remarks, given that this is provided to me as advice. Section 21 permits discrimination at the time of offering employment. Once an employee has been employed by a small business, discrimination cannot

occur in relation to any of the attributes specified in the act, including the proposed attribute of employment activity. The proposed amendments are essentially directed towards the entitlements that an employer has gained in employment, such as an exclusion from section 21, and are likely to have significant ramifications.

I appreciate that the Greens have raised the prospect of a casual employee not being offered further casual engagements and not having a valid discrimination claim. The advice I have received is that whether this would be correct would ultimately be a question of fact. So in relation to matters of employment it still relates to the fact that a regular and systematic casual, for example, may have a legitimate expectation of ongoing employment. Accordingly they may suffer discrimination in accordance with section 14 of the act. They are still able to seek issues about discrimination through the act in relation to any other detriment.

It may be a question of fact in each case, but to suggest that casuals have no rights conveyed by the proposal is not correct. To put it in layman's terms, very briefly and very quickly, the impression I get from that suggestion is that casuals have no ability to seek issues under the original act, but they do. The whole issue is really about the question of fact, and no doubt that would be determined in another place, possibly a tribunal or a court of law.

**The DEPUTY PRESIDENT** — Order! I would be surprised if Ms Pennicuik is satisfied with that answer to the question she asked.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I just want to get some clarification from the minister with respect to his earlier comments on legal advice. He indicated that the government's objection to Ms Pennicuik's amendments relate to section 16 of the Workplace Relations Act, and potentially to section 109 of the Australian constitution.

The clarification I seek from the minister is whether it is the government's view that the changes proposed in amendment 4 and tested by the amendment we are considering now — specifically the repeal of section 21 of the Equal Opportunity Act and the amendments to section 76 — in some way offend against section 16 of the Workplace Relations Act or section 109 of the constitution, as the minister suggested earlier.

**Hon. J. M. MADDEN** (Minister for Planning) — Mr Rich-Phillips might be confused, and I understand that this is very technical. I may have even confused him with the way in which I delivered some of the

technical information. The significant issue is the definition of 'employment', which has been discussed. As I mentioned, to extend that might be overstepping the mark in terms of state jurisdiction in relation to the existence of the Workplace Relations Act. Ms Pennicuik is seeking to amend section 21, as I understand it, and section 76, which are the ones that I am happy to continue talking about.

My understanding from the advice I have received is that it is not going to have an impact on the Workplace Relations Act, but Ms Pennicuik is seeking to re-litigate many of the issues around the original act, and the amendment does not seek to make those significant changes in those areas. We appreciate, and are sympathetic to, the principles that Ms Pennicuik is seeking.

We also appreciate that the understanding of casuals and small businesses and also religious schools does not stop people from seeking equal opportunity, but there are specific issues in that, and there are allowances in relation to each of those areas which are consistent with the legislation we seek to amend at this time.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — Can I take it from the minister's answer that the government's view now is that there is no impediment to the amendment proposed by amendment 4 arising out of commonwealth legislation or the commonwealth constitution?

**Hon. J. M. MADDEN** (Minister for Planning) — My understanding is that Mr Rich-Phillips's assessment is correct.

**Ms PENNICUIK** (Southern Metropolitan) — I think I have got the answer from the minister.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — I place on record that the Liberal Party will oppose amendment 1 as a test of amendment 4 on the grounds that the proposals in amendment 4 are a dramatic expansion of the dramatic change in this bill and a dramatic change to the way in which the Equal Opportunity Act operates.

The Leader of the Opposition's earlier motion that the committee report progress and that these matters be considered in public over the course of the adjournment was not taken up by the committee. We note there has not been any public discussion of these matters. We believe they are not matters that should be dealt with in the consideration of this bill and are not matters the principal purpose of which should be taken up. We will oppose this amendment.

**Ms PENNICUIK** (Southern Metropolitan) — I would just like to say that I and the other Greens are well aware that our amendments 1 and 4 would take the bill outside its original purpose and scope. That is done deliberately, because we believe this is an opportunity to remove discrimination against workers that is based not only on employment activity — and I did put forward in my speech an argument in support of these amendments — but also on section 76 and section 21 of the act, which allow discrimination in employment on a whole range of attributes, which is just not acceptable. We are well aware that we are testing the house. We have a bill before us, but perhaps we could make it a better bill by removing discrimination that should not be on the books. I would like people to understand that we are aware of what we are doing. We believe these provisions should be removed from the Equal Opportunity Act so that people will not be discriminated against in the workplace.

**Bells rung.**

**The DEPUTY PRESIDENT** — Order! I advise the committee that I will be voting with the noes. I also indicate that Mr Jennings’s vote is to be taken into account even though he is not sitting in one of the formal seats.

**Committee divided on amendment:**

*Ayes, 3*

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

*Noes, 36*

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

**Amendment negatived.**

**Clause agreed to; clause 2 agreed to.**

**Clause 3**

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

2. Clause 3, line 15, omit “entitlements;” and insert “entitlements; or”.
3. Clause 3, after line 15 insert—
  - “( ) communicating to his or her employer, orally or in writing, the employee’s dissatisfaction with his or her employment entitlements; or
  - ( ) making a request to his or her employer, orally or in writing, for terms and conditions of employment that differ from his or her employment entitlements;”.

My reasoning is that the amendments put forward by the government cover individual employees in workplaces if they make a request or ask about their entitlements or ask whether they are going to receive their entitlements, but they do not cover employees in workplaces if they communicate to their employer that they are dissatisfied with their entitlements or wish to make a request to vary those entitlements.

As I have said many times in the debate today, this is a situation faced by many employees under the WorkChoices regime, as evidenced by people calling the workplace rights information line and other evidence that I outlined in the debate and that I have personal experience of from my previous roles. Not only are people discriminated against in terms of not being offered full employment or losing their employment but there is silent discrimination where people are too afraid to even open their mouths about these things, even though they should have those rights.

Everyone would agree that people should have the right not only to query what their entitlements are but to say, ‘I am not happy with that entitlement, and I wish to have another entitlement and be protected by the law against being discriminated against for raising those issues’. I did say in the debate that it is not a perfect remedy, but it is a deterrent and it would be of assistance to people who are discriminated against in the workplace.

I have heard the minister talk about what the legal advice is and that this amendment would somehow impinge upon the federal Workplace Relations Act. I have also spoken about this issue to people who hold a different legal opinion from that legal opinion. My own view is that my amendment takes the government’s amendments only a short way further, and I do not believe this issue is in conflict with the Workplace Relations Act or the Australian constitution.

Even if it were, all that would happen at the end of the day is that two amendments that I am putting forward would better protect workers in the state of Victoria who are under siege from WorkChoices, because the Labor Party has left them exposed, and the High Court, if the matter went that far, could rule that my amended clauses were invalid and could sit on the statute book as invalid clauses, as many other invalid clauses are sitting on the statute book today. In the interests of working people in this state I urge members to support these amendments.

