PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Thursday, 15 April 2010

(Extract from book 5)

Internet: www.parliament.vic.gov.au/downloadhansard

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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Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

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

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

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

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

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — 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

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

Leader of the Government:
Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr DAVID DAVIS

Deputy Leader of the Opposition:
Ms WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

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

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

CONTENTS

THURSDAY, 15 APRIL 2010

Thursday, 15 April 2010

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.34 a.m. and read the prayer.

CHINA: EARTHQUAKE

The PRESIDENT — Order! I do not want to be flippant about this or even funny, because it is quite serious. There seems to be a rash of serious earthquakes around the world and there has just been another major one in China where hundreds of people have unfortunately been killed. I intend to write on behalf of all of us to send our commiserations and heartfelt sorrow to the Australian consulates, embassies and ambassadors.

PETITIONS

Following petitions presented to house:

Planning: Clarinda concrete crusher

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:

(1) The Planning Minister Justin Madden and the Brumby Labor government approved, without consultation, a 15-year permit for a concrete crusher in Clarinda;

(2) The concrete crusher will be within 450 metes of the nearest homes and in close proximity to several schools and preschools;

(3) Medical studies have found that prolonged exposure to concrete dust can be carcinogenic and cause serious health complications for people with breathing disorders;

(4) The concrete crusher causes unacceptable off site impacts such as dust which will spread across nearby suburbs.

The petitioners call on the Victorian Legislative Council and the Brumby government to protect our community from exposure to harmful concrete dust by taking action to relocate the concrete crusher facility to a non-urban, non-residential area. The signatories below also call on the Minister for Planning, Justin Madden, to initiate legislative change to stop permits being given to other concrete crushers where such facilities can have a harmful effect on health and amenity.

By Mrs PEULICH (South Eastern Metropolitan) (14 signatures).

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

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 his important and respected program and community safety.

By Mrs PEULICH (South Eastern Metropolitan) (897 signatures).

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

Housing: Bentleigh

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the proposed high-density social housing development at 973 Nepean Highway and Corbie Street, Bentleigh, situated directly opposite the high-density seven-storey social housing development at the Kingston city hall. The four-storey project containing 49 apartments will be federally funded and fast-tracked by the state government as part of the social housing initiative and economic stimulus plan.

The petitioners consider the proposed site is not suitable for such a project, noting:

it is poor planning to have such a concentration of social housing;

it is situated on a busy major highway and intersection experiencing severe traffic problems;

a chronic parking shortage already exists;

there are no recreational facilities in the immediate vicinity.

The petitioners therefore call on the planning minister to reject the proposed social housing development at 973 Nepean Highway and Corbie Street, Bentleigh.

By Mrs PEULICH (South Eastern Metropolitan) (4 signatures).

Laid on table.

Equal opportunity: legislation

To the members of the Legislative Council:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the objection of the Victorian community to the proposed changes to the Equal Opportunity Act 1995, which will:

1. seriously threaten the educational freedom of independent or faith schools and remove or restrict the freedom of faith-based schools to operate in accordance with their beliefs and principles;

2. remove or restrict the right of schools to employ staff who uphold the schools' values;

3. provide the Victorian Equal Opportunity and Human Rights Commission with the power to launch investigations of 'systemic discrimination' whether or not it has received a complaint;

4. allow the Victorian Equal Opportunity and Human Rights Commission to enter schools, small businesses and churches to conduct searches and seize documents and other material as part of their investigations;

5. remove sporting and recreational clubs from having a single-sex membership base.

The petitioners therefore respectfully call on the state government to abandon its plan for the removal of the exemptions to the Equal Opportunity Act 1995 which currently serve to protect the core interests of our faith schools, single-sex clubs and small business.

By Mrs PEULICH (South Eastern Metropolitan) (196 signatures).

Laid on table.

Ordered to be considered later this day on motion of Mrs PEULICH (South Eastern Metropolitan).

PAPER

Laid on table by Clerk:

Ombudsman — Report on an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat, April 2010.

NOTICES OF MOTION

Notices of motion given.

Mr Atkinson — On a point of order, President, I ask you to review the motion that Mr Viney has given notice of in respect of the remarks that were made yesterday in question time, because I do not believe the motion accurately reflects what was said in question time yesterday. I think it would be improper to have that motion admitted if in fact it — —

Mr Viney — It is not a point of order.

Mr Atkinson — Yes, but if it is not saying what was in the question.

