PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Tuesday, 13 April 2010

(Extract from book 5)

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By authority of the Victorian Government Printer

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Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

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Legislative Council committees

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

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

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

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

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Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Ms WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

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

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

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TUESDAY, 13 APRIL 2010

Tuesday, 13 April 2010

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

POLAND: AIR TRAGEDY

The PRESIDENT — Order! I wish to inform members of the Council that today I have written to the Polish ambassador expressing, I believe on behalf of us all, our deep sorrow and sympathy for the Polish people. The letter will also be sent to other Polish leaders in Victoria, and I will send a copy of it to the leaders of the parties.

ROYAL ASSENT

Message read advising royal assent on 30 March to:

Credit (Commonwealth Powers) Act
Magistrates' Court Amendment (Assessment and Referral Court List) Act
Statute Law Amendment (National Health Practitioner Regulation) Act
Victoria University Act.

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Membership

The PRESIDENT — Order! I inform the house that I have been advised by the Leader of the Government that Mr Brian Tee will replace Ms Candy Broad as the second nominee of the Leader of the Government on the Standing Committee on Finance and Public Administration.

QUESTIONS WITHOUT NOTICE

Planning: Hotel Windsor redevelopment

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Noting the minister has told the house that he appointed an independent probity auditor so that all parties could have absolute confidence that the process has been adhered to in relation to the Windsor Hotel redevelopment, and given that PricewaterhouseCoopers has stated that it is not a probity auditor of the Windsor but simply an internal auditor and that RSM Bird Cameron, the second auditor, did not have the ability to examine material that was produced before 11 March 2010, I ask: how can the minister guarantee confidence in the probity of the Windsor development and the planning system as a whole when his guarantees of probity, given just a month ago, have been found to be false?

Mr Viney — On a point of order, President, these are matters that are currently before the Standing Committee on Finance and Public Administration and evidence was heard from PricewaterhouseCoopers in relation to this matter. That committee has yet to report to the house. I believe it is highly inappropriate for questions to be asked of the minister relating to evidence that has not yet been presented to the house.

The PRESIDENT — Order! There is no point of order.

Hon. J. M. MADDEN (Minister for Planning) — Mr Guy has asked me on a number of occasions about matters in relation to the independent auditors and the independent experts who have investigated these matters. On a number of occasions I have replied to Mr Guy that I have sought for my department to appoint probity auditors, and again, as Mr Guy asked in relation to terms of reference, the form of that appointment was undertaken by the secretary of my department.

As I have mentioned previously in this chamber, had I sought to either draft terms of reference or been involved in those terms of reference or indicated in any particular way what shape or form those experts, consultants or probity auditors should be involved in this process, it would have been completely unwarranted on my part, and I would have expected that Mr Guy would be asking the alternative question as to why I was in that space in the first place.

I make this point very clearly: there are two independent reports. There was nothing from my point of view or from the point of view of my staff to limit the consultants talking to us or having any involvement or making any request to us at all. I am very confident that the material we released not only supports what I have said but also gives the industry and the public confidence in the process we have undertaken to make sure that all statutory obligations have been complied with.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his answer. I note that the minister has also stated that the planning process contains checks and balances to ensure that we have a transparent, accountable, defensible and robust planning system. I

ask: in the absence of a full probity audit, can the minister inform the house what checks and balances exist to protect Victorians against possible corruption from ministerial or government interference?

Ms Broad — Why don't you ask him to the committee?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's question, and I also welcome the remarks by Ms Broad. The committee can ask me all these questions if it wants to interview me. I have made myself available, and on that occasion — —

Mr Finn interjected.

Hon. J. M. MADDEN — I take up Mr Finn's — —

The PRESIDENT — Order! Mr Finn's reference to the minister is totally out of order. I ask him to both withdraw and apologise.

Mr Finn — Purely out of respect for the position you hold, President, I withdraw and apologise.

The PRESIDENT — Order! I accept that from Mr Finn, but I would also remind him that his withdrawal and apology cannot be qualified.

Hon. J. M. MADDEN — I am happy to continue to answer questions on these matters for as long as the opposition wants to ask me. I am also happy to present and appear before the relevant committee, even though I note that it is a flawed committee because it has a compromised chair. We know it is a witch-hunt, but I am still happy to present myself to that inquiry, as I did in what I think was the first week the committee sat on this matter. I was there and happy — —

Mr Kavanagh — On a point of order, President, the term 'witch-hunt' seems strongly to suggest contempt for a committee of this house, and as such I argue that it is out of order.

The PRESIDENT — Order! In reference to the point of order raised by Mr Kavanagh, whilst I agree that the term may not be according to Hoyle in terms of standards, I think on merit it is probably part of robust debate. Whilst the minister may like to think about his reference to the committee, at the moment I would say the point of order is not upheld.

Hon. J. M. MADDEN — To clarify those remarks, the committee is not a witch-hunt, but maybe the matters it is seeking might be. I am happy to qualify that. Can I just say again that I have been happy to take questions on these matters. I have been happy to answer for prolonged periods of time in relation to these matters — publicly, within committees. I have been very happy to present myself and answer all these matters, but I note Mr Guy's point of view, and it takes me back to other times in my life. When you are not performing in the arena as you need to, in the way in which you should, sometimes you play the man and not the ball. I make the point that desperate teams play the man and not the ball, and one day — —

Mr Guy — That's why you called us all a witch-hunt.

The PRESIDENT — Order! I have just made a ruling on a reference to the committee and this whole issue as being a witch-hunt. Mr Guy should be both cognisant and respectful of that.

Hon. J. M. MADDEN — I again make the point that when you are a desperate team and you cannot get the runs on the board or you cannot make those goals that you need to achieve, sometimes you play the man, not the ball, and time and again over the past 10 years we have seen a very desperate team that presents itself in this place and plays the man, not the ball, and it calls itself the opposition.

Employment: government performance

Mr ELASMAR (Northern Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer update the house on the recently released employment figures and what these figures tell us about the Brumby Labor government's commitment to securing jobs throughout a period of worldwide recession?

Mr LENDERS (Treasurer) — I thank Mr Elasmar for his succinct and pertinent question on actions of government that create jobs in Victoria during a period of global recession. It is interesting that according to the Australian Bureau of Statistics for 8 of the last 10 months there has been net job growth in Victoria. The reason I use the term 'the last 10 months' is that it was 10 months ago that this state's budget was presented.

Mr Drum interjected.

Mr LENDERS — The budget talked about generating 35 000 jobs in Victoria, Mr Drum. That was belittled by Mr Drum and his colleagues as untargeted and unnecessary spending, putting the state into debt. In the data for those 10 months we have seen that 93 500 new jobs have been created in Victoria or, if

you go back to April, 106 000 net jobs have been created in Victoria and more full-time jobs than in any other state in Australia. This has happened because the budget invested $11.5 billion in infrastructure works. That was condemned by the opposition as ridiculous and untargeted spending. It continues to be condemned by the opposition in its attacks on the Building the Education Revolution. It has also been decisive planning action in the state of Victoria that has let projects go forward to create jobs.

Honourable members interjecting.

Mr LENDERS — Opposition members may laugh about actions to create jobs. They may seek to be all things to all people by coming into this house and saying, 'Do not borrow, cut taxes, but spend more in our electorates'. Some of the comments from those opposite make Ted Baillieu's voodoo economics look sophisticated. This government, in partnership with the federal government, has invested more than $11.5 billion which has created the 35 000 jobs that we were aiming for. We have now seen more than 106 000 net jobs created in Victoria, which is higher than any other state and is the envy of most of the Organisation for Economic Cooperation and Development countries.

Whether these jobs are in schools as part of the Building the Education Revolution money from the commonwealth added to state money, whether they are in schools where new facilities have been built in community after community and where local communities have seen jobs created for local tradespeople — the local architects, electricians, sparkies, chippies and builders labourers — or whether they are part of a spin-off effect across the state with more manufacturing jobs being created to service the building industry, they have resulted in greater confidence in retail, tourism and new home starts. These are the actions of this government, which is supported by a strong Victorian community that is focused on growing jobs and giving opportunities. This has seen Victoria better positioned than any other state.

I am delighted to say to Mr Elasmar that in Victoria we have seen the strongest employment growth of any part of Australia. It has been consistent over a period of time. It is jobs, jobs, jobs and more jobs, which is a difference between Labor and the naysayers who oppose every job creation project.

VicForests: government review

Mr HALL (Eastern Victoria) — My question without notice today is directed to the Leader of the Government in his capacity as the Treasurer. I refer the Treasurer to action 9 of the government's timber industry strategy where the government has committed to a review of VicForests within the current financial year. Can the Treasurer advise the house on any progress with that commitment and, in particular, if the review has commenced, who is conducting the review, what are the terms of reference and whether all interested parties and persons will have an opportunity to have input into that review?

Mr LENDERS (Treasurer) — I thank Mr Hall for his question, and I thank Mr Hall also for his ongoing interest in the balance between jobs and the environment, which the timber industry strategy seeks to maintain so we can go forward with both strong forests and jobs in regional areas and get the balance right. Mr Hall would know from having read the timber industry strategy that the portfolio responsibility for VicForests has now passed to my colleague the Minister for Agriculture, which has arisen out of the timber industry strategy. I will formally take on notice for Mr Helper the particular question of Mr Hall.

But what I can say to Mr Hall is that the timber industry strategy is a document in relation to which I in my time as minister responsible for VicForests, my colleague Mr Helper and also my colleague Mr Jennings as Minister for Environment and Climate Change have engaged with stakeholders across the spectrum of the length and breadth of Victoria to determine where we go in what is a difficult journey to get that balance right.

Since we have been in government we have reserved a greater area for national parks than any other government in the history of this state. We have also arguably, I would say, focused more resources on creating jobs in timber communities — not just value-added jobs in the timber industry but also jobs in tourism and other sectors as industry has relocated in those particular areas in whatever part of the state that might be. Whether it be the actions of the government over the last decade in the Otways, whether it be the actions of the government in protecting the red gum forests along the River Murray or even whether it be the rapid actions of the government in securing forest jobs in harvesting the timber that was partly damaged by the fires of last February and the fires of several years before, the objective has been to secure jobs in Victoria as part of the proper balance of protecting our environmental values and jobs in regional Victoria.

I am delighted to take the details on board for my colleague Mr Helper, who as I said now has carriage and responsibility for VicForests. But this government unequivocally stands by its assertion that only a Labor

government has managed to get that balance right between timber communities and environmental values. Our opponents, the Liberal and National parties, have gone completely in one direction, a direction which has had very little regard for forests and very little regard for forest communities other than a lot of heated rhetoric and hyperbole over the years. But we will work and we will make the difficult decisions to get the balance right between getting the inherent values out of forests and getting jobs in regional communities in tourism and other areas as well as jobs related to the timber that comes from our forests.

Supplementary question

Mr HALL (Eastern Victoria) — In respect of the Treasurer's commentary on jobs throughout that answer — I might add made with some licence and debatable points, which I cannot debate — I ask by way of a supplementary question: in terms of his representation to the Minister for Agriculture, will he ensure that all VicForests customers have an opportunity to have input into that review?

Mr LENDERS (Treasurer) — I will obviously say yes to Mr Hall, but I will say yes to him in this form: VicForests, as part of its charter — and certainly when I was the responsible minister I made this message absolutely clear to the chair, the CEO and the board — has a key criterion of stakeholder or customer relations.

An honourable member — They weren't very good at it.

Mr LENDERS — Mr Hall may say that they are not very good at it, but he is asking me a question about dealing — —

Mr Hall interjected.

Mr LENDERS — It might have been Mr Barber behind him. I get the Greens and The Nationals mixed up sometimes, because of the different shades of green depending on the mood. Certainly the interjection came from the crossbenches. It is a blend — a morph sometimes — over there. But the interjection came forward which said, 'They are not very good at it'.

I made it clear in my time as minister responsible for VicForests that a key responsibility of the chair, the CEO and the board is to liaise with stakeholders. Whether they are involved in harvest and haulage, whether they are the timber mills, whether they are the environmental groups or whether they are the local communities, a responsibility of VicForests is to liaise with those stakeholders. You would expect any government body to do that. I can say without any hesitation that any customer of VicForests is of course welcome to make representations to VicForests or to the Victorian government on these matters. How the Minister for Agriculture handles the actual, formal stakeholder negotiations is an issue for him, and he will obviously pay heed to Mr Hall's question in this particular area, but I will say that the government has no hesitation in expecting statutory authorities to go forward.

On the second point in Mr Hall's supplementary question, which was about employment figures in regional Victoria, since those days long ago when, to quote Harry Potter, the Kennett government was like a Dementor sucking the life out of regional Victoria, we have seen unemployment in regional Victoria go from where it was consistently 50 per cent higher than in metropolitan Melbourne to where now, because there is job growth in regional Victoria, those imbalances have almost evened out. To quote Harry Potter again, we are not like Dementors that go out there and suck the life out of regional communities; we welcome regional communities, and we will make the hard decisions, whether it be on forestry policy or planning policy. We are also committed through bodies like the Regional Infrastructure Development Fund to actually support rural communities, unlike the opposition, which voted against RIDF because it did not want to inject life into regional communities.

City of Hobsons Bay: planning scheme amendment

Mr EIDEH (Western Metropolitan) — My question is to the Minister for Planning, Justin Madden. Can the minister update the house on recent planning decisions demonstrating the Brumby Labor government's commitment to facilitate key projects that support sustainable growth in activity centres throughout Melbourne?

Hon. J. M. MADDEN (Minister for Planning) — I thank the member for his interest in this matter, particularly because it relates to his region. I was pleased to announce most recently that I have approved amendment C75 to the Hobsons Bay planning scheme under section 20(4) of the Planning and Environment Act. This amendment rezones what was the former Port Phillip Woollen Mill site, known to some in this place, from an industrial 1 and special use 5 zone to a residential 1 zone and applies an environmental audit overlay to the land.

It is particularly important to note the way in which this has been done, because we have appointed what will be

an advisory committee. That committee will provide advice about the appropriate design and development controls for the site. We are conscious as a government that locals have a very strong view of what should or should not take place in this location. It is unusual not only because it is a prominent location in a seaside setting with a village atmosphere but also because there are some defence force industries across the road that are now beginning to gear up for work that has come through in recent times. Whilst that site may have languished for some time, there is now some work coming through on it. There is, in a sense, an inherent conflict or tension in and around the location in more ways than one. It is important to make sure that, whatever controls fall into place on the site, everyone within the community who has a strong view on what those controls should be has an opportunity to provide input on what they should be.

I have had meetings with the council over a long period of time to try to have this matter resolved sooner rather than later, and in forming the terms of reference for the advisory committee we have recently sought from the council its views about whether it believes there should be certain elements included in the terms of reference so that we can consider including those elements. Not only does the council have an opportunity to have an influence as to what those terms of reference might be, but we would expect the council to have a very strong view about what it puts to the advisory panel on what the controls should be, because one of the difficulties around the site has been what controls should exist going into the future.

The controls that are in place currently will continue to exist, and then we will see what comes out of the advisory panel. The advisory panel might take the option of staying with those controls or it might recommend other controls. I have an absolutely open mind as to what controls should be put in place for the site.

Again this rezoning shows our commitment as a government to provide housing sooner rather than later when it comes to not only growth areas but also existing suburbs. There is huge demand for housing, and we have to make sure that not only do we provide housing in as many locations as practically possible but that we do so in a way that also offers housing options and housing diversity as well as generating jobs in the housing market more broadly.

We look forward to seeing what the panel presents to us and we look forward to future announcements in this place. We remain committed to making sure that Victoria — and Melbourne — is the best place to live, work and raise a family.

Alcohol: police powers

Mr DALLA-RIVA (Eastern Metropolitan) — I direct my question without notice to the Minister for the Respect Agenda. I refer to the minister's very first question as the Minister for the Respect Agenda on 2 February 2010, in answer to which he outlined his six areas of focus. In particular the first area he raised was stemming alcohol-fuelled aggression in public places. Given that it is now over two months since the minister made that statement in the chamber, can he outline to the house how many meetings he has had with Victoria Police to discuss this key issue, as he put it, and what the outcomes were?

Hon. J. M. MADDEN (Minister for the Respect Agenda) — I welcome Mr Dalla-Riva's interest in this matter and I also welcome the fact that we have a question in relation to the respect agenda more broadly. As I have mentioned in this place, there are a lot of areas across government that various ministers have responsibility for, and I have particularly mentioned that responsibility for law and order and violence control rests with the Minister for Police and Emergency Services, or alternatively it may rest with the law-maker in relation to these matters, in a sense, the Attorney-General.

I have had a range of meetings with a number of groups, and I will be quite frank: I have not had a specific meeting with Victoria Police. What we have had are meetings with various interest groups in relation to these matters. We have also directed more broadly that a number of these groups, particularly Victoria Police, should meet with other groups. This is because Victoria Police already knows the views of the government in relation to these matters. What is important for Victoria Police and other stakeholders to understand is the subtlety of those relationships. We are happy to facilitate this.

We are in the process of arranging round table meetings with specific stakeholders such as Victoria Police and others. And I am sure Mr Dalla-Riva will be interested in the sorts of stakeholders they might be: they are high-level stakeholders who will be sharing views and discussions around these matters. I look forward to Victoria Police being involved in these discussions and I look forward to the various stakeholder groups being involved in the discussions on these round tables to work through some of these issues that we all have to deal with as a community.

I make this point to Mr Dalla-Riva: we have done a lot on law and order, and we will continue to do so. Victoria Police knows what it is dealing with. More important is how we promote a culture of respect broadly across the community, particularly in relation to issues like the use of alcohol. It is one thing to lock people up for abuse of alcohol, but how do we encourage people to use alcohol sensibly?

One of the areas in which we have invested time and effort as a government is the Champion Moves initiative, which is basically about getting mates to look after mates. Rather than expecting the law and order officers to step in and sort things out at a very late point, we want people to be more proactive. I have said time and again that this portfolio is more about being proactive than about the reactive issues of law and order legislation or regulation. It is about promoting a culture, which will not necessarily happen overnight but will happen over time, where people are more proactive and more conscious of their own individual responsibilities and the need to respect themselves, to respect others and to respect their community.

We look forward to the support of the opposition on these matters. We expect it to also encourage the notion of respect, and we look forward to that support from the opposition on these matters and these cultural changes as we go into the future.

Supplementary question

Mr DALLA-RIVA (Eastern Metropolitan) — Clearly the rhetoric does not match the action. Perhaps the minister may wish to refresh the house on the other five key issues — what they were — and outline to the house what outcomes the minister has achieved from those other five key issues outlined on 2 February 2010?

Mr Viney — On a point of order, President, about the broad nature of the question, the member has asked the minister to outline to the house about five other issues that were outlined by the minister in a previous contribution in the house. I would have thought that, as a supplementary, the question ought to have been more directly related specifically to the original question and specifically to the minister's answer. To move to a subsequent question on a broad range of the five other points seems a little bit of a long bow in relation to the question's role as a supplementary question.

Mr Dalla-Riva — Further on the point of order, President, I specified the date of the matters that were raised, and I said he outlined 'his six areas of focus'. I went to one then, and now I am asking for the remainder in terms of the outcomes, because the question was about the outcomes of the issues he raised.

The PRESIDENT — Order! Supplementary questions must be actually and accurately related to the original question and must relate to or arise from the minister's response. Without the benefit of reading *Daily Hansard* right now, I am going to rule the supplementary question out of order. However, if I am wrong, and it could arguably be the case that the supplementary question was related to the answer, then the member will be given a second bite of the cherry. At the minute, the question is out.

Honourable members interjecting.

Youth: road safety

Mr MURPHY (Northern Metropolitan) — My question is for the Minister for the Respect Agenda, Justin Madden.

Honourable members interjecting.

The PRESIDENT — Order! Did I hear Mr Finn refer to my ruling as being a favour to a Labor mate?

Mr Finn — No.

The PRESIDENT — Thank you.

Mr MURPHY — My question is for the Minister for the Respect Agenda, Justin Madden. Given we are in the middle of National Youth Week — from 10 to 18 April — I ask the minister to update the house on recent action the Brumby Labor government has taken to support the youth of Victoria, in particular given the importance of road safety.

Hon. J. M. MADDEN (Minister for the Respect Agenda) — I welcome the question on the respect agenda, and I welcome the member's interest in these matters.

Mrs Peulich interjected.

Hon. J. M. MADDEN — I welcome them, because again we are reminded of the scepticism of the opposition in relation to these matters. That is really unfortunate for the broader community, particularly throughout youth week, from 10 to 18 April. The respect agenda is not specifically about young people; it is broader than that. It is broadly about the community and about older and younger people showing respect for each other in different ways — and different generations have a different expectation of how that respect is reflected. But it is as much about the three

issues that have been mentioned before: people respecting themselves, respecting others, and respecting their community.

More recently we have been very conscious — and we have always been conscious of this — of the risks of driving, particularly for young people, who often put themselves at greater risk when driving because of what is unfortunately either their inexperience or the fact that they take greater risks, and that is complemented by their inexperience. The respect agenda is about personal responsibility. It is also about responsibility to each other. There is no better manifestation or representation of that than the way in which young people drive and the risks they take when they drive.

Driver behaviour, particularly in young people, is a significant element of the respect agenda. Last year more than 100 young drivers died in Victoria, and already this year a further 20 have been killed. That does not seem to register in the minds of opposition members, given the noise they are making.

Mr Drum — On a point of order, President, we do not need the minister to tell us what registers in relation to young people killing themselves — —

The PRESIDENT — Order! I ask Mr Drum to resume his seat. He knows full well there is no point of order.

Hon. J. M. MADDEN — The way young people drive and the number of people that might be killed or could potentially be killed on the roads is a particularly important matter. Transport Accident Commission (TAC) research shows that drivers aged between 18 and 24 represent about one-quarter of all serious injuries and deaths on the road despite representing only 14 per cent of the driver population. If that is combined with the fact that the use of technology is a generational issue about which young people are enthusiastic, we find that the use of mobile phones is one of the biggest issues for young drivers.

In launching a recent campaign Deputy Commissioner Lay said that using a mobile phone while driving is the equivalent of having a blood alcohol reading of .08, and texting while driving makes a crash 34 more times likely to occur. When the inexperience or the risk-taking of some young people is combined with the likes of texting or talking on a mobile phone, there is a significant likely increase in the risk of death for young people. It is important that effective and appropriate messages about using technology get through to those young people. When my colleague the Minister for Roads and Ports, Mr Pallas, launched the campaign he indicated that 62 per cent of young people watch online videos and 58 per cent of young people regularly visit social networking sites, so it is important to use them as a way of communicating with young people to get the message across.

Whilst some concerns have been raised by the opposition about the methodology of the campaign or other issues around the campaign, there is no doubt that two things have occurred as a result of the campaign. First of all, prior to Easter there was an enormous amount of discussion and media coverage. That cannot be a bad thing. If we are talking about road safety before Easter and reminding people about the potential risk of loss of life over the Easter period and we save one life, that cannot be a bad thing.

I note that the campaign has been supported by a number of individuals and a number of groups. Les Twentyman said the language had to break through young people's culture, and there is no doubt that it did. The Teenagers Road Accident Group supported the campaign as well, and the TAC said it has saved lives.

Honourable members interjecting.

Hon. J. M. MADDEN — Regardless of the noise we hear from the opposition, the fact is it is likely that this campaign, its notoriety and its coverage, saved lives over Easter — and that cannot be a bad thing. Listening to young people means that you are showing some respect, and I wish the opposition showed the same respect for young people that this government is committed to displaying.

Victorian Managed Insurance Authority: domestic building insurance

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Treasurer, representing the Minister for Finance, WorkCover and the Transport Accident Commission. I refer to the government's recent decision to provide domestic building insurance (DBI) via the Victorian Managed Insurance Authority. Given that the underwriting terms and conditions are to be comparable with the abandoned private sector scheme, will the Treasurer inform the house if the government DBI scheme is expected to be profitable in its initial form?

Mr LENDERS (Treasurer) — On a point of order, President, I seek your guidance.

Mr Finn — God knows you need it!

Mr LENDERS — I have a respect for this institution that perhaps Mr Finn could learn from. A standing committee of this chamber is inquiring into domestic building insurance at the moment. I am not privy to that. I find it interesting that the chair of that inquiry asks a question in this house on that matter. I seek your guidance as to whether the question is admissible, as it is a live inquiry from a parliamentary committee. There are issues of privilege. I respect this house too much to play games with these committees.

Mr Rich-Phillips — Further to the point of order, President, if it assists your deliberations, the matter I have asked a question about relates to a public announcement by the minister for finance on 29 March and not to deliberations of the committee.

The PRESIDENT — Order! I thank Mr Rich-Phillips for that. In fact I think that is quite helpful, so much so that I am going to rule the question in order. Standing order 24.13(4) states:

> Evidence not taken in public and any documents, papers and submissions received by the committee which have not been authorised for publication will not be disclosed unless they have been reported to the Council.

I take what Mr Rich-Phillips says at face value: that this matter does not relate to anything covered by that standing order.

Mr LENDERS — What I will do — and my reason for doing this is that whenever in good faith information is presented to this house, it is used by the shadow Treasurer to trash the reputation of a Victorian institution — is take the question on notice.

Mr D. Davis — On a point of order, President, the Leader of the Government well knows the rules. His task is to answer questions, not to overtly attack the opposition.

Mr Finn interjected.

The PRESIDENT — Order! Mr Finn, we are there; we are on the cusp.

I do not accept that that was overt criticism, so therefore I rule out that point of order. Just as a matter of interest, the question related to a public statement already made by the Minister for Finance, WorkCover and the Transport Accident Commission.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Will the Treasurer confirm whether the government's domestic building insurance scheme will provide increased consumer protection compared to the abandoned private scheme?

Mr LENDERS (Treasurer) — As I said in my substantive answer, whenever the government in good faith answers any question on any economic institution of this state, such as the Victorian Funds Management Corporation, the opposition trashes it. In the case of the Members Equity Bank the shadow Treasurer caused a run on that bank. The shadow Treasurer, the member for Scoresby in the Assembly virtually caused a run on a bank because the opposition decided to trash the institution. A Victorian bank was required to take out full-page advertisements in the local paper to reassure depositors that it was safe to bank in that Victorian bank.

If the opposition asks a question in this place about a Victorian institution, I will take that on notice for the finance minister, because I, for one, think the Victorian community deserves its institutions to be protected and not just trashed by Kim Wells and those like him who trash Victorian institutions on a daily basis and cost jobs and cost confidence in our community.

Mr D. Davis — On a point of order, President, the Leader of the Government has clearly moved into overt criticism. His job is to answer questions.

The PRESIDENT — Order! I accept that that criticism is certainly borderline. I assume the Treasurer has finished?

Mr LENDERS — Yes.

The PRESIDENT — Order! I remind ministers that it is correct that they cannot engage in overt criticism of the opposition, and that particular criticism I think was quite borderline.

Parks: entry fees

Mr SCHEFFER (Eastern Victoria) — My question is for Minister for Environment and Climate Change, Mr Jennings. With international delegates in Melbourne to attend the Healthy Parks Healthy People world congress, can the minister inform the house of how the Brumby Labor government is taking action to encourage all Victorians to explore their world-class national and metropolitan parks?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Scheffer for his question. It is an excellent opportunity in the spirit of generosity and equality and commitment for all Victorian citizens to get access to our rich natural environment. Let me welcome opposition members to

national parks and welcome them all to national parks from 1 July this year for free. To mark the Victorian government's ongoing commitment to national parks and the reserve system and to maintaining our rich and natural environmental values across Victoria, our government made a commitment on the weekend that we would remove entry fees to national parks across metropolitan Melbourne and across Victoria from 1 July onwards.

Honourable members interjecting.

Mr JENNINGS — After generously welcoming opposition members to those parks and to immerse themselves in the rich splendour of the natural environment, their concentration span has obviously reached a threshold, and now they cannot quite maintain their joy. Is that the reason why there was interjection?

Mrs Coote — I thought of the term 'healthy parks healthy people' — —

The PRESIDENT — Order! Mrs Coote!

Mrs Coote — He has taken the words out of my mouth.

Honourable members interjecting.

Mr JENNINGS — Mrs Coote has had a brainwave: 'healthy parks healthy people' is something that resonates well in this community and in communities around the world. Indeed it is actually a worldwide movement. I did not realise this, but she is responsible — give credit where credit is due. This was an operating program and a focus of Parks Victoria for some period of time. Obviously at some point in time the Liberal Party had an interest in these matters, and that is terrific, because now we have more than 1000 delegates from around — —

Honourable members interjecting.

Mr JENNINGS — You are in *Hansard* now; you can give it a rest.

A thousand delegates from 35 countries around the world are part of this international movement that is looking for opportunities for governments and communities to support natural environments to make sure that we preserve the rich biodiversity and the rich environmental values that our various states and nations hold around the world and that we provide increasing opportunities for our citizens to access them.