**Hon. J. M. MADDEN** (Minister for Planning) — I stand by the comments I made earlier. We are very cautious when it comes to this because we really do not want to render invalid the constitutionality of what we are setting out to achieve today.

**Mr RICH-PHILLIPS** (South Eastern Metropolitan) — The Liberal Party will not support amendment 2, which is a test for amendment 3. The party opposes the purpose of this bill, which is to introduce a new form of discrimination. As Ms Pennicuik's amendment effectively expands that purpose, we will similarly not support the amendment.

**The DEPUTY PRESIDENT** — Order! If there are no further speakers, I propose to put amendment no. 2 standing in Ms Pennicuik's name, which tests amendment no. 3.

**Committee divided on amendment:**

*Ayes, 4*

Barber, Mr ( <i>Teller</i> )	Kavanagh, Mr
Hartland, Ms ( <i>Teller</i> )	Pennicuik, Ms

*Noes, 35*

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

**Amendment negated.**

**Clause agreed to; clauses 4 and 5 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

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

That the bill be now read a third time and that the bill do pass.

**House divided on question:**

*Ayes, 22*

Barber, Mr ( <i>Teller</i> )	Mikakos, Ms
Broad, Ms	Pakula, Mr
Darveniza, Ms ( <i>Teller</i> )	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Smith, Mr
Jennings, Mr	Somyurek, Mr
Kavanagh, Mr	Tee, Mr
Leane, Mr	Thornley, Mr
Lenders, Mr	Tierney, Ms
Madden, Mr	Viney, Mr

*Noes, 16*

Atkinson, Mr	Hall, Mr ( <i>Teller</i> )
Coote, Mrs	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr ( <i>Teller</i> )	Vogels, Mr

*Pair*

Theophanous, Mr	Koch, Mr
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**Question agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

**APPROPRIATION (2007/2008) BILL**

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr LENDERS (Minister for Education).**

*Statement of compatibility*

**Mr LENDERS (Minister for Education), by leave, tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Appropriation (2007/08) Bill 2007.

In my opinion, the Appropriation (2007/2008) Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The Appropriation (2007/2008) Bill will provide appropriation ‘authority’ for payments from the Consolidated Fund for the ordinary annual services of government for the 2007–08 financial year.

The amounts contained in schedule 1 to the Appropriation (2007/2008) Bill provide for the ongoing operations of departments, including new output and asset investment funded through annual appropriation.

Schedules 2 and 3 of the bill contain details concerning payments from advances pursuant to section 35 of the Financial Management Act 1994 and payments from the advance to Treasurer in 2005–06 respectively.

**Human rights issues**

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

The bill does not raise any human rights issues.

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

As the bill does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 7(2) of the charter.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because it does not raise a human rights issue.

JOHN LENDERS, MP  
Minister for Education

*Second reading*

**Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for Education).**

**Mr LENDERS (Minister for Education) —** By leave I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

**Introduction**

Five months ago, the people of Victoria returned the Bracks government to office.

We wasted no time in getting back to work.

We pushed through tax cuts and bonuses worth \$900 million — cutting stamp duty, bringing forward payroll tax reductions, abolishing business rental duty and extending the first home bonus.

We started work on the goldfields super-pipe — to bring water security and certainty to Bendigo and Ballarat.

We delivered a \$138 million bushfire recovery and response package — helping fire-affected communities in provincial Victoria to recover and rebuild.

We slashed V/Line fares by 20 per cent and abolished zone 3 from the public transport system — saving passengers up to 50 per cent of their daily fares.

We have led Australia in stem cell research — becoming the first state to introduce legislation to allow somatic cell nuclear transfer.

And we have attracted major new investment to Victoria, including filming of the world’s largest ever TV miniseries *The Pacific*, which will inject more than \$100 million and up to 4000 jobs into the state’s economy.

In just five short months, we have made a strong start to our third term in office — and to the task of building a more prosperous and fairer Victoria.

The 2007–08 budget builds on that strong start.

President, this budget is about growth. It is about fairness. And it is about the future.

It is about sustainable long-term growth — providing further tax relief, cutting costs for business and delivering the biggest infrastructure investment program since Henry Bolte was Premier.

It is about fairness — giving every child the best possible start in life, making kindergarten free for low-income families and undertaking the biggest ever one-off investment in public housing.

It is about the future — creating a new state-of-the-art ultranet for our schools, establishing a major new biosciences research centre for our primary industries and continuing to lead Australia in tackling the challenges of climate change and water.

President, this budget commences delivery of all of the government’s election output commitments and just under half of the number of asset commitments.

The budget invests in the strengths of our economy and the skills of our people. It puts in place the right conditions for sustainable and balanced growth, now and into the future.

And it does so from the foundation of a Victorian economy that is more diverse, innovative and competitive than ever before.

**A diverse and resilient economy**

Despite the drought and the bushfires, despite the highest Australian dollar in 17 years and despite not possessing rich mineral deposits in the midst of a resources boom, Victoria is punching well above our weight.

In 2006–07, Victoria's economy is expected to grow by 2.75 per cent, increasing to 3.25 per cent in 2007–08.

Jobs growth remains strong, with more than 380 000 jobs created since October 1999.

Over the past year, Victoria has generated around 70 000 new jobs and attracted almost one in every three skilled business migrants to Australia.

Over the past two years, more jobs have been generated in country Victoria than in the whole seven years of the former Liberal-National government.

And Victoria now leads Australia in many areas of the economy.

In 2006:

Victoria approved more building work than any other state in Australia.

We had more housing starts than any other state in Australia.

We attracted more business migrants than any other state in Australia.

Melbourne added more people than any other capital city.

And in new growth industries such as biotechnology, ICT (information and communications technology), and film and digital media, Victoria has surged well ahead of the rest of the nation.

Victoria has retained its AAA credit rating — and for the eighth consecutive year, the government will deliver an operating surplus in excess of \$100 million.

We will deliver a surplus of \$324 million in 2007–08 and surpluses averaging \$424 million over the following three years.

In this budget, we also deliver \$632 million in savings through the *Efficient Government* agenda: savings that reflect Victoria's leadership in using new technologies and systems to deliver better government — and savings that will be reinvested in front line services.

President, as a result of the Bracks government's sound financial management, Victoria's net financial liabilities will reduce from 10.6 per cent of gross state product in June 1999 to just 6.1 per cent in June 2007.

In real terms, that's a massive reduction in liabilities of around \$11 billion.

And, most importantly, it has given Victoria the capacity to make critical investments in human capital and infrastructure.

Over the past seven years, the government has invested \$16 billion into capital works. Over the next four years, we will invest a further \$13 billion.

It is the biggest infrastructure investment program in Victoria in 40 years. It is a program that reaches to every corner of the state — and one that is delivering the infrastructure Victoria needs to be competitive, to drive higher levels of productivity and to create high-value industries and jobs.