Honourable members interjecting.

The PRESIDENT — Order! I do not believe there is in fact a point of order. The issue as to whether or not the motion is accurate is a matter that can be determined during the course of the debate that will be forthcoming from Mr Viney.

Mr ATKINSON (Eastern Metropolitan) — President, I am not challenging it. I simply seek to move, by leave:

That debate on the motion be held forthwith.

Leave refused.

Honourable members interjecting.

The PRESIDENT — Order! I remind the house that we have procedures and rules governing the way we perform and act in this place, and we are currently complying with them. If Mr Drum does not like it, I will comply with them forthwith.

MEMBERS STATEMENTS

Employment: south-eastern suburbs

Mrs PEULICH (South Eastern Metropolitan) — We have heard the Treasurer wax lyrical about the increased employment in Victoria, but what he has been silent on are the increases in unemployment affecting significant suburbs across Melbourne and including the suburbs of Berwick, Cranbourne and Hallam and the south Casey area. Residents in these areas have suffered an increasing level of unemployment in the 12 months to December 2009, according to the small town unemployment data.

In fact, as of December 2009, in Berwick, 2328 more people were unemployed; in Cranbourne, 3011 more people were unemployed; in Hallam, 2365 more people than the previous year were unemployed; and in south Casey there has been a rise of 445, bringing the total to

8149 more people unemployed than in December the previous year.

All these people have to put food on the table, pay their bills, their mortgages and their rent. Clearly Minister Lenders has failed to make sure that the benefits of employment growth are shared equally across all parts of Victoria, including many of these neglected suburbs in my region.

Friends of Elsternwick Park

Ms PENNICUIK (Southern Metropolitan) — On the morning of Sunday, 11 April I had the pleasure of joining the Friends of Elsternwick Park at Elsternwick Park, where the friends had an information and display tent featuring the native birds of the park, and they conducted a walk around the lake for members of the public. Unfortunately, after the gorgeous autumn weather we have been enjoying over the last month or so, the weather was quite inclement.

However, due to the fantastic display that had been put together by the Friends of Elsternwick Park — consisting of transparencies of photos taken by local people of the birds, attached to long flexible wire sticks so members of the public could walk along next to the lake and see the photos — that form of display was able to withstand the huge gusty winds and squalling rain et cetera that greeted us that Sunday morning.

The Friends of Elsternwick Park is one of nine friends groups in the city of Bayside that do a wonderful job in drawing to the attention of the public Bayside's fantastic wildlife and bird species. Ninety-seven native bird species have been seen in Elsternwick Park over the last couple of years — the period when the friends have been putting these figures together.

Port Fairy: men's shed

Ms PULFORD (Western Victoria) — Last Friday, 9 April, I joined some 150 people for the opening of the Port Fairy men's shed. Representatives of men's sheds from across the region — from Harrow, Hamilton, Warrnambool, Geelong East, Portland and Colac — and representatives of many community organisations in and around Port Fairy attended.

The decision to establish a men's shed was taken some three years ago, and the celebration on Friday was the culmination of a great deal of work by a number of men who are clearly very active and engaged in their community. The powerhouse that is the committee of Harry Bracegirdle, Don Stephens, John Ellard, Keith Bunge, Mick Wentworth, Peter Fawns and Sharon Wilson are to be congratulated. Their efforts have combined to pull together some $150 000 of funding, including a $50 000 contribution from the Brumby Labor government to support the men's shed, with a very impressive $25 000 estimated in-kind contribution from the community.

The men's shed at Port Fairy is sure to provide wonderful community benefits to many men in improved health outcomes and greater community engagement; I am very confident the Port Fairy men's shed will go from strength to strength.

Kevin Gibbins

Mrs PETROVICH (Northern Victoria) — It is with great sadness that I acknowledge the passing of Kevin Gibbins, who passed away last Friday at the age of 54. My deepest sympathy goes to his family Deb, Trent and Mitch and his mother Josephine.

Kevin achieved much in his life, and it should be acknowledged that whatever Kevin undertook, he gave 120 per cent of himself. He had a distinguished career as a police officer and instructor at the Victoria police academy. He also worked as a businessman, councillor and mayor of the City of Greater Bendigo.

It was through the police force and local government that I first met Kevin, and I have been fortunate to know and work with him on a number of projects, including as a candidate in the 2006 state election when he stood as the Liberal candidate for Bendigo East. Kevin's effort was magnificent, which was evidenced by the swing he achieved.