As my colleague the Treasurer said earlier in question time today, ours is a government that has been committed to the establishment of better parks and reserves across Victoria, and during our lifetime as a government 24 new reserves have been created. Indeed in the last couple of years people know that during my life as minister for the environment we have introduced the four river red gum national parks along the Murray and the Cobboboonee National Park, and we have increased the park reserve system in East Gippsland. We are identifying grasslands on the cusp of metropolitan Melbourne to preserve into the future.

These are important things that our government understands — the importance of maintaining those environmental values and growing our reserve system. Now, from 1 July onwards, all Victorian citizens and people who come here — tourists in their thousands — will not be charged any entrance fees when they enter those national parks. We think that is very significant, whether it be in the high country, whether it be at Mount Buffalo, whether it be at Baw Baw, whether it be at Wilsons Promontory or whether it be at parks around the metropolitan area.

Mrs Coote — What about those cabins at Wilsons Promontory? Are they going to be free?

Mr JENNINGS — Free? No, I think that would be stretching it. If we are expecting accommodation to be free, then I think we are stretching the generosity of our government. Our government is particularly committed to increasing access, but we are also interested in providing a sustainable economic base and having the real cost in part reflect the accommodation cost across the state.

Nonetheless we think this significant commitment of our government will see increasing numbers of Victorians flocking to our parks, and we look forward to the ongoing access for Victorian citizens — for families, older people and people with disabilities — enabling them to come to our parks and immerse themselves in the rich splendour of our environment. That is something our government is committed to do.

Live music venues: noise regulation

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Environment and Climate Change. It relates to the live music accord that his government signed. One of the commitments in that accord was to revisit the issues considered by the live music task force of 2003. Central to that task force was the issue of EPA (Environment Protection Authority) noise regulations as they apply to live music venues.

Can the minister tell me whether he has asked or directed the EPA or any other arm of his department to conduct a review of that particular SEPP (state environmental protection policy) for entertainment premises?

Mr JENNINGS (Minister for Environment and Climate Change) — I think Mr Barber might have access to some equipment that might record in some shape or form what I do, because I had a meeting with the EPA yesterday afternoon in my office and I talked about this very matter.

Honourable members interjecting.

Mr JENNINGS — Maybe he is psychic, omnipresent and well informed. Maybe he is cutting the lunch of his colleague, who has been very prominent in relation to these campaigns — it gets her picture in the paper. Obviously now he is trying to cut her lunch.

In relation to this issue we do understand that we have obligations to try to support neighbourhoods and communities to live harmoniously with venues that may bring large groups to our neighbourhoods across metropolitan Melbourne and indeed across Victoria. It is part of our expectation for them to be good neighbours and to be mindful of noise levels and efforts that may be able to be taken to mitigate the disruption caused by noise within local communities.

I have continued to make sure that the EPA is engaged in these considerations, and hopefully by working with other agencies, Consumer Affairs Victoria and the local government department in Victoria we will have some cross-agency work in the near future that continually assesses the effectiveness of the existing regulatory settings and the way in which we can engage venue owners and operators so that they can comply with the regulations and perhaps improve their performance. The expectation is that together we can achieve, in cooperation with local neighbourhoods, better outcomes and better relationships between live music venues and the communities in which they are located.

Supplementary question

Mr BARBER (Northern Metropolitan) — What caused this issue to arise originally is that venues cannot comply with the regulations, and the reason they cannot comply is the way the regulation is structured. The measurement is your ability to emit noise of a certain number of decibels above a baseline — 'baseline' is not defined in the government's SEPP — and it is to be measured at the window of the nearest habitable room, which could be a different one every time. It could be on the 35th floor, and it would be impossible to measure it. I am specifically asking, as Mr Jennings did not make this clear in his previous answer: is a review of the SEPP to be commissioned? All the SEPPs are regularly reviewed, and there is a public process for that. Is that what is envisaged? How will we participate and when?

Mr JENNINGS (Minister for Environment and Climate Change) — I will stick to my substantive answer in relation to reviewing these matters. I will be receiving some advice on how formal that process may become and the way in which we engage the communities. I am happy for the EPA and other relevant agencies to share that. As I have already indicated to Mr Barber, this is something that is on my radar, and I will be expecting to have ongoing conversations with the EPA about it so we can clarify over time with interested parties such as Mr Barber.

Buses: outer suburbs

Mr LEANE (Eastern Metropolitan) — My question is for the Minister for Public Transport, Martin Pakula. Can the minister inform the house of how the Brumby Labor government is improving bus services for local communities in Melbourne's east and west?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Leane for his question. Last week was a busy week for bus service improvements in Melbourne. Our commitment to meeting the changing transport needs of Melbourne's growing outer suburbs continues apace.

Last Friday I was joined by the fine new member for Altona, Jill Hennessy, at Point Cook to announce a massive $4.6 million investment to introduce five new routes and improve eight existing routes in the Wyndham and Hobsons Bay areas. This is a major upgrade to bus services, and it will commence next Monday. It is designed to cater for the transport needs of an area that has grown considerably in recent years.

These improvements are going to provide an additional 1365 bus trips every week and 120 new bus stops. Many residents in the growing suburbs of Point Cook, Manor Lakes, Wyndham Vale and Truganina will have access to public transport for the first time as a consequence of this enormous bus service improvement that will start next Monday.

In response to Mr Leane's particular area of interest, earlier in the week I was joined by two lower house members, the member for Burwood, Bob Stensholt, and the member for Forest Hill, Kirstie Marshall, to announce the final outcomes of the Manningham,

Whitehorse and Monash bus review. That is a review that will deliver — —

Mrs Peulich interjected.

Hon. M. P. PAKULA — Mrs Peulich should add some lavender to her bath!

Honourable members interjecting.

Hon. M. P. PAKULA — This is a review that will deliver over $1 million worth of improvements in those localities, and just one outcome will be to provide hundreds of additional services each week between Box Hill station and the Burwood campus of Deakin University.

By extending route 281 to the university and introducing a new route, 767A, there will be more than 350 extra bus trips to the university each and every week, allowing more frequent connections from Box Hill station and making it easier for students at that university to get to class.

The results of this particular review build on the earlier commitment of 27 extra daily services on the popular Eastern Freeway express bus route, which commenced in November 2008. We have also introduced the Manningham Mover bus service, which now carries more than 1700 people a week. Residents of Manningham, Monash and Whitehorse will continue to see bus upgrades implemented over the next two years, including but not confined, of course, to the Doncaster area rapid transit service, which will commence in 2011.

This is all part of the government's commitment to continue to improve and expand the bus networks for Melbourne's growing communities.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Treasurer) — I have answers to the following questions on notice: 11 560–2, 11 748.

PETITIONS

Liquor licensing: live music venues

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that the current liquor licensing laws and regulations are destroying the vibrancy and viability of live music performed in licensed venues. The 'high-risk conditions' should not be triggered by cultural practice (if live or amplified music is being played) but rather by high alcohol consumption patterns. The assessment and application of security, CCTV and other high-cost conditions should be evidence based, and not based on the biased assumptions and opinions of bureaucrats.

The petitioners therefore request that:

1. the Victorian government institute a proper investigation into the causes of violence and drunkenness;

2. until such investigation is undertaken and concluded, the government remove all references to 'live and amplified music' from the licence amenity clause on liquor licences;

3. the government formulate a cultural policy that promotes and maintains Melbourne as Australia's capital for live music.

By Ms PENNICUIK (Southern Metropolitan) (8837 signatures).

Laid on table.

Ordered to be considered next day on motion of Ms PENNICUIK (Southern Metropolitan).

Melton: youth training centre

To the Legislative Council of Victoria:

The petition of citizens of the state of Victoria draws to the Legislative Council's attention the Brumby government's proposal to establish a youth training centre and unsupervised housing units for youths aged between 16 and 19 years in Coburns Road, Melton, and in particular states the clear objection of the undersigned to the project, which threatens the peace, amenity and public safety of nearby residents, lacks an effective plan for supervision of youths as tenants, and for which the government has failed to consult effectively with the community.

The petitioners therefore request that the Legislative Council require the Brumby Labor government to immediately halt development of the proposed units and enter into genuine consultation with nearby residents, business owners and the Melton community on a more appropriate use by the Department of Human Services for the site.

By Mr VOGELS (Western Victoria) (616 signatures).

Laid on table.

Electricity: smart meters

To the Legislative Council of Victoria:

The petition of citizens of the state of Victoria draws to the Legislative Council's attention the Brumby government's mismanagement of smart meters, in particular:

the Auditor-General's finding that the project cost has blown out from $800 million to $2.25 billion, all of which will be paid for in higher bills;

the Auditor-General's finding that the electricity industry may benefit from smart meters at the expense of the consumers who pay for them;

the unfairness of many consumers and small businesses having to pay for smart meters before they are installed; and

findings by Melbourne University that many families will have to pay around $300 per annum in higher electricity bills as a result of Labor's smart meters.

The petitioners therefore request that the Legislative Council require the Brumby Labor government to immediately freeze the rollout of smart meters across Victoria until it can be independently demonstrated that consumers will not be forced to pay for the Brumby government mistakes in the smart meter project.

By Ms LOVELL (Northern Victoria) (16 signatures) and Mr O'DONOHUE (Eastern Victoria) (6 signatures).

Laid on table.

Police: Neighbourhood Watch

To the members of the Legislative Council:

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

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

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

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

By Mr DRUM (Mildura) (13 signatures).

Laid on table.

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

Government decision-making, consultation and approval processes

Mr RICH-PHILLIPS (South Eastern Metropolitan) presented first interim report, including appendices.

Laid on table.

Ordered to be printed.

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

That the Council take note of the report.

On 3 March the Standing Committee on Finance and Public Administration resolved to conduct an inquiry into government decision-making processes with a particular focus on the Windsor Hotel redevelopment. The rationale behind the committee's decision to do this was the inadvertent release of a document prepared in the office of the Minister for Planning which suggested a proposal for a sham process surrounding the planning application for the redevelopment of the Windsor Hotel. The government's response to that was to say that it was a document created in isolation by the media staff; it did not relate to the minister and did not relate to the government.

In undertaking this inquiry the committee resolved to call a number of witnesses. It issued invitations to Yehudi Blacher, the Secretary of the Department of Planning and Community Development; David Hodge, an officer within that same department; the Minister for Planning; and four ministerial staff, three in the media area, Ms Peta Duke, Mr George Svigos and Ms Fiona Macrae, and subsequently Mr Justin Jarvis, the chief of staff to the Minister for Planning.

The purpose of this report from the committee is to place on the public record in a permanent way, given that this committee will expire at the end of this Parliament this year, the correspondence between the committee and these witnesses and further correspondence that has been received from the Attorney-General that outlines the government's response to the committee's desire to have these witnesses appear.

Members of the house will have seen since this committee commenced its operations on this particular matter an ongoing commentary, in particular from the Attorney-General and more recently the Premier, arguing why the ministerial staff should not appear

before the committee and give evidence in relation to this matter. Therefore it is appropriate that the committee publish the documents it has received on this matter, including those that highlight the Attorney-General's interference with the committee's proper processes. This report seeks in a permanent way to make those documents available to the house and the public so that those matters can be canvassed in the public domain, given that that is the direction the Attorney-General has sought to take.

I have to say this is the third committee that I have been involved in, stretching back to 2002, where the Attorney-General's interference in committee processes with respect to the calling of witnesses has become an issue. The first was the Select Committee on the Urban and Regional Land Corporation managing director during the 54th Parliament. Members of this house will remember the Select Committee on Gaming Licensing, and now we have this matter with the Standing Committee on Finance and Public Administration. Each of these has been characterised by the interference of the Attorney-General in the committee's proper practices in seeking the attendance of witnesses.

What we are doing today with this report is making available to the house and the public the correspondence from the Attorney-General which highlights his interference in those committee processes. This raises two issues. The first is the interference by a member of the Legislative Assembly in the proper practices of the Legislative Council, and no less a person than the Attorney-General himself has previously lectured this house on — —

An honourable member — Deputy Premier.

Mr RICH-PHILLIPS — The Deputy Premier and Attorney-General previously lectured this house on occasions where it has sought to have a member of the Assembly, by leave of the Assembly, appear before the Council or a Council committee, and yet he has no qualms at all in inserting himself between the committee and a witness that the committee is seeking to hear evidence from and interfering with the conduct of proper processes by the committee.

The other is the direct matter of a person, in this case the Attorney-General, directing parties that have been summoned to appear, in this instance one of the media advisers named previously and mentioned in the correspondence in this report, not to attend the committee in breach of the summons. It seems to me from a personal point of view entirely inappropriate and incongruous for someone holding the office of Attorney-General to direct a witness not to appear in breach of the summons.

This report does not make recommendations. It will be a matter for the committee to determine the direction it wishes to pursue this matter, if at all. It places on the public record for a full debate the intervention of the Attorney-General and the correspondence that highlights the way in which the Attorney-General has interfered. The government and the Attorney-General have elected to have this debate in public through the Attorney-General's comments. The committee is responding by making this correspondence available. It will be a matter for the house to judge and a matter for the public to judge the appropriateness of the government's and the Attorney-General's interference in the committee's deliberations on this particular inquiry.

It is a matter of regret that whenever standing and select committees undertake this type of inquiry the Attorney-General sees fit to insert himself in the process between witnesses and committees of the Legislative Council. I commend this report to the Council and to the public for the information it provides. As I said, this is not a report where the committee has made recommendations as to further action. That remains a matter for the committee to determine, but this report goes a long way in setting the record straight as to the events of the last seven weeks. I commend this report to the Council.

Mr VINEY (Eastern Victoria) — What extraordinary circumstances we have here today — —

Mr P. Davis interjected.

Mr VINEY — Frankly I do not much care whether Mr Davis wants to listen to what I am going to say or not. This is about putting it on the public record, and I am not trying to convince him because he is not able to be convinced. What we have been saying constantly throughout this process is that this is a witch-hunt where the decision has already been made about what other members of the committee plan to do. What is extraordinary about the circumstances here today is that an interim report from the committee has been presented — —

Mr Kavanagh — On a point of order, Acting President, standing order 12.20 states that it is highly out of order for a member to impugn motives to another member. Members of the committee Mr Viney is referring to are all members of this house, and there is a clear imputation that we are not interested in the truth but are motivated by other reasons. I find that

personally offensive and untrue, and I ask that it be ruled out of order.

Mr VINEY — On the point of order, Acting President, I am more than happy to say that it is my view that the Liberal-National party coalition has made up its mind, as I believe have the Greens. I do not think Mr Kavanagh has made up his mind. Talk about impugning the reputations of members! This is a process where people who are members of this house have been accused of corruption, so there is a fair bit of impugning of reputations going on in this process.

Mr Kavanagh — Further on the point of order, Acting President, standing order 12.20 'Imputations and personal reflections', says:

> All imputations of improper motives —

are —

> considered highly disorderly.

The ACTING PRESIDENT (**Ms Pulford**) — Order! I have considered the views put. I think there has been a great deal of robust debate around these matters. Mr Viney has just started his contribution. The comments were not reflective of an individual so much as a group. This is a subject that comes up in this place from time to time. I rule there is no point of order.

Mr VINEY — I remind the house that my comments were in response to the interjection from Mr Davis as he stormed out of the chamber. What we have here today is an interim report being presented to this chamber when all the information in the interim report was put on the website last Friday. Four or five days after the documents became public, these documents are being presented to the house. This is in a process where people are talking about proper process, summoning people and arresting people. This is the sort of discussion that is taking place at a time when there is no respect shown to this house judging by what has taken place.

The documents were made public on the committee's website in advance of them coming into this chamber. They were made public by resolution of the committee and were on the website before the committee had voted on adopting the interim report, which it did today. What is more, that discussion took place at a meeting to which I, as Deputy Chair, was not invited. That decision was made at a meeting to which I was not invited. The committee went into a deliberative meeting after hearing matters on the building warranty insurance issue. Mr Leane was my substitute on that.

This is an outrage. This is from a bunch of people who could not run a chook raffle. They cannot get the subpoenas right. Then they hold a meeting that, in my view, was improper.

Mr Guy interjected.

Mr VINEY — Because *Odger's Australian Senate Practice* says that every member needs to be invited to the meeting.

The ACTING PRESIDENT (**Ms Pulford**) — Order! I ask Mr Guy to withdraw his comment. It is unparliamentary.

Mr Guy — I withdraw.

Mr VINEY — What we have got is a process put in place in a gerrymandered committee where 48 per cent of the members of this house get less than 25 per cent of the members on the committee. We have a process where this house has already voted on the matter. Every member of the committee, other than Mr Kavanagh, who withdrew from the chamber, Mr Tee and me, voted on the motion of no confidence against the minister on the very matter the committee is inquiring into.

When the issues were raised about my raising the fact that they had already made up their minds, there was the demonstration: they demonstrated by that vote that they had already decided to convict the minister of this supposed offence of someone in his office inadvertently sending an email to someone. That is the first thing.

Then they set up an inquiry. Committee members Mr Barber, Mr Rich-Phillips, Mr Guy and Mr Hall have all voted already on this matter; they had already determined their position on this matter. Then they were going to develop and collect the evidence to justify their position.

This is absolutely not due process. If it were a court of law, every one of those members would have excused themselves from sitting, listening and hearing evidence, simply because they had already determined their position.

A committee where there is supposedly an investigation into proper process cannot get its proper processes right. It will not even let the minutes reflect accurately what took place at a public hearing when there was a quorum. It removes those matters from the minutes. It calls a deliberative meeting on the inquiry into government decision making at a public hearing on builders warranty insurance. The processes on page 397 of the 12th edition of *Odgers* are required. and say:

> Meetings subsequent to the first meeting are notified to each member by the secretary.

That is what is required, but that did not happen because I was not invited. A meeting was held to determine what it wanted to put on the website. That was then resolved and placed on the website, which is an absolute outrage of process. The committee cannot get its subpoenas right, because it has determined them to be improper. Yet they want to run around talking about arresting people.

This is a disgrace. If committee members are going to do those sorts of things and they are going to go down the path of saying there ought to be proper process, then they should make sure they do it the right way and not show the disrespect they have shown to this house by publishing on the website last Friday what they wanted to bring to this house today. What a joke! Why would you even bother to do an interim report? It is just a nonsense.

Mr Guy interjected.

The ACTING PRESIDENT (**Ms Pulford**) — Order! Mr Guy!

Mr VINEY — If they cannot get their processes right, they should not start judging other people. What we know is that this committee is engaged in a process to justify a predetermined outcome. That was absolutely clear from the votes of the majority of people on the committee on the no-confidence motion regarding the minister. This is just a process of justification.

When it comes to the attacks on the Attorney-General, the Attorney-General is absolutely within his rights to give advice to staff about their obligations. There are well established conventions on these matters, and all members of the committee are well and truly aware of them. There ought to be a little more respect for the processes. If opposition members want to go down the path of convicting people, of running around and accusing them of corrupting process and all those sorts of things, they should make sure they get their own processes right.

The opposition has not been able to get its processes right. It is prepared to change the record of the public hearing in the minutes of the committee; it is prepared to call meetings of the committee without proper notice being given so that I, as deputy chair, was not advised of a meeting and therefore was not able to make a decision as to whether I would attend or whether I needed to arrange for a substitute member to attend. I can say to the house that if I had known that on that day the committee was going to have a deliberative meeting on this matter, I would have attended. Even though I was on leave I would have made the effort to get there, because I, along with Mr Tee, have the carriage of this on behalf of the government, and I take that responsibility seriously. As a member of this committee I would have made sure I was there to deal with this matter.

In relation to the builders warranty insurance inquiry, Mr Leane substituted for me. He had no knowledge of the considerations of the committee on these other matters. To expect him, as a member of this house, to substitute for me without there being any opportunity of me even giving him a briefing on the matter is absolutely outrageous. It is a disgrace that that meeting took place. It is my view that the decision of the committee at that meeting to put those documents on the website was therefore invalid. Therefore all the privileges of these committees and the processes involved in putting things on websites have been breached. It is a disgrace.

It is absolutely clear from Odgers that I should have been invited; I should have been given appropriate notice, and I was not. I know Mr Guy will get up and start talking about other examples.

Mr Guy — You are a hypocrite! Your hypocrisy comes into the mix all over again.

The ACTING PRESIDENT (**Ms Pulford**) — Order! Mr Guy!

Mr VINEY — I do not need a withdrawal from Mr Guy. I do not care what he says about me.

The ACTING PRESIDENT (**Ms Pulford**) — Order! Mr Viney may not, but I ask Mr Guy to again withdraw that comment.

Mr Guy — I withdraw and apologise.

The ACTING PRESIDENT (**Ms Pulford**) — Order! Thank you. I ask Mr Guy to desist.

Mr VINEY — I know that Mr Guy will get up and talk about other examples, but let me say this. The only time I asked for a deliberative meeting of the committee, all members of the committee were around the table at that time. In this instance it was proposed to have a deliberative meeting of the committee when not all members of the committee were around the table. I was not there. I am advised by the secretary of the committee that my substitution email was in fact an email in which I said that I was substituting Mr Leane on the building warranty insurance matter. That was not

substituting to him or to anyone else this matter of government decision making. I did not substitute anyone on that.

If I had known it was the intention of the committee to have that meeting, I would have attended, because I certainly would not have agreed to those matters being put on the website in advance of them coming to this house. Unlike members of the opposition, I do support the processes of this Parliament. I support them; I respect them; and I have always paid respect to those processes. However, the opposition clearly has not. It is prepared to doctor the minutes; it is prepared to call meetings without proper notice; and it is prepared to put on the website documents about this matter before they are submitted to this house.

Mr BARBER (Northern Metropolitan) — I do not intend to start debating matters that might come before the house as a result of this inquiry, whether they be recommendations from the committee or findings of our committee, tempted as I could have been by some of Mr Viney's asides. I will say to Mr Viney that when the Greens supported the motion of no confidence against the minister, it was because he had not conducted the kind of inquiry into events in his office that we are now conducting. He was asked about it by numerous journalists. He never once confirmed that he had asked all of his staff about whether there were any discussions between them and Ms Duke. He also had the opportunity during the course of that no-confidence motion and during other questions he has been asked in this place to make a fuller explanation.

If it was me, I would want to know. It is one thing to say a staff member wrote something that she should not have written; it is another thing for him to say, 'I did not know anything about it'. Until we hear from Ms Duke to confirm that he did not know anything about it, we really cannot have enough confidence in that. I would have wanted to ask all my staff whether they knew anything about it. Bearing in mind Ms Duke is actually employed by the Premier's office and it is my understanding that she was sending the email to people in the Premier's office, I would have thought that inquiry would have gone up through the Premier's office as well.

If that inquiry has been conducted, I think the government should make public its assurances on those issues. It has not done that. Mr Viney just comes in here, picks up on a few process issues and yells really loudly. In my view it is not distracting anybody from what the real issue is here, which is: is there integrity in a place where serious administrative decisions are getting made — that is, in a minister's office? We do not know the answer to that yet. It could be that Peta Duke will sit in front of us and say, 'No, I just made the whole thing up by myself without reference to anybody. I dreamt the whole thing up and regretted it the minute I sent that email'. We do not know that. If that was the case, I think we might have heard from her.

However, from the way the Attorney-General is approaching this, it seems it is a bigger issue. For him, it is the principle of the thing: he does not want any ministerial advisers appearing before committees. That brings us into the realm of an argument that we may have on a future motion; I do not want to go there for the purposes of this report. I think soon enough we will be debating what further actions the Parliament might want to take in this area. It takes two to tango, to put it simply. The Attorney-General has directed all these staff members not to attend, and that is clear from the correspondence. Technically I do not think the committee is actually in correspondence with the witnesses; it is in correspondence with the Attorney-General, at least as far as this material goes, and so the responsibility from there on really lies with the Attorney-General.

The Attorney-General has suggested that this is a bit of a harsh thing to do to, in his words, 'a young woman', but he is also directing her and giving her legal advice when in reality he is meant to be the government's legal adviser. He is meant to ensure that the government does not break the law. He has a responsibility to the law and then to the government. I do not know what responsibility he has to Ms Duke. Personally I would be a lot more comfortable if she had her own independent legal advice from a lawyer who was interested only in her best interests. Given the Attorney-General's resources, he might like to make that offer to her. So far we have not seen such an offer; that is based on the correspondence we have released here today. That remains a considerable concern to me, that as a member of the committee I am unable to take into consideration anything in relation to Ms Duke.

Mr HALL (Eastern Victoria) — This afternoon we are debating a matter which has already been the subject of some debate publicly, as have related matters in the Parliament here. I suspect there will be many more such debates both in the Parliament and publicly about the workings of the Standing Committee on Finance and Public Administration and this inquiry into the Victorian government's decision-making, consultation and approval processes and, in particular, the one that is currently the topic of consideration of the committee, that being the redevelopment of the Windsor Hotel. As I said, there have been many commentaries of this particular nature, and I am sure

that this report will generate further public debate on this matter.

The first point I make is that this report is somewhat different to a lot of other committee reports tabled in the Parliament, it being a report tabled without comment and conclusion; indeed, it is merely a catalogue of correspondence sent and received by the committee in relation to the inquiry it is undertaking on the Windsor Hotel redevelopment and particularly the processes around the planning applications that surround that redevelopment.

Readers will make up their own minds, and I have no doubt that once people pick up this report and read that catalogue of correspondence, backwards and forwards between the committee and others, they will make up their own minds, and so they should. It is appropriate that the committee, at this stage, has made that information available publicly so that people with an interest in this matter can formulate their own opinions and views. In saying that, I have no doubt whatsoever as to the conclusion most people will draw on this matter.

The conclusion that I think is starkly obvious from reading the correspondence is that this government, the Brumby Labor government, is going to extraordinary lengths to cover up this planning application process. Members need only read the various letters in this report — from the Attorney-General to the committee and to witnesses who have been summoned, in some cases subpoenaed, to appear before the committee — to realise that the government will go to extraordinary lengths and will abuse the processes of Parliament to cover up this issue and prevent those people from attending, appearing and giving evidence to the committee.

This government thinks it is above the Parliament, it thinks it is above the parliamentary process, it thinks it is an omnipotent, all-powerful government that is not obliged to follow the processes of the Parliament. Be it on the government's head, because that sort of arrogance, that sort of aloof opinion, will bring it down ultimately. I have no doubt about that.

One also needs to observe the public criticism by the government on the advice received by the committee from the Clerk of the Legislative Council in regard to this matter. I would have thought it entirely appropriate and, indeed, proper for parliamentary committees to seek the advice of those who are practised in the experience and operation of the Parliament.

Again in this particular case, that is what the committee did: it sought the advice of the Parliament in terms of the possibility of calling people, other than members of this house, before the Parliament as witnesses. That advice by the Clerk was received and is there for all to see in this report. Yet again, as an act of sheer cover-up, the government of the day has been out there blatantly criticising the opinion of the Clerk, purely as an exercise in trying to discredit the operations of this parliamentary committee.

By doing so, by seeking to cover up at every opportunity, the government is simply digging a bigger hole for itself. One has only to read editorials in newspapers yesterday and today which suggest public opinion is that the government is doing itself a great disservice by trying not to have the matter fully aired, that it should be open and accountable about this and should allow those whom the committee wish to question to take the witness stand, so to speak. The government is digging a hole, it is doing itself no favours whatsoever and the longer this goes on then the more likely I am afraid that the intransigence of the government to accede to the wishes of the committee will, as I said, lead to it digging itself into an even bigger hole.

Mr Viney made some comments about the workings of the committee and picked on a few processes used, in particular in regard to the workings of the committee. If we want to talk about all the meetings that this committee has held, and if one wanted to describe what goes on in what I thought were essentially private committee meetings — Mr Viney seems to be happy to inform us all about exactly what happens in each of those meetings — then his claim about abuse of process is really an issue of the exact situation of the pot calling the kettle black.

Mr Viney has sought to abuse the processes of the committee at some of its hearings. That was evident for all to see recently on television when there was a report about the attempts by Mr Viney to try to constitute an unconstitutional meeting of that committee and have the Minister for Planning impress himself upon the committee, without having been invited to do so.

If Mr Viney has any criticisms of the processes employed by the committee, then, my goodness he is probably the worst at it. Mr Viney has probably been the best at being unconstitutional through abusing the processes of the committee. In terms of Mr Viney's contribution today, I do not think he is in an ideal position to criticise anybody on the committee for the processes the committee has adopted.

I simply conclude by saying that this is an interim report of the committee. It is offered without comment and conclusion and people will make up their own minds, and so they should. That was the intent of the interim report: to put that information out there to make it available for people to see. For those with an interest, that information will make some very interesting reading, and I do not think it will be too hard for readers to draw a conclusion that this government, which always claims itself to be open and accountable, is in fact completely the reverse of that. The government is intent on taking all possible measures to cover up; the correspondence of the Attorney-General and the public criticism of advice from the Clerk of the Legislative Council certainly gives great evidence to the claims that I am making in this contribution.