### Cutting costs for business

The government's good financial management is also contributing to Victoria's reputation as a highly competitive investment location.

At a time of unprecedented international competition for labour and capital, Victoria continues to attract high levels of business investment because the government has the drive and the capacity to transform the state's taxation system and cut costs for business.

Since coming to office the Bracks government has cut taxes by more than \$4 billion.

No other state can match our record on business tax reform.

We have slashed the top rate of land tax from 5 per cent to 3 per cent. We have abolished more taxes under the intergovernmental agreement with the commonwealth than any other state. And we have reduced the payroll tax rate to 5.05 per cent — the second lowest in Australia.

These reforms are giving Victoria the competitive edge we need to stay ahead and attract new investment and jobs.

And our plan is working. This year, new private sector investment in Victoria will exceed \$35 billion — almost double the level of 2000–01.

To stimulate more investment and jobs, I am today announcing more than \$1 billion in further tax relief and reduced business costs.

We will introduce an additional \$508 million worth of land tax relief.

We will cut the top rate of land tax from 3 per cent to 2.5 per cent. We will cut the middle rate by one-third. And we will increase the tax-free threshold from \$200 000 to \$225 000 — removing 28 000 Victorians from the land tax base and giving Victoria the lowest level of land tax in Australia for virtually all businesses owning land worth between \$400 000 and \$4.5 million.

We will abolish special land tax for primary producers within Melbourne's urban boundary to remove disincentives for farmers who want to change the use of their land.

In this budget, we will slash by around 40 per cent the stamp duty on new motor vehicles worth between \$35 000 and \$57 009 — delivering a saving of between \$525 and \$1425 on a new car and taking Victoria from the second highest duty in Australia on an average family car to the second lowest.

President, when we first came to office, one of our top priorities was to return Victoria's WorkCover scheme to a fully funded position, while ensuring fair benefits for injured workers and competitive premiums for employers.

We were told it could not be done.

But today, Victoria is a safer place to work than ever before, injured workers have access to increased benefits and Victoria has one of the few workplace injury insurance schemes in Australia that is fully funded.

It is another example of the government's good financial management — and today, for the fourth year in a row, we will cut WorkCover premiums by a further 10 per cent, taking

premiums to their lowest ever level and saving employers \$668 million over the next four years.

**Driving business and jobs growth**

President, meeting future challenges will require Victorian industry to move into new areas, become more innovative and competitive and leverage off a more skilled and educated workforce.

The budget continues the government's investment in training and skills — an investment that is delivering significant dividends, with Victoria now having more apprentices and trainees complete their training than any other state in Australia.

In this budget, we will invest:

\$30 million for stage 2 of the TAFE Automotive Centre of Excellence at Docklands; and

\$4.5 million to develop a new nursing centre of excellence at Box Hill TAFE.

We will provide \$25 million to extend the apprentice completion bonus scheme — encouraging employers to support more apprentices and trainees to complete their training.

We will provide \$8.3 million to attract skilled and business migrants and \$6.7 million to help job seekers and mature age workers move into areas with skills and labour shortages.

The budget also continues to back Victorian businesses in securing new investment and export opportunities, with a \$106 million package that includes:

a \$66 million boost for tourism and major events;

a \$9.9 million expansion of our successful export programs, including Opening Doors to Export; and

an additional \$9.3 million to support the work of the small business commissioner.

**History-making investments in education**

President, a high-quality public education system is essential to meeting future challenges.

That is why education remains the Bracks government's number one priority.

That is why we have invested an additional \$6.1 billion in education since 1999, employed an additional 7300 teachers and staff in government schools, and built or replaced 57 schools across the state.

And it is why Victoria now leads Australia in education — with the lowest class sizes in more than a decade, literacy and numeracy levels at or above the national average, and the highest year 12 or equivalent completion rate of any state.

In this budget, we invest more than \$500 million to commence the biggest school rebuilding program in Victoria's history — a program that will transform the state's education system and give every child, every parent and every community pride and confidence in their local school.

We will modernise and build 131 schools, including seven new schools in Melbourne's high-growth suburbs of Berwick, Caroline Springs, Craigieburn, Whittlesea, Pakenham, Point Cook and Werribee.

We will deliver major school regeneration programs in Altona, Broadmeadows, Laverton, Dandenong, Geelong, Bendigo and Wangaratta.

In this budget, we also allocate \$118 million to employ an extra 300 teacher assistants, attract 200 new, specialised teachers into government schools and continue the employment of 256 primary welfare officers — a highly successful initiative that has helped thousands of young Victorians to improve their school performance.

President, the government also leads Australia in delivering state-of-the-art technology to improve teaching and learning in government schools.

In this budget, we will invest \$60 million to create a new ultranet — the first of its kind in Australia — which will provide a single, 24-hour information point for parents, teachers and students.

For the first time, parents will be able to get access to their child's results, homework tasks and attendance records. Students will be able to keep up with class work if they are sick or away from school. And teachers will have less paperwork — and more time to teach.

**Building a world-class health system**

Victoria's hospitals and health services have also benefited from the government's commitment to modernising services and making use of the latest technologies.

Over the past seven years, we have increased hospital funding by more than 80 per cent and brought an extra 7200 nurses and 1500 doctors into our health system.

Victoria's hospitals are now back in the black. We are treating 300 000 more patients each year. And our waiting lists have hit an eight-year low.

The new Casey Hospital and the new Royal Dental Hospital have opened, the Austin redevelopment has been completed, the new Royal Women's Hospital will open in 2008, and work will commence later this year on the Royal Children's Hospital.

But the pressures on our health system are immense and growing. Public hospital admissions have grown by almost a third since 1999 — the equivalent of filling another three major hospitals.

In this budget, we will provide a further \$1.9 billion to make sure that our health system can manage these pressures.

We will expand and upgrade suburban hospitals in Frankston, Sunshine, Footscray, Epping and Maroondah.

We will redevelop hospitals and health services at Warrnambool, Ballarat, Stawell, Nathalia, Leongatha and Murtoa — and commence planning for new projects at Bendigo Hospital and Geelong Hospital.

We will allocate \$38 million to expand Victoria's rural health workforce, including new specialist and GP obstetrics



positions to give women in regional areas more options during pregnancy and birth.

We will provide \$195 million to continue our elective surgery blitz, including creating two new public elective surgery centres at St Vincent's Hospital and the Austin.

President, Victoria's hospital emergency departments are recognised as the best in Australia. In this budget, we provide \$255 million for emergency departments to treat an additional 234 000 patients.

We will also allocate \$21 million to treat an extra 72 000 outpatients, \$60 million to provide more hospital-based services such as chemotherapy, radiotherapy and dialysis — and \$106 million to treat more people, including more services at our new day hospitals in Lilydale, Craigieburn and Melton.

And importantly, in this budget we also allocate additional resources to tackling preventable chronic diseases such as diabetes.