Whether it was as a civic leader, Liberal candidate or business person, he always demonstrated humility, honesty and the ability to listen. He had a terrific ability to make people feel that they were very important to him. He was passionate about Bendigo and worked to liaise with police, business and youth to try and make Bendigo a safer place.

As a father and husband he was deeply committed to his family and was a very proud father of his two boys Trent and Mitch, and their achievements. He encouraged a strong work ethic in them and led by example.

We shared many conversations about his property at Kamarooka and the love and admiration he had for his Clydesdale horses who Kevin admired for their steady nature, strength and ability for hard work — qualities I know that he demonstrated himself, and with levity he made that comparison himself.

My deepest sympathy goes to Kevin's family, his colleagues and fellow councillors at the City of Greater Bendigo, which he served with such dedication. He will be missed.

Shire of Indigo: recreational facilities

Ms DARVENIZA (Northern Victoria) — I was pleased to announce on 12 April a $70 000 grant to the Indigo Shire Council to upgrade recreational facilities at Tangambalanga and Barnawartha.

The council received $60 000 to help fund the construction of a new concrete skate park at Tangambalanga and $15 400 for the installation of a turf wicket at the second oval at the Barnawartha recreation reserve.

We want to make it easier for communities to stay involved in sport and recreation and to enjoy a healthy and more active lifestyle.

Roads: Northern Victoria Region

Ms DARVENIZA — On another matter I was delighted to see roads in both the Rodney and Murray Valley electorates in my electorate of Northern Victoria made safer thanks to funding through the Safer Road Infrastructure Program.

The government is building better transport networks for Victoria and providing improved road safety upgrades for local communities.

Under the current funding boost, the Katamatite-Nathalia Road, the Cobram-Koonoomoo Road, the Northern Highway and the Kyabram-Nathalia Road are all receiving very significant funding.

This is a great result for the local communities and the many motorists who use these roads every day. Improving road safety on regional roads is a key focus of the government's Arrive Alive strategy, which aims to cut the road toll and reduce serious injuries on our roads.

Greater Dandenong Community Health Centre: future

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I raise the plight of the Greater Dandenong Community Health Centre in David Street, Dandenong, which is rumoured to be closing to make way for a car park.

The David Street centre is a rehabilitation facility providing speech pathology, occupational therapy and physiotherapy to residents in and around Dandenong. While the community health centre has other sites in Dandenong, the David Street centre is the only one to offer this suite of rehabilitation services. Many of the clients of the centre are pensioners with limited mobility and access to transport and they are dependent upon the central Dandenong location.

I have recently been contacted by a staff member from the centre who was advised at a staff meeting by Southern Health management that the centre was to close in late May to make way for a car park expansion. The closure of the centre would see staff and equipment dispersed to other locations, undermining the availability of rehabilitation services in Dandenong.

Southern Health management is now back-pedalling, denying it ever proposed to close the centre; however, this has provided no comfort to clients and staff. I therefore call on the Minister for Health to address the concerns of clients and staff of the centre and give a public commitment that the David Street centre will remain open.

Jewish Museum of Australia: exhibition

Ms HUPPERT (Southern Metropolitan) — On 11 April, together with the Minister for the Arts, Peter Batchelor, I attended the launch of the exhibition 'Theresienstadt: Drawn from the Inside', which coincided with Holocaust memorial day. The exhibition at the Jewish Museum of Australia features a collection of drawings and watercolours created by artists Paul Schwarz and Leo Lowit during their period of imprisonment at Theresienstadt ghetto.

Paul Schwarz and Leo Lowit were deported to Auschwitz where they were murdered, but the works on display were carried out of Theresienstadt by Paul Schwarz's wife, Regina. The artworks, together with other elements of the exhibition, depict the horror of life for the residents of the ghetto but also show their resilience as they sought to maintain a vestige of normality, operating schools for the many children sent to the ghetto and holding lectures, concerts and theatre performances.

A number of the survivors of Theresienstadt found their way to Melbourne after World War II. The exhibition includes two drawings by one of these survivors, the late Paul Huppert — no relation to me — who spent part of his childhood in Theresienstadt. The drawings were located in Europe by Paul's wife, Michele, after his death. I know that their presence in the exhibition holds a great deal of meaning for Michele and her children and grandchildren.