Mr TEE (Eastern Metropolitan) — I will make some brief comments on this report and in particular on the criticism that somehow the material in the report suggests that the government has not been open and accountable, and that somehow the material in the report suggests there has been some sort of cover-up.

What this report does reveal is the complete opposite. What this report reveals is that this committee has had access to and received evidence from the secretary of the department. What this report reveals is that the two auditors — the two independent auditors — who have been appointed to oversee the Windsor development have been invited to give, and indeed have given, evidence before the committee.

We have had the most senior public servant give evidence and the two independent auditors give evidence. Therefore the report — and the debate today — does not deal with any inadequacies in relation to the Windsor development; that is not what this report is about or what this committee is about. This committee and this report are not about the development; they are about the individual concerned and the important principle of who is responsible. This is not about the Windsor development; it is an issue of who is responsible here. The minister stood up in the house and said that in terms of what occurs in his office he is responsible, and he said in this chamber that he is happy to give evidence before the committee.

When you read through the report what is starkly and glaringly obvious is the failure by the committee to invite the minister to give evidence. There is no evidence whatsoever of that in this report. That is really the elephant in the room; that is the great omission here. The question is: why would the committee want to hear from advisers rather than from the minister? Why would the committee want to turn ministerial accountability on its head? Why would the committee ask an employee rather than the employer, the adviser rather than the decision-maker, what has occurred? No explanation is given.

What we do know is that this committee has become a very political committee. What we do know is that deliberations of this committee are often revealed, before meetings, in the *Age* newspaper. What we do know is that material is out but not through proper processes. What we do know is that the committee is being made political, which in turn is politicising this chamber. We have an important system through which we conduct committee meetings and processes, and those processes are not being adhered to. Perhaps what is most concerning if you look at the political nature of this committee and the way it operates, is the fact that — and again this is from going through the correspondence — the Clerk is now being dragged into what has become a very political committee process. That is a most unfortunate development and a most unfortunate precedent that we are setting in terms of the way in which committees have always operated.

The interim report really should allow this house and committee members to draw breath and to look at where they think this process is going to end up, with the committee really chasing the ministerial adviser rather than responding to the minister's very open offer to give evidence. We should be adhering to the important principle of ministerial responsibility rather than turning that on its head.

In terms of arrogance, I think there is arrogance — and that is alarming when you read this report — and that arrogance is in chasing the adviser rather than responding to the minister. If we want to deal with these issues properly, we should deal with the decision-makers and not, through some political exercise, up-end that important principle.

Mr ATKINSON (Eastern Metropolitan) — I am not a member of the Standing Committee on Finance and Public Administration, but I am certainly an interested observer, as I have no doubt are most members of this chamber and a great many members of the Victorian public, because this committee is a very important one and the task it has been given is an important task: to scrutinise government decision-making processes.

I note from the committee's report to this house today that it set a priority in terms of evaluating the decision-making processes associated with the Windsor Hotel. No doubt that priority came out of the alarming reports of the actions of the Minister for Planning in handling the Windsor Hotel proposal — actions that only came

to light by accident because an officer in his department accidentally sent information to a news media outlet. The information that was sent demonstrated that the thinking in his office was that there was an opportunity to create a sham process of public consultation at the end of which the minister would have camouflage for a decision to reject the project.

That was a revelation to the public that has very few parallels in Victorian history. That the minister should have gone to such lengths with a significant development proposal for political purposes as to create a sham consultation process is extraordinary. And it is of great concern to many Victorians, particularly in light of the range of other projects that obviously come across the minister's desk — in fact increasingly come across the minister's desk, because this minister has developed quite an appetite for calling in developments. The processes the minister uses to determine those applications are now very much under the scrutiny of Victorians. They expect that this Parliament and the instruments of this Parliament will ensure the integrity of the processes involved in making determinations on development applications that come before the minister.

This house obviously felt it was important to establish the committee. This house I believe concurs with the committee's view that there ought to be some priority for the analysis of the Windsor Hotel development decision-making process, because it goes to the heart of the integrity of the minister's office's handling of all applications. Indeed had the minister not been sprung on this one by a mistake, then he might well have carried on making a range of decisions to the detriment of Victoria and Victorians, simply based on his political whim and what from time to time might have been in the best interests of the government's political and media strategies.

This committee has called for a number of witnesses. As I have said, I am not a member of the committee, but I am a very interested bystander. I have been dismayed at the processes of this committee. I have been dismayed at the government and at the minister's office — not the department; I think the department has attempted to give fair advice to the committee on its position — in terms of its level of cooperation, or rather, non-cooperation, with the committee's processes. That is a matter of alarm for this house. So too is the behaviour of the Attorney-General, and the sorts of comments he has been making in the public domain about this committee are outrageous and bear the hallmarks of a contempt of this Parliament.

There is no doubt that this committee had — and we have found in the public domain over the last few days that this committee had — the power, according to legal advice available to the committee, to call such witnesses as it believed it needed to hear from to establish the truth in regard to the matters before the committee and the processes of the minister's office in determining these applications. It had that power.

The Attorney-General is not above this Parliament.

Mrs Peulich — He thinks he is.

Mr ATKINSON — He does think he is. This bovver boy over so many years has often seen himself as above this Parliament. On this occasion he has excelled himself, suggesting he is in a position to actually direct who should and should not appear before parliamentary committees. It is an absolute contempt of this Parliament. It is overstepping his authority. Clearly he is not in a position to usurp the powers of this Parliament. The executive is beholden to this Parliament whether it likes it or not. It is beholden to the scrutiny of this Parliament and the committees it sets up to investigate matters of government integrity, government confidence and government process.

I can understand that the executive might not like that — I can certainly understand that the Attorney-General might not like that — but the reality is that this Parliament is supreme. This Parliament has the ability, and its committees have the ability, through the constitution to call those witnesses it sees fit and necessary to get to the bottom of the matters being examined.

The government's attitude to this inquiry has all the hallmarks of its having something to hide. Its whole behaviour suggests there is much to hide. If there were not something to hide, government members could have cooperated and this could all have been done and dusted very quickly. The fact that it has not been dispatched quickly indicates that the government dare not let this committee get to the bottom of the matters it has under investigation.

I find it quite extraordinary, for instance, that the government should suggest that the minister might answer on behalf of the other witnesses who have been called by the committee, because it is the minister's own admissions or comments both in the public domain and in this house that are actually in question. It seems ludicrous to me that the minister would come along and try to corroborate the comments he has already made either in Parliament or in the public domain by suggesting that someone else has given him information that supports the positions he has put when

those very positions are the things that are at issue for Victorians and certainly for this Parliament.

Was this document, which was leaked to the media accidentally, the invention of a media officer — totally arising from her own work without any reference to anybody — or was it part of a government minister's office's strategy? The minister says, 'This was a speculative document. This was created by this person. I have no knowledge of it. I never had any knowledge of it. It is nothing to do with me. Hey, but I will come along and answer all the questions on it!'. It is an incongruous position, it is an outrageous position, it is an arrogant position and it is a position which, along with the rest of the government's behaviour, is effectively a contempt of the Parliament. It is an attempt by this governmental executive to avoid the scrutiny of this Parliament, scrutiny which is definitely part of the charge Victorians have placed in the Parliament and especially in this house.

As I said, I am dismayed by this committee report and all the media reports that surround it. I am outraged by the behaviour of the Attorney-General. I believe this house ought to use its best endeavours to support the committee in continuing the thorough and proper examination it needs to undertake in this matter. All Victorians expect nothing less, and it is no exaggeration to say that the integrity of the planning process is at stake in the deliberations this committee is undertaking at this time.

Mr GUY (Northern Metropolitan) — Here we are yet again debating familiar issues in relation to the Labor Party's hatred of committees. As my old Ukrainian grandmother says to me, 'The tail of the snake will always thrash when you pin it down by the head' — a saying from when they used to catch snakes in Ukraine. In this case the tail of the snake is thrashing — we heard Mr Viney earlier today — because the head is indeed pinned down. What we have today is clear evidence of the head of the snake — that is, the Deputy Premier — being pinned down on what are unique and astounding circumstances where the Attorney-General of the state of Victoria has advised people not to appear in response to a legal subpoena and to break the laws of the Parliament of Victoria.

I found it interesting — and I am a member of the Standing Committee on Finance and Public Administration — to listen to Mr Viney belt on before about the processes of the committee. As was Mr Hall, I was astounded to see Mr Viney come into the chamber and talk about issues that have taken place during a deliberative meeting of the committee as if they were public knowledge, which of course we know should not occur. This is the same Mr Viney who on many occasions has come into this chamber and spoken about the importance of issues that are discussed during deliberative meetings remaining confidential, when in fact the details of some are quite openly displayed and articulated by Mr Viney.

I want to put on the record, though, some of the issues surrounding the comments he made because they call into question some of the appropriate actions of the committee over the last couple of days. It should be remembered that the sessional orders set out the establishing resolution for the Standing Committee on Finance and Public Administration. Points 4 and 5 are exceptionally important in this discussion because Mr Viney is claiming no notification was given to him, so he was unable to vote on the motion. He had arranged for a substitute for this committee. I arrange for members to substitute for me on the committee. Point 4 in the establishing resolution states:

> A member of the committee may be substituted by another member of the same party by notice from the member to the clerk of the committee.

Point 5 is very important:

> The substitute member is a member of the committee for all purposes.

'For all purposes'. What was public and stated on the record that Wednesday was that we had a builders warranty hearing. That statement was made at the start of the committee when we were in open hearings. I stated to all the committee members that I wanted to go into a deliberative meeting during our lunchtime break and that I was happy to talk to all members about what the issues were and that if they had a problem, we would not have to pursue them and were happy not to pursue them on the day. The Labor members of the committee were very happy to pursue the issue on the day. In fact one of them seconded the motion that I put forward to talk about this issue on the day.

I am astounded that Mr Viney can now walk into the chamber and act as if it were some smoke-and-mirrors attack on democracy, when his Labor caucus on the day had been notified well before that we wanted to have a 3-hour deliberative meeting. The notice I gave was at a public hearing at which we had a witness, so it was all there for everyone to see. It was all in public. I noted that Mr Tee left the room on a number occasions to make some phone calls. A few of us on the committee noticed this. He left the room to make a number of phone calls when we were in a public hearing. It begs the question: did he call Mr Viney? Did he tell Mr Viney what was happening?

Mr D. Davis — Did he call Rob Hulls?

Mr GUY — Did he indeed call the Attorney-General, as Mr Davis correctly asks? He left the room to make a number of calls immediately after I stated — not during a deliberative meeting, but during a public hearing — I wanted to go on to have a deliberative hearing at 12.30 p.m. There are questions that Mr Viney needs to answer about that and questions that Mr Tee needs to answer about that. In fact this idea of Mr Viney's that he was on the committee and had been given no notification is an interesting one, because I seem to remember a committee hearing not a month or so ago which Mr Viney tried to hijack and turn into a public hearing with the Minister for Planning sitting in the witness's chair, giving no notification to any member of the committee. He wanted the committee to have a public hearing with the Minister for Planning, who had bullied his way into the committee room and sat in the middle — —

An honourable member — Gatecrashed.

Mr GUY — He gatecrashed the committee, sat in the witness chair where his adviser was meant to be sitting. Mr Viney took over the committee chair and demanded that he was, as the deputy chair, going to hold a committee hearing and that was the hearing that was going to take place. He claimed no notice was needed because he was the deputy chair and the hearing was proceeding. We have the extraordinary hypocrisy of a member who is now stating, 'I got no notice; therefore it is unconstitutional', when a month before he wanted to hold a public hearing. Does he agree with his actions in March or does he agree with his actions in April? I am still not sure.

I find it astounding that he now comments that it was an outrageous process to release those documents before the Parliament was in receipt of them — that is, the committee placed on its website documents relating to the Attorney-General, documents relating to witnesses and documents relating to the probity auditors. He claims it is somehow a gross abuse of the Parliament for the committee to place this material on its website. Yet as was clearly defined by previous speakers, the committee had obviously resolved to put — and had been doing so — documents on its website since its inception to investigate the Windsor process. These were not the first documents to find their way onto the website. There were more than a dozen documents on the site.

Mr Viney now comes in here, on behalf of the Labor Party, saying this is somehow a gross injustice, despite the fact that more than a dozen documents had been on that website for a number of weeks. Like any documents, they become part of an addendum or a compendium of documents. They find their way into an interim report, by name, a compilation of documents, by nature. That is all it is. There are no recommendations. There are no nasties in this except the truth. You only have something to fear from the truth if you are trying to hide something. The reality is all this report is today is a compendium of documents sent and received by the committee, whether it is to the Attorney-General, to those it is seeking to have appear before it or to other members that the finance and public administration committee has asked to appear before it.

What is clearly coming out from this committee, as people can see today from the material before the Parliament, which is now the subject of our first report, is the belligerence of and the attack by the Attorney-General upon people who want to freely give evidence to this committee. It should be remembered that Peta Duke, the person who sent the memo — the media plan memo which formed the basis of this inquiry — has written directly to this committee to state:

> I advise that I have been directed by the Attorney-General not to attend the committee to give evidence. Accordingly, I regret to inform you that I am not in a position to do so.

She regrettably informed the committee that she could not provide evidence towards it. Peta Duke herself has said, 'I have been bullied by the Attorney-General' — a thug — to say that she cannot appear before the committee. Despite probably being a capable person who is able to defend herself, Mr Hulls makes the ridiculous claim that this is an all-male committee.

Mr Viney — On a point of order, Acting President, the member just made an outrageous comment in relation to the Attorney-General, which I heard on the speaker in my room, and I think he should be required to withdraw.

The ACTING PRESIDENT (**Mr Eideh**) — Order! I ask the member to withdraw.

Mr GUY — I withdraw. What we have is the Attorney-General in the state of Victoria behaving like a schoolyard bully, coming into the media realms of this state saying, 'An all-male committee is trying to pressure a 25-year-old woman'. It is not an all-male committee. Before today there was a female member of that committee, and that was a member from his own party, so he clearly does not even know his own facts. Candy Broad sat on that committee. She was another one who did not get notification of Mr Viney's efforts when he tried to hijack the committee with the Minister

for Planning. He does not even know who the members of his own committee are. One of them is in fact a woman — an intelligent woman — and that is Ms Broad, who sat on this committee.

I simply ask: if the Attorney-General has not got his facts right and Mr Viney does not have his facts right, why should we have any faith in the material being put forward by these people? However, we should not have any faith in the material being put forward by the attorney because he has been attacking this committee from its inception, and he has attacked it in the compendium that has been put forward in this first report today.

I note the Attorney-General asked for the resignation of the chair of the committee, Mr Rich-Phillips, on the grounds of a conflict of interest, what he called a serious breach — and this is Mr Hulls's criteria — because the parents of the committee chairman investigating the Windsor Hotel redevelopment had land in an urban growth boundary area.

This is what the Attorney-General said was a serious breach, and that the chairman should resign as a result. We on this committee found that quite astounding, because frankly, has the Attorney-General seen the register of interests of Mr Nardella, the member for Melton in the other place? He has property in a growth area. According to the Attorney-General's criteria, why should he not resign from the Outer Suburban/Interface Services and Development Committee that investigated the GAIC?

Why should the member for Dandenong not resign from committees for having land on the edge of the Dandenong activities area where the Labor government has given $290 million for redevelopment? On the same grounds as the Attorney-General's criteria — they are not my grounds; I have no problem with his owning property — he has a problem. Under the Attorney-General's criteria, why should not Michael Crutchfield, the member for South Barwon in the other house, not stand down from committees? He has land on the edge of the Geelong urban growth boundary.

This is a desperate Labor Party. As I said from the start, the snake's head is out there trying to fang everyone it can. It is trying to attack the committee chairman because of a property owned by his parents.

This is what the Attorney-General of Victoria is trying to attack. That is how he is trying to muddy the waters, yet his own Labor members stand in stark contrast to the Attorney-General's own criteria. They are not my criteria; I have no problem with them. I have no problem with any member doing whatever they want with their private business so long as it is lawful. Yet the Attorney-General seeks to turn that argument into an attack on the committee chairman, despite four or five of his own members being in absolute conflict of his own criteria.

It is a disgrace and an outrage, and it is a reflection of the Victorian Attorney-General's mindset — that he seeks to undermine democracy at every opportunity. It is not once that he has directed people to break the law, it is not once that he has said, 'I direct people not to obey a lawful summons'; it is multiple times.

Mr D. Davis — He's a recidivist.

Mr GUY — He is a recidivist. Multiple times the Deputy Premier of this state has done this. No wonder we have a law and order problem in the state of Victoria, because the Attorney-General is advising people to break the law. Is it any wonder this state has a law and order crisis? The Attorney-General has behaved like a thug towards an intelligent 25-year-old woman, like a thug to the committee and like a schoolyard bully to the Parliament. Therefore the Attorney-General has behaved in a way that does not befit the position of Attorney-General in the state of Victoria.

I withdraw in advance.

Mr Viney — On a point of order, Acting President, I am hearing lots of comments about recidivists, but Mr Guy just repeated three times what he withdrew.

Mr GUY — I did correct myself.

Mr Viney — You may have corrected yourself, Mr Guy, but you ought to withdraw.

The ACTING PRESIDENT (**Mr Eideh**) — Order! Does Mr Guy withdraw?

Mr GUY — Yes, Acting President, I did take note of your earlier ruling, and I did try to correct myself, so I obviously withdraw.

What I was saying from the very start of my point was that the Victorian Attorney-General has behaved like a schoolyard bully in relation to people trying to give evidence to this committee and to fairly and freely give evidence to the people of Victoria. He is directing them not to obey the law. If there is a recidivist, Mr Viney, it is the Attorney-General, because he has not just done this with this committee; he has done it with the gaming licences committee and the ULA (Urban Land Authority) committee that Mr Rich-Phillips was on.

He has behaved in the nature of a recidivist over and over again, because he is a schoolyard bully who cannot handle the truth being told by a parliamentary committee. I simply say to all members opposite: the Attorney-General has behaved appallingly in directing people not to obey a summons.

When the chief law officer in Victoria directs people not to adhere to the law, and when we have a situation in our country's history where a state or federal Attorney-General directs people to break the law, it is a complete outrage, but it is a reflection on how the Labor Party has governed this state for 10 years. It should not go on, and it will not go on. This committee will not shirk its determination to discover the truth about the corruption of the planning process for the Hotel Windsor redevelopment.

Mr KAVANAGH (Western Victoria) — As a member of the Standing Committee on Finance and Public Administration it is appropriate and perhaps even incumbent on me to make some comments on the presentation of this interim report.

First, I have nothing against Mr Madden. I understand that even though one can be a very big person physically, that does not protect one against stress and distress. In the recent past I have experienced health problems as a result of extreme pressure associated with politics. Nevertheless in this situation I have some influence and some important role in scrutinising government. Therefore, although hoping that it will not affect Mr Madden personally, I feel a responsibility to use that role and to pursue matters that the people of Victoria deserve to have investigated.

This debate began today with a very angry speech by Mr Viney, and a characteristic of Mr Viney's speeches is that they often tend to be a little angry. Mr Viney referred to a lot of alleged deficiencies in the procedures of the committee. Although those complaints perhaps are not baseless, I think the alleged deficiencies, generally speaking, certainly represent normal practice in committees, if not perfect practice in committees. They are not unprecedented. Mr Viney himself has contributed to some of those in the recent past.

Among the comments Mr Tee made was a rather disappointing one, I think: that we had not invited the minister to attend before the committee. I think that was the suggestion made by Mr Tee, and it is not an accurate suggestion. There is no doubt at all that the committee will ask to hear from Mr Madden at the appropriate time, and indeed it has already resolved to do so.

One of the criticisms raised by the ALP speakers today that I agree with — and it would not be surprising — is that I believe there is a problem with due process, because several weeks ago this house voted to condemn Mr Madden, and it voted to do that before hearing all the evidence and before the committee had heard the evidence. Committee members decided to do that, even though they knew that they would be investigating the very matters on which they were passing judgement. As I said at the time, it seems to me that was passing sentence before having a trial. However, that could be said to apply to the two ALP members as well, because they also reached their decision and voted in particular ways in this house before the committee had considered all the evidence — or really any evidence at that stage.

We have heard a lot about the Attorney-General today and his interference with committee witnesses. I have been on three committees over the last three and a bit years, and this has happened in every committee I have served on — that is, the Attorney-General has attempted to tell people not to comply with legal summonses of this house and its committees.

A few weeks ago we had what seemed to be an attempt to distract attention from the proper subject matter of the committee's hearing and to turn it into a bit of a farce. In the committee room the minister tried to push his way into the witness seat and give evidence, even though he had not been invited to do so at that time. It seems to me that was an attempt not to get people thinking about what the committee was investigating but to suggest that somehow the committee members were all a bunch of idiots, or something like that, who did not know what they were doing and to turn the hearing into a farce.

Outside the room where the proceedings were going on Mr Madden said that the Attorney-General is the chief law-maker of Victoria. Mr Madden ought go and do year 12 legal studies, because the law-maker in Victoria is this Parliament, not simply the Attorney-General. It is the role of all of us to make law here, but unfortunately the Attorney-General seems to have taken on a role not of law-maker but of something quite different by actively deterring people from giving evidence and demanding that they defy legal summonses from this house. Fortunately I think that attempt at spin backfired on the government, because it seemed to me that the newspapers and the television got it right. They saw that event for what it was, and I think the people of Victoria now realise that it was a rather desperate attempt to distract attention from what people should be giving their attention to.

In addition, we had some rather unfortunate and baseless allegations against the chair of the committee, Mr Rich-Phillips. Unfortunately the press did not see those allegations for what they were and treated them with some seriousness, which I do not think they deserved at all. Committee members have also heard certain insults, such as the allegation that our committee is an all-male committee, which certainly was not true at the time. It was factually untrue — we had a female member on the committee. It was said that the committee is dominated by the opposition. I think the front page of yesterday's *Age* says that the committee is opposition dominated, and that allegation also appeared in the body of the newspaper. I would not like to speak for my Greens friends, but I do not think they regard themselves as members of the opposition, and I certainly do not regard myself in that light.

Furthermore we have heard talk of dragging a 25-year-old woman before a committee. It seems very paternalistic and patronising to me to suggest that a woman of 25 years of age is some kind of child and that women cannot be expected to give evidence and to answer questions. We all know that is not true. When you are 25 you have grown up and, whether male or female, you are capable of giving evidence before a committee.

Claims have been repeated today by at least two speakers that the committee amounts to a witch-hunt. I do not think it is a witch-hunt at all — in fact I am sure it is not. I do not have anything against Mr Madden. I have not reached conclusions contrary to the evidence and, in spite of what I regard as a mistake in procedure by members voting for a motion several weeks ago to condemn Mr Madden, I do not believe other members of the committee will act as though the committee were a witch-hunt either. Rather I have confidence that they will draw conclusions and reach decisions that are based on the evidence.

Mr D. DAVIS (Southern Metropolitan) — I rise to make a brief contribution to the debate on the take-note motion on the Standing Committee on Finance and Public Administration's interim report on the inquiry into Victorian government decision-making, consultation and approval processes.

The tabling of this report is important. As I perused it I reflected on the fact that it is largely a report that details the correspondence and documents with which the committee has dealt. It is important that these documents be on the public record, and I want to make the point that Mr Viney's somewhat hysterical performance earlier this afternoon was deeply surprising on one level but perhaps not on another. I do not think the Parliament was edified by that contribution, and I think his contribution pointed directly to the failings of this government.

We are in a very unusual position: we have an executive that is in complete and utter defiance of the Parliament and of a committee of this chamber. That is just extraordinary. The committee has a role to perform. The committee is looking at a set of documents and is seeking to undertake its work. We have had the extraordinary situation of the Attorney-General intervening, as Mr Guy has so eloquently laid out, to nobble or prevent witnesses from appearing and giving evidence. This is an extraordinary development.

We have seen the Attorney-General intervene with a number of other committees — both the gaming committee and the public land committee. On all of those occasions he has taken the role of nobbling witnesses and preventing them from appearing in order to stop the committee from getting to the truth. I say that if you have nothing to hide, you should have nothing to fear. The Attorney-General has badly misunderstood the community mood on this. I do not need to go back over the sham consultation process which was envisaged for the Windsor Hotel and which led to this inquiry, but I do want to put on record my concern at the attorney's approach on this. I think it is very concerning for the rule of law in this state and for parliamentary democracy and our Westminster system that the Attorney-General is seeking to subvert the working of our democracy and taking upon himself this blocking role to prevent committees from actually getting at the truth.

It is true that in the Westminster tradition there is a long history of the fight between the executive and the Parliament. In my view the Parliament must be supreme and must prevail in the long run. I think that under this government the executive has sought to head in new directions to subvert the activities of parliamentary committees. An important point was raised in the editorial in today's *Age,* and I think it is worth putting on the record what has been said under the heading 'Hulls should back down on advisers'.

Mr Barber — Do you know what is in tomorrow's?

Mr D. DAVIS — I do not know what is in tomorrow's.

Mr Barber — Nor do I.

Mr D. DAVIS — But I am pleased to put on the record what I think is a sound editorial that has been thoughtfully approached by the *Age.* I think it is important that we put on the record what is written

there. With the indulgence of the house I will quote a couple of paragraphs. Initially the editorial in today's *Age* talks about the Windsor plan and makes the point:

> Public debate about the Windsor plan has been clouded by the separate issue of the memo written by Mr Madden's former media adviser, Peta Duke —

now employed by the Premier, as we know —

> and mistakenly sent to the ABC. The memo set out a sham consultation process … publication of the document, however, led to Mr Madden disavowing it, with the implication that Ms Duke had dreamed up this cynically manipulative exercise all by herself.

I daresay Ms Duke is a very clever young woman, and I suspect that she is more than capable, as Mr Kavanagh has laid out, of appearing before parliamentary committees, but I do not believe that she thought this up all by herself in the office and then sent the email on to a host of advisers, including George Svigos, the head of the Premier's media unit, as well as, coincidentally, the ABC. I think there is a broader issue in the minister's office. We have seen it reflected in the motions of no confidence in this chamber, the first of which occurred last year over Brimbank, where the minister's excuse was that he did not know what was happening in his electorate office, and now he has made a similar excuse with respect to this matter, where he has used, as I have described it, the Sergeant Schultz defence.

The *Age* editorial goes on to say:

> That question, in turn, has spawned a further one: did the need to defuse the public anger generated by the memo result in the minister making a decision that was the opposite of the one he wished to make?

That may well be the case. In relation to our planning rules and arrangements, in effect the tail is wagging the dog to lead to certain planning outcomes which may not be desirable from the community's point of view. The minister has the responsibility, as I have set out in this house before, to come to these matters with a clear and fair mind and to do that without fear or favour.

The *Age* editorial goes on to say:

> His refusal was justified by a supposed convention that ministerial staff, unlike departmental officers, are extensions of the minister and so cannot appear separately. This dubious convention was convenient for the Howard government during the Senate's children overboard inquiry …

I am happy to put on the record that I think the Howard government made a mistake in its approach in that inquiry. I think it was the wrong approach. The key thing here is that this government is determined to block material.

The *Age* editorial states:

> … Mr Hulls evidently hoped it would work to the Brumby government's advantage too. But his view is not shared by the Clerk of the Legislative Council, Wayne Tunnecliffe, who has ruled that the advisers would be in contempt of Parliament if they decline to appear, and that Mr Hulls's refusal is in contempt too.

I agree with that advice, and I think the Clerk has had an important role here.

I want to pay tribute to the role of clerks not just in this Parliament but in other parliaments around the country. Harry Evans, the former Clerk of the Senate, is perhaps the pre-eminent clerk nationally in terms of those who are prepared to stand up and give fearless, free and frank advice, sometimes not to the liking of members. On occasion the clerks of this chamber have given me advice which I did not like or agree with. That is not to say that clerks are always right because they are sometimes wrong — that is true — but I pay tribute to the fact that I think that clerks do this without fear or favour and that the best clerks in our system, including some in this Parliament, are prepared to stand up for the traditions of the Parliament and to act as custodians of the traditions of the Parliament and protectors of procedures and arrangements.

As I have said, Harry Evans was perhaps the pre-eminent example in this mould, but I think on this occasion that Mr Tunnecliffe's advice was absolutely correct. I think it is important that the *Age* has made that point.

The *Age* editorial goes on to say:

> If the Attorney-General was trying to avoid election-year embarrassments by frustrating the work of the committee, he has only achieved the opposite. Whatever 'convention' it may be invoking, the government is in fact refusing to accept that it is accountable to Parliament.

That is part of the long fight that has occurred in our Westminster system, and I think it is important to note that this matter is part of that long history and that the extraordinary behaviour — the bully-like, thuggish behaviour — that the Labor government is indulging in here is simply unacceptable.