**Tackling environmental challenges**

President, more than ever before, Victorians are aware of the significant environmental challenges and risks facing our state and our nation.

Our farmers have now suffered a decade of drought. Inflows to the Murray–Darling Basin are at record low levels. And last year, Melbourne received one of the lowest levels of rainfall on record.

When it comes to water, we all know that we have to make every single drop count.

That is why we have helped Melbourne to become the leading city in Australia for water conservation.

That is why we have invested \$1.7 billion in water and catchment projects, along with more than \$3 billion committed by water authorities.

That is why we have invested in major water projects to improve the security of supply for our cities and farms — projects like the Gippsland Water Factory, the western treatment plant, the Wimmera–Mallee pipeline and the reconnection of the Tarago Reservoir.

We have taken these actions because we want to make the availability and security of water an economic strength for this state.

But more needs to be done.

In this budget, we provide an additional \$136 million to achieve even higher levels of water efficiency and recycling.

We continue to improve the efficiency of our irrigation systems by investing:

\$38 million to modernise the Shepparton irrigation area; and

\$10 million to improve irrigation practices on Victoria's farms.

We continue to make sure that we use our water more wisely by providing:

\$16 million over two years for water recycling projects across Melbourne;

\$10 million to continue to deliver the Vision for Werribee Plains; and

\$4 million for a major recycling project at Leongatha.

We will continue to encourage behavioural change in water use by providing \$8 million to help businesses and households achieve water savings and \$20 million for rebates on efficient household water products.

We will also provide \$10 million for new stormwater projects in urban areas and \$20 million to upgrade water quality in small country towns.

In total — and when complete — these initiatives will produce water savings in excess of 80 billion litres.

That is the equivalent of building another Sugarloaf Reservoir. And it shows what we can achieve when governments, businesses and households work together to change our water behaviour.

But even with these — and other — measures in place, it is essential that there is an augmentation solution for Melbourne.

Our options are well known, with studies into the eastern water recycling project, a desalination plant and stormwater re-use all well advanced. The government is also examining the proposed north–south pipeline.

And in the coming months, the Bracks government will outline our major augmentation plan to meet Melbourne's future water demands.

President, the government also has a strong record on tackling the challenge of climate change.

We have introduced the Victorian Renewable Energy Target to cut industry greenhouse emissions by 27 million tonnes and generate jobs and investment in renewable energy projects.

And we are implementing the Victorian Energy Efficiency Target scheme to help families to reduce greenhouse gas emission and cut their power bills.

In this budget, we begin an exciting new CarbonDown program — a \$10 million partnership with the Victorian Employers Chamber of Commerce and Industry to help small and medium-sized businesses cut their carbon emissions.

We will provide \$11.5 million for a clean coal authority in the Latrobe Valley, a new office of climate change and new research into greenhouse gas technologies and strategies to address climate change.

We will also encourage Victorian households to play their part with a \$14 million Rebates for Being Green program for households that upgrade to high energy-efficient appliances.

**Maintaining Victoria's livability**

President, by 2030, an additional 1.3 million people will call Victoria home. That will place much greater pressure not only on our environment, but also on our cities and towns.

The 2007–08 budget provides substantial new funding to maintain Victoria's reputation as one of the world's most livable places in the face of strong population growth.

We will provide \$75 million to revitalise suburban centres, including a major \$52 million regeneration project in central Footscray.

We will create new opportunities for Victorians to stay healthy and active with a \$102 million increase for grassroots sport and recreation, including upgrading local swimming pools and building new community sporting facilities.

We will invest \$63 million to enhance Victoria's status as the nation's cultural capital, including a new Arts in the Suburbs program, Australia's first centre for books and ideas at the state library and further funding for Melbourne's newest cultural icon, the Melbourne Recital Centre — due to open in 2009.

Victoria's livability is also closely linked to our world-class parks, reserves and forests.

Since 1999, the government has created the Great Otways National Park, established Victoria's first marine parks and reduced logging in our native forests by 30 per cent.

In this budget, we provide \$95 million to employ new park rangers, upgrade facilities in national parks, create urban walking tracks and bike paths, and support the end of logging in the Otways.

**Investing in Victoria's transport system**

President, Victoria's population growth is also increasing pressure on our transport system.

That pressure includes rapidly rising demand for freight transport, greater congestion on our roads and an unprecedented 18.4 per cent increase in passengers on the metropolitan rail system in recent years.

Over our first two terms, the government has moved to address these pressures through significant new investment in the state's transport network.

We have undertaken the biggest country rail upgrade in more than 120 years. We have extended the metropolitan train, tram and bus networks. We have overseen the transformation of Southern Cross Station into a world-class transport interchange and a new landmark for Melbourne. And we are well advanced in delivering the \$1 billion plan to increase capacity on the Monash–West Gate corridor.

In this budget, we will provide \$362 million to bring forward the delivery of 10 new trains, recruit 22 extra drivers and further increase train capacity.

We will also provide \$62 million for a new train station at Coolaroo in Melbourne's north-west and upgrades to stations at Watsonia, Burnley, Mentone, Frankston, Broadmeadows, Preston and Coburg.

We will provide \$48 million to duplicate the track between Clifton Hill and Westgarth, and \$37 million to commence tripling of the track between Caulfield and Springvale.

President, over the last seven years, the government has invested more than \$4 billion on building better roads across Victoria.

The recently upgraded Calder–Tulla interchange highlights the benefits of this investment.

In this budget, we continue to improve Victoria's road network, including \$194 million to upgrade city and regional arterial roads, and \$30 million for a new congestion improvements program.

**A major boost to housing**

President, housing affordability is a significant issue across Australia, and one of the first actions taken by the government in this term has been to make housing more affordable.

In December, we cut stamp duty on the average family home by 14 per cent — and extended the first home bonus to 30 June 2009.

Our land tax reforms will cut \$700 off the price of an average block of land, and we are introducing a new electronic conveyancing system that will cut the expenses of buying a home.

These measures will make housing more affordable.

But while Victoria enjoys the highest rate of home ownership of any Australian state, many Victorian families cannot afford to buy a home or pay rent in the private market.

Victoria's sustained economic growth and the government's good financial management mean that we have the capacity to do more to help these families.

Today, I announce the biggest ever one-off investment made by a state government in housing.

We will allocate an extra \$510 million for social and public housing — providing 2350 new or redeveloped dwellings and improving services for homeless Victorians.

This funding boost will bring total investment in social and public housing in Victoria to \$1.4 billion over the next four years.

This will dramatically increase the supply of housing for Victorian families and directly tackle housing-related poverty. But it will do more than that.

It will make a substantial contribution to the state's economy — helping to improve education and health outcomes, and creating new jobs by delivering a major stimulus for Victoria's building industry.

**Tackling disadvantage**

President, it is now two years since the government released the *A Fairer Victoria* statement.

Since then, we have invested \$1.6 billion to create new solutions and opportunities for disadvantaged people, families and communities — with positive results.