A number of survivors recorded testimonies, which form part of the exhibition, and participated in the launch on Sunday. I congratulate the Jewish Museum and those who worked on the exhibition, in particular guest creator Mera Brooks, exhibitions curator Jessica Rynderman, and education coordinator Jenny Better on producing a meaningful and important exhibition.

Mr Viney: notice of motion

Mr ATKINSON (Eastern Metropolitan) — I note that Mr Viney has placed on the notice paper a notice of motion which attacks me over a question I pursued yesterday in question time. It is of some interest to me that he takes that tack, because he is impugning my reputation through the notice of motion that will now be on the notice paper but which is factually incorrect. On no occasion yesterday did I accuse the Collingwood Football Club or its president. In fact Collingwood Football Club has had enough trouble this week without me adding to it.

The reality is that what I was pursuing was the minister's inconsistency in planning decisions. This is simply a grubby attack on me to try to deflect some of that criticism. Can I suggest that members, in considering that item having been put on the notice paper, might reflect on this: Mr Viney said to me across the chamber, and it was heard by a number of members on this side, that putting that on the notice paper should be able to get him a grand final ticket this year; he is counting on it.

Anzac Day: commemoration

Mr MURPHY (Northern Metropolitan) — This Sunday I will have the honour of participating in my first Anzac Day commemoration service as a member of Parliament. I will be attending the Glenroy RSL commemorative service and laying a wreath in honour. As a young Australian, it is something that I very much look forward to participating in. I look forward to honouring and remembering the service and sacrifice that so many men and women much younger than me have given for our country and our democracy.

Anzac Day and the remembrance services incorporated around this date have entered the Australian psyche like few other events. It has done so in particular for young people in our community, as witnessed every year on the shores of Gallipoli — an event that has become so significant the numbers now have to be limited out of respect to the fallen.

The day is significant for me not only because we remember those who have served and sacrificed so much in a theatre of war but also because during my time on this earth at least I have been fortunate enough to experience and witness a relatively peaceful existence. The mass destruction inflicted on humanity across the globe during the first half of last century has been confined to the history books, at least for now.

On Sunday in the lead-up to Anzac Day I will be honouring those brave men and women who have served and who continue to serve our country in the name of securing the peaceful circumstances Australia has experienced since the cessation of hostilities in the Pacific in 1945. I look forward to meeting the servicemen and women who will participate in Sunday's commemorative services and listening to their recollections of serving our great, free and peaceful democracy.

Apollo Bay Music Festival

Ms TIERNEY (Western Victoria) — Recently I had the pleasure of again opening the Apollo Bay Music Festival, where I represented the Minister for Tourism and Major Events, Tim Holding. The 18th Apollo Bay Music Festival had something for absolutely every taste and age, with over 70 acts across 11 stages. There were also fantastic local artists from all over Victoria and Australia, including western Victorian artists from Warrnambool, Ocean Grove, Terang and Camperdown.

I would like to make special mention of the management crew, including Caroline Moore, the festival director, who does an amazing job throughout the year. This is not an event that can be easily organised a few months before it is held. Members of the committee, such as Peter Filmore, Anton Tibbits, Christine Marriner and Jill Spencer, deserve high praise for the work that they do. The Victorian Labor government is pleased to financially support such an exciting festival.

Macarthur Recreation Reserve: pavilion upgrade

Ms TIERNEY — On another matter, last Saturday I attended the Macarthur Recreation Reserve to represent the Minister for Sport, Recreation and Youth Affairs and to officially open the upgraded sports pavilion. The new pavilion was put to use on Saturday as the crowd saw the Hawkesdale-Macarthur Eagles take on the Glenthompson-Dunkeld Rams in the season opener. The state government contributed $60 000 through the country football and netball program for the new facility.

The football/netball club contributed more than $119 000 towards the project, as well as close to $73 000 of in-kind support. Special mention needs to be given to Anna Wortley and her family for driving the project with the committee, and to Wayne Gould, who with his employees and a number of local farmers did extraordinary things to make sure that the pavilion was completed.

Good Samaritan Day

Mr ELASMAR (Northern Metropolitan) — On Wednesday, 31 March I attended a reception in Queen's Hall to honour the good Samaritans in our community. The Premier launched inaugural Good Samaritan Day, a day which will mark the heroism of ordinary everyday people in the community who have demonstrated extraordinary bravery, in some cases risking their own personal safety to rescue individuals from peril. The special good Samaritan charter was signed by the Premier, by the Leader of the Opposition and the Deputy Speaker in the Assembly and by you, President.