It is important to quickly ping this nonsense that ministerial advisers cannot appear. I have made a number of comments about this in the chamber before. It is not just the view of our clerks in this jurisdiction, in this chamber, that ministerial advisers can be asked to appear; it is the view right across the Westminster system. In New South Wales at the Orange Grove inquiry ministerial advisers appeared. Epstein, the head of the so-called aNiMaLS unit, the National Media

Liaison Service, under the Labor government in the 1995 period appeared at a Senate committee when sought.

The point is that ministerial advisers can be summoned to appear before committees. There are many precedents for this. The Attorney-General is factually and simply wrong. It is very clear that what he is doing is simply obfuscating and simply trying to block the committee from getting to the facts and evidence. If we look more broadly within the Westminster world, even in the House of Commons, it is very clear that ministerial staff can be made to appear.

It is true that there is a systemic weakness in our parliamentary system now, and the role of ministerial staff is something that I think needs to be looked at more broadly to ensure that those lines of accountability are not muddied, are not weakened and are not broken by this device that the Attorney-General and indeed others have sought to employ from time to time.

As to the idea that, as Mr Kavanagh said, a young and clearly highly intelligent woman is not able to appear before a parliamentary committee to give evidence, I find it extraordinary that in this day and age somebody would actually be advancing the idea that Ms Duke is not capable or competent enough to stand up for herself.

Mrs Peulich interjected.

Mr D. DAVIS — I am just making the point that in my experience 25-year-olds have the capacity to appear in this way, and it is just extraordinary to argue the opposite.

Mr Barber — What happens to the 15-year-old who gets summonsed to court?

Mr D. DAVIS — Mr Barber's point is quite right. It needs to be remembered that the key task of the committee is to get to the truth and the details. Given that Mr Madden says he does not know anything about this, he does not know what went on in his office, these advisers are the critical part of the evidence.

I think the ringleader in a lot of this is Mr Svigos. We know there have been other media plans produced around the system, but he is the director in the Premier's office, and let us understand that all these media advisers are employed by Mr Brumby, as the Premier.

We now know there is not just one media plan; others have come to light. It is very clear that this is a systemic problem. In my view the mailing of those media plans to senior people in the Premier's office puts the Premier squarely into this scene. He may well have set up systems that seek to control the agenda around the state in the way that this extraordinary document outlines. With those comments, I am very happy to take note of this report.

Mr FINN (Western Metropolitan) — Like Mr Atkinson, I am not a member of the committee but again like Mr Atkinson I regard this as an extremely important matter not just to those who have a direct interest but to everybody across the state of Victoria, because this matter goes to the very integrity of the planning system in this state. Indeed it goes to the integrity of government in Victoria, and that is something that I believe we should all concern ourselves with.

It distresses me to see the government of the state and certain ministers, including the Minister for Planning and the Attorney-General, who is the Deputy Premier, attempting to turn the committee into a three-ring circus. That is in itself holding the Parliament in contempt.

My particular concerns are about the interference of the Attorney-General in this matter. We know how arrogant he can be. The house has had read to it letters from him that use language which is intemperate to say the very least. One is almost tempted to compare him to a demented Roman emperor. I suppose if Christine Nixon has been compared to Nero over the last week or so, some might compare Mr Hulls to Caligula, and we can only hope he does not have a horse.

Mr Hulls thrives on his reputation of being a headkicker, a bully and a political thug. He has lived off that reputation for many years, and he is carrying through in this particular instance what comes naturally to him. Mr Kavanagh and a couple of other speakers have referred to something that really almost took my breath away. Mr Hulls has been seen on television over the last couple of nights or so saying he does not believe a 25-year-old woman who is an employee of this government — who was employed as a spin doctor, a media adviser — has the capacity to front this committee to answer questions because she is a young woman. Yes, she is a young woman. Should that matter?

This bloke, the Attorney-General, was a champion of equal opportunity in this state. This bloke has such an ego about equal opportunity that he is rewriting the entire act in his own image. This extraordinary individual, this bloke who will pursue equal opportunity to all sorts of lengths, has said a staffer is

not up to facing this committee because she is a woman. That is clearly nonsense, and anybody who considers that for even a brief period of time will accept that it is nonsense.

Presumably Peta Duke was hired on her merits. I have no evidence to suggest otherwise, and I would not suggest otherwise. Given that she has been hired on her merits and she has a very responsible position within the government — we saw what her responsibilities included when she pressed the wrong button and sent that particular memo to the ABC — presumably she is capable of telling us if there is or has been a corruption perpetrated by the Minister for Planning's office. I do not think that is a difficult question for anybody.

If she has been involved in activities which, let us say, lead the public of Victoria to have some doubt as to the integrity of the minister or his office or his ability to carry through his duties, then I think it is a fair and reasonable thing that we give her the opportunity to say that. If she has not been involved in those activities, we should give her the opportunity to say so.

The Attorney-General says, 'No, you can' speak to her; you can't have her appear before the committee, because she is a woman'. This is 2010. Where has this man been? While he has been ranting and raving about equal opportunity it seems that perhaps deep down the feelings do not exactly meet the rhetoric that the Attorney-General likes us to be subjected to.

The other main issue that Mr David Davis mentioned just a few minutes ago is the importance of the authority of the Parliament over the executive. Mr Hulls, the Attorney-General, is the chief law officer of this state as distinct from the chief law-maker, as Mr Madden told us; he would have us believe this Parliament is somehow a lesser body than the executive. He is saying to this Parliament, 'Suffer in your jocks'. That is what we are being subjected to by this Attorney-General. He is saying that the powers of the executive, the ministry, are above and beyond this Parliament. We all know what a nonsense that is. That statement is a total contempt of Parliament.

Mrs Peulich — He thinks he can get away with it.

Mr FINN — He does think he can get away with it, but we cannot let him; it is as simple as that. We, as members of Parliament, have a responsibility to ensure that the authority of this Parliament comes first. We have an obligation to ensure that no minister, much less the Attorney-General, can get away with what he is attempting to do at the moment.

We know Labor is in trouble. I apologise to Mr Kavanagh; it is the ALP, because as is historically and legally correct, there is in fact only one Labor member in this Parliament — and that is, Mr Kavanagh. The ALP is in panic mode, so we will hear more and more of the sort of lunacy that we heard from Mr Hulls over the last week or so. Whether it be attacking people like Mr Rich-Phillips or some other sort of nonsense, I am afraid it is something we are going to have to prepare ourselves for in the months ahead, as the election looms ever closer.

In conclusion I say just one thing to the Attorney-General: pull your head in and let us get on with the job of establishing the facts. There is too much at risk and too much at stake on this very important issue.

Mrs PEULICH (South Eastern Metropolitan) — I also wish to add a few remarks on the take-note motion about this report. I commend the chamber as well as members of the committee who are doing their very best to establish the truth.

The inquiry title is headed 'Inquiry into Victorian government decision-making, consultation and approval processes', but it is not just about Minister Madden. We have had that debate in the chamber. He has lost the confidence of this chamber on two successive occasions, but this inquiry goes further. This is an opportunity for parliamentary committees to use well-established democratic processes to establish the truth which has been long concealed by this government by using its very strong majority in the Assembly to block democracy in this chamber.

Question time is a farce. The standing orders mean that ministers do not need to answer questions but merely respond in a somewhat relevant way. Questions on notice equally are treated with contempt, as is FOI. The various processes that have been used in the past to get the truth have been blocked and eroded by this government.

It is imperative that the committee is given the opportunity to do its work. I highly respect Mr Kavanagh; however, I disagree with him. I do not believe that the vote on the motion about the confidence of this house in the Minister for Planning had less to do with this. This is about processes; this is about the government; this is about decision making, consultation and very important processes that affect so many communities that we represent. I have raised many of those issues in this chamber. People deserve to know that the consultations and processes have probity and integrity and that due process is followed. They have lost that faith. We need to help them retain it.

I commend the work that has been done. I condemn the misuse of power by the Attorney-General, who is also the Deputy Premier of this state. I have held that view from the very first occasion when he — —

Mr Finn — He is a dangerous man.

Mrs PEULICH — He is probably one of the most dangerous men in Victorian politics. He first abused his power as Attorney-General when interfering with and coercing witnesses not to appear before the committee when there was an inquiry into the Urban Land Corporation in 2002. Subsequently he coerced witnesses not to appear before the Select Committee on Gaming Licensing. Now he is using, misusing and abusing his power to coerce witnesses — that is, employees — not to appear before the standing committee. There is only one reason why those witnesses must appear before those committees — —

Mr Viney — On a point of order, Acting President, the member is making a range of allegations against the Attorney-General, suggesting he has misused and abused power and coerced people. I believe this is absolutely improper and that Mrs Peulich should desist and withdraw those remarks.

Mrs PEULICH — On the point of order, Acting President, it has already been confirmed by the Clerk of the Legislative Council that the actions of the Attorney-General are in contempt of Parliament. That is entirely consistent with the things I have been saying.

Mr Viney — On the point of order, Acting President, if the member wishes to make those allegations, it needs to be under the forms of this house by moving a substantive motion, even regarding a member of the other house.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! Mrs Peulich should desist from making those comments in her further remarks.

Mrs PEULICH — Thank you, Acting President, and I appreciate your guidance, but I would also like to commend the Clerk on making sure that this Parliament, including this chamber, got the very best advice and not just the advice the Attorney-General can muster up, not just the advice of his mates in the legal fraternity, but advice we can rest on as being good and sound advice that can guide the work of this important committee.

It is absolutely crucial to ensure that we investigate all of the evidence which points to the corruption of due process. There is certainly evidence in that leaked media plan, which is not just about Justin Madden, as has been adequately pointed out by other speakers; it is about subverting the due process.

Quite clearly the letter that has been issued to Peta Duke directing her not to appear before the committee is an example of thuggish and coercive tactics. I believe it must be condemned.

The process needs to occur. The implications of the documents which were leaked inadvertently show potentially systematic corruption and hoax consultations that Victorians deserve to have fully investigated and have answers provided on. The Attorney-General is a recidivist in terms of interfering and using coercive tactics to prevent witnesses from appearing before committees. There has been a defiance of legal summonses.

Mr Viney — On a point of order, Acting President, you just asked the member to desist from making comments about the Attorney-General, but she immediately repeated them. I note she did not withdraw them last time; she ought to withdraw them on this occasion.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! I do not consider that that is a point of order. There were no personal remarks against the Attorney-General, but I advise the member to be careful of what she says.

Mrs PEULICH — I am reaching the conclusion of my contribution. Peta Duke is a 25-year-old media adviser to the Deputy Premier and is quite clearly working for the Premier's department. You do not come to that position lightly. They are spin doctors; the way she has been used is merely an attempt to protect others who may be implicated in a systemised corruption of due process through these systemised hoax consultations which have been revealed through a media plan.

This is in stark contrast with the blind eye turned to the misconduct of Don Nardella, the member for Melton in the Assembly, when he abused a female witness before a committee. The government seems to apply one set of standards when it is protecting its own interests as opposed to protecting women and the general community interest.

Mr Viney — On a point of order, Acting President, again the member has made allegations against Mr Nardella, a member of the other chamber, and that can only be done in this house by a substantive motion. I think the member should be required to withdraw.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! I advise Mrs Peulich to withdraw that comment. Again I warn her to be careful in her remarks.

Mrs PEULICH — Acting President, I am happy to withdraw in deference to the Chair. However, let me say when we come to discuss the standards — —

Mr Viney — Without qualification.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! It would be preferable if Mrs Peulich withdrew the remarks without qualification.

Mrs PEULICH — I do withdraw the remarks because they are against the forms of this house. This is not a qualification, Acting President. I withdraw those comments.

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! Is this on the point of order or is Mrs Peulich are debating the ruling?

Mrs PEULICH — No, I am continuing with the debate. This is about standards; it is about propriety; it is about due process; it is about respecting due process. It is about preventing the sort of corruption that the Attorney-General used to wax lyrical about in the Assembly, and I had the opportunity to listen to that ad nauseam for many months when I served in the other chamber. This man is using Peta Duke to protect other witnesses from appearing. When we come to talking about the standards that apply to members of Parliament I will have great pleasure in reading the letter of complaint written to the Speaker of the Legislative Assembly about the conduct of one Labor member of Parliament recently — well reported in the papers — and his abuse of a female witness appearing before that committee.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 5

Mr EIDEH (Western Metropolitan) presented *Alert Digest* No. 5 of 2010, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Minister's Order of 4 March 2010 giving approval to the granting of a lease at Albert Park Reserve.

Charter of Human Rights and Responsibilities Act 2006 — Report on the Operation of the Act, 2009.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3) in relation to Statutory Rule No. 180/2009.

Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Returns, March 2010 and Summary of Variations notified between 16 September 2009 and 12 April 2010.

National Environment Protection Council — Report, 2008–09.

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

Alpine Planning Scheme — Amendment C24.

Boroondara Planning Scheme — Amendment C97.

Brimbank Planning Scheme — Amendment C132.

Colac Otway Planning Scheme — Amendment C60.

Darebin Planning Scheme — Amendment C79.

Glenelg Planning Scheme — Amendment C48.

Glen Eira Planning Scheme — Amendment C67.

Greater Bendigo Planning Scheme — Amendment C101.

Greater Geelong Planning Scheme — Amendment C185.

Hobsons Bay Planning Scheme — Amendment C75.

Hume Planning Scheme — Amendment C117.

Latrobe Planning Scheme — Amendment C21.

Melbourne Planning Scheme — Amendments C133 and C151.

Melton Planning Scheme — Amendment C96.

Moreland Planning Scheme — Amendment C97.

Mornington Peninsula Planning Scheme — Amendment C139.

Moyne Planning Scheme — Amendment C5.

Pyrenees Planning Scheme — Amendments C23 and C28.

Stonnington Planning Scheme — Amendment C123.

Surf Coast Planning Scheme — Amendment C46.

Warrnambool Planning Scheme — Amendments C17 and C61 Part 1.

Whitehorse Planning Scheme — Amendment C125.

Whittlesea Planning Scheme — Amendment C134.

Wodonga Planning Scheme — Amendment C68.

Yarra Ranges Planning Scheme — Amendments C87 and C96.

Professional Standards Act 2003 —

Australian Computer Society (ACS) Limited Liability (NSW) Scheme, 11 March 2010.

Law Institute of Victoria Limited Scheme, 11 March 2010.

Professional Surveyors' Occupational Association Scheme, 11 March 2010

Victorian Bar Incorporated Scheme, 11 March 2010.

Special Investigations Monitor's Office — Report for the period 1 July 2009 to 31 December 2009, pursuant to section 30Q of the Surveillance Devices Act 1999.

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

Credit (Commonwealth Powers) Act 2010 — Parts 1 and 2 and sections 11, 19, 29, 33, 39 and 48 — 1 April 2010 *(Gazette No. S114, 31 March 2010).*

Liquor Control Reform Amendment (ANZAC Day) Act 2010 — 25 March 2010 *(Gazette No. G12, 25 March 2010).*

Liquor Control Reform Amendment (Party Buses) Act 2009 — Remaining provisions except section 9 — 1 April 2010 *(Gazette No. G13, 1 April 2010).*

Transport Legislation Amendment (Hoon Boating and Other Amendments) Act 2009 — Section 11 — 31 March 2010; Remaining provisions of Part 9 — 30 April 2010 *(Gazette No. S110, 30 March 2010).*

GOVERNMENT: PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter from the Attorney-General dated 12 April 2010. It states:

ORDERS FOR THE PRODUCTION OF DOCUMENTS

I refer to the Legislative Council's (Council) orders for the production of documents relating to the register of the exercise of powers delegated by the Minister for Planning; the review of the Victorian Funds Management Corporation's compensation framework; the health services integrated performance reports and the *Your Hospitals* report.

Register of the exercise of powers delegated by the Minister for Planning (24/2/2010: 24/3/2010); review of the Victorian Funds Management Corporation's compensation framework (24/3/2010); health services integrated performance reports (9/12/2009, 24/3/2010)

The government is in the process of compiling and reviewing documents that are relevant to these orders and is unable to meet the Council's deadline of 13 April 2010. I anticipate that the government will be able to respond to the register of the exercise of powers delegated by the Minister for Planning order by mid-May 2010. The government will respond to the other orders as soon as possible.

Your Hospitals report (24/3/2010)

The *Your Hospitals* report order sought the production of:

> All documents and data collected for the period July to December 2009 from Victorian hospitals and health services that are used in the collation of the *Your Hospitals* report.

I am advised that responding to this order would require the assessment of over 2 million documents and substantially divert relevant departments' time and resources. I am also advised that the preparation of government's response could take more than a year to complete.

The government will be publicly releasing the *Your Hospitals* report shortly and will provide the Council with a copy. As the report is derived from the documents and data to which the Council is seeking access, and given that a significant diversion of resources would be required to process this request, I trust that the Council will not insist on the government further responding to this order.

BUSINESS OF THE HOUSE

General business

Mr D. DAVIS (Southern Metropolitan) — I seek leave to move:

That precedence be given to the following general business on Wednesday, 14 April 2010:

(1) notice of motion 53 of 2010, standing in the name of Mr Kavanagh, relating to the introduction of the Drugs, Poisons and Controlled Substances Amendment (Prohibition on Display and Sale of Bongs) Bill 2010;

(2) the notice of motion given this day by myself, relating to the continued failure of the Leader of the Government to provide documents sought by the Legislative Council under sessional order 21 and the appointment of an independent legal arbiter;

(3) the notice of motion given this day by Mr Barber, demanding the Minister for Planning to comply with the Council's resolution relating to the production of documents relating to the register of the exercise of powers delegated by the minister;

(4) order of the day 11, relating to the Flemington Housing Estates petition;

(5) the order of the day to take note of the Fair Go For Live Music petition tabled this day by Ms Pennicuik;

(6) the notice of motion given this day by Ms Hartland, relating to the disallowance of a planning scheme amendment;

(7) the notice of motion given this day by Mr Hall, relating to a reference to the Education and Training Committee;

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

(9) the notice of motion given this day by Mr Dalla-Riva, relating to police numbers; and

(10) the notice of motion given this day by Mr Vogels, relating to the smart meters project.

The ACTING PRESIDENT (**Mr Finn**) — Order! Is leave granted?

Mr VINEY (Eastern Victoria) — Leave is not granted, because we have not had adequate notice. An email on Friday at 1.23 p.m. after an email with one line saying, 'Documents motion to follow-up a number of non-provided documents', and then finding the detailed motion about an independent arbiter, is far from adequate notice and breaches the agreements we had about a week's notice, and we do not provide leave for it.

Leave refused.

MEMBERS STATEMENTS

Kevin Gibbins

Ms LOVELL (Northern Victoria) — I wish to express my deepest condolences to the family and friends of Cr Kevin Gibbins, one of Bendigo's greatest citizens and civic leaders. Cr Gibbins passed away last week and will be dearly missed by those who loved and knew him. I extend my deepest sympathy to Debbie, Trent and Mitchell and all those who were close to Kevin.

As a councillor, mayor, businessman and resident, Kevin took pride in his community and always put Bendigo first. Kevin was an active participant in the Bendigo community, having served as a councillor for the City of Greater Bendigo since 2002 and as mayor in 2008. Cr Gibbins saw himself as just an ordinary bloke, and he made it his priority to give everyone a fair go.

I had a particularly close connection to Cr Gibbins through his involvement with the Liberal Party. Kevin was a Liberal candidate for the federal seat of Bendigo in 2004, and in 2006 for the state seat of Bendigo East.

Cr Gibbins was one of those rare, dedicated people who lived life to the fullest and made a lasting impression on all those around him. Kevin will be remembered for his kindness, conviction, hard work and dedication to his community.

The death of Cr Gibbins is an enormous loss to the Bendigo community; he will be forever remembered as a great councillor, businessman, father and friend.

Kevin Gibbins

Mr DRUM (Northern Victoria) — I also want to bring to the attention of the house the sad loss and untimely passing of Cr Kevin Gibbins, a former mayor of the City of Greater Bendigo and a dedicated champion for his community. At age 54 he passed away last Friday. It is worth realising that before being elected in 2002, Kevin had a distinguished career as a police officer and was awarded for his work and bravery on more than one occasion.

He also offered himself for election as a Liberal candidate twice — once for the federal seat of Bendigo and once for the state seat of Bendigo East. He was commended and needs to be remembered for that work. He was a very hardworking, down-to-earth man with a fine sense of humour and a very keen sense of responsibility to ordinary people.

One of my most enduring memories of Kevin Gibbins will be of his work as mayor, helping the city come to terms with the shocking losses from the Black Saturday bushfires.

Kevin was a tireless worker who took the care to lead the entire city to do what had to be done. His personal compassion for those who had suffered loss was often commented on. He was always absolutely front and centre, making sure that people got the comfort, assistance and support they needed. He was a real leader at a time when real leadership was needed. He is on record as saying about himself that councillors were no more important than anyone else, but they had a responsibility to help their community.

Kevin will be sadly missed by his family and friends, and I consider myself to have been one of his friends. I will miss his honesty, his straightforward approach and his love for the city of Bendigo and the people in it. I think we will all miss Kevin Gibbins.

Nyora Football/Netball Club: facilities

Mr SCHEFFER (Eastern Victoria) — I was delighted to attend the opening of the Nyora netball courts and to announce a Brumby government funding allocation of $20 000 to the Nyora Football/Netball Club.

I congratulate the Nyora community; the Shire of South Gippsland, represented by Cr Jennie Deane; Nyora Recreation Reserve president, Brett Hume; Tim Fowles of the Nyora football club; Lyn Unthink of the Ellinbank and District Netball Association; and Machelle Crichton of the CWA.

The $20 000 country football and netball program allocation, together with contributions from the shire and the Nyora Football/Netball Club, will upgrade sections of the football clubrooms. The new netball courts were funded through the Rudd government's Nation Building Program. The new clubroom was named in honour of Ms Hilda Glover and Ms Francie Heylen in recognition of their extraordinary contribution to local netball. Federal Liberal MP Russell Broadbent opened the courts. His party, of course, heavily criticises Labor's stimulus funding; but Russell had no difficulty taking the credit on behalf of the government.

Port Albert: rescue vessel

Mr SCHEFFER — It was a great honour to launch the Port Albert Flotilla's new rescue vessel last Wednesday. The Brumby government provided $224 000 towards its purchase, and I congratulate the Port Albert and district communities on their fundraising efforts and the Coast Watch volunteer marine search and rescue members on their fantastic response to marine incidents.

The new vessel was named the *Clonmel* in recognition of the paddle steamship that ran aground in 1841 near where Port Albert now stands. There were no fatalities — a promising omen. I wish a steady hand for the *Clonmel* and all who sail her and who rely on her safety.

Employment: government performance

Mrs COOTE (Southern Metropolitan) — The Treasurer, Mr Lenders, in a media release of 8 April boasts that Victoria's unemployment rate has fallen. He singles out work on the desalination plant but neglects to mention the union rorts associated with these jobs. But then again, he is being coached by the master of union rorts in the education system — Julia Gillard, who is the deputy leader in the Rudd federal Labor government.

Every Victorian who is unemployed is an indictment of John Lenders and the Brumby Labor government, because behind every statistic is a family under stress. Tony Lupton, the member for Prahran in the other place, is doing his very best to destroy current employment levels in Prahran by supporting the clearways policy of the Brumby Labor government. Thousands of retail jobs will be lost as a direct consequence of this, while Tony Lupton and John Lenders watch on.

There are 3871 unemployed people in Glen Eira, many of those in Bentleigh. How can Rob Hudson, the member for Bentleigh in the other place, justify jobs in Wonthaggi when his own electorate is suffering to such an extent? Victorians cannot trust John Brumby or John Lenders, especially when they see unemployment figures as numbers and not as people.

Abla Amad

Mr ELASMAR (Northern Metropolitan) — Along with the Premier, John Brumby, and the former Premier of Victoria, Steve Bracks, I attended the launch on Sunday 28 March of the second edition of Abla Amad's famous cookbook, *Abla's Lebanese Kitchen*. Abla is truly an ambassador for Lebanese cuisine and a byword for hospitality to her many guests and friends. I count myself fortunate to be among Abla's friends. I vividly remember attending the official opening of Abla's restaurant in Carlton 30 years ago. I was very proud to see her recognised for her contribution to small business in Victoria and for the enrichment her delicious recipes have already given to so many Victorians.

Volunteer Fire Brigades Victoria: rural championships

Mr ELASMAR — On the same weekend I was delighted to attend the official opening of the rural fire brigades state championships held at Whittlesea showgrounds. The Governor of Victoria, Professor David de Kretser, the Minister for Police and Emergency Services, Bob Cameron, and other members were there, and it was great to see the Country Fire Authority and Volunteer Fire Brigades Victoria participate in a wonderfully healthy competition which combined physical stamina and skill. I congratulate the winners and the organisers.

Water: Wimmera–Mallee pipeline

Mr KOCH (Western Victoria) — The Wimmera–Mallee pipeline was a great Howard government initiative and a long-term goal of 'Mr Pipeline', the federal member for Mallee, John Forrest, and his colleague the federal member for Wannon, David Hawker. The recent installation of the project's final pipe near Lubeck is a significant and symbolic milestone. All those involved with this

project through its long history should reflect on this moment with pride.

Connecting the entire Wimmera and Mallee water supply is a tremendous achievement and will guarantee water for these vibrant western Victorian communities for decades to come. Without the foresight and enthusiasm of stalwarts for infrastructure in western Victoria this project would have languished. This pipeline is the lifeblood of remote communities in the Wimmera–Mallee and is an extraordinary feat of engineering. It represents one of the biggest infrastructure projects in Victoria and will deliver high-quality consistent water and facilitate the economic development of this often neglected region of western Victoria.

The gall of the Minister for Water, Tim Holding, and the Brumby government in claiming credit for this coalition initiative is over the top and arrogant in the extreme. The Brumby government and the Minister for Water have the privilege of riding the momentum created by those who preceded them.

When long-term infrastructure projects such as this reach completion it is important to remember those who instigated proceedings, not just those who cut the ribbon at the opening ceremony.

Libraries: St Albans

Mr EIDEH (Western Metropolitan) — I wish to congratulate the Brumby Labor government and Brimbank City Council on the $1.26 million redevelopment of the St Albans library. Once again more families in my electorate have benefited from the Living Libraries program, which has helped boost access to quality library resources, making this service available to all my constituents.

The redeveloped St Albans library was officially opened last week by the Minister for Community Development, Lily D'Ambrosio, and has been dramatically expanded. It boasts a community lounge, a customer service area, dedicated spaces for children and teenagers as well as more computers and wireless internet.

This library is well positioned in the busy main shopping strip of St Albans and is easily accessed by local residents, students and community service providers. The new library is a positive step towards addressing social disadvantage in St Albans and is excellent news for residents, as they now have access to state-of-the-art library services with many new resources. This is also an important step towards encouraging lifelong learning skills, especially for young families in St Albans.

I commend the Brimbank City Council, and I commend the Brumby Labor government for its commitment to the renewal of public library infrastructure through its Living Libraries program and for taking action to foster lifelong learning and job opportunities in St Albans.

Hospitals: waiting lists

Mr D. DAVIS (Southern Metropolitan) — Today in this state we have a Premier who on the one hand claims he needs to run our health system — and I understand the desire of Victorians to run their own health system — but who on the other hand has failed to deliver for Victorians. More than 2500 people are waiting more than 24 hours on trolleys — an enormous number of patients — for beds in our public hospitals, to get access to surgery and in many cases to get access to intensive care units.

We understand that Victorians want to run Victorian hospitals, and we know there are concerns with the federal government's proposals — and I share many of the concerns of the Premier — but I say the Victorian community wants its hospitals run well. The government has had more than 10 years in power and is now in its 11th year. The Premier promised to fix our hospital system; he said that in 1999 before he won the election as part of the then Bracks government. He claimed he would fix the hospital system; he has not fixed it. We are more than 1000 beds short in Victoria. This Premier has closed beds around the state. He has caused access block. He has caused people to wait in emergency departments. This is an incompetent government which has not delivered for Victorians on health care, and Victorians should be angry.

Holocaust: commemoration

Ms HUPPERT (Southern Metropolitan) — Sunday, 11 April, marked Yom Hashoa, Holocaust memorial day. This is the day on which the Jewish community remembers the 6 million Jews who were murdered by the Nazis during World War II.

Amongst those 6 million were my great-grandmother, Malka Glück, and other members of my extended family. Malka was living in Vienna when Austria was annexed by Nazi Germany. Along with many others Malka was deported by the Nazis to the Theresienstadt ghetto before being transported to Auschwitz where she was murdered in the gas chambers.

Hitler's aim was to annihilate the Jewish people. He did not succeed. A number of Jews managed to escape

Europe, including Malka's daughter, my grandmother Minna Huppert, who, together with her husband Eugene and son George, fled Vienna in 1939, eventually finding sanctuary in Melbourne. The fact that I am standing here as a member of the Victorian Parliament is testament both to their will to survive and to Australia's preparedness to welcome refugees.