Families at risk are getting help earlier. Children are getting a better start in life. People with a disability are getting more personalised support. Our mental health services have improved dramatically. And we are helping more older Victorians to remain independent and active members of our community.

In this budget, we will provide \$171 million to improve services for children, including creating 40 new children's centres and upgrading not-for-profit kindergartens across Victoria.

We will increase the kindergarten subsidy from \$320 to \$730 a year for health care card holders — effectively making kindergarten free for 17 000 low-income families.

We will provide an \$83 million boost for home and community care services to support older Victorians living at home.

We will deliver major new funding of \$214 million to support Victorians with a disability, including new accommodation and support packages, and additional aids and equipment.

We will also boost drug prevention and treatment services by \$156 million, including a focus on young people using multiple drugs, new prevention initiatives and a new 'war on ice' campaign.

President, Victoria's carers are our unsung heroes, caring for vulnerable members of our community, often at great financial and personal cost to themselves.

In this budget, we deliver a \$33 million package to support carers, including a substantial expansion in respite services and \$4 million to help Carers Victoria to deliver training and support programs.

### Community safety and justice

President, the government has also invested to record levels to make Victoria a safer place.

We have employed 1400 additional police — and built or upgraded more than 150 police stations across Victoria. We have increased funding for police by more than 50 per cent — and Victoria's crime rate has been reduced by 22 per cent.

In this budget, we provide \$96 million to provide 350 new police, 25 specialist crime fighters and 25 forensic investigators.

We will build eight new police stations and refurbish one other at a cost of \$86 million. We will provide \$28 million to give our police access to the latest equipment and to increase the police fleet by 100 vehicles.

The budget also provides \$45 million to reduce delays in our court system, \$43 million to improve coronial services and \$8.8 million to extend community legal centres in regional areas.

As the recent bushfire crisis showed only too clearly, Victoria owes a great debt to the men and women of our emergency services — both professionals and volunteers.

The budget acknowledges that contribution by delivering an \$80 million boost to Victoria's emergency services, including new CFA stations and new equipment for the SES.

### Investing in provincial Victoria

The recent bushfires devastated many regional communities. In other parts of Victoria, many more communities continue to experience the ongoing devastation caused by the drought.

President, the government stood by our farmers and rural communities in 2002 when it did not rain. We stood by them again in 2006 when it did not rain. And we will continue to stand by our rural communities.

In this budget, we deliver new support for our agricultural sector, including:

a \$30 million weeds and pests program; and

\$13 million for the Our Rural Landscape program to develop scientific solutions to the threats posed by climate change to regional industries and communities.

In this budget, the government will provide funding of \$180 million to create a new biosciences research centre at La Trobe University's Bundoora campus. The centre will reinforce Victoria's leadership in agricultural biotechnology, help to protect our primary industries from plant and animal diseases, and include a focus on developing drought-proof crops and water-efficient practices.

We will also provide a \$23 million boost for regional tourism attractions and events, including \$5 million to upgrade regional airports.

The government also recently restored Victoria's regional rail track to public control, with the budget providing \$134 million for the buyback, \$25 million for maintenance works and \$53 million for the Mildura line freight upgrade.

In aggregate, budget measures for regional Victoria in health, education, police, water and industry support total more than \$1 billion. These initiatives will help country Victorians through difficult times and ensure provincial Victoria remains a great place to live, work and invest.

### Appropriation bill

President, the Appropriation (2007/2008) Bill provides authority to enable government departments to meet their agreed service delivery responsibilities in 2007–08.

The bill supports a financial management system that recognises the full cost of service delivery in Victoria and is based on an accrual framework.

Schedule 1 of the bill contains estimates for 2007–08 and provides a comparison with the 2006–07 figures. In line with established practice, the estimates included in schedule 1 are provided on a net appropriation basis.

This budget maintains Victoria's record of leadership in accounting practice, presenting our reports under the Australian equivalents to the International Financial Reporting Standards.

The budget has once again been reviewed by the Auditor General as required by the standards of financial reporting and transparency established by the Bracks government in 2000.

**Conclusion**

President, five months ago Victorians once again entrusted the Bracks government with the governance and the future of this state.

The 2007–08 budget repays that trust.

It meets the undertaking we gave to Victorians last November to tackle the challenges of the future and invest in the services that matter to Victorians and their families.

It charts a course for the government's third term in office that will ensure Victoria continues to grow and move forward in a balanced, responsible and fair way.

And it makes the right decisions and investments to give Victoria every advantage in meeting the challenges ahead and carving out a strong, secure and sustainable future.

President, I commend the bill to the house.

**Debate adjourned on motion of  
Mr RICH-PHILLIPS (South Eastern  
Metropolitan).**

**Debate adjourned until Thursday, 31 May.**

**ADJOURNMENT**

**Mr LENDERS** (Minister for Education) — I move:

That the house do now adjourn.

**Water: eastern treatment plant upgrade**

**Mr O'DONOHUE** (Eastern Victoria) — My matter is for the Minister for Water, Environment and Climate Change in the other place. One of the greatest disappointments in the recent budget and indeed in the actions of this government over its entire term has been its inability to deal with the water crisis that is facing Victoria. In a previous adjournment matter I asked the minister to agree to the urgent upgrade of the eastern treatment plant (ETP) and the closure of the Gunnamatta outfall. Unfortunately the minister refused to agree to the closure of the Gunnamatta outfall and said in a letter to me, and I quote:

Under the proposal —

that is, the proposal to upgrade the eastern treatment plant —

the volume of current dry-weather discharge could reduce by 80 per cent with minimal ocean discharge from the ETP under average dry weather conditions. The Gunnamatta outfall would continue to remain open under the proposal but only to cater for residual discharges from the local South East Water treatment plants and the ETP as well as for peak flows created by wet-weather results.

Given that a large project such as closing the outfall seems to be beyond the government, I ask the minister to address perhaps a smaller but equally worthy project, and that relates to one of the South East Water treatment plants the minister referred to in his letter to me, specifically the South East Water treatment plant at Boneo.

The southern peninsula sits on a large water aquifer. That aquifer is accessed by market gardeners, golf courses, the wine industry, the thoroughbred industry and others, and those industries together sustain nearly 1000 local jobs. If the Boneo treatment plant were to be upgraded, it would potentially create another 400 to 800 full-time jobs in the area. In addition, instead of water being discharged at the Gunnamatta outfall, it would take that water and recycle it, creating the environmental benefit of less discharge going into the ocean as well as saving the aquifer on the southern peninsula — an aquifer which is at risk of being contaminated by salt water, which would make it unusable by those industries.

The action I seek from the minister therefore is to commit to the urgent upgrade of the Boneo treatment plant and to work with all relevant parties — the water authority and other tiers of government — to bring this proposal to fruition as soon as possible.