Neighbourhood Justice Centre: anniversary

Mr ELASMAR — On another matter, I attended the third anniversary celebration of the opening of the Neighbourhood Justice Centre in Wellington Street, Collingwood. The event was hosted by the Attorney-General. The centre has been given funding for four years to allow it to continue to apply an holistic approach to justice for the community of the city of Yarra. The justice centre has distinguished itself in the short time that it has been open. I congratulate Magistrate Fanning and his dedicated staff, and wish them ongoing success in their endeavours.

Community services: home and community care

Mr EIDEH (Western Metropolitan) — On Thursday, 8 April the federal Minister for Ageing, Justine Elliot, and the state Minister for Senior Victorians, Lisa Neville, announced a funding boost of $18.5 million for seniors and people living with a disability in Victoria, particularly seniors and people with a disability in Western Metropolitan Region, who will receive an extra 36 000 hours of care and support thanks to the commonwealth government's and Brumby Labor government's funding boost of $2.36 million toward home and community care (HACC) services.

HACC services are essential for seniors, people with disabilities and their carers as they provide important services, such as all aspects of care, including home maintenance, transport, meals, personal care, allied health and nursing care. The service is already making a difference to the lives of Victorian seniors and people with a disability, and this boost will provide even more assistance and care through an additional 700 projects across the state.

I am proud to say that the Brumby Labor government is concerned about vulnerable members of the Victorian community and has acted proactively with the commonwealth government by investing in the HACC program. This boost is in addition to more than $472 million already provided by the commonwealth and the Brumby Labor government through the joint home and community care program, which provides services to more than 250 000 vulnerable Victorians.

Buses: SmartBus route 902

Mr TEE (Eastern Metropolitan) — The eastern suburbs have received a large number of increased bus services not only in terms of the number of services but also in terms of their frequency and expansion of hours of operation. This has been welcomed by community members, who have seen the level of service usage pick up enormously and patronage numbers increase rapidly, which is very good to see.

The most recent addition has been the new green orbital SmartBus route 902, which commenced operations on 5 April with a two-week free period to encourage people to take advantage of this great new service. I welcome that new service which will link Chelsea to Airport West via my electorate — that is, through Doncaster and Greensborough.

It is a great network and a great service in not only connecting members of the community but also connecting the community to shops and to other transport hubs. I welcome this expansion, and I know that the community is very pleased to have this additional resource to help people keep in touch. I congratulate both the minister and the government for this new service.

STATEMENTS ON REPORTS AND PAPERS

Victorian Bushfires Royal Commission: interim report

Mr P. DAVIS (Eastern Victoria) — I wish to make some comments on the 2009 Victorian Bushfires Royal Commission's interim report. I quote from the executive summary:

> In February 2009 the whole of south-east Australia was experiencing a severe and protracted drought. During January 2009 much of Victoria had no rain and most areas of the state had recorded near record lows.
>
> In late January 2009 heatwave conditions developed across Victoria and on 7 February many all-time temperature records were set. In Melbourne the temperature reached 46.4°C. The previous record was 45.6°C set on Black Friday (13 January 1939).
>
> These extreme conditions were recognised by the Victorian government and fire agencies. Prior to 7 February, Victorians were warned that the forecast weather was worse than Ash Wednesday, and senior government officials, from the Premier down, warned that it was likely to be 'the worst day ever in the history of the state'.
>
> These dreadful expectations were matched by the calamity that resulted on 7 February.

On the Thursday before Black Saturday, in anticipation of what became that dreadful day, some remarks were made in the Parliament warning the community, picking up comments, in particular, of David Packham, a well-known fire scientist who predicted the tragedy that regrettably came to pass.

Subsequent to Black Saturday I made remarks in the Parliament about the failure of community leadership, including parliamentarians and members of government, in protecting the community from the disaster in the sense that it is a great obligation we have as leaders in the community to perform a task to protect those who entrust their care to us.

On the Saturday, the day itself, I had been scheduled to fly to New Zealand with a parliamentary committee, but anticipating that this was going to be a challenge, I cancelled the trip so that I could be in my electorate. On the day I spent time talking to the local Country Fire Authority (CFA) brigade. I was at the municipal emergency coordination centre in the Wellington shire. I kept in touch with and visited the ABC emergency broadcaster in Gippsland at Sale and was generally available in the community.