On Sunday evening, together with a number of my parliamentary colleagues, I attended the Jewish Community Council of Victoria's Yom Hashoa commemoration service at Robert Blackwood Hall. At the service we heard testimony from survivors of the holocaust, remembered those who did not survive, and recognised non-Jews who risked their lives, and the lives of their families, to help save Jewish lives. We are custodians of the future, and it is up to us to protect our democracy and our freedoms. To do this properly we must remember what happens when human rights fall by the wayside, as they did under the Nazis in World War II.

Holocaust: commemoration

Mrs KRONBERG (Eastern Metropolitan) — I, too, on Sunday evening, along with a number of other people, had the privilege of attending the Yom Hashoa commemoration, organised by the Jewish Community Council of Victoria (JCCV). This commemoration is Melbourne's opportunity to join the world in the perpetual custom of lighting six candles on the eve of the day of mourning in memory of the 6 million martyrs of the holocaust. Because, unbelievably, there are still holocaust deniers gaining exposure and a measure of credibility, now more than ever it is important to remind the community of the holocaust, which was the darkest chapter in human history and the greatest depravity of all time.

The work of the president of the JCCV, John Searle, his organising committee and those working behind the scenes to make sure that the commemoration was conducted in the manner that it was, with so much solemnity and dignity, is to be applauded. We had testimony from the survivors, and in fact the story of one of the Buchenwald boys, Jack Unikowski, resonated now more than ever. It is more important for these firsthand accounts from the survivors to be listened to and to be acknowledged and recorded for all time so that that continues to resonate in the community. I want to join the Jewish community in its firm pledge: never again.

Racial and religious tolerance: rally

Ms HARTLAND (Western Metropolitan) — Two weeks ago a number of people alerted me to a crude, insulting and racist Facebook site that was calling for a public demonstration at Flinders Street. Their intention was to begin an attack on migrants, refugees and the Islamic community.

Last Friday I attended a counter-rally on the steps of Flinders Street. A large group, numbering around 300, attended. These people represented community sentiment that racism is unacceptable. They included trade union members, church leaders, the Jewish Democratic League and a broad section of the community. There were young and old, punks, and ladies in pearls — you could not have got a better cross-section of the community — and the victory was that the racists were too frightened to show up.

Refugees: federal government policy

Ms HARTLAND — The following day I attended a meeting with a number of refugee advocate groups who were in despair over the federal government's decision to block the processing of applications of Sri Lankan and Afghani refugees. People felt that we were back in the days of the *Tampa* election, only this time it was the ALP turning its back on the most desperate of people. I joined the Greens after the *Tampa* incident because the Greens were the only ones standing up for refugees. I honestly thought the Rudd Labor government would not repeat these mistakes, but it would appear that history continues to repeat itself.

BUSINESS OF THE HOUSE

Budget speech 2010–11

The ACTING PRESIDENT (**Mr Finn**) — Order! The President has received a message from the Assembly in regard to the Victorian state budget 2010–11:

> The Legislative Assembly informs the Legislative Council that under section 52 of the Constitution Act 1975, approval has been granted to John Lenders, MLC, Treasurer, to attend the Legislative Assembly on Tuesday, 4 May 2010, for the purpose of giving a speech in relation to the Victorian state budget 2010–11.

EDUCATION AND TRAINING REFORM AMENDMENT BILL

Committed.

Committee

The DEPUTY PRESIDENT — Order! The committee has been asked to consider the Education and Training Reform Amendment Bill 2009. The Minister for Public Transport is at the table. At. the moment he is representing the Treasurer, who will join us in due course to advise on the bill. As I understand it, the amendments that the committee is to deal with today concern clause 11 onwards.

Clauses 1 to 10 agreed to.

Clause 11

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to move amendment 1, which she has indicated previously she would be moving. I would indicate to the committee that I consider this amendment to be a test for her further amendments 5 to 8 and 15 to 17. Amendment 1 aims to delete the definition of 'misconduct' and amendments 5 to 8 and 15 to 17 aim to delete subsequent references to 'misconduct' within the bill.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 11, lines 25 to 32 and page 8, lines 1 to 7, omit all words and expressions on these lines.

Amendment 1 is to clause 11, which proposes to insert new definitions in section 2.6.1 of the principal act. It provides a new definition for 'misconduct'. Because the amendment pertains to further amendments 5, 6, 7, 8, 15, 16 and 17, it refers to my aim with these series of amendments to limit the Victorian Institute of Teaching's ability to investigate teachers only in relation to issues that involve serious misconduct, which is the status quo. It is my view, and also the view of the teaching profession, as expressed by the teacher unions — the Australian Education Union and the Victorian Independent Education Union — that issues of serious misconduct, which may go to whether a teacher remains as a registered teacher, should be the business of the Victorian Institute of Teaching, as it is the body responsible for registering teachers. However, other issues of misconduct which are better dealt with in the employment relationship in the school setting should not involve the Victorian Institute of Teaching. Therefore, as I outlined in some detail in my second-reading contribution, that is the purpose of this amendment.

Mr HALL (Eastern Victoria) — The coalition has an open mind on this particular issue and will listen with interest to the government's response to the proposed amendment. It seems to us that where there are issues of a minor nature, if they can be dealt with close to home at the school or regional level, then in principle that seems an appropriate measure to be taken. Obviously where there are serious issues and it could impact on the registration of a teacher, then obviously the Victorian Institute of Teaching has been established to hear those particular matters. As I said, I would be interested in hearing the government's response to this issue and whether the government has any objections to misconduct matters of a more minor nature at least being attempted to be resolved in the first instance at a local level.

Mr LENDERS (Treasurer) — The issue Ms Pennicuik raises and the reasonable response to it by Mr Hall is exactly where this debate should be. The government's position is that its starting point is clearly that these things, as Mr Hall says, should be resolved at a local level. We do not have any dispute with that as a starting point. However, the power this seeks to give to the Victorian Institute of Teaching (VIT) is to deal with the exceptions on these minor issues. For the benefit of Mr Hall, an example could be where in a very small country town it would be in the interests of the only teacher and principal in the town to have an alternative in exceptional circumstances. More particularly, away from that example is the situation in which a school is dealing with casual teachers where there are minor infringements. There is no particular school that on a regular basis will try to manage those issues. That is a broader regional issue rather than a local one.

This is not the preferred approach for all circumstances. In fact I would see giving the VIT these powers as being more on the exceptional side. On the issue of casual teachers, there is probably no particular school that will try to resolve that issue. The consequence, if the matter is not resolved, is that the casual teacher probably will not get employment anywhere, and that is probably more appropriate for the VIT to deal with. Those would be the sorts of exceptions the government would see this power as being useful for the VIT. It is why we would not support Ms Pennicuik's amendment for those exceptional circumstances. In general terms I accept the proposition that these things are generally better managed at the school level by the principal rather than being brought into the VIT.

Ms PENNICUIK (Southern Metropolitan) — If that is the intention of the government, why has the government not made that intention clear in the clause by giving a school the opportunity to refer a matter to the VIT rather than just giving a broad power for the VIT to be involved in any matter of misconduct, which

is how the clauses to which this amendment refers are worded?

Mr LENDERS (Treasurer) — It is how you legislatively construct these things. The descriptor I am putting on it during the committee stage on behalf of the government is that that is the intent of it.
Ms Pennicuik asks why we did not put in the legislation that a school has the authority to refer it. There are many ways, in a sense, that you could skin a cat, but if we are talking of those two illustrations I used, if the starting point is the rights of the casual teacher over which there is a question mark, it is where the onus lies on all these things coming forward. An argument could be run either way on this, but on balance there is a capacity for the VIT to do these things without it being always referred.

If you take the construction which is not in Ms Pennicuik's amendment, that if her amendment were that a school can request the VIT to do it, that is an alternate construction that is not before the house. But what we are saying here is that in the case of a casual teacher, I cannot imagine a school would refer that. It would be something that would be left unresolved and the person would not get employment — that would be my guess. There is nothing to stop a school asking the VIT to do this at the moment. I cannot see why a principal could not just make the request if he or she wished that to happen.

Reversing the order, the proposition before us is there is a government bill that gives this authority to the VIT. Ms Pennicuik is proposing that that be removed from the VIT. There is not a proposition before us of where it can be voluntarily referred, which is another construction. There are two choices before us. One, the VIT has this reserve power, which I say the VIT would seldom use, and they are the sorts of exceptions it would take into account. There is a proposition to take that away from the VIT. What I would argue is we should stand with the clause as it is and give the VIT those powers, and we should not support the proposition which takes those powers away from the VIT and therefore leaves those casual teachers in small country towns with problems without a clear solution.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister, I think, for arguing in favour of my amendment, because I think I heard the minister say — and it was going to be my next question — that there is nothing to preclude in the current situation, as it stands now in the current act, a school requesting that such an issue be referred to the VIT. That is what the minister said, so he might want to check that. But my next question would be: what is the procedure by which the VIT would become involved in an issue, if it is not referred to it by a school? What is the mechanism under this new regime whereby the VIT would become involved in an issue that is not a serious misconduct issue?

Mr LENDERS (Treasurer) — Firstly, to clarify absolutely my first response to Ms Pennicuik, if this bill is not approved by the Parliament, under the status quo there is no capacity for the VIT to do that, whereas under the government's proposal there is a capacity for the VIT to do it either under its own motion in exceptional circumstances — and I can seek advice as to whether there are guidelines to date on what they would be, but I would expect there are not. This is a power for exceptional circumstances. If the legislation is not passed, the school does not even have the option to ask the VIT to take this particular course of action.

I think that answers both of Ms Pennicuik's questions, but I reiterate that this is not a preferred course of action; this is a reserve head of power given to the VIT so it can, in exceptional circumstances, act. There are no protocols or guidelines or regulations around that that are contemplated at this stage, because it is not the standard procedure through which the government seeks to have the VIT operate.

Ms PENNICUIK (Southern Metropolitan) — I am not sure that the bill is explicitly saying it would be exceptional circumstances — it does not mention that; it is just a broad power given to the VIT (Victorian Institute of Teaching) — but the minister is saying in the committee stage that it would be an exceptional circumstance.

The minister is also saying there is no guideline or any procedure as to how the VIT would become involved in an issue that is not an issue of serious misconduct. My point is that they are the issues that the VIT should be involved in, because it is involved with registering teachers. It would only be for an issue of serious misconduct that a teacher would ever look like having their registration revoked, so why would the VIT be involved? I am very concerned that the institute would be involved on its own motion without any protocol, procedure or guideline to guide it.

Mr LENDERS (Treasurer) — These things do not operate in a vacuum, and Ms Pennicuik understands this as well as anybody in Victoria. We have a very clearly devolved model of government education in this state. We have around 1600 government schools in the state, and there are reserve powers pretty well across the board for the director-general, the secretary of the department, a regional director or the minister and

various others at various times to call in all sorts of governance powers in schools, but the devolved model is that these things are devolved as the most appropriate way of managing a range of issues in these issues.

Ms Pennicuik seeks reassurance in this area, and the best reassurance I can give her, other than saying it will be in exceptional circumstances, is that the entire operation of the Department of Education and Early Childhood Development is based on a premise of devolution to local decision-makers, and this is exactly in accord with a principle that has been long-established in Victoria — Mr Hall could probably help me — for 20 or more years.

It may be that we have had this model of devolution in place for 30 years. There is nothing unique about heads of powers residing in various statutory office-holders or authorities, the premise being that issues should be dealt with locally, but in a reserve sense they can always be drawn back in. There is nothing more and nothing less in this VIT proposal to what applies across the board and across the entire education system.

Mr HALL (Eastern Victoria) — I thank the minister for his comments, and I have listened to his responses to some of the questions raised by me and Ms Pennicuik. I accept the circumstance described by the minister whereby, particularly in some smaller communities, it may be difficult to resolve issues at a local level, particularly when people are so well known to each other.

That circumstance certainly arises in small communities, and I acknowledge that in such circumstances at times it is beneficial to have somebody from outside of the local area seek to resolve a matter of conjecture. I would have thought that the reference to do that or the request to achieve such resolution by an outside body might come from either party.

I could think of circumstances in which a person employed in a school might well prefer to have the issue that they are concerned about dealt with by an outsider rather than being resolved at a local level. I can certainly see some sense in the explanation given by the minister. If the intent of this particular provision is for it to be used almost as a last resort, then I am happy to take the minister's word on that and probably see whether that intent actually becomes a matter of practice over the years to come.

I would think that in addition to the annual report of the Victorian Institute of Teaching containing reports on the institute's investigations into matters of conduct, it would also report on the use of these new provisions provided for in this bill. I think that is confirmed by the nods of the Treasurer — perhaps he would like to confirm that. Having received those assurances and commitments given by the Treasurer, it is my view that coalition members will accept the provisions used as described by the Treasurer, and therefore we are not inclined to support the amendment.

Mr LENDERS (Treasurer) — I thank Mr Hall for his comments, and I reaffirm that, as described, these provisions would be extraordinary provisions. They would not be a modus operandi; they would be used in extraordinary circumstance, as have been described. I would hope that they would seldom be used.

As to Mr Hall's point, while he did not seek a commitment on it, I will request clarity from the minister as to what the minister's authority here is doing with an annual report from VIT, so I do not want to cross a line with the statutory body and a request will be made to VIT, certainly in the first report if this legislation is passed, to report as Mr Hall requests on how this provision works, and that might address some of Ms Pennicuik's issues about the vagueness of it.

I put a caveat on that statement, because I do not want to tread on the role of an independent environment authority. I am not sure where the minister's authority goes as far as this body is concerned, but certainly the request will be made, as that way of dealing with the matter would give some comfort to the Legislative Council.

Amendment negatived; clause agreed to.

Clause 12

Ms PENNICUIK (Southern Metropolitan) — I have something to say about clause 12. I have read the review of the Victorian Institute of Teaching, so I understand partly where the clause comes from, but there remains the issue — and I have mentioned it in my contribution to the second-reading debate, and if my memory is correct I think Mr Hall did as well — that there is quite a bit of disquiet in the teaching profession about VIT's history of not necessarily being an advocate for teachers and particularly for not standing up for teachers when required to do so or when teachers would have felt that was something the institute could do.

Clause 12 effectively removes the duty of the Victorian Institute of Teaching to be involved in promoting the profession of teaching. I think I said in my contribution to the second-reading debate that that should be the role of something that is called an institute. This clause

basically replaces the role of the Victorian Institute of Teaching to promote the profession of teaching with the role of promoting itself and its own activities. I wonder what remarks the Treasurer has in defence of this clause, given that so much disquiet has been raised with us and I am sure with the government as well.

Mr LENDERS (Treasurer) — The crux of what Ms Pennicuik is asking is: why is it proposed to take out the requirement of the VIT to promote the profession of teaching? The simple answer is that this is seen to simplify and clarify that the institute is a regulator, and its role is as the regulator of the profession.

There are multiple bodies, including the various professional development/teacher representative unions such as the AEU (Australian Education Union) and the VIEU (Victorian Independent Education Union). I know that both those unions would see promoting the role of teaching as part of their charters, and sections of the Department of Education and Early Childhood Development seek to promote the role of teaching, including the masters programs and the postgraduate programs.

The department has a central underpinning role of promoting the role of teaching as do the teacher union professional associations. This provision clarifies that the prime role of the VIT is the role of a regulator rather than these other things that have been put into objectives of the act. The provision is simply to strip down to the institute's core role, and it does not in any way detract from the government or professional bodies promoting the profession of teaching. This provision is trying to streamline the role of the regulator so it is quite clear that it is that of regulator rather than the additional role of promoter.

Ms PENNICUIK (Southern Metropolitan) — I have two questions following that explanation. Why did the government not follow up the review recommendation that the name of the institute be changed, because the word 'institute', which similar bodies are called in other states, does conjure up a certain type of organisation rather than a registration body, meaning teachers could be at least somewhat reassured, or perhaps consoled, by knowing that the VIT is their regulator and not their friend any more?

Mr LENDERS (Treasurer) — I am not sure about the 'regulator versus the friend' comment. I will let that one go through to the keeper. I would have thought a regulator for a professional body is actually, by definition, a friend of the profession because it boosts the profession if it does those things.

I think it is fair to say that the government is fairly reluctant to willy-nilly go down the path of a name change. I understand the logic in what Ms Pennicuik says about the word 'institute', but if the government was to change the name of the institute, I am sure uncharitable members opposite — I am sure that would not include Mr Hall or Ms Pennicuik — would have a go at the government about the administrative costs and ask why it was doing that.

A range of those issues would come forward when, in the end, the teaching profession knows what the VIT is. While this clarifies part of the role, a name change has not been on the government's agenda. If you were going down that path, you would have levels of consultation and various costs. We would rather stick to the basics here and take that on notice, if it is a suggestion. It is not the government's agenda to change the name at this stage.

Ms PENNICUIK (Southern Metropolitan) — It was not just my suggestion; it was the suggestion of the review. There may be some stationery costs, but if there were going to be a complete change of the functions of the institute — there is quite a focus on the change of functions of the VIT in this amending bill — I would have thought a change to the name would have reflected that.

Clause agreed to; clauses 13 to 15 agreed to.

Clause 16

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to formally move her amendment 2. I consider this amendment to also be a test of Ms Pennicuik's amendments 3 and 4. All of these amendments relate to factors which must be considered when deciding whether to refuse or grant registration on the grounds that the applicant has been convicted or found guilty of a sexual offence.

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 16, after line 24 insert —

'( ) After section 2.6.9(2) of the Principal Act **insert** —

"(2A) In deciding whether to refuse to grant registration to an applicant on the ground that the applicant has been convicted or found guilty of a sexual offence, the Institute must have regard to the following factors —

(a) the age of the applicant and of the victim at the time the offence was committed;

(b) the gravity and circumstances of the offence;

(c) the impact of the offence on the victim;

(d) the decision of the Court in relation to the offence;

(e) the period of time that has elapsed since the commission of the offence;

(f) the conduct and behaviour of the applicant since the commission of the offence;

(g) the risk of the applicant committing any further offence;

(h) the likelihood of parents of students, students and the community ceasing to have confidence in the applicant being able to have or to maintain professional student-teacher relationships.".'.

This amendment was also recommended by the review of the Victorian Institute of Teaching and is supported by the teaching profession through the Australian Education Union and the Victorian Independent Education Union, as I mentioned in my contribution to the second-reading debate.

I also mentioned in that contribution the case of Mr Andrews Phillips, who was a teacher at Orbost Secondary College. Mr Phillips was a victim of the act as it stands without recourse to any appeal process. I do not want to go over that case in any detail, as much as anything out of respect for Mr Phillips, whose case was well publicised at the time. However, I want to say that many people in the community, in particular in the Orbost community where he was teaching, felt that this particular outcome was unfortunate, where Mr Phillips basically resigned before he was refused registration on the basis of a very minor offence for which a conviction was not recorded; since then he has not been able to teach.

As it stands at the moment, the law is too black and white. It has the unfortunate consequence that quite innocent people, who are or will be excellent teachers, are not being able to join the teaching profession. Nobody wants anybody who is going to harm children to be in the teaching profession, and that is why we have mandatory police checks and so on.

There is no party in this Parliament, certainly not the Greens, that wants to see people who are a danger to children in terms of sexual offences being employed as teachers, but there are cases where a person who is no danger to children, who in fact is an asset to the school at which they teach, has been denied employment. There is no room to move in the act in terms of an appeal provision that would be looked at by the Victorian Institute of Teaching, and by VCAT (Victorian Civil and Administrative Tribunal) and ensure that a just outcome is arrived at in terms of the teacher applicant and the school community concerned.

I feel strongly about this amendment. I think it would be a good amendment to the bill. It would make the act much fairer and it would have the added effect of not tarring with the same brush those who are innocent and those who are not so innocent. I am very concerned about that effect of the act as it currently stands without the appeal provision. So I strongly commend this amendment to the chamber.

Mr HALL (Eastern Victoria) — Chair, before expressing a view on amendment 2, which as you said also tests amendments 3 and 4, can I say I am not sure of the relationship between amendment 2 and amendments 19 and 20, which if not also tested by amendment 2 seem to me to be related to it. Perhaps Ms Pennicuik might explain to the committee how the later amendments might be related to amendments 2, 3 and 4.

Ms PENNICUIK (Southern Metropolitan) — It is a good question, and it is part of the reason we are in committee now and were not in committee on this bill during the last sitting week, because there was a lot of discussion between parliamentary counsel and me as to how to propose to put this particular provision into effect in the bill. As I understand it amendment 2 relates to amendments 3 and 4 in respect of what the Victorian Institute of Teaching would have regard to if it were to refuse a registration. As I understand it amendments 19 and 20 would be stand-alone clauses and relate to the ability to appeal to VCAT. That is as I understand it.

Mr HALL (Eastern Victoria) — I need to pass a general comment, because at least some of the same principal issues are covered in amendments 2, 3 and 4 and also amendments 19 and 20, because they go to the issue of the ability of a teacher to gain registration even if their record has a conviction for some form of sexual offence.

Going to the particular circumstances that Ms Pennicuik mentioned, that being the much-discussed case of Andrew Phillips and Orbost Secondary College, I said at the time of debate on the bill that I had a lot of sympathy for the position of Andrew Phillips. I do not know Andrew personally, but I know his family. His is a very fine family, and Andrew has a highly held reputation in the Orbost

community. As I said at that time, it is my personal view that there should be some provision to take into account the particular circumstances of individuals.

This is one of those times when personal conscience needs to be weighed against the views of the people you are elected to represent in this Parliament. From a personal perspective I think consideration should be given to factors mentioned here in respect of the granting or not of teacher registration. It is reasonable to have some appeal provisions for teachers who have not been granted registration on the grounds that are set out in the later amendments. But weighed against my personal views are those of the constituents I represent, and I have come to the assessment that the majority of the people I am elected to represent in this Parliament would not want me to support this series of amendments.

Although there is a recognition that some people are going to be hard done by with some of these provisions, I think the majority of my constituents would want to have those very tough provisions in place to ensure the absolute maximum protection possible for their children. Despite my personal views on this matter, which are in some ways shaped by my personal knowledge of the case I referred to, and as much as I would like to support this series of amendments, I cannot, predominantly because I do not think my constituency as a whole would want me to do so. That is a view that has been discussed by my colleagues in the coalition, and we will not be supporting the amendments that reflect on the matters outlined in amendment 2 moved by Ms Pennicuik or the later amendments which would allow for appeal in those circumstances. To sum up, the coalition will not be supporting this amendment or the later amendments that go to this issue.

Committee interrupted.

DISTINGUISHED VISITOR

The DEPUTY PRESIDENT — Order! I take this opportunity to acknowledge that Mr Neil Lucas, a former member of this house, is in the gallery.

EDUCATION AND TRAINING REFORM AMENDMENT BILL

Committee

Committee resumed.

Ms PENNICUIK (Southern Metropolitan) — I heard what Mr Hall was saying, and I will make some comments and then ask the minister a question. As far as I know and can ascertain from that case, the majority of people in the community, including the principal and the school community, were supportive rather than not supportive of the teacher. I do not believe this clause would result in any lessening of maximum protection for children in our schools, because there are quite a lot of hurdles that would have to be overcome, and a person would have to feel very sure that they would be able to overcome them before they put themselves forward.

I do not believe we would be lessening any protection for children in schools, but we would be inserting some fairness and justice into the bill to ensure that people are not treated unfairly and unjustly in terms of their employment. We are talking about a person's employment and, in terms of teaching, their vocation. We should not be applying unfairness and injustice where we can avoid them, and that is what my amendment is for.

Mr HALL (Eastern Victoria) — I agree with Ms Pennicuik, and in that particular case there was absolutely strong support in the Orbost community for the person in question on that matter. I would think for a person who is well known, who has been in a community for a long time and has proven themselves to be a fine and worthy citizen from both a community and professional perspective, there would absolutely be local community support, but in cases where a person is not so broadly known by a community there would be a significant level of opposition to the amendment proposed. It is a very vexed and personal issue; I understand that. It is not an easy decision for me personally to make, but I repeat that my judgement is that on the whole my constituency would not want me to support this amendment.

Mr LENDERS (Treasurer) — On the substantive issue of Ms Pennicuik's amendment Ms Pennicuik has raised the issue of how the VIT review says these matters should be looked at. Mr Hall has succinctly summed up a lot of the community debate that goes on around these difficult issues, and the government's position on sexual offences against children and how they are dealt with under the act has not changed since the principal act was passed in 2006, so the government will not support Ms Pennicuik's amendment.

Amendment negatived; clause agreed to; clauses 17 to 36 agreed to.

Clause 37

The DEPUTY PRESIDENT — Order!
Ms Pennicuik has a further amendment, which is amendment 9. It is a stand-alone amendment. I consider that her amendment 9 is also a test for amendment 10. The committee is advised that these amendments relate to the entitlement to representation at an informal hearing.

Ms PENNICUIK (Southern Metropolitan) — I move:

9. Clause 37, after line 12 insert —

'() In section 2.6.38(d) of the Principal Act —

(a) for "no right" substitute "a right";

(b) for "but that" substitute "and that".'.

It is a simple amendment that would amend the bill to give a teacher who is required to appear before an informal hearing a right to have representation at that informal hearing. It does not mean they must have representation, but they would have a right to have representation. This amendment — and there are similar ones that follow — was strongly put to me by the teaching profession. Teachers feel they should have a right to representation at any panel hearings they are required to appear at in terms of the Victorian Institute of Teaching.

Mr HALL (Eastern Victoria) — Coalition members approach these issues with an open mind. We will listen to the argument proposed by the government in respect of those issues. From a principled position these hearings — whether they be informal hearings or, as in the next set of amendments, appearances before a medical panel which may judge a person's fitness to teach — are important matters. They could significantly impact on the career of a teacher. Some people would find appearing at these sorts of hearings and before these panels intimidating. They might be not comfortable with that. In those sorts of circumstances on principle I would have thought it would not be inappropriate to have some form of representation for that person.

This amendment proposes that there be some legal representation. I am interested to hear what the government thinks about having such representation for teachers when they appear at either an informal hearing or before a medical panel.

Mr LENDERS (Treasurer) — It is appropriate that we are discussing teaching. I feel I am being a little bit examined by Mr Hall here this evening. This is all very good.

Mr Hall asks an absolutely reasonable question on behalf of the coalition. I guess if we look at it as a whole picture, we see that, firstly, the government has sought over a number of years to encourage alternative dispute resolution (ADR) across not just the Department of Justice but all of government where you try to have informal mechanisms to deal with what are sometimes complex, expensive and bureaucratic solutions. What this clause relates to is an aspect of ADR where the teacher or the employer elects to go through the informal process. It is an informal process; there is no formal legal representation. It is not dissimilar to the accident, compensation and conciliation service and a range of other ADR methods used by government.

However, I think the test for Mr Hall's question, 'Is a teacher disadvantaged by being in that environment because they do not feel confident in it or because it may be adversarial?', is: either the employer or the employee can at any stage elect to go from the informal hearing to the formal process where legal representation is possible.

This is an ADR system. People are not forced into this system. They choose to go into it because it is easier, cheaper and less litigious — all of those sorts of issues. But if a teacher, or for that matter the employer, feels that this is an inappropriate way of dealing with it, they always have the right — and I am looking meaningfully for a nod — throughout the process to elect to have a more formal process. It is a different dispute resolution mechanism, but they can go there with their legal advice, whether it be their lawyer, their advocate from the union or whoever they wish to go forward with.

I understand where Ms Pennicuik's amendment is coming from, and I understand Mr Hall's question. But I think it is exactly addressed in the construction of this bill that you can go to the formal panel, have your representation and nothing is lost. All this is seeking to do is to introduce a mechanism into the system where both parties want an informal process, which saves time, costs and formality. That is the path government is seeking to extend right across the whole of government.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister. I see what he is trying to establish, but it would seem to me that even at an informal panel a person could benefit from having a representative with them and having the right to have a representative with them. Just because the panel is informal does not mean they might not find it difficult and might not understand something. Having an advocate or a legal representative with them might make it more likely that

it will be stopped from going further if there is some good advice given.

I am not sure I am convinced by the minister's argument that there should only be legal representation at a formal panel, because I think all parties at an informal discussion could still benefit from having the right to have representation if they wish to. The minister has not convinced me to disagree with my amendment.

Mr LENDERS (Treasurer) — Convincing Ms Pennicuik to disagree with her amendment — that is a novel approach to the committee system! The government will not support the amendment. I would love to convince Ms Pennicuik to do the same, but I realise she has a strong view on it or she would not have moved the amendment.