**Gippsland Lakes: entrance**

**Mr HALL** (Eastern Victoria) — Tonight I raise a matter for the attention of the Minister for Water, Environment and Climate Change in the other place concerning the sand build-up at Lakes Entrance, at both the ocean entrance and in the channels in the lakes. Most members would know that Lakes Entrance is 'home to Victoria's largest commercial fishing fleet as well as being a premier recreational boating and fishing destination'. Those are not my words; they are the words of Minister Thwaites on 10 November 2005 when he announced a \$31.5 million grant for the installation and operation of a comprehensive sand management system that would address the build-up that was threatening access to the port, which is still the case. That was November 2005, and 18 months down the track the problems are worse than ever. It has reached crisis point down there now. Very few of the boats in the fishing fleet can get in and out of the entrance on a regular basis and the operations of charter boats within the lakes system are being severely restricted. I know that Peels Cruises has been severely restricted in the operation of its boats from within the lakes.

What is desperately needed is a hopper dredge to clear the sand, first of all from the entrance, and then from the channels within the lake system. In fact within that \$31.5 million that I mentioned, \$5.02 million was allocated towards the trial of a hopper dredge. Now, 18 months later, we still have not seen a hopper dredge. The point is that it was suggested at one stage that there was not one available; however, within two weeks the Lakes Entrance fishing cooperative had identified three hopper dredges that could be at Lakes Entrance within a week to do the job — two from Queensland and one from New Zealand. Local people cannot understand why there continues to be a delay in getting these dredges down here, getting the job done and making the port again accessible to the fishing fleet, some of which have moved away to areas like Port Welshpool and Eden in New South Wales because of the inability to get in and out of the entrance on a regular basis.

Tonight I call on the government to expedite action on this matter, to make a decision about a hopper dredge and to get it there as soon as possible to restore the port of Lakes Entrance back to its original form so the fishing fleet can get on with the job and continue to generate the \$150 million per year it adds to the Victorian economy.

### **Housing: affordability**

**Mr BARBER** (Northern Metropolitan) — My adjournment matter is for the attention of the Minister for Housing in the other place. I ask the minister to provide me with such information as he has about the budgets and circumstances of public housing tenants. I would like the minister to provide me with information as to the typical costs and budgets of an ordinary public housing tenant, of different family types and the levels of income they receive. I would also like him to provide me with information as to where he believes those tenants will be able to find the \$12 to \$20 a week he will be calling on them to pay as additional rent.

**The PRESIDENT** — Order! Under the new proposed guidelines on the adjournment debate Mr Barber will get there; and under the old ones, he just got there!

### **Stamp duty: motor vehicles**

**Ms TIERNEY** (Western Victoria) — One of the largest manufacturing sectors in Victoria is the car industry, and the Bracks government has delivered to make Victorian-manufactured cars even more attractive to the consumer. The matter I raise today is directed to the Minister for Industry and State Development.

The cutting of stamp duty will result in savings of up to \$1450 on a Holden Commodore, which will be of great benefit as it will ensure that cars stay within the reach of working families' budgets. Not only is this a boon for the local auto industry and consumers but there are significant environmental benefits as the barriers to moving to a cleaner, greener car are lowered.

Some in this chamber may decry this initiative. The fact is that today's cars are a quantum leap ahead of the cars of 20 years ago on everything from safety to fuel efficiency. As more Victorians are expected to take advantage of the stamp duty reductions, I call on the Minister for Industry and State Development to investigate the number of sales of locally manufactured cars since the announcement and advise how much money working families will have saved since the introduction of the reduction in stamp duty.

### **Police: radio communications**

**Mr KOCH** (Western Victoria) — My matter is for the Minister for Police and Emergency Services in the other place and concerns the failure of the government to upgrade police radio communications in south-west Victoria.

Victoria Police does a magnificent job in protecting our communities. Police respond to almost 1 million calls each year and are available to the community 24 hours a day, 7 days a week. Police jurisdictions across Australia are gradually implementing new secure digital technology for radio communications. The new technology replaces the old analogue system and prevents unauthorised access to sensitive information. The move to digital systems means scanning of police radio communications will no longer be possible. Police radio communications across the south-west are in a mess, making it difficult for police to do their job properly.

Plans have been put in place to consolidate police radio communication centres and to shake up the current inadequate system. For years there has been talk about upgrading the communication network, most recently to consolidate and manage police radio communications in the south-west at Ballarat. However, despite promises to deliver a better service to the community through increases in police numbers and resources, the government has again failed to fund an upgrade to police radio communications in the Southern Grampians, Glenelg, Warrnambool, Moyne, Corangamite and Colac-Otway regions.

Currently at each of Hamilton, Portland, Warrnambool and Colac police stations a police member monitors and

operates the radio base. The operator, known as the watch-house keeper, also attends to counter inquiries and the supervision of prisoners as well as receiving 000 calls, telephone inquiries and police radio communications. When the police member is attending to a customer at the counter, no-one is monitoring the radio and anyone at the counter or on the telephone can hear police transmissions. Currently radio scanners can tune in to police transmissions and could potentially act on or become aware of sensitive information.

During night shifts when the police member takes a break there is no-one monitoring the radio, and operational units are reluctant to call in for people or vehicle checks when they know the member is busy. This places operational members at risk. Two provisional improvement notices have already been served under provisions of the Occupational Health and Safety Act 2004 at the Warnambool police station due to faults with the antiquated communications system. It is likely that similar notices may be served at Hamilton, Portland and Colac police stations. The action I seek from the minister is: when will he deliver on the promised commitments of funding to upgrade police radio communications in south-western Victoria?

### **Disability services: respite care**

**Mr DRUM** (Northern Victoria) — My adjournment question is for the Minister for Aged Care, who has responsibility for the home and community care (HACC) program. This may also go to his other portfolio of community services. There has been an issue raised in my area by constituents who are very concerned about the changes in providing medication for disabled children who are in respite care. These services are normally provided under the HACC program, which is generally run by local government. Local government does not always have the correctly qualified people to deliver respite programs, especially in the event when the person receiving the respite care may need to have medication delivered throughout the course of the care.

What has happened recently is that the Department of Human Services has notified local government that in the event of an accident or something going wrong it is the councils that will be ultimately responsible, and therefore unless the agencies councils are contracting have their people totally trained through a new set of guidelines, which have been recently implemented, the councils may not be covered if anything goes wrong. This is creating a situation where councils are now pulling back respite services that they were previously offering, which will effectively mean that many

families in the Loddon-Mallee region may be forced to miss out on respite care.

One family that spoke to me said that they may have to withdraw their three-year-old daughter from respite care. They get 3 hours a week with their daughter in respite care. She suffers from epilepsy and requires valium if a seizure lasts more than 3 minutes. However, her carers will no longer be able to administer this vital medication. When the mother told the department that she would have to take this course of action she was told that she could simply call an ambulance, but that will not work in regional Victoria because it would take too long for the ambulance to get there.