Given the Princes Highway was cut in the west due to fires, I was advised not to try to be involved in the incident management centre at the Department of Sustainability and Environment office in Traralgon, so I spent the evening monitoring events from the CFA region 10 headquarters in Sale. The most remote thing on my mind was wining and dining, even though my children were at home for the weekend because it was my wife's birthday on that day.

I think it is important that members of Parliament actively engage in disaster events. I have always done so, attending the relevant management centres to obtain briefings firsthand and ensure that all resources are available to assist with threat management and community support.

Whilst I have no official role nor indeed any institutional organisational role in any of these events I feel morally obliged to be fully engaged as a function of the great obligation given to those who are in community leadership roles. It is a duty which I accept no matter how informally I am connected.

It is interesting to note that recent events in the royal commission have elicited a great deal of commentary about the performance of the then Chief Commissioner of Police, who was also at the time the deputy coordinator in chief of emergency management, which is a statutory role under the Emergency Management Act. It is interesting to note that evidence has been led and provided, in effect, by the then Chief Commissioner of Police, Christine Nixon, that she abandoned her duties on that day.

I have wondered why there has been such a strong community reaction to that, and the only thing I can put it down to is the visceral revulsion the community has at hearing that the most senior bureaucrat in the state with responsibility for emergency coordination should abandon their role. I was reminded of something that George Orwell wrote in 1945 in *Animal Farm* that all animals are equal but some are more equal than others.

Victorian Multicultural Commission: Victorian government achievements in multicultural affairs 2007–08

Mr MURPHY (Northern Metropolitan) — I rise to take note of the *Victorian Government Achievements in Multicultural Affairs 2007–08* report. I note the report highlights efforts to establish a second refugee health and wellbeing action plan to improve the long-term health and wellbeing of refugee individuals, families and communities. Along with other initiatives outlined in the report it highlights the state Labor government's humane and supportive policies when it comes to assisting people seeking refugee or asylum seeker status in our community.

I am sure I speak on behalf of many in this place when I say Victoria welcomes any person who has had to leave their home, family, country and culture in order to escape persecution and life-threatening circumstances. It surely cannot be an easy decision to pack one's limited belongings and take the long, arduous journey involved in escaping possible torture, persecution and life-threatening circumstances. Any individual or family prepared to give up their home, country and

culture and seek refuge in our community ought to be met with open arms, not with overcrowded detention centres that are inhumane and contradictory to the many United Nations charters which Australia claims to adhere to.

Unfortunately in recent weeks and months the Australian community has once again been subjected to the so-called 'boat people debate', a debate which involves a toxic mixture of media obsession and public representatives using the politics of fear. It has led to Australia once again acting out of step with the rest of the industrialised world when it comes to dealing with persons seeking asylum in our community. Once again this has arisen in an election year. We have all seen the headlines recently using words such as 'invasion', 'interception', 'boat people', 'people smuggling'. These are all words of fear that dehumanise the plight of those who are doing whatever it takes to escape possible torture and persecution to protect their lives and the lives of their families.

The media and those who want to play the politics of fear would have us believe these people need to be 'intercepted' because they are illegal queuejumpers. Asylum seekers become headlines and by-lines. They barely even become a statistic. The story of their journey and the troubles they have fled from are not told. The media creates the story, and the public representatives jump at shadows. Now we have a policy that discriminates against two groups of people based on race. This is racism; that cannot be argued against.

Australia now has a policy that singles out and suspends the processing of asylum applications for people from Sri Lanka along with those from Afghanistan. We now have second-class asylum seekers in this country; as if life as an asylum seeker is not difficult enough. How can we discriminate against two groups of people based on race? Under any reasonable definition of the word this is racism. You are either a refugee or you are not. It is equality for all or equality for none. This is blatant discrimination that we must all take responsibility for. Every public representative in Australia will now be judged by this policy.

We need a bipartisan approach that stops refugees and asylum seekers being used as pawns whenever an election years comes around or whenever the media decides it is time to sell a few headlines over the issue. The time for playing the race card in Australian politics has long gone. If we are a mature democracy based on fairness and equality, we must demonstrate to ourselves and the world that we are prepared to do our bit when it comes to assisting people seeking asylum in our community.