I will go right back to the basics of this issue: under ADR you seek to give people ultimate paths for dispute resolution. I am not talking down anyone who wishes to formally advocate for someone, including the legal profession, a union or whoever else, but it is in the interests of anyone in an ADR process who gets a fee — if automatically legal representation is part of an ADR — to say, 'To be safe, to be sure and to get the best position, you should do that'. People can do that. If they want that reassurance, they can do it in a formal dispute resolution process, not the informal hearing that is being proposed here.

I also say that under ADR a person can bring a friend, a union representative or a lawyer to sit by them and to give them quiet advice, but they appear on their own behalf. It is not the case, as it is with a more adversarial process, that a formal legal representative appears on their behalf with 'My Lord', 'Your Honour' and all the other stuff that absolutely intimidates most citizens when they go into a legal process.

I say to Ms Pennicuik: you can bring a friend; if you feel the process is getting out of control, you can go to a formal dispute resolution process. This is ADR in its essence. If we start to put those processes in here, we may just as well have not gone down the path of ADR; we could simply go back into the formal process with all the delays, costs and other things associated with the legal system. This is an alternate model that people can elect to go into or out off. I would argue we should not support the amendment, because we would then have two models that are essentially the same with legal representation at both of them. So why have we even gone down this ADR path?

The DEPUTY PRESIDENT — It begs the question whether you can phone a friend or ask the studio audience as well.

Mr HALL (Eastern Victoria) — The Treasurer may not have convinced Ms Pennicuik, but he has convinced me, particularly given new section 2.6.41 by way of clause 40, which sets out a process for the change of an informal hearing to a formal or medical panel hearing during the course of the hearing. It makes it very clear that if somebody feels they are not satisfied or are uncomfortable with the informal process, they can immediately embark upon a formal hearing; that entitles them to have legal representation. In that regard, I am happy with the minister's explanation in the knowledge of clause 40 in this bill. I think that satisfies my concerns.

Amendment negatived; clause agreed to.

The DEPUTY PRESIDENT — Order! Amendment 9 was not agreed to and I have indicated that I regarded that as a test for amendment 10, which would have come into play in respect of clause 38. I plan to test clauses 38 to 40 en bloc unless anybody has any comments to make in regard to those three clauses.

Clauses 38 to 40 agreed to.

Clause 41

Ms PENNICUIK (Southern Metropolitan) — I move:

11. Clause 41, page 30, line 26, omit "no" and insert "a".

12. Clause 41, page 30, lines 27 to 30, omit ", but that the teacher may seek leave of the panel before the hearing to have legal representation".

13. Clause 41, page 31, line 15, omit "no" and insert "a".

14. Clause 41, page 31, lines 16 to 19, omit ", but the teacher may seek leave of the panel before the hearing to have legal representation".

These amendments would basically allow a teacher who has to appear before a medical panel hearing to have representation before that panel. A medical panel formal hearing is not the same as an informal hearing, which we have just been discussing in relation to clause 37.

A medical panel looks at whether a teacher is suitable to teach and in doing so will look at their medical records, which could be physical or psychological. It could be an intimidating experience and may result in a decision whereby a teacher loses their employment or their registration; it is a serious matter. These

amendments are strongly advocated for and supported by the teaching profession — and by us, in the interests of natural justice. I commend my amendments to the committee.

Mr HALL (Eastern Victoria) — The Treasurer has a more difficult task in convincing the coalition that we should not be supporting Ms Pennicuik's amendments in this regard, particularly as the medical panel hearings, as Ms Pennicuik said, seem to be of far more significance and may well impact on the registration status of a teacher. I note that the constitution of a medical hearing panel must include one person who has been admitted to legal practice in Victoria for not less than five years. I think it is not inappropriate in principle that as one of those persons on a medical hearing panel must be trained in the law, a person appearing before that panel has legal representation.

Mr LENDERS (Treasurer) — Mr Hall does raise the bar a bit here, no legal pun intended. The challenge in all of this is that if we look at medical panels across the whole of government, these medical panels cannot be exactly compared with the accident compensation ones of the Transport Accident Commission (TAC) and WorkCover.

But if we go to why those medical panels were set up in a non-judicial environment where there are experts making a judgement on a medical condition versus a more litigious item, it is because a matter of fact is trying to be established — does a person have a medical condition? In a TAC WorkCover circumstance, particularly when it is against schedule 4 of the act which is often referred to as the 'table of maims' and it is a condition being lined up against something else, like a level of capacity, there is a long-established practice under the TAC and WorkCover legislation and also under the legislation from the tort law reforms of around 2002 to 2003 for medical panels to make a finding of medical fact away from traditional appeal processes.

What we are seeking to do here is to separate out those medical conditions. In a sense the requirement of these medical panels is no different from other medical panels that exist in general common law as a result of the tort law reform — there has to be 5 per cent total and permanent incapacity before the threshold is reached whereby a person is able to sue for general damages — and also under the accident compensation and transport accident acts. The concept is not unusual in Victorian government. I believe the formulation of the panels is different, but the concept of a medical panel dealing with a medical issue away from the normal litigation process is not unusual.

I am seeking advice about this. I do not believe — and I will stand corrected if I am wrong — that legal representation is permitted before those medical panels. There is certainly no provision for appeal on a question of fact to another body outside of the medical panels in the rest of the legal system. I will see if I can get clarification on whether lawyers appear at these panels.

I was correct. Fortunately I remember that from my time as the WorkCover minister — that there is no legal representation before panels under those other three parts of government: under transport accident law, workers' compensation law or the general tort law reforms that came in in 2002 to 2003.

From Mr Hall's perspective, the concept of trying to separate out medical conditions is no different. Again part of this comes from a litigious process which can often arise if you are trying to determine a question of medical fact, and the question of medical fact can be quite different from people wishing to appeal up further levels.

This seeks to apply that principle across the board. It was well argued when the workers' compensation scheme was brought in by the previous coalition government and also by this Labor government during the tort law reform debates. The introduction of these medical panels without the right of legal appeal going further and without the right to have legal representation has been a difficult concept that has been argued on both occasions. The concept is no different, but the debate clearly is a similar debate to the debates that have occurred on the other occasions: is it appropriate to try to limit it to a medical question without legal representation? For those reasons, we will not be supporting Ms Pennicuik's amendments.

Mr HALL (Eastern Victoria) — I thank the Treasurer for his advice with respect to the similarities between this and the other three areas that he referred to, but I ask: in the medical hearing panels proposed under this bill, one person must be a person who has been admitted to a legal practice in Victoria for not less than five years and one person must be experienced in the law. Is that the case for both Transport Accident Commission and Victorian WorkCover Authority workers compensation medical panels as well?

Mr LENDERS (Treasurer) — On the other medical panels — and again I put a caveat on this because I want to get some more advice — my clear recollection of those is that they are purely medical questions that are resolved, so they would be doctors on the other panels, not lawyers. But I say to Mr Hall, on his general proposition, that the construct of having a doctor and a

lawyer on the panels is so that they can look at the issue from both sides. Sometimes a criticism of medical panels is that while making a medical decision panel members may not be aware of all the legal facts.

In this particular case I say to Mr Hall the legal representation is in relation to whether the panel is determining a question of medical fact or not. I accept that it is different from the medical panels that deal with the other three areas of law. I accept that it is a different composition of the body, but I do not think the argument is any different. I think the argument is that if you want a determination of a medical question, it is a determination of a medical question and there are two decision-makers. There is a medical decision-maker assisted by someone who was trained as a lawyer, but this is still essentially a medical question.

It is not a question of law. It is a question of medical fact that is being determined. I think the same principles should apply, and for that reason I think Ms Pennicuik's amendment opens up a series of policy questions across all those other areas through which the Parliament has previously drawn a line and determined. That is the danger of this amendment. It begs the question. If coalition members are doing this in relation to this aspect of the Victorian Institute of Teaching, if a similar amendment comes to the TAC, WorkCover or tort law generally, will they use the same argument not to support it? It is within the constraints of the coalition parties as to what they do or do not do, obviously, but I would argue that it makes it a lot harder to argue the case in those other three areas of law if the Parliament makes an exception to this one.

Sitting suspended 6:32 p.m. until 8.08 p.m.

The DEPUTY PRESIDENT — Order! The committee is dealing with clause 41. The minister has provided an explanation of the government's position in respect of amendments 11 to 14 and answered a query that was raised by Mr Hall. Is there any further discussion in respect of clause 41 and the amendments moved?

Mr HALL (Eastern Victoria) — Prior to the dinner break the Treasurer invited me to ascertain whether under some other provisions, similar sorts of compositions of panels exist under other acts of Parliament. During the dinner break I took the opportunity to look at two acts of Parliament, the first being the Transport Accident Act, which is one of the three to which the minister referred. In section 71, under 'Medical examinations', I found:

> (1) In order to determine its liability under Part 3 or Division 1 of Part 10, the Commission may require a person who was injured as a result of a transport accident and makes a claim for, or receives compensation under this Part or that Division, to submit from time to time for examination by one or more medical service providers nominated by the Commission.

My interpretation is that under the Transport Accident Act no medical panels as such are convened to assess impairment; rather, a person making a claim under this act may be required to be assessed by one or more medical service providers. It does not make mention of a person with legal training being one of those persons making the assessment.

I searched for similar provisions under the Workers Compensation Act and under division 5 of section 27, under 'Medical examinations', I found:

> (1) Where the worker has given notice of an injury he shall if so required by the employer submit himself for examination by a registered medical practitioner provided and paid by the employer …

In a further provision it goes on to say that a worker may be required to submit to one additional examination if there is some dispute about that assessment, and that if there are contradictory reports from those two, then the matter may be referred to a medical referee.

Those are from two of the three acts of Parliament the minister referred to in his case arguing against this amendment. He suggested there was some similarity in the way in which medical impairment might be assessed — in this case through the Victorian Institute of Teaching (VIT) for teachers — and those two acts. I do not see the similarities because clearly the composition of the persons who are making the medical assessment are quite different under at least those two acts, and they do not include a legal representative. So I am yet to be convinced by the minister to vote against the amendment moved by Ms Pennicuik.

Mr LENDERS (Treasurer) — I thank Mr Hall. The dinner break has been convenient for all of us both to refresh our minds on the various bits of legislation that come together and to seek further advice. Mr Hall says he is still to be convinced; I hope I can convince him to not support Ms Pennicuik's amendment.

As I understand from Mr Hall, the two issues he has anxieties with are: an appeal from the panels; and the issue of legal representation on these panels. The illustration that I was not familiar with before the dinner break was the Health Professions Registration Act and the health panels under that act, which have a lawyer on them as well as a medical panellist. So there is a

parallel to that, in government, and this legislation seeks to exactly replicate that.

By leave — and I know Ms Pennicuik's amendment is by right, so that is the distinction there — of the panel you can have legal representation under the Health Professions Registration Act, and that is exactly what is proposed here under the Education and Training Reform Amendment Bill for the Victorian Institute of Teaching.

The parallel there is 'by leave of the panel'; if the circumstances are such that the panel thinks it is appropriate to have the legal representation, it is possible. The other distinction with the VIT proposals is that if the medical panel's decision would mean a person would lose registration, there is an automatic appeal provision in there whereas there is not in a lot of other legislative provisions. Ms Pennicuik's concerns are partly addressed by this. There is a right of appeal but the fundamental difference is between 'as of right there is legal representation' and 'as by leave of the panel there is legal representation'.

I will reaffirm this, and these are all questions of balance, but part of the argument regarding all these panels is about trying to remove the litigious culture that has emerged around a lot of these appellate bodies. Part of the way to remove the litigious culture is to have the capacity to have it either by law that with a medical panel — in the case of the three acts that we discussed before the dinner break — there is no automatic right of appeal going forward and no legal representation because it is designed to determine medical facts, in the case here of the health professions registration and the Victorian Institute of Teaching, where, by leave, there can be legal representation and there is an appeal process within the system.

I think those two provisos provide the guarantee that Ms Pennicuik is essentially seeking, although not to the same extent — it is not of right, it is by leave, so I do concede there is a gap there. But on the fundamental issues Mr Hall is concerned with, I would say that there is an appeal process and there is legal representation by leave. Hopefully that will convince Mr Hall to not support Ms Pennicuik's amendment, so that this legislation can go through as a more streamlined form of dealing with some of these professional conduct issues in a way that does not get us into a highly litigious situation, which we have tried to avoid across a whole series of areas of legislation.

Committee interrupted.

DISTINGUISHED VISITOR

The DEPUTY PRESIDENT — Order! At this point I acknowledge that a former member of this house, Mr Bob Lawson, is in the public gallery. I welcome him.

EDUCATION AND TRAINING REFORM AMENDMENT BILL

Committee

Committee resumed.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister, who is correct in that this amendment seeks to imitate a provision in the Health Professions Registration Act. If I were standing here with that legislation in front of me, I would move the same amendment to the relevant part of that act. In my discussions with teachers they were not necessarily saying that in every case a teacher would want or need legal representation, but they wanted the right and they wanted it not to be by leave of the panel.

The government's proposed provision is saying that the panel in front of whom a teacher is appearing can give or refuse leave to the teacher to have legal representation, rather than providing that teacher a right to exercise under the law. I maintain my original position that that right is just natural justice and fairness.

Mr LENDERS (Treasurer) — In response to Ms Pennicuik's argument that a body should not have that discretion to let an appeal go forward or representation go forward or any of that, and her equating that with natural justice, I think there is a distinction here. Right through our legal system, courts and tribunals have that discretion at many steps along the way — not at every step but at many steps along the way.

The concept that natural justice automatically gives a person a right to representation at any tribunal where they wish to go or automatically gives them a right to appeal is not consistent with Victorian or Australian law. In relation to something as fundamental as the right for an appeal to be heard by the Court of Appeal in Victoria, by the High Court of Australia or for that matter by the Federal Court, ultimately these bodies have discretion on these matters as to what goes forward.

This panel is a medical panel identical to that under the Health Professions Registration Act and one that is akin

but not identical, because of the nature of the panel, to those under the WorkCover legislation, the Transport Accident Commission legislation and the tort law reforms of 2002–03. If Ms Pennicuik is asserting that natural justice gives a person a right to legal representation at a medical panel, then she is effectively flagging to the committee that whenever legislation comes up in any of those areas, she will move a similar amendment based unequivocally on the Health Professions Registration Act provision; which is what she said just now.

I would say to Mr Rich-Phillips and Mr Hall, 'Bring on the next amending bill on the Transport Accident Commission act or the WorkCover act or the Wrongs Act, dealing with tort law, and we will also have a similar amendment'. I am putting words into Ms Pennicuik's mouth and being quite up-front about that. However, the principle that natural justice gives a person a legal right of appeal before a medical panel would equally be argued under the Wrongs Act, under the appropriate Transport Accident Commission legislation and under the appropriate WorkCover legislation, which I think is the Accident Compensation Act.

I therefore invite the committee to reject the amendment, because if we are to accept that a right to natural justice gives a person a right to legal representation on medical panels, then Ms Pennicuik is asking us to go a lot further than just to the provisions of the Victorian Institute of Teaching Act.

Ms PENNICUIK (Southern Metropolitan) — The only act I mentioned was the Health Professions Registration Act. I did not mention the other acts, which I do not believe are actually comparable. The minister referred to a panel that a person may 'wish' to appear before, but in this situation the person does not have a 'wish' to appear before the panel — they have a requirement to appear before it.

That is my concern — that the panel in front of which the person is required to appear has the discretion. I do not think just giving a person a right under this legislation to have legal representation is setting any wild precedent such as the minister is trying to make out.

In addition I was going to mention this before the dinner break, but we ran out of time — whilst I think the Health Professions Registration Act is probably comparable to the bill, I do not think the WorkCover act, to which the minister may remember I moved 14 amendments, including amendments to do with legal representation, or the Transport Accident Commission act are directly relevant to this situation.

Mr LENDERS (Treasurer) — Chair, given Ms Pennicuik has moved the amendment, I think I have the right to ask her questions just as she has been asking me questions on government amendments; this is an amendment before the committee.

My question to Ms Pennicuik is: if, on her argument, natural justice gives a person a right to legal representation before a medical panel — and I do not think I am misquoting her; *Hansard* will show whether I am fairly paraphrasing her or not — then the next time there is a bill amending the Accident Compensation Act, will Ms Pennicuik seek a similar amendment — and so seek the support of Mr Hall and Mr Rich-Phillips for that next amendment — to provide an entitlement to legal representation before a medical panel under that act?

The DEPUTY PRESIDENT — Order! I am a little concerned about that question, because it could be hypothetical. Nevertheless, the minister has posed the question, and I will allow Ms Pennicuik to deal with it as she sees fit.

Ms PENNICUIK (Southern Metropolitan) — I think it is hypothetical, and as I did mention, I do not think the two situations are exactly the same. The Transport Accident Compensation legislation deals with people who are injured, and the situation, circumstances and processes are completely different to what we have before us now.

Mr LENDERS (Treasurer) — Ms Pennicuik says the situation and circumstances are different between the Accident Compensation Act and the Victorian Institute of Teaching Act. I ask her: what is the difference between one medical panel and another? The composition may be different but in the end a medical panel making a decision on a medical condition is common to all three acts — or all four acts, if you include the Health Professions Registration Act. So I ask her: what is different between this situation and the Accident Compensation Act?

Ms PENNICUIK (Southern Metropolitan) — I feel a bit like I am before a panel here and that I need some legal representation! I think the minister is very aware of the difference between a person who has been injured at work and a person who has been injured on the road. The situations they find themselves in are wholly different: one is looking for compensation et cetera, and the other is required to present themselves before a medical panel which will decide whether or

not they are suitable to continue in their chosen career. I think they are totally different sets of circumstances, and as the minister has already said, the compositions of the panels are different as well. The circumstances are different; the compositions of the panels are different. That is my answer. We can go around and around on that.

Mr HALL (Eastern Victoria) — The way I see the discussion that we have had so far in this committee is that we have before us examples regarding the Transport Accident Act and the Workers Compensation Act, and the minister has now informed the committee that we should also give consideration to the composition of medical panels and procedure under the Health Professions Registration Act. Those three acts, the minister said, would provide us with some guidance with respect to what the committee should do with this amendment to the Education and Training Reform Amendment Bill regarding the proposed composition of medical panels and whether a teacher should have legal representation on those panels.

Quite clearly — and I think the Treasurer has already agreed to this — under the Transport Accident Act and the Workers Compensation Act there is virtually no mention of a medical panel. An assessment is made by a medical representative, and in each of those cases you can have a second medical assessment of the person's condition or level of impairment. As such, it is a distinctly different system to what is proposed under the Education and Training Reform Amendment Bill of 2009.

Since the recommencement of this debate following the dinner break the Treasurer has also suggested that the situation described in the Education and Training Reform Amendment Bill is the same as that in the health professionals registration process. I take his word for that. I have no reason whatsoever to doubt that, but we in the coalition have not had the opportunity to examine that in detail or have discussions on it, so it is a bit hard for us to make some comparisons with what occurs under the Health Professions Regulations Act, which establishes the registration procedure for health professionals. It is hard for us to make that comparison at this point in time.

It therefore takes me back to the original contention that I put, and I will use some of the words that the Treasurer himself has advanced in respect of this: looking at a balanced outcome and looking at a fair outcome, if a board makes an assessment about somebody's medical fitness to teach, which is critical to the registration process in the case of providing balance and fairness, I still do not think it is unreasonable that legal representation should be the right of somebody appearing before such a medical panel.

In saying that, I say very clearly that I do not think this sets a precedent for the Parliament to go back and look to amend the Transport Accident Act or the Workers Compensation Act, because quite clearly the processes for determining impairment in the case of those two acts and fitness to teach in the case of this act are really quite different, and I think a decision made tonight on this particular act would not set a precedent for those other two acts.

With that in mind, I am still of the mind to support the amendments that have been moved by Ms Pennicuik.

Mr LENDERS (Treasurer) — Mr Hall presents a very reasoned argument, but the government will oppose this amendment and call a division if the motion is put. Mr Hall's point is reasonable. I brought up the issue of the Health Professions Registration Act, but he has not had a chance to look at that act — I accept that — and he has not had a chance to consult with his colleagues on this act, which has now, because people have sought more information, been adjourned three times in a row. I do not believe there is any particular urgency for this matter to be resolved. We will sit again in three weeks, so if Mr Hall were to move that the committee report progress so that he and his colleagues can seek further advice, the government would certainly support such a motion. The committee can get back to this either later this week or in the next sitting week of Parliament.

I think it is a legitimate issue that Mr Hall raises if there is new material brought forward in the committee stage, so I would certainly support a motion from Mr Hall to report progress so we can come back to that when he and his colleagues have had a chance to look at the Health Professions Registration Act, which I think is a very worthy parallel to look at in the nature of this debate.

Mr HALL (Eastern Victoria) — I am a little bemused as to why the government is asking me to report progress on this bill. It is not my decision to defer it at this point of time. If the government feels that it has a better chance of getting the legislation through by giving us that time, it should move the motion.

The DEPUTY PRESIDENT — Order! The minister is able to move such a motion.

Mr LENDERS (Treasurer) — I will so move.

Progress reported.

TRUSTEE COMPANIES LEGISLATION AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Treasurer).

EQUAL OPPORTUNITY BILL

Second reading

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

Mr RICH-PHILLIPS (South Eastern Metropolitan) — In starting debate on this legislation this evening I declare to the extent necessary that I have recently become a member of the Australian Club in William Street, Melbourne.

This legislation is a bill to repeal the existing Equal Opportunity Act and promulgate new legislation that replaces the bill that has been in place for the last 14 years. The coalition parties have had a long history of supporting equal opportunity legislation. In 1977 the Liberal Party introduced the first equal opportunity legislation in Victoria, and in 1995 the previous coalition government introduced the current legislation that is to be repealed by this particular bill.

Victoria has led the introduction of equal opportunity legislation. However, the bill we are considering before the house tonight is a step in the wrong direction. What this bill does in repealing the existing act and putting in place new legislation does not in any material way change the scope of equal opportunity discrimination provisions, but it does dramatically change the administration of equal opportunity legislation and the bureaucracy surrounding its operation in Victoria.

As noted in the Attorney-General's second-reading speech, one of the aims of this new legislation is equality of outcomes. That is presented by the Attorney-General as an advance on creating equality of opportunity. This is one area where the coalition parties have a fundamental disagreement with what the government is proposing with this legislation. We support the concept of equality of opportunity, as evidenced by our introduction of equal opportunity legislation 33 years ago in this place, but that is a very different mechanism and a very different principle to that espoused by the Attorney-General in the concept of equality of outcome. The coalition parties believe that all people, given equal opportunity, are themselves responsible for the way in which they progress themselves through their lives and the outcomes they achieve. We believe in setting a level playing field and allowing people to develop to their own potential. In promoting equality of outcome as one of its principles, as outlined in the second-reading speech, this bill turns that approach on its head.

The bill also creates a number of new powers for the Victorian Equal Opportunity and Human Rights Commission, which in this speech I will refer to as the commission. First, it will empower the commission to conduct investigations and public inquiries into any matters that raise a serious issue or indicate a possible contravention of a provision of the act or relate to a class of people. This allows own-motion investigations. It does not require a complaint to be made. It allows the commission to initiate at its own discretion inquiries into matters covered by the scope of the legislation.

The bill empowers the commission to issue compliance notices against any person the commission believes is responsible for an unlawful act under the legislation. It introduces a proactive duty on employers, businesses and other parties that are bound by the legislation to take what are described as 'reasonable and proportionate measures' to eliminate discrimination. This is a positive requirement. Rather than a requirement that business and other parties not be engaged in discrimination, this is a positive requirement for them to eliminate discrimination.

One of the most controversial provisions of the legislation relates to the restrictions on the current freedom of religion exemptions that apply under the existing legislation in relation to schools and other bodies, restricting that exemption to specified attributes. It further restricts the exemption for non-employment discrimination to discrimination that is reasonably necessary to avoid injury to religious sensitivities, which is a stronger test than that currently imposed under the existing legislation. With respect to employment discrimination — and this is probably the most controversial aspect of the legislation — it restricts an exemption to where:

> … conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position;

This is a matter that I will come back to later in the contribution, because it has generated, as I am sure most members of this chamber are aware, considerable public comment and considerable representations from local communities — religious communities in

particular — as to the way in which this provision will affect the operation of religious schools.

The bill also changes discrimination requirements with respect to clubs. It applies the antidiscrimination requirements to all clubs which have more than 30 members that have a liquor licence, which is a curious qualifier. It allows clubs to exclude a person from membership on the basis of a person's gender if the membership of that club is only available to people of the opposite sex, which is a continuation of the existing exemption. However, it requires that clubs in that situation must make their membership eligibility rules available without charge.

The bill goes on to repeal certain exemptions and exceptions with respect to family employment, small business, standards of dress and behaviour in employment, compulsory retirement of judicial officers, youth wages, gender identity, accommodation not suitable for children and the compulsory retirement of public sector employees.

The bill also changes provisions with respect to dress standards, appearance and behaviour of school students. The current exemption is changed to require reasonable standards without the provision which allows for those standards to be set after taking into account the views of the school community. Under the current provision, if the school community makes a decision as to what is deemed acceptable, that is the basis on which those standards are applied. Under this new provision, the views of the school community will not be the basis determining the application of those particular standards.

The bill goes on to increase a number of penalties with respect to offences of obstructing the commission or giving false and misleading information to the commission. One of the provisions in the original bill, which has now been removed by amendment in the other place, was to deem volunteers to be employees for the purposes of equal opportunity legislation. That was a particularly difficult and unwieldy provision, and this side of the house is pleased to see that it was removed by way of government amendment in the other place before the bill reached this place.

The coalition parties have decided, notwithstanding their strong support for equal opportunity legislation going back 33 years, that they will not support this bill, and there are a number of reasons for that.

As I said, we believe this is a step in the wrong direction with equal opportunity legislation. We have concerns about the powers that are being given to the commission to undertake own-motion investigations — the very broad powers to launch its own investigations and public inquiries, including the capacity to compel the production of documents and the giving of evidence in an effort to undertake inquiries into what is described as systematic discrimination.

Rather than its current brief of investigating particular complaints, the commission can now undertake its own-motion investigations on systematic discrimination, which as members of this place could imagine, could be an incredibly wide brief that the commission could choose to pursue for itself.

Equally coalition members have concerns about the sweeping powers that would be given to the commission for the issuing of compliance notices. This new provision would allow the commission to issue compliance notices where it believed discrimination had occurred. Simply on the basis that the commission has formed a view that discrimination has occurred, the commission can issue a compliance notice to a party, which is effectively a mandatory order on that party unless it is appealed to VCAT (Victorian Civil and Administrative Tribunal).

As I touched on earlier, the substantive concern is the attack on religious freedom. By now members of this chamber will have received dozens if not hundreds of email representations from constituents.

Mr Drum — Thousands.

Mr RICH-PHILLIPS — Mr Drum says 'thousands' of representations from constituents have come from throughout our regions about this particular provision. As I understand it from the representations that we have received, the key concern in this provision relates to the employment of people in religious schools. Under this legislation the exemption that religious schools currently enjoy will be changed and curtailed substantially to require that schools can select only people who will uphold the school's values if they can demonstrate, to quote the legislation:

> … conformity with the doctrines of the school's faith … is an inherent requirement' —

of the job. No longer will schools be able to select purely on the basis of the beliefs of that school and the school's desire to have a staff that reflects the values and beliefs of the school and to have a staff pool that will indoctrinate or will adhere to those beliefs when dealing with the school body.

Now schools would be required to make assessments on individual positions as to whether adherence to those

beliefs is inherent to a particular job. I understand that the commissioner has already stated her view on the application of this provision, including indicating that in her view the employment of a maths teacher, for example, would not require adherence to the doctrines of a particular religious school because it is not an inherent requirement of the job.

You would effectively have a situation, based on that particular view of the commissioner, that any teaching staff in any specialty would not be able to be chosen based on their beliefs consistent with the school's position if they were hired as a particular specialty teacher because it is not, in the commissioner's view, an inherent requirement of a maths teacher that they adhere to the faith of a particular religious school.

I have to say that this provision has generated considerable concern in the community among faith-based schools. It is one of those issues that polarises the community. As a member who has been here for a few years, I think I can count on one hand the number of occasions when an issue has galvanised the community in the way this particular issue has in terms of the volume of correspondence that has been received in electorate offices not only in recent weeks but since this proposal was floated a number of months ago when the legislation first came in.

There is no doubt that there is very strong feeling in the community that this is a retrograde step for those faith-based schools, and frankly an argument has not been made for why this particular change to the existing exemption is required, given the way in which it will undermine the operation of those faith-based schools.

Our other concerns include the new open-ended duty on employers and businesses to take action to prevent discrimination by third parties, and allied to that I would add the new obligation for employers, service providers and others to make reasonable adjustments for people with impairments and provide reasonable access to public premises for people with impairments.