I call on the minister to create a register of needs to work out exactly what the needs are in the community. That will ensure that through a checking of the register of needs no family that has a disabled child who needs respite care and medication given on a particular visit will ever be caught up in these changes, which may prohibit certain people delivering respite care if they do not have the necessary qualifications.

### **Schools: vocational education and training program**

**Mr VOGELS** (Western Victoria) — I raise an issue for the Minister for Education, John Lenders, and I am pleased that he is in the house. It concerns the delivery of VET (vocational education and training) in schools. Apparently the department has issued a discussion paper entitled *Improving Delivery of VET in Schools*. Many smaller rural schools, especially in remote locations, believe the suggested changes will have exactly the opposite effect, and if anything will ruin the provision of VET in our rural and remote schools.

The issues identified include inconsistencies in the provision of and access to VET subject for students. The current model for VET disadvantages schools where only a small number of students are enrolled. Kaniva College, for example, is a small remote P-12 school with only 90 students in its senior sector, and 38 in years 10 to 12. The school endeavours to offer a broad range of curriculum opportunities, including the Victorian certificate of education, VCAL (Victorian certificate of applied learning) and VET. Seventeen different subjects are offered, three by distance education. Presently 13 students are enrolled in eight different VET subjects, and only one of the eight can be offered by the school. To cut a long story short, students need to travel many hours a day to participate, and the cost burden on the school, parents, local government et cetera is enormous.

The two most important issues for VET at Kaniva College are, firstly, an appropriate funding model that covers the entire cost of the delivery, and secondly, complete funding for the VET bus to enable students to access the VET courses at Horsham. They would like full recognition by the Department of Education of the real cost of delivering VET subjects to schools and the real cost of accessing those subjects. Kaniva College says that an unintended outcome of the reform proposals will be that VET and VCAL will cease to exist in schools similar to theirs.

I do not have the time in the 3 minutes made available to me to outline all the concerns Kaniva College has addressed in its letter. However, the action I seek from the minister is to address the concerns outlined in part by my comments, but also to closely examine the contents of the complete copy which I passed on to him earlier this afternoon to ensure that our smaller rural and remote secondary schools are not disadvantaged as a consequence of this review.

### **Planning: Croydon heritage building**

**Mr DALLA-RIVA** (Eastern Metropolitan) — My adjournment matter tonight is directed to the Minister for Planning, who conveniently is here. It relates to a heritage building which the minister may be aware of at 343 Maroondah Highway, Croydon.

The state government provided \$135 000 and the Maroondah City Council had intended to contribute \$150 000 to the preservation of the building. Heritage Victoria provided the money to remove the building from the property. My understanding is that the heritage building on the site was built between 1870 and 1890 — around that period. It was one of the first kit homes to come out. They took it out using bullocks and a horse and then constructed it at that location.

Over the years it has fallen into disrepair, but rather than try to demolish it, the idea was to pick up the building, as it were, dismantle it nail by nail, so to speak, and then put it onto a council-owned property allocated for that purpose. The problem is, as the minister is probably aware, that the cost of preserving the building has escalated because of some additional issues and it is believed to be in the vicinity of \$600 000, which is a lot of money in anyone's language.

I am asking the minister to take action in terms of trying to come to some solution for the removal of this building that satisfies the requirements of Heritage Victoria and the concerns that the local residents have, working in partnership, as I am sure the minister is,

with the Maroondah City Council. Every day when there is no move on this, the building falls more and more into disrepair and is at risk of getting to a position where it cannot be demolished and reassembled. That is my request and the action sought as part of this adjournment debate.

### **Responses**

**Hon. J. M. MADDEN** (Minister for Planning) — Mr O'Donohue raised the matter of the eastern treatment plant and the Boneo treatment plant. I will refer that to the Minister for Water, Environment and Climate Change in the other place.

Mr Hall raised the matter of dredges at Lakes Entrance and I will refer that to the Minister for Roads and Ports in the other place.

Mr Barber raised the matter of tenants income within public housing. I will refer that to the Minister for Housing in the other place.

Ms Tierney raised the matter of local car manufacturers and the level of sales based on stamp duty reductions. I will refer that to the Minister for Industry and State Development.

Mr Koch raised the matter of police radio communications in the south-west of Victoria. I will refer that to the Minister for Police and Emergency Services in the other place.

Mr Drum raised the matter of home and community care services. I will refer that to the Minister for Aged Care in the other place.

Mr Vogels raised the matter of vocational education and training in schools. I will refer that to the Minister for Education.

Mr Dalla-Riva raised the matter of a particular heritage building within the Maroondah City Council's boundaries, of which he has given me the details. I will seek to inform myself of the technical matters surrounding that and receive advice from the Heritage Council in relation to any way in which we might be able to assist the council and those members of the community to resolve the matter.

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

**House adjourned 6.00 p.m. until Tuesday, 5 June.**





**QUESTIONS ON NOTICE**

*Answers to the following questions on notice were circulated on the date shown.  
 Questions have been incorporated from the notice paper of the Legislative Council.  
 Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.  
 The portfolio of the minister answering the question on notice starts each heading.*

**Tuesday, 22 May 2007**

**Aboriginal affairs: heritage projects**

**43. MRS COOTE** — To ask the Minister for Aboriginal Affairs: In relation to Aboriginal Heritage Projects:

- (1) How many Heritage projects were carried out between the Bracks Government and Victorian Aboriginal communities in —
  - (a) 2003;
  - (b) 2004;
  - (c) 2005; and
  - (d) 2006.
- (2) How much was spent in each year.

**ANSWER:**

I am informed as follows:

The information requested is reported on in financial years.

The following Aboriginal Heritage Management Projects were carried out with Aboriginal community partners in the financial years 2003–2004 through to 2005–2006:

<b>Financial Year</b>	<b>Number of Projects</b>	<b>Amount</b>
2003–2004	6	\$50,000
2004–2005	10	\$93,000
2005–2006	12	\$87,150

The figures for 2006–2007 will be available at the end of this financial year.

**Community services: Disability Justice Advocacy**

**47. MRS COOTE** — To ask the Minister for Community Services: Will the Disability Justice Advocacy Inc be funded for the duration of this Parliament, that is until 2010.

**ANSWER:**

I am informed that:

The Victorian Government does not currently provide funding to Disability Justice Advocacy Inc. The Commonwealth Government currently provide funding to Disability Justice Advocacy Inc.

**Industry and state development: external legal advice**

- 63. MR D. M. DAVIS** — To ask the Minister for Industry and State Development: In relation to the portfolio of Industry and State Development, would the Minister provide in table form for 2003–04, 2004–05, 2005–06 and 1 July 2006 to date —
- (a) The names of the legal firms or consultancies from which the department obtained external advice;
  - (b) The nature and purpose of each piece of legal advice obtained through the firms listed;
  - (c) The expenditure by the Department on the legal firms and advice referred to above; and
  - (d) The tender or advertising arrangements used in each of the above pieces of legal advice.