There has been a global increase in asylum seekers. The increase here is not dependent on government policies. Civil wars and wars which Australia is actively engaged in around the world lead to the displacement of people, which is a consequence of war. People do not just decide to pack up and leave their country, community and culture for nothing. Australia is not being flooded by asylum seekers. We take a minute number compared to other countries, and the numbers of boat arrivals are a tiny fraction of the 50 000 people who overstay their visas every year. It is worth noting that no boat arrival has been found to be a security risk to Australia. Further, the only illegal boats to have arrived in Australian waters were those that arrived in Botany Bay in 1788.

Port of Melbourne Corporation: report 2008–09

Mrs COOTE (Southern Metropolitan) — I wish to speak this morning on the Port of Melbourne Corporation annual report for 2008–09, with specific reference to Webb Dock and the references that are made in this report to Webb Dock, which is in the electorate of Albert Park. It is at the end of a very large sweep of nicely renovated beach, it looks out over residential areas and it is reflected in Princes Pier — whenever that is finished — and Station Pier. In fact Webb Dock has the potential to cause some major disruption and problems for the people of Albert Park.

I know that the constituents in Williamstown are also very concerned about this, because if you look at the entrance to the Yarra River — to get this into context — Webb Dock is the very first dock on the right-hand side, looking up towards the mouth of the Yarra. Even though the bay has been dredged there are many large ships that cannot get up the Yarra for various reasons: because it silts up so frequently and because there is infrastructure such as telecommunications and sewerage lines et cetera, in particular under the West Gate Bridge. Therefore Webb Dock will be a crucial part of the port of Melbourne into the future. That is fine, but it needs to be properly regulated and properly administered, and the constituents of Albert Park and probably Williamstown as well — but my concern is mainly for the people of Albert Park — need to be cognisant of what is being imposed upon them.

In September 2009 the Ports and Environs Advisory Committee was appointed by the Minister for Planning. The committee released a discussion paper in March

2010, and there are a number of issues in that discussion paper that I have some major concerns with. The committee has received a number of submissions. I am particularly concerned about the issue of buffer zones in and around the housing areas. The discussion paper talks about Garden City having a heritage overlay and the fact that it was built as social housing in the 1920s, as indeed it was. However, it has not been social housing for a significant time, and I defy anyone to try to buy a house in Garden City for under $1 million these days. The reality is that the area has taken on a different nature, and this is not recognised in the discussion paper. There is also reference to the Perce White Reserve, which is within the boundaries of the Port of Melbourne Corporation but is run by the City of Port Phillip.

As I said, my concern is with buffer zones; my concern is for the people who live in and around this area in that huge tranche of Beacon Cove, in the high-rises that run down through Beaconsfield Parade in Port Melbourne. The concern is about noise pollution, air pollution and their proper monitoring. I am on the record in this place as continuing to bring to the attention of this government the issue of public open space in and around these areas. I go back to comments I made in the house in 2001 when I asked about what was going to be happening as far as renourishment of the then extended Webb Dock and what was going to happen with those extensions.

I think John Thwaites was the planning minister at that stage, and he was very tentative about saying anything about this area, because it was in fact his own area and I think he was walking on eggshells, but he did not stick up for the people of his electorate. The problem was that it took an extraordinarily long time to get any sort of renourishment and refurbishment of this area done. The government admitted at that stage it was going to take at least two years to get it done. If Webb Dock is going to be extended, it is vitally important that the renourishment of the public open space and the planting of trees are done right up front and not three, four or five years down the track, when the government may want to extend Webb Dock even further.

My concern about Webb Dock is that apparently it is proposed that it will be as busy as Swanson Dock, which is exceedingly busy. I have been over Swanson Dock, and it is huge; I think we would all agree it is a terrific part of our Melbourne port. At the moment Webb Dock is low key, with undercover facilities for cars and fairly minor, low-level infrastructure. My concern is that there will be huge cranes and enormous areas on Webb Dock, which will impact directly upon the people of Albert Park. I think this needs to be addressed up-front. There need to be a lot of public information sessions on this. The people need to know what they are getting, and they need to be able to understand where it is going to stop. I want to know where is Webb Dock going to stop? Will it eventually meet Williamstown? What is going to happen?

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

Ambulance Victoria: report 2008–09

Ms BROAD (Northern Victoria) — I wish to make some remarks today on the Ambulance Victoria 2008–09 annual report. As the report states, 2008–09 was a remarkable year in the long history of ambulance services in Victoria, the reason being that in April 2008 the Minister for Health, Daniel Andrews, announced the merger of the three ambulance services: the Metropolitan Ambulance Service, Rural Ambulance Victoria and the Alexandra District Ambulance Service.