I raise these two provisions together because of their open-ended nature. It is one thing for legislation or regulation to say an employer must do X, Y and Z; it is quite another for legislation, such as this, to imply an open-ended duty and say an employer must take action to prevent discrimination by third parties, or an employer must make reasonable adjustments to ensure that their services or premises — or whatever the case may be — are accessible without actually specifying what those requirements are.

It would appear from this legislation in the latter example of the accessibility requirements that even compliance with the commonwealth Disability Discrimination Act standards of access would not necessarily be sufficient to meet the requirement of this legislation. Basically the bill is seeking to impose an open-ended requirement on employers and other parties, and the only way in which they will know if they meet that requirement is retrospectively if the commission should go back and look at them.

That puts the commission in a very strong position, and it puts employers, service providers and other organisations at great disadvantage by effectively not knowing what the goalposts are and giving the commission capacity to come in later and say, 'You got it wrong; you did not meet that requirement'. I think that is inherently unfair in this legislation. If Parliament and the government expect employers, service providers and other parties to meet certain standards in terms of access and preventing discrimination, then the government should specify what those standards are.

The government should not leave it open-ended and allow the commission to come in retrospectively and say, 'You got it wrong; you did not meet the standard', although that standard was never specified up front.

On the issue of student dress, which I touched on earlier — the changing of the requirement which moves from a standard agreed to by the school community — it strikes me that this is stepping into territory in which the commission should not be stepping. This side of the house believes, and I think the community believes, that if a school community — a school council and the broader parent community and teacher community — decides on appropriate standards of dress and behaviour for students, that should be the standard that applies.

The belief of the government that we should have the commission coming in over the top of school communities and dictating what suitable standards of dress and behaviour et cetera are in a school environment smacks of the nanny state. These are matters best determined in individual school communities. We do not need the dead hand of the commissioner coming in over the top and dictating.

To remove the existing provision that lays down the standard as based on the standard acceptable to the school and allow the commissioner or the commission to impose a different standard as it sees fit is heavy-handed in the extreme and completely inconsistent with a community that would allow and believes that schools and school communities should govern the conduct of their own broader school communities.

I also wish to touch on the removal of the existing youth wages exemption. I raise this only because of the overlay of commonwealth legislation. What the bill seeks to do here is outlaw youth wage provisions except where they are already provided for under the commonwealth Fair Work Act. The reason I raise this matter and the overlay of the commonwealth legislation is that there are now inconsistent statements from the government as to how this particular bill will operate with respect to commonwealth legislation. We have had statements from the Attorney-General about changes in relation to single-sex clubs — the changes that have been made in a way that have to be consistent with commonwealth law — yet we have a different statement with respect to youth wages where the changes are being made because of commonwealth law. On the one hand the government is saying that it is constrained by commonwealth law and on the other it is saying it is implementing these changes to be consistent with commonwealth law.

Another matter that I touch on in this point is the change to the accommodation exemption. This relates to allowing accommodation premises to discriminate against children where the premises are not suitable for children, such as bed and breakfast accommodation, boutique hotels et cetera. To change this provision and remove this exemption from the legislation is similar to the intervention with school dress standards and behaviour; it smacks of a heavy hand and a Big Brother approach that is not consistent with what the community expects.

We would expect accommodation operators to use the existing provisions responsibly. The reality is you are not going to have a large-scale accommodation provider that would seek to use this exemption. In cases where premises are not suitable for children — boutique hotels, bed and breakfasts et cetera — it is appropriate that such establishments can select their clientele based on suitability. If that means they do not accept children because the premises are not suitable for children, that should be a matter for the proprietors of those respective establishments and it does not require the dead hand of the commissioner and the commission to come in over the top. As I say, this is analogous to the situation with school communities, with the commission seeking to have the final word on what is suitable for student behaviour and dress in school communities. Again it is not necessary and it is not appropriate, and an argument has not been advanced as to why it is necessary to change that particular exemption in the way this bill seeks to.

In conclusion the coalition parties will oppose this legislation. As I say, we have a very strong history of supporting and indeed initiating equal opportunity legislation in this state, dating from the original act of the Hamer government of 1977 and the current act of the Kennett government of 1995, which will be repealed by this legislation. We believe this bill is a step in the wrong direction. It does not materially broaden the scope of discrimination offences but it does vest much more power in the commission without a justifiable reason for doing so. We have concerns about the breadth of power that will be granted to the commission by this legislation, the removal of certain exemptions as outlined and the impact that this is going to have on faith-based schools, which have become a very significant and important provider of education in our communities and an important part of the community fabric in Victoria. For those reasons we will be opposing this legislation.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Before I call the next speaker I would like to welcome to the gallery the Consul-General of Lebanon, Mr Henri Castoun, and his wife, Mrs Lea Castoun.

EQUAL OPPORTUNITY BILL

Second reading

Debate resumed.

Ms PENNICUIK (Southern Metropolitan) — At the outset I wish to say that the Equal Opportunity Bill 2010 is, in my view, one of the most important bills that we have had in this session of Parliament. I say that because equal opportunity laws, particularly those relating to protection from discrimination, affect every single person in Victoria, and the ability of people to go about their business free from discrimination is fundamental to their health, welfare, happiness and opportunities in life. The bill before us is a very important bill. It repeals the existing act and replaces it with a new act.

A lot has been said and written in the lead-up to this bill. We know that a review of the Equal Opportunity Act 1995 was conducted by Mr Julian Gardner, the former public advocate, and he released his report, now known as the Gardner report, in June 2008. This bill is also the result of a review of the exceptions and exemptions under the existing act that was conducted, in the end, by the Scrutiny of Acts and Regulations Committee after going through a few iterations on its

way there. That was an important review too because the original review commissioned by the government for Mr Gardner did not include a review of the exceptions and exemptions. I remind the chamber that when that came to our notice, even in 2007 when we had another equal opportunity bill before us, I tried to move amendments in the house to remove the exceptions under the existing act that relate to small businesses, religious bodies and religious schools.

When I noticed that the Julian Gardner review was not going to look at this important area, the exceptions under the existing act, which are quite broad — in fact the current act allows discrimination that many in the community do not agree with and would be outraged to know existed — I moved a motion in this house that I would prepare a private member's bill to remove those exceptions, and lo and behold a review of the exceptions and exemptions was suddenly commissioned by the government. Far be it from me to say I had any hand in that, but the coincidence was remarkable. It meant that we had a more comprehensive review of the act and the extremely broad exceptions and exemptions that exist under it.

In that time many people made submissions to the Gardner review, and hearings were held. I attended one of those hearings, and many people made submissions to the Scrutiny of Acts and Regulations Committee's (SARC) review into the exemptions and exceptions under the act.

Since the bill has been released a lot of people have made submissions to members of Parliament — to every member of this house, I am sure. Groups such as the Law Institute of Victoria, the Federation of Community Legal Centres and other local legal centres such as the Fitzroy Legal Centre, the North Melbourne Legal Service, the Victorian Gay and Lesbian Rights Lobby, TransGender Victoria and many others have made submissions to us as MPs, as have a lot of individuals, religious and church groups. I agree with Mr Rich-Phillips that there is a lot of interest in the bill.

As I mentioned before, a lot of people in the community would not be supportive of the broad number of exemptions and exceptions that exist under the current act. I think I may have said when I moved similar amendments in 2007 that if you were to go out and ask people in Spring Street if they knew that under the current act, small business could discriminate on any attribute I would say, firstly, they would not know that, and secondly, they would not support it. One of the welcome things in the bill is that that particular exception has been removed. As I said, the bill repeals the current act, so there are a lot of provisions in the bill, but I do not intend to go through all of them. I presume it is the job of government speakers to outline all the provisions in the bill.

The library did a comprehensive and very useful research brief on the bill. I like to mention that, because it is fantastic when the library conducts such research. I noticed I was quoted in that research brief, which was a bit of a surprise, but the library does a fabulous job on those research briefs. I would also like to thank the minister's staff and departmental staff for the very comprehensive briefing they gave us on the bill, virtually clause by clause. We understand all the various provisions in the bill, and by and large the bill is a vast improvement on the existing act.

As I said, I will not mention all of them, but there are many welcome provisions in the bill. Going to the main provisions, the bill changes the Equal Opportunity Commission from the complaints handling body that it is, although it has some educative functions, to one that has as its main focus to educate and facilitate dispute resolution, best practice and compliance. It gives the commission more effective options to respond to systemic discrimination, and that was a very strong recommendation from the Gardner review. It is good that this will significantly change the focus and the status of the commission in a positive way.

One of the longstanding platforms in the Australian Greens Victoria justice policy is to change the focus of the commission in these directions and to strengthen its arm. The changes in the bill encourage best practice and proactive compliance by duty-holders without having to rely on individual complainants going to the commission. It provides a more effective and efficient complaints resolution system with a focus on early and flexible dispute resolution but also allows complainants to go directly to VCAT (the Victorian Civil and Administrative Tribunal) to have their matters determined if they wish.

The bill also clarifies the definitions of direct and indirect discrimination, although I will be proposing an amendment to the definition of 'indirect discrimination', which I will go into at some later stage. The bill clarifies that special measures that are taken to assist those who are in a disadvantaged position would not be defined as discrimination. That is another positive feature of the bill.

The bill clarifies the duty of duty-holders to make reasonable adjustments for people with an impairment — again a very positive provision of the bill which we support. I noticed Mr Rich-Phillips expressed some concerns about that. Given the

disadvantage and discrimination that is suffered by people with disabilities and impairments, I really cannot quite understand how one could not support this as a positive development for people with impairments.

As I mentioned, the role of the commission is strengthened in terms of issuing guidelines and action plans for duty-holders, and there is a much greater focus on research and education. But it is not a perfect bill; it could go further than it does. I would have to say in some areas it is a lost opportunity, because the bill effectively rewrites the Equal Opportunity Act. One of the objectives of that act is to remove discrimination wherever possible, but unfortunately the bill does not entirely do that. It still allows discrimination in some areas, and that is regrettable. Certainly some strong recommendations that came from the Gardner review have not been picked up, and I will be moving amendments to address those issues. I am happy to have my amendments circulated.

The ACTING PRESIDENT (**Mr Leane**) — Order! The attendants are just chasing up copies of Ms Pennicuik's proposed amendments for the chamber. Ms Pennicuik can continue her contribution, and we will distribute them as soon as possible.

Ms PENNICUIK — I spent some time, as members do, reading and then re-reading the second-reading speech for this bill. I was struck by the Attorney-General's speech where he said:

> … the community we have built together — one that values diversity, that values opportunity, that values the contribution that every member of our rich and varied society can make, if given the chance to make it.

Who can disagree? I totally agree with that. The speech then says:

> Victorians are not the same as they were in 1977 —

that is when the first act was introduced —

> nor is our understanding of their varied experiences and the barriers that some still face to participating and contributing in full.

I agree with that. However, this bill does not necessarily fulfil the goal of the removal of those barriers to opportunities and the removal of those discriminations that are still felt by some people in the community. The Attorney-General talked at some length about the removal of the ability under the act to discriminate against people on the basis of race and age. I would have thought these were basically catch-up things. The community is way ahead on this stuff. These are amendments that should have been made a long time ago. It is good they are being made. There were exceptions in the act that allowed people to be discriminated against on the basis of those attributes, particularly in small business, religious schools, religious organisations and in other areas as well.

The Attorney-General went on quite a lot about those issues. He talked a bit about the changing role of the commission, which I have referred to and which I strongly support. However, in terms of discrimination, which the bill will still allow but only in certain circumstances — that is, by religious bodies and religious schools — we will still be able to discriminate against people on the basis of some particular attributes, those being sex, marital status, parental status, lawful sexual activity, religious belief and — —

Mr Tee — Gender identity.

Ms PENNICUIK — Gender identity. Thank you, Mr Tee. The Attorney-General says in his speech that discrimination will be allowed because the particular attribute of a position in a religious organisation, such as that of a priest or a particular job in a school, would be an inherent requirement under the bill. The bill does not actually do that. It says that, but it then goes on to broaden that definition. If it just said that a religious organisation could discriminate because of the inherent requirements of a position — for example, to be a Catholic priest you have to be Catholic — I do not think many people would object to that. It is an inherent requirement — —

Mr Drum interjected.

Ms PENNICUIK — Mr Drum, I am saying I don't. But I do object to it going any further, because there is no justification for a religious exemption to discriminate against somebody else just based on something that is not an inherent requirement.

From our point of view, and as I have said publicly, the only requirement for employment should be experience and qualifications. No other attributes, such as whether or not you are married, whether or not you are a parent or what your sex or gender identity is, should matter. It is difficult to see how certain bodies, including religious bodies, are still allowed to maintain the ability to discriminate based on these characteristics, or attributes as they are called under the act. One of the proposed amendments I have circulated seeks to remove those remaining exemptions under the act which are not justified under any reading of what is fair or on any understanding of fulfilling the object of the act, which is to remove — —

The ACTING PRESIDENT (**Mr Leane**) — Order! To clarify the position on Ms Pennicuik's

proposed amendments, because the clerks were presented with a new draft of the member's amendments only recently, those amendments now are being checked as I speak. That is why they have not been distributed to members in the chamber. I wanted to let Ms Pennicuik know about that in case she was planning to speak on those amendments at this current time. As soon as they are checked the member will be notified.

Ms PENNICUIK — Another problem that has been pointed out by other stakeholders and with which we agree, besides these religious exceptions under the bill, is that the government has missed the opportunity to include two attributes by which people should not be discriminated against — they are homelessness and irrelevant criminal record.

I know the government has been lobbied on these issues by the Law Institute of Victoria, the Federation of Community Legal Centres and other local legal centres. Provisions to make it unlawful to discriminate on the basis of irrelevant criminal record or homelessness were also recommended in the Gardner report. It is disappointing that they have not been included in this bill.

Discrimination on the basis of irrelevant criminal record is prohibited in Tasmania, Western Australia, the Northern Territory, the ACT, and at the federal level. Discrimination is prohibited on the basis of both irrelevant criminal record and homelessness at the international level. This is advice from the Law Institute of Victoria which I am sure the government has seen.

Articles 2(1) and 26 of the International Covenant on Civil and Political Rights enshrine the right to non-discrimination on the basis of a list of attributes, including 'other status'. International jurisprudence established that 'other status' refers to a definable group linked by their common status and that the homeless and those with irrelevant criminal records would constitute such a group.

The federal government and this government, in particular Mr Wynne, the Minister for Housing, and Mr Hulls, the Attorney-General, have made lots of statements about how governments are moving to provide more facilities and resources for homeless people and improve their lot generally; yet this government has not taken the obvious step, which is to include in the bill that homelessness be an attribute by which people cannot be discriminated against.

The government would have seen the submissions that I have seen from the legal centres that deal with homeless people all the time and know how they are discriminated against by employers, landlords and others, but it has not taken up this opportunity to include in the bill and in the new Victorian Equal Opportunity Act these two attributes which are included in legislation in major jurisdictions in the world and around Australia. I cannot understand why the government has not taken up that recommendation made in the Gardner review.

When we are talking about irrelevant criminal record we are talking about a record that is not relevant to a person's job application or tenancy application. It could be a speeding fine or other summary offence that has no bearing on their ability to carry out their job. It is a point being made by others in the legal fraternity — that it is just further discrimination against people. If they are trying to turn their lives around, they can suffer discrimination because of an irrelevant criminal record.

The support amongst the stakeholders for the inclusion of these two attributes is very strong and the arguments against it are very weak. So that is a lost opportunity under this bill which is a shame.

The ACTING PRESIDENT (**Mr Leane**) — Order! Ms Pennicuik's amendments are now being circulated.

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

Ms PENNICUIK — Thank you, Acting President. I will be moving amendments to insert 'homelessness' and 'irrelevant criminal record' as protected attributes under the bill. I mentioned earlier in my contribution in relation to clause 12, which looks at groups of people, that there has been some correspondence from the Law Institute of Victoria (LIV) which is looking at making sure that the wording of that clause will capture people who have more than one attribute. LIV has pointed out that it did not think the clause totally did that. I was of the view, having looked at the clause, that it was right, so I asked parliamentary counsel to draw up an amendment to that effect.

We had a bit of a talk with ministerial and departmental staff about the terms 'genuine occupational requirements' and 'inherent requirements', and I see them smiling at me from the advisers box. It was a bit of a circular discussion about that from which we came out the other end somehow thinking that the terms 'genuine occupational requirements' and 'inherent requirements', which are important terms in use in the bill, meant virtually the same thing. I think 'inherent

requirements' is a bit stronger, but if they mean the same thing — and one of the objects of the whole exercise is to be consistent with the commonwealth legislation — I will move an amendment to make the term in this bill consistent with the term in use in the commonwealth legislation, which is 'inherent requirements'.

One of the amendments is to clause 22, to remove the reference to gender identity in terms of discrimination in sport. That was put to us in a submission from TransGender Victoria. In its submission it talked about that particular issue and made the comment that these issues can be dealt with in other ways. It said this provision should not be in the bill. I agree with that, so there is an amendment for it.

As I mentioned, the substantial amendments I will be moving will be to clauses 82 and 83, which look at the exceptions that will still be allowed under this bill for religious bodies and religious schools. The amendments will be limited to an inherent requirement of the particular position, and the test for that will be the reasonable limitation test under section 7(2) of the Charter of Human Rights and Responsibilities, which is also a recommendation of the Gardner review.

Again, it is a question that I and my electorate officer spoke about at some length with the departmental and ministerial staff. The government's view is that somehow or other the bill has been looked at in that respect and so these provisions are not needed. We do not agree, because these provisions allow certain members of the community to be discriminated against, whereas the vast majority of the rest of the community cannot be discriminated against.

As I have said in public, I think discrimination is discrimination. If there is no reasonable, defendable, proportionate, necessary, inherent reason why there should be allowed to be discrimination, there should be no discrimination. It is my belief that a religious belief or a position held by a person or an organisation does not entitle them to inflict on others discrimination which can profoundly affect their lives. If this bill is meant to reduce discrimination to the furthest extent possible, which is the objective of the bill, it fails in this regard. It is very serious, and it will have the unfortunate effect of making those people feel even more discriminated against, because through this bill they are the ones left to be discriminated against. It shines a light even further on their discrimination, and it is completely unjustified. That is why we will be moving amendments to change that and, to our mind, to bring the bill into compliance with its own objectives.

As I said at the start, it is a very important bill and it moves us forward, there is no doubt, from the act as it stands. We will be moving forward in terms of equal opportunity in the state of Victoria under this bill, which will become a totally new act. But unfortunately there are some omissions and some retentions of the provisions of the current act which will mean that some people will still suffer discrimination. In fact they are the people who are already suffering discrimination, such as homeless people and people with an irrelevant criminal record.

In committee I will be asking the minister how it is that the attributes of whether or not a person is married, or even their gender identity or lawful sexual activity, could have anything to do with their ability to work in a religious school. The only things that should be a requirement for employment in any school are qualifications and experience for the position, except in terms of — —

Mr Drum interjected.

Ms PENNICUIK — No, I said 'lawful'. We will be moving a series of amendments to this bill which we feel would improve the bill and make a good Equal Opportunity Act for Victoria.

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the Equal Opportunity Bill before the house. Equal opportunity is an important issue, and this bill fulfils a 2006 election commitment by the government to address systemic discrimination. I welcome the government's movement in delivering on that commitment.

At its heart equal opportunity means that individuals have the same chance to make a contribution regardless of their attributes and regardless of the colour of their skin. Equal opportunity means that my daughter can develop to her full potential. It means that she can have a fulfilling life which is not artificially constrained because she happens to be a girl. Regardless of our background, we all want what is best for our children. We want them to strive, have a go and succeed. We want them to reach their full potential as human beings, and we do not want them to be snubbed or hurt because of their gender, an attribute or the colour of their skin. That is really what we mean by 'a fair go', and equal opportunity is not some esoteric debate or academic high principle. Discrimination is important; it matters. It has consequences for individuals, the community and the economy, and these consequences are real and measurable.

The evidence is very clear and compelling that individuals who suffer discrimination suffer a loss of confidence. They can suffer from adverse health impacts, they are at risk of suffering from anxiety or depression and there is evidence that they are at greater risk of suffering from diabetes, obesity and cardiovascular disease. If we discriminate against individuals, we deny them the opportunity to make their contribution and have a go. If we discriminate against individuals, we deny the community and the economy of the benefits they would otherwise have received from having the contribution of that individual.

If we want to have an economy that is innovative, flexible, vibrant and productive, then we need a society that values and embraces the contribution of each individual. Good employers know this and know that discrimination is not good for business. Good employers know that they benefit if they can get the best out of their employees regardless of their colour, background or race. Victorians know that valuing diversity and bringing out the best in people is what makes Victoria strong. It is our diversity, our cultural backgrounds and our tolerance that makes Victoria the dynamic, welcoming and thriving community it is.

We also know that discrimination harms us all. We are all diminished when Victorians with disabilities cannot get work. We are all diminished when pay inequity exists and when women are discriminated against in employment because they are women. We are all diminished when we have hate crime directed towards our Indian communities.

The Equal Opportunity Act, which has been in place for some 30 years now, really provides the legal framework for that fair go. It is the starting point or the framework within which the community's fair go is realised and enshrined. It enshrines the right of individuals to have a go, to reach their full potential and to make their contribution. As I said, it has been in place for well over 30 years. It is interesting to note that the Liberal Party's position has changed such that a doctrine which was bipartisan some 30 years ago is no longer supported by those opposite. It is telling in how far it has moved in this debate. It is very disappointing.

Mr Drum — It is how far you have moved.

Mr TEE — It is very disappointing, Mr Drum. Over the last 30 years our society has changed. It has continued to grow and to move. It is important that we look at the act again to make sure that it still meets the aspirations of Victorians, so I am pleased the government has initiated this review. But it is also very important to note the nature of the review and how it was conducted. This was a review where there was a great deal of community engagement and participation, and there were opportunities to have a dialogue in relation to not just the act but really, underlying it, the kind of society in which we want to live.

The starting point for that was a Department of Justice review which received some 500 submissions. That review produced a report which was then provided to the Scrutiny of Acts and Regulations Committee (SARC). That committee was asked to look at the issue particularly in relation to exceptions and exemptions. It received some 1800 written submissions and held a number of public hearings over two days. The contributions of both the department and SARC clearly influenced the development of the bill, and I want to thank them for their contribution. I also want to thank those who made a contribution to those two processes for their involvement.

In addition the government had the benefit of the work done by the former public advocate, Mr Julian Gardner. Mr Gardner also received submissions and met many individuals as he conducted his review. His report, *An Equality Act for a Fairer Victoria*, was released nearly two years ago.

This is not a new proposal. This is not a rushed proposal. This is a clearly considered proposal which has been informed by the views of many Victorians. I want to acknowledge that contribution and their efforts in having their voices heard as part of this.

What does the proposal do? What does the bill do? Really at its heart the bill makes sure we have a more facilitative structure. What we have in the act is a structure that promotes an education program. It is really about assisting those businesses, those individuals, those service providers that are striving to incorporate the contributions of all individuals. It is about helping them, it is about supporting them and it is about making sure that the vast majority of businesses that want to do the right thing are able to do so.

The bill changes the focus of the Victorian Equal Opportunity and Human Rights Commission from being a body that deals with and handles individual complaints to one that educates and facilitates. It is about identifying and promoting and rolling out best practice throughout the community and throughout our workplaces. Under the bill the commission will have a broadened role. It will move from a reactive and responsive role in terms of complaints to one that is about addressing systemic discrimination which occurs across the board. It is about prevention rather than

reaction; it is about prevention being, as we know, better than a cure.

The bill flips around the onus. The way the system operates at the moment is that we wait for a complaint to be made. This bill turns that around and makes sure there is a proactive compliance requirement. As has been suggested by Mr Rich-Phillips, it is not some dramatic turnaround in the act. Currently there is an implicit requirement that you do not discriminate. The bill turns that around and says, 'You need to do something positive, you need to do something proactive'. So instead of waiting for a complaint, waiting until the damage has been done, waiting until the hurt has occurred — —

Mr Drum interjected.

Mr TEE — Instead of waiting until the advantage has been taken, there is a proactive requirement not to discriminate, to sexually harass or to victimise. But it is not, as Mr Drum interjected, an onerous obligation. The action that needs to be taken needs to be reasonable and proportionate. No more and no less.

Mr Drum — What is the definition of 'reasonable and proportionate'?

Mr TEE — It is reasonable and proportionate. It takes into account the size of the business and it takes into account the steps that can be taken and how difficult and costly they are. It is a balancing act. But, most importantly, it is about the commission working with duty-holders, and for that reason under the bill individuals cannot make a complaint. However, it is an important way to address discrimination before it occurs. In a similar way the bill contains a clear statement which requires that employers, firms, educational authorities and service providers make reasonable adjustments — there is another one for Mr Drum, 'make reasonable adjustments' — for people with impairments. While the duties are currently implied, we are not changing the obligation. We are not saying — and in a sense the test has been in place for 30 years — that you cannot discriminate. What we are saying is that that implied duty becomes a positive duty. Employers have been in this field for some 30 years; they have been managing under a bill that the opposition originally passed.

Mr Drum interjected.

Mr TEE — They have been doing reasonably well. We are saying that it is time to turn that around to ensure there is a degree of proactiveness in the work and that adjustments are made.

These duties are currently implied in the bill. The bill reframes those existing obligations as positive duties to make reasonable adjustments for people with an impairment. In being proactive we are ensuring that more Victorians with a disability get to have a go, more Victorians with a disability are included and more Victorians with a disability have an opportunity. I welcome these amendments. As I said, they build on and support the great work being done by individuals, by communities and by employers. It is about working with those communities and those groups to make it easier to roll out what is best practice.

There is then some consideration in the bill in terms of this new positive role for the commission. There is a mechanism provided for resolving disputes early and in an enduring way. So Mr Drum does not need to worry about whether or not these employers will be out there on their own. They will not be. They will be supported and assisted by the Victorian Human Rights and Equal Opportunity Commission, which will have a number of strategies it can take to ensure that we all benefit.

To take an example, if there is a serious matter that affects a large group of people where there might be a possible contravention of the act, an investigation can occur. There are a number of outcomes possible under such circumstances. If there is a serious matter that affects a class of people and that may involve a contravention of the act, there will be an investigation; and if the commission believes there is discrimination, there are a number of possible outcomes. There might be an agreement; the parties might agree to take particular actions. There might be undertakings given, which can be enforced at VCAT (Victorian Civil and Administrative Tribunal) if they are breached. If there is no agreement, the commission can still issue a compliance notice which can be enforced at VCAT, and indeed parts of that compliance notice or the notice itself can be appealed to VCAT. So everyone has their rights protected.

So we have a model that puts the onus on the commission to work with and educate the community, service providers and employers. The bill acknowledges that most want to and will do the right thing, and the process provided for in the bill works on the goodwill that is already out there in the community.

The bill also acknowledges that sometimes the public interest demands a more public and broader investigation or examination of an issue, and there is a mechanism in the bill for doing this as well. The commission will be able to recommend to the Attorney-General that a broader public inquiry be conducted into a systemic matter. Again I am sure this house will

approve of this, because ultimately it is a mechanism that provides for public dialogue and for engagement with the community. It is a public tool by which the government can provide for an inquiry into a particular issue.

Some changes have been identified in relation to the exceptions and exemptions; they are important too, and I want to identify some of those. However, it is worth noting that the overwhelming majority of the exceptions and exemptions have been transported across to the new act; they have not been changed in any substantial way. The changes in place improve, modernise and clarify the language. There are changes which harmonise Victorian laws with federal legislation and which ensure Victoria's Equal Opportunity Act acknowledges changes in other Victorian legislation. Over the last 30 years there have been changes in terms of state and federal relations and also changes in terms of the introduction of other state legislation, and this bill will modernise the Equal Opportunity Act in terms of picking up on those changes.

Some of the issues Mr Gordon Rich-Phillips addressed in his contribution dealing with employment matters have now been picked up by the federal jurisdiction. For that reason there is no point having them in state legislation, and in fact having them in state legislation does no more than add unnecessary confusion and unnecessary bureaucracy and make life more difficult for those seeking to comply with the law.

We come then to the provisions dealing with religious exemptions and exceptions. The starting point for any discussion around that is to acknowledge there has been some flow of email traffic and that some concerns — and indeed some fears — have been identified in those emails. It is important to realise of course that a religious body will continue to be able to discriminate on the basis of any attribute, including the body's religion, when selecting people or appointing people to perform any religious observance or practice. That part of the old act is being transferred into the new act and is unchanged.

The controversy really seems to be in relation to one aspect of the bill which deals with the changes to the employment practices of religious bodies. There are two aspects to that. Firstly, if passed, the bill will make it a breach of the act for a religious body to discriminate against an individual on the basis of a number of attributes. So in an employment context a religious body will no longer be able to discriminate on the basis of attributes such as age, race — Mr Drum would not have any difficulty with that — breastfeeding, industrial activity, physical features and impairment.