**ANSWER:**

I am informed as follows:

A summary of consultancies is featured in the DIIRD Annual Report.

**Small business: external legal advice**

- 65. MR D. M. DAVIS** — To ask the Minister for Small Business: In relation to the portfolio of Small Business, would the Minister provide in table form for 2003–04, 2004–05, 2005–06 and 1 July 2006 to date —
- (a) The names of the legal firms or consultancies from which the department obtained external advice;
  - (b) The nature and purpose of each piece of legal advice obtained through the firms listed;
  - (c) The expenditure by the Department on the legal firms and advice referred to above; and
  - (d) The tender or advertising arrangements used in each of the above pieces of legal advice.

**ANSWER:**

I am informed as follows:

A summary of consultancies is featured in the DIIRD Annual Report.

**Industry and state development: public relations staff and consultancies**

- 68. MR D. M. DAVIS** — To ask the Minister for Industry and State Development: In relation to your portfolio of Industry and State Development:
- (1) What is the number and cost of staff working in his office.
  - (2) What is the number of staff working in each Public Relations Unit indicating —
    - (a) the total operating budget; and
    - (b) the total promotional budget.
  - (3) What contracts have been entered into in 2005–06 for public relations and/or communications strategies with outside consultants or persons giving —
    - (a) the person/company contracted;
    - (b) the date of the contract;
    - (c) the contract sum;
    - (d) the amount paid; and

- (e) a brief summary of work done.

**ANSWER:**

I am informed as follows:

Information about the number of staff working in my office is routinely included in the Annual Report of the Department of Premier and Cabinet.

Information about staffing and expenditure of the Department of Innovation, Industry and Regional Development is included in its Annual Report.

Information about consultancies for public relations and communications is also included in the Annual Report for the Department of Innovation, Industry and Regional Development.

**Small business: public relations staff and consultancies**

**70. MR D. M. DAVIS** — To ask the Minister for Small Business: In relation to your portfolio of Small Business:

- (1) What is the number and cost of staff working in his office.
- (2) What is the number of staff working in each Public Relations Unit indicating —
  - (a) the total operating budget; and
  - (b) the total promotional budget.
- (3) What contracts have been entered into in 2005–06 for public relations and/or communications strategies with outside consultants or persons giving —
  - (a) the person/company contracted;
  - (b) the date of the contract;
  - (c) the contract sum;
  - (d) the amount paid; and
  - (e) a brief summary of work done.

**ANSWER:**

I am informed as follows:

Information about the number of staff working in my office is routinely included in the Annual Report of the Department of Premier and Cabinet.

Information about staffing and expenditure of the Department of Innovation, Industry and Regional Development is included in its Annual Report.

Information about consultancies for public relations and communications is also included in the Annual Report for the Department of Innovation, Industry and Regional Development.

**Industry and state development: departmental staff**

**74. MR D. M. DAVIS** — To ask the Minister for Industry and State Development:

- (1) At 31 December 2006 how many members of the Victorian Public Service were employed by the Department of Innovation, Industry and Regional Development at:
  - (a) VPS Remuneration Band 1;
  - (b) VPS Remuneration Band 2;

- (c) VPS Remuneration Band 3;
  - (d) VPS Remuneration Band 4; and
  - (e) VPS Remuneration Band 5.
- (2) What was the full-time equivalent number of staff in each of those bands.

**ANSWER:**

I am informed as follows:

Details of staff numbers can be found in the DIIRD Annual Report.

**Water, environment and climate change: septic tank replacement program**

**119. MR DALLA-RIVA** — To ask the Minister for Planning (for the Minister for Water, Environment and Climate Change): In relation to the Government’s plan to accelerate the Septic Tank Replacement program:

- (1) How many residences in the District of Warrandyte are scheduled to have their septic tanks replaced with a reticulated sewerage system for each calendar year from 2007 to 2010.
- (2) When is work scheduled, specifically within the District of Warrandyte for the suburbs of Warrandyte, South Warrandyte and Park Orchards, to replace septic tanks with a reticulated sewerage system.

**ANSWER:**

I am informed that:

Plans for connection of lots in the Warrandyte district to sewer are part of Yarra Valley Water’s Backlog Sewerage Program, and will be outlined in Yarra Valley Water’s Water Plan for 2008–2013.

The draft 2008–2013 Water Plan will become available from the Essential Services Commission website later this year.

As the work plan is preliminary and subject to change, as well as subject to approval of the 2008–2013 Water Plan by the Essential Services Commission, no further information can be made available at this time.

**Small business: Koori Business Network**

**135. MRS COOTE** — To ask the Minister for Small Business: In relation to the Koori Business Network, what was the total amount of funding to the Koori Business Network in each calendar year from 2003 to 2006.

**ANSWER:**

I am informed as follows:

<b>Koori Business Network Financial Years Ending 30 June</b>				
<b>Year</b>	<b>2003/04</b>	<b>2004 / 05</b>	<b>2005 / 06</b>	<b>2006 / 07</b>
\$000’s	554	1,300	1,300	1,200

**Mental health: Aboriginal chroming**

**136. MRS COOTE** — To ask the Minister for Aboriginal Affairs (for the Minister for Mental Health): How many Aboriginal children between the ages of 10 and 18 were treated for chroming in each calendar year from 2002 to 2006.

**ANSWER:**

I am informed that:

The Department of Human Services, Alcohol and Drug Information System (ADIS) records information on clients presenting for treatment to drug and alcohol services.

Data is collected for ‘Volatile Substances’ as a primary drug of concern but does not record or distinguish between the type of volatile substance.

**Education: Greenhills Primary School**

**239. MR ATKINSON** — To ask the Minister for Education: In relation to Greenhills Primary School located in the Eltham District:

- (1) Does the school qualify for an upgrade or redevelopment as part of the Bracks’ Government 2006 Election Policy commitment under the *Victorian School Plan*.
- (2) If the school does qualify —
  - (a) what will be undertaken as part of the redevelopment;
  - (b) when will the upgrade/redevelopment commence; and
  - (c) when will the various stages be completed.
- (3) If the School does not qualify for an upgrade or redevelopment under *The Victorian School Plan* please explain why.

**ANSWER:**

As at the date the question was raised, the answer is:

The Bracks Government’s Victorian School Plan is a ten year plan which will deliver the largest school building program in Victoria’s history.

Education is this Government’s number one priority. The Bracks Government has committed a massive \$1.9 billion over this term, which will see another 500 schools being built or modernised.

All schools will participate in the Building Futures framework which provides the conceptual framework that puts improved educational outcomes for students at the core of all planning and investment decisions.

I find your interest in this issue fascinating given the Liberal Party’s track record on Education. When last in Government, your party cut funds to education, closed schools, sacked teachers and increased class sizes. More than 300 public schools were closed, 9000 teachers were sacked.

I welcome your renewed interest.