Mr Drum — Can you advertise for faith-based teachers? Do you think that would be fair and reasonable?

Mr TEE — I think it is entirely reasonable that we do not allow religious bodies to discriminate on the basis of race, Mr Drum. In fact I have had a number of discussions with a number of religious bodies who equally do not see any need for them to have the right to discriminate on the basis of race.

Mr Drum — No, I am talking about religious belief. I am asking a simple question.

Mr TEE — Let me come to religious belief, because that is really the second aspect of it. The first aspect is not controversial at all, Mr Drum. That is, there are now a number of agreed attributes where it is no longer necessary — and race is the classic example, but it is not the only one — and where there is now consensus, and indeed where it is indefensible to argue that we should allow discrimination on the grounds of those attributes, and I welcome those changes; and I acknowledge that Mr Drum welcomes those changes.

Let us talk then about those more controversial provisions which relate to discrimination and on certain attributes, which are provided for in the bill.

The bill provides that there can be discrimination on the basis of sex, sexual orientation, lawful sexual activity, marital status, parental status, or gender identity. There are arguments both ways as to whether or not that is a good or a bad thing.

Ms Pennicuik, in her contribution, made the argument that schools should not be able to discriminate against the employment of women or married couples or parents with children or parents without children, and indeed people who are gay. That is the argument that is put against the discrimination which is allowed for in the bill, but it has also been suggested that religious bodies should have an unfettered right to discriminate against women, married couples, unmarried couples, parents with children, parents without children, or people who are gay. That really encapsulates the arguments that run both ways.

The bill provides that there can be discrimination on the basis of a person's religious beliefs, on the basis of their sex, on the basis of their sexual orientation, lawful sexual activity, marital status, parental status or gender identity.

It does provide for discrimination by religious bodies, but what it demands is a degree of transparency and a degree of accountability. What it says is that if you are

going to discriminate on those grounds, then that discrimination must be justified or must be in conformity with the religion, and it must be an inherent requirement of the job. So if we are going to allow a school to deny a job to a woman, to a mother, to a wife, then I think that discrimination should have been justified by reference to the nature of the job and by reference to the religious doctrine.

If you are going to deny someone a job because they are gay, if you are going to deny them that opportunity, then what the bill does is say you need to demonstrate that that decision is made in accordance with the religious doctrine; and the nature of the employment means that the person is not suitable.

In this regard the bill has made an important improvement. I am also very convinced that the bill has not compromised religious freedom. In fact, what the bill does is put the religious doctrine at the very front and centre of the decision-making process in relation to employment. It says the religious doctrine is a justification, so it is very much at the front and centre of the decision-making process.

The bill, I suppose in summary, does take us forward. It is an important change, but it is a very measured change. I think Ms Pennicuik has suggested that. It builds on the community's commitment to a fair go and, as someone who passionately believes in giving everyone the same opportunity, I very much welcome the bill and congratulate the government on its introduction.

Mr P. DAVIS (Eastern Victoria) — I am pleased to have a brief opportunity this evening to speak to the Equal Opportunity Bill 2010. While there is a whole range of issues which I could address in my remarks, I will limit myself essentially to the issue upon which the former speaker concluded — that is, the desire of the government to effectively appoint bureaucrats who may or may not have any understanding of the doctrines of any faith community to make judgements about what is in the best interests of those faith communities, in particular the educational nature of the institutions which those faith communities support.

I make a declaration that I belong to and am actively involved in a faith community, but that is not the basis on which I make my remarks. I make my remarks in relation to the representations which have been made to me by a large number of constituents. I have had not one — not one, Mr Tee! — representation in support of this bill. Every representation to me has been opposed, principally on the issue of the interference by the government in respect of the faith communities' interest in maintaining a framework of values education in respect of those faith communities through the education of children.

I will make some quick commentary: firstly, in relation to the Charter of Human Rights and Responsibilities in Victoria, we say that the Parliament has subscribed to this under the heading 'Freedom of thought, conscience, religion and belief':

> People have the right to freedom of thought, conscience and religion. This includes freedom to choose a religion or belief, and the freedom to demonstrate the religion individually or as part of a community and in public or private.

Under the Universal Declaration of Human Rights, article 18 states:

> Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in a community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

I could read the full extract from section 116 of Australia's constitution under the title 'Commonwealth not to legislate in respect of religion', but members can do that. The issue is that the Parliament of Victoria is seeking to proscribe the capacity of faith communities, which provide a very significant role in education today and indeed have been applauded by the community widely, as you can see by the increasing enrolments, because parents are increasingly seeking the values which those faith community-based schools have provided.

The government is seeking to interfere in the capacity of those schools to discharge within the culture and within the ethos of the school their duty of care to their children reflecting the faith community's values.

I believe fundamentally this is a matter of freedom of choice and expression and clearly a matter of freedom of religion. For that reason I am absolutely opposed to this bill, if not for a whole series of other reasons which I could come to in more detail were there more time available for this debate this evening.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

> That the house do now adjourn.

Horsham Special School: funding

Mr KOCH (Western Victoria) — My adjournment matter is for the Minister for Education and relates to the plans of Horsham Special School to build its new facility.

Horsham Special School operates at dual sites, with a separate junior campus in the grounds of the Horsham West Primary School and its senior campus behind Horsham College. For over a decade concern has been expressed by staff, parents, carers, Horsham city councillors and the wider community about the substandard condition of the school buildings; lack of staff accommodation, playground and recreational space; inadequate car and bus parking; and the numerous difficulties caused by the dual site.

After much community effort and support, the school's plans for a new school were given the go-ahead by the education department some time ago. The school community has struggled for many years to reach this point and is keen to see this deserving project through to the end. It is keen to keep working hard and begin the tender process to get the building project under way but is being thwarted by a lack of government interest and commitment.

This situation is not new. The current and former ministers for education are aware of the atrocious conditions staff at the special school are forced to endure in offering opportunities to students. Without doubt the students attending Horsham Special School must be offered the best possible educational facilities to assist their interaction with and positive contributions to their local communities. Despite the genuine and urgent need to get the school up and running, the Brumby government has dragged its feet on this issue and still has not committed funding to this vital project.

The new plan-completed school will be a state-of-the-art facility and will make an enormous difference to the daily lives of students, teachers and parents. It will cater for the all-round wellbeing of students and will, for example, include a sensory garden that will be used to calm and relax over-stimulated students.

The school currently has over 60 students enrolled, and the approved plans have been well thought out, catering for a future growth in enrolments. My request of the minister is that she acknowledge the urgent need of Horsham Special School to be rebuilt by ensuring that funds required for the project are allowed for in the May budget. The school has been neglected for far too long, and it is overdue for this Labor government to open its heart and chequebook to support the Horsham community's push for a better education facility for these special children.

Eastern Metropolitan Region: early childhood services

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Children and Early Childhood Development, Maxine Morand. A number of kindergartens and early learning centres located in the outer east of the metropolitan region have made applications under the Children's Capital program for grants for the purposes of renovating their facilities. Those grants are targeted at upgrading existing kindergartens or child-care centres to ensure safer, high-quality learning environments for children and meeting future needs.

Taking a parochial position, the action I seek is for the minister to look favourably at assisting the following six facilities to improve their amenities under this program: Gray Court Preschool, requires funding for the purpose of replacing floor coverings and the kitchen, creating a specific first aid area, replacing the current sandpit and installing a shade sail; the Swinburne Children's Centre in Croydon, requires funding for the purpose of constructing an outdoor pergola; the Pinjarra Kindergarten, which is in Croydon South, requires funding for the purpose of refurbishing and renovating to add a new shade sail to cover a portion of the playground; the Tarralla Kindergarten, which is located in Ringwood East, requires funding for the purpose of refurbishing its current entry, its office and storage and its outdoor space; the Croydon Central Kindergarten, which is obviously in Croydon, is looking for assistance in creating and renovating an outdoor area; and Each Child Community Child and Family Centre, which is in Ringwood East, is looking for quite a substantial amount of assistance to renovate its building by removing a storage room and adding a toilet facility.

Schools: On Track data

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Education and regards the government's On Track data and its inaccuracy due to the data being based on an optional survey of school leavers and also because of the way the data is presented.

The action I seek is for the minister to review the presentation and collection of this data. The presentation of On Track could be improved by including a column of actual year 12 enrolment numbers for each school and a column acknowledging

the number of survey respondents. The data would be more accurate and useful if more effort were made to ensure that every student was included in the data. The minister should investigate converting to the CASES21 system, which is used by Bendigo Senior Secondary College to more accurately track its graduating students.

During a speech I made in the last sitting week about the need to upgrade facilities at Bendigo Senior Secondary College, I quoted the government's own publicly published figures from the On Track destination data in reference to the number of students completing year 12 at the college. The column this data came from is headed 'Total completed year 12 (actual number)', giving the impression that this is the actual number of students completing year 12 at the college, when in reality it is only the number of students who responded to an optional survey.

As this was only an optional survey, the figures publicly published by the government, which give the impression that over that past three reporting periods there had been a decline of around 26 per cent in year 12 completion rates, are wrong.

I wish to take this opportunity to correct the record and inform the house that according to the principal of the college the figures over those three reporting periods actually show that the number of students completing year 12 at the college has increased by 6 per cent. It is a shame that the government publicly publishes data in a manner which can so drastically misrepresent the true picture of what is happening in individual schools, the Victorian education system and the destinations of Victorian students.

Bendigo Senior Secondary College has also expressed concern about the accuracy of some of the On Track data. In its 2008 annual report the college states that it uses two separate systems for tracking its students post year 12: the government On Track data and CASES21 data, which is based on the destination of all students who complete year 12 and entered into the CASES system by the college.

It goes on to note that the On Track data for students who exited the school in 2007 reported that 30 per cent of students had enrolled in university, but the CASES21 data for the same students indicated that 39.5 per cent of students had enrolled in university. The college also noted that because of its endeavour to contact every student perhaps the data in the CASES system provided a more accurate indication of the destination of students.

If Bendigo Senior Secondary College, as the largest provider of Victorian certificate of education, Victorian certificate of applied learning and vocational education and training courses in the state, can manage to track its students this accurately, surely it is possible for the education department to improve its collection of this data.

On the Department of Education and Early Childhood Development website the government claims On Track data 'provides an accurate snapshot of what young people are doing'. Bendigo Senior Secondary College's CASES21 data has proven this to be incorrect, and the minister must act to ensure that more accurate data is collected.

I am also concerned that the Parliamentary Secretary for Education, Steve Herbert, the member for Eltham in the other place, may have misled the community about student destinations by quoting On Track data in an official government press release from the Minister for Education headed 'Disadvantaged students spearhead — —

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

Bendigo: bus depot

Mr DRUM (Northern Victoria) — I raise a matter for the attention of the Minister for Regional and Rural Development. The matter is to do with the bus services depot in Mitchell Street, Bendigo. A decision was made some 18 months ago to create a new bus depot in the heart of Bendigo. It was in such a confined area that the local businesspeople of Mitchell Street complained vigorously to the council and requested either having the position changed or having the grid expanded so that the depot would not be such an impost on the business houses that were being adversely affected. At that stage the council went to the government and asked if the decision could be reviewed and changed, but in effect the Department of Transport clearly told the local council that the decision was final, that the government had made the decision and that the council did not have any power to change a decision that has been put in place.

Debate on this problem has raged for some 18 months. Last week the Minister for Regional and Rural Development announced that members of the public were going to get their way and that the bus depot was going to be lengthened so that the buses would pull in over a far greater area than the very short, condensed area that the people of Bendigo were complaining about so vigorously.

My request to the Minister for Regional and Rural Development is that she outline any process that she was involved in with the original decision and that she also outline the process that she was involved in to reverse the decision. I also ask her to outline the process that the local government had to go through when advocating that the state government reverse this decision to the extent that it has in the last couple of weeks.

Bairnsdale Regional Health Service: consulting suites

Mr P. DAVIS (Eastern Victoria) — I raise a matter for the attention of the Minister for Health. The matter concerns a dispute between specialist medical consultants and the Bairnsdale Regional Health Service over a proposal to upgrade consulting suites at the Bairnsdale Hospital and to introduce a scale of fees for their use. The health service has not previously charged a fee for the suites, but the cost of accommodating the consultants and providing additional services as required by them has become a significant expenditure item estimated to be $280 000 for the next financial year. The operating cost has increased markedly in recent years because of the increased use of the consulting suites, which is of considerable benefit to East Gippsland patients who would otherwise have to travel much longer distances for specialist medical services.

Accordingly the Bairnsdale Regional Health Service proposed introducing a sliding schedule of fees depending on the level of support services required by individual consultants. The service estimates the schedule of fees it seeks to negotiate would raise less than $140 000, which is half of the projected annual operating cost. Some of the consultants, reasonably, have reacted strongly to the introduction of fees. This has resulted in a running public controversy that has raised fears among patients and the regional community that specialist services may be withdrawn from Bairnsdale.

The dispute has continued to be subject to alarmist publicity despite the health service agreeing that uniform fees would not be appropriate for all users of the suites and that it would be prepared to discuss some arrangements individually with each consultant. Some consultants regard the approach by the health service management as lacking respect for previously established business arrangements. Therefore I believe intervention is necessary to resolve the dispute expeditiously and to avoid continuing uncertainty and alarm in the East Gippsland community.

I ask that the minister act to instruct Gippsland regional management personnel of the Department of Health to mediate on this matter between the health service and consultants.

Housing: Southern Metropolitan Region

Mrs COOTE (Southern Metropolitan) — I raise a matter for the attention of the Minister for Consumer Affairs. I have been approached by many constituents who are concerned about the availability of housing in the municipalities of Boroondara, Stonnington and Port Phillip. Everyone in this place would recognise the need for appropriate social housing and the huge demand there is for all those thousands of people on the public housing waiting lists. However, the people who are contacting me are not requesting social housing; they just want to purchase a home.

We have seen a series of disastrous planning policies — through several iterations of Melbourne 2030 right through to the current disastrous Melbourne @ 5 Million. The population debate is one that we need to have, but the reality is that with 1800 new people coming to Melbourne per week and only 20 per cent more homes being built, metropolitan Melbourne and the suburbs within a 10 kilometre radius of Federation Square are stretched to the limit. Constituents tell me that houses are being bought by overseas buyers and that Chinese investors can borrow funds at an interest rate of 1 per cent, which Victorians cannot compete with. Constituents also tell me that those overseas purchasers frequently do not live in the houses and that the hearts of these suburban areas are being irreparably destroyed.

An article by Susie O'Brien in today's *Herald Sun* states:

> Many of the buyers are families of overseas students, and other temporary residents who have little connection with the area they buy into.
>
> …
>
> Blocks sit vacant for months as development applications are made, and neighbours say existing houses are often left empty for months at a time.
>
> …
>
> Stop and think for a minute.
>
> Why are we allowing these temporary Australians to buy up our homes?
>
> We don't have enough houses for Australians to buy or rent. So why are we allowing foreign nationals with the biggest chequebooks to buy their way into our country?
>
> …

> According to a Balwyn real estate agent, who didn't want to be named, many of these foreign buyers are aggressive in getting what they want — our houses.
>
> 'Their intention is to knock everyone else out of the water,' she said. 'They try to put in an offer early in a sales campaign at the top end, to bring up the price range to knock some of the smaller people out straightaway.
>
> 'It works, of course — and Australians don't stand a chance. Australians are exceeding their home-buying budget out of desperation. There is a lot of anxiety out there about this.'

The action I seek is that the minister as a matter of urgency establish a research database to provide empirical evidence of exactly who is purchasing these properties, what they are using them for and what the impact is on housing availability in the Southern Metropolitan Region for the next five years and beyond.

Templestowe Road, Bulleen: pedestrian safety

Mr ATKINSON (Eastern Metropolitan) — I raise a matter for the attention of the Minister for Minister for Roads and Ports. The matter specifically concerns a request by residents who live in or near Templestowe Road in regard to improvements to that road. The residents have been in a dialogue over an extended period about the condition of roads in the Manningham council area, and specifically this road, which is quite an important one — it is a link road — and they are seeking some solution in terms of an upgrade to that road. The dialogue has been fairly unsatisfactory.

A group of residents have been getting together for quite some time and have been meeting regularly to discuss issues related to this road. They are now seeking as a matter of some urgency that the government look at the provision of some safe pedestrian refuges particularly in areas where bus stops are located along Templestowe Road, and also possibly allowing for centre turn lane line markings and shoulder works linked to pedestrian safe refuge crossings. Templestowe Road is a particularly busy road, and the concept of introducing refuges is an important one and one that the minister might well look at as a priority matter in respect of this road before other works go ahead. I recognise that the other works are of a significant cost, whereas the refuges represent a much smaller investment.

In taking this matter up on behalf of the residents of and around Templestowe Road, and also on behalf of many people who use Templestowe Road as a thoroughfare, I believe that we ought to be looking a lot more widely for opportunities to introduce safe refuges where we are constructing new roadworks or at major crossings. I have raised that issue in respect of Whitehorse Road and Springvale Road in the past. The safety of pedestrians is of significant importance when we start to plan some of these roads, and I believe there are a number of locations where pedestrians are at real risk because of traffic volumes and the speed of vehicles. I trust the minister will look at this one.

Planning: green wedge zones

Mr O'DONOHUE (Eastern Victoria) — I raise an issue for the attention of the Minister for Planning. It concerns the issue of the green wedge, particularly in the peri-urban parts of Melbourne. The Liberal Party has a long and proud history of protecting the green wedge. Green wedges, often referred to as the lungs of Melbourne, are an important buffer between urban and non-urban Melbourne. They have an important role to play, and we will continue to advocate for their protection. However, there would appear to be a significant flaw in the way the green wedges are operating. There is no consistency in decisions made by councils or VCAT (Victorian Civil and Administrative Tribunal) about what is permitted by the zoning. I will draw on some examples from within my electorate to illustrate this point.

The first example is that of Mr Steve Wales, who has operated a contractors yard from Lowes Road, Yarra Junction, for over three decades. When his land was rezoned to green wedge the Shire of Yarra Ranges commenced a process which ultimately saw the council attempt to shut down his business, potentially forcing the loss of many jobs. It was only after Mr Wales had spent many thousands of dollars, taken action at VCAT and, along with his family and employees, suffered much stress that common sense prevailed and VCAT confirmed his pre-existing right to continue his business.

The second example is that of Melinda and Mark Brown, who own a property at 108 Coolart Road, Tuerong. Mr and Mrs Brown purchased a block of 5 acres from a subdivision that was created in the 1920s. They purchased their block after the previous owner, with the consent of VicRoads and therefore the state government, constructed Wonderland Avenue, an access road to blocks neighbouring the property of Mr and Mrs Brown. The Browns made an application to the Mornington Peninsula Shire Council and were granted a permit to build a home. An appeal was taken to VCAT and was subsequently overturned. The Browns had planned to build their dream home and to run cattle. They are now left in limbo under financial pressure and do not know what to do next.

The third example concerns farmers and landowners in the green wedge around Gembrook. It is not clear under the green wedge zoning regulations what improvements farmers can make to their properties, which is in turn impacting on their ability to invest in their farms. While the process is now under way, after much delay, to develop a green wedge management plan for the area, there is no guarantee that this will occur in a timely fashion or that it will deliver any additional clarity to stakeholders.

These few examples from constituents indicate that great uncertainty exists in how the green wedge operates, compromising both the good management of the green wedge and its protection and at the same time diminishing investment and risking jobs. The action I seek from the minister is, firstly, that he review the three examples I have outlined and examine what solutions he can provide or suggest for Mr Wales, Mr and Mrs Brown and the Gembrook farmers, and secondly, that he review the operation of the green wedge zoning with a view to delivering greater certainty for all stakeholders on what is and is not permitted in the green wedge.

Patterson Lakes: water quality

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter in relation to the Patterson Lakes issue that I have raised on previous occasions, and in particular the Quiet Lakes region, including Lake Illawong and Carramar. It is in relation to the dismantling of the pipes and pumps that maintain water quality at a swimmable level and also keep algal bloom under control.

There is a very concerted and dedicated group of residents in the community at Patterson Lakes who have been fighting this issue for some time without too much assistance from the government and certainly not from the Minister for Water in this instance. I am hoping the Minister for Water will assist in this very simple request. I know that Melbourne Water has taken over the legal responsibility for Patterson Lakes inherited from the Dandenong Valley Authority, and therefore all of the legal responsibilities that come with it. This group of residents are endeavouring to resolve some of those issues. However, this is not going to be easy to resolve, and something that I am asking of the minister if we are going to move toward some resolution of this matter is assistance in providing the residents with a copy of the initial Quiet Lakes project development approval permit 68618. The residents have chased this permit high and low, to the public records office and on the Web, with not a lot of satisfaction. They have certainly printed various attempts to access that information formally. They have done this on numerous occasions.

I think it would be appropriate now to ask the Minister for Water to provide Mr Pierre Steck in particular and the residents association with a copy of the Quiet Lakes project development approval permit and any of the other documents in relation to this development and the conditions, including information about the concept approval. I understand this development goes back to possibly even the 1970s, but certainly the 1980s. They have very detailed records of their attempts to source these documents. I am asking the minister to show some good faith in asking Melbourne Water to furnish this particular group with the information that these people seek so that we can move forward in trying to resolve some of these issues. This issue is not going to go away. It has been playing out for some time. Finally, Kingston City Council has agreed to make representations to the minister, but in order to move forward I ask that the permit number be sourced and provided to the residents so that we can move forward on this issue.

Romsey: secondary school

Mrs PETROVICH (Northern Victoria) — The matter I raise today is for the Minister for Education. It is a request that we answer the important call from constituents in my region for consideration of the establishment of a secondary college at Romsey. On 25 March 2010 I presented a petition to this house with 492 signatures from Romsey and surrounding areas, and in the next couple of days I will present a further petition with additional support for that school. The petition was started by local constituents appalled by the lack of feedback as to when they can expect a secondary college to be built in Romsey.

There are no secondary education facilities available within 25 kilometres of Romsey for the growing population of Romsey, Lancefield, Riddells Creek and nearby towns. Further to the petition I tabled, the matter was brought to the attention of the Macedon Ranges Shire Council on 24 March by Cr McLaughlin and a motion was carried. The resolution states:

> … that council write to the member for Macedon, Joanne Duncan, and the member for Ballarat, Geoff Howard, requesting a meeting with the Minister for Education to discuss matters including the community's desire for a high school to be developed in the east of the shire.

Many members of my community moved to the area for its quality of life, and I am concerned about the social dislocation with all the adolescent children leaving the area they live in every day for school and

families having children in schools great distances apart. The school is often the social hub of a community and the place to meet people. Social connections are an integral part of adolescent growth. The economic and environmental cost of 12 buses plus cars leaving the Romsey township every school day is considerable.

The plan for a Romsey secondary college has been raised previously, and the rejection in 2004 was on the basis that a student population of 1100 is required. There are plans to expand the already large Gisborne and Kyneton secondary colleges. My constituents seek a place for me at that meeting to ensure that this matter is treated in the way they require and that they are fully consulted on this matter.

Racial and religious tolerance: offensive advertising

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Attorney-General. For Christians throughout the world Easter is the most joyous time of the year. Without giving religious instruction, which I can assure the house I am most certainly not qualified to do, the Easter season is the very basis of Christianity. Without the events of Easter, Christianity is without purpose. The days leading up to Easter are the most solemn and sacred of any given year, and they include Good Friday when Christians commemorate the death of Jesus Christ.

Keeping this in mind, I ask the house to consider the horror felt by many when they saw an image of a crucified Christ being used to promote a rave party at the La Di Da nightclub in Melbourne's CBD. I was sickened and angered by the advertisements when they were pointed out to me. One does not have to be some sort of religious fanatic to share the revulsion that I felt when confronted by these appalling advertisements and the promotion of this dance party.

I ask the Attorney-General to launch an investigation into this promotion with a view to establishing whether there has been a breach of the Racial and Religious Vilification Act. I must say to you, President, I am disappointed that I have to raise this matter. I cannot help but think that if images of Buddha or Mohammed had been used in a similar manner, the Attorney-General's political correctness police would have already taken the necessary action. It disappoints me enormously to have to raise this. Just because people are in a majority does not mean they cannot be subject to vilification. This is an extraordinarily important matter for a lot of people. I have spoken to a good number of people over the last week or two who have been revolted — —

Mrs Coote — Outraged.

Mr FINN — And outraged indeed by what has occurred on this occasion. I ask the Attorney-General to take the necessary action to establish whether there has been a breach of the Racial and Religious Vilification Act with regard to this promotion and these advertisements and ensure that Christians in our community are afforded proper protection from the vilification that I believe this promotion clearly presents.

Hospitals: beds

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter is for the Minister for Health, and it concerns the number of hospital beds in Victoria. We are at an interesting point in the debate on health care in our state and our nation. The Prime Minister has put forward a proposal which seeks to take a higher level of control of the health system in Victoria, and the Premier has put forward an alternative proposal.

There seems to be a serious situation where a large ingredient is missing from both proposals, and that concerns the need for greater numbers of hospital beds. We have seen over the period of this government the number of hospital beds decline, as best it can be worked out. We know the government has been secretive and determined to hold back on the bed numbers and the spread of beds in Victoria — where they are actually positioned in different hospitals and the type and nature of each bed around the state.

We also know that Productivity Commission data, the recent report on government services and the commonwealth Department of Health and Ageing's report on the state of our hospitals show that Victoria has the lowest number of public hospital beds per 1000 head population. At 2.3 it is clearly the lowest of any state. It is no wonder that we have serious problems in our hospitals like, for example, 2566 patients spending more than 24 hours on trolleys in emergency departments waiting to get into hospital beds into intensive care or waiting for procedural treatment in one of the hospitals. The beds are full, and there is simply no capacity.

Our hospitals often operate at over 95 per cent capacity, and the auditor and others who are knowledgeable about these things say that if you are operating well over 85 per cent you are more likely to have serious problems with moving people through the hospital

system. Neither the federal nor the state proposals have any detail about additional beds and beds into the future, given we know Victoria's population is growing and ageing and we have fewer beds than we had when this government came to power.

What I seek from the minister is a full audit of bed numbers in Victoria. I seek that he audit those bed numbers and publish lists of where the beds are positioned and the types of beds. This will be an important step in enabling us to get a grip on the number of beds in Victoria, but both the federal and state plans need to include more beds.

Responses

Hon. J. M. MADDEN (Minister for Planning) — I have written responses to adjournment debate matters raised between 10 November 2009 and 24 March 2010. There are 22 government responses in total.

David Koch raised a matter for the Minister for Education relating to the Horsham Special School, and I will refer that accordingly.

Shaun Leane raised a matter of early childhood development facilities in the Eastern Metropolitan Region, and I will refer that issue to the Minister for Children and Early Childhood Development.

Wendy Lovell raised the matter of the On Track data collection and presentation, and I will refer that to the Minister for Education.

Damian Drum raised the matter of the Mitchell Street bus services in Bendigo, and I will refer that issue to the Minister for Regional and Rural Development.

Philip Davis raised the matter of medical suites in Bairnsdale, and I will refer that to the Minister for Health.

Andrea Coote raised the matter of data and research in relation to housing purchases in various suburbs, and I will refer that issue to the Minister for Consumer Affairs.

Bruce Atkinson raised the matter of road networks and pedestrian refuges in Templestowe Road, and I will refer that to the Minister for Roads and Ports.

Edward O'Donohue raised a matter for me in relation to green wedge matters and land use and cited a number of examples where certain individuals have been frustrated in their attempts to do certain things on their land. I am happy to receive further information if Mr O'Donohue has it and to look at those examples more specifically.

Currently we have a number of green wedge management plans being developed in each of the respective regions, and some of them will be completed sooner rather than later. That will give a lot more clarity and guidance to those local councils that operate many of the planning controls in those spaces, and those reviews will also inform government as to any finetuning it might need to make to allow for some other arrangements to occur in those regions to complement specific land uses that might be considered appropriate at some point in the future in relation to various regional areas. A number of those green wedges are different in their make-up and they have different traditional and future uses which could attract investment and operation. I think that will help to resolve some of those matters, but if the member is prepared to provide me with further details on those three examples, I am happy to have them looked at by the department.

Inga Peulich raised a matter regarding water quality at Patterson Lakes and approval permit 68618. I will refer that to the Minister for Water.

Donna Petrovich raised a matter for the Minister for Education regarding Romsey secondary school. I will refer this accordingly.

Bernie Finn raised the matter of a nightclub advertisement for a specific rave and the potential offence caused by it. I will refer that matter to the Attorney-General for consideration.

David Davis raised the matter of hospital bed numbers in Victorian hospitals. I am happy to refer that to Minister for Health. But I note that Tony Abbott, the federal Leader of the Opposition, has recently said that Victoria has the best hospital system in the country. I hope at some stage Mr Davis will speak to Mr Abbott and be brought up to date with Mr Abbott's views in relation to the Victorian health system.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.36 p.m.