I place on record my thanks and acknowledgement to the chair, Marika McMahon, and members of the board, as well as Greg Sassella, the chief executive officer, and staff for the effort and hard work they have put in to deliver this merger. As the report also outlines, the merger has provided many challenges, but it has already resulted in many improvements throughout Victoria. I will focus on those in particular.

Before I do so, I draw attention to a matter highlighted in the annual report — that is, the way in which Ambulance Victoria dealt with the exceptional weather conditions in January and February 2009 that resulted in the dreadful bushfires that Victoria suffered at that time and the exceptional work by our ambulance officers and paramedics in helping to deal with those circumstances.

The benefits delivered by the merger include the recruitment of a record 334 paramedics and a commitment of more than $35 million to upgrade and replace Ambulance Victoria branches, particularly in regional Victoria. As members might imagine, this is something to which I have paid particular attention. I also acknowledge the exceptional work by the 70 auxiliaries that support the work of Ambulance Victoria across the state and the more than $640 000 that has been raised through their efforts.

In relation to Ambulance Victoria regional branch upgrades, I well remember about a year ago visiting Wodonga, following an announcement of more than $8.7 million to be invested in six country ambulance

branches. I was visiting Wodonga because it is to receive a new ambulance station as a result of that announcement and the Minister for Health, Daniel Andrews, was visiting Horsham to deliver its good news.

As well as Wodonga, Yarrawonga also shared in the investment being made, receiving $1.46 million for a new purpose-built facility. In recent weeks I had the very great pleasure of officially opening the new facility on behalf of Minister Andrews. That opening was followed just a couple of weeks later by the official opening of the new Kyabram branch, which received $1.37 million for a new purpose-built facility; I also had the great pleasure of representing the Minister for Health again on that day for that official opening.

These two magnificent new ambulance stations are much needed and well deserved by those communities and the surrounding communities. At those openings I congratulated all the officers, architects, builders and staff involved in delivering those facilities.

It is opportune to draw attention to the fact that the Brumby government has more than doubled funding for ambulance services since it was elected, delivering 59 new and upgraded services across 48 communities throughout the state. We are doing that because we want to deliver the highest quality ambulance services and facilities to communities across country Victoria.

Auditor-General: *Fees and Charges — Cost Recovery by Local Government*

Mr VOGELS (Western Victoria) — I read with interest the Auditor-General's report of April 2010 *Fees and Charges — Cost Recovery by Local Government*. In the audit summary the Auditor-General says:

> Local councils provide a wide range of services to their communities, often for a fee or charge. The nature of these fees and charges generally depends on whether they relate to compulsory or discretionary services. Some of these, such as statutory planning fees, are set by state government statute and are commonly known as 'regulatory fees'. In these cases councils usually have no control over service pricing.
>
> User fees and charges are a significant source of income for councils, each year totalling around $900 million; on average, 14 per cent of all council revenues.
>
> The Local Government Act 1989 … gives councils the power to set these fees and charges to offset the cost of their services. A widely accepted public sector pricing principle is that, fees and charges should be set at a level that recovers the full cost of providing the services, unless there is an overriding policy or imperative in favour of subsidisation.

I fully support these principles set by the Auditor-General; it is a good idea every now and then to have an independent review of how councils are going with their fees and charges.

At page 2, figure 1A is headed 'Local government sources of revenue, 2008–09'. I found the figures quite interesting. Rates and other charges by councils comprised 48 per cent, or $3092 million, of their income; grants comprised 22 per cent or $1390 million; user fees and charges were $901 million; contributions were $716 million; other income was $341 million. Added together, these amounts indicate that councils collect $6.44 billion per annum to run local government.

When you delve into this a bit further you could look at the grants, which I am interested in, and where they come from. There is $1390 million or 22 per cent in grants. When that amount is broken down, over $1 billion actually comes from the federal government. Out of total revenue of $6.44 billion for local government right across Victoria, the state government provides a paltry $300 million. If you work that out, that is less than $1 million a day. We continually hear about the amount of funding the Bracks and Brumby governments have put into local government, but it is less than $1 million a day and the state government collects $110 million a day in revenue every day of the year. The poor old local councils out there that are battling to survive receive less than a paltry $1 million a day of this funding.

We all know how important local government is. When you step outside, you see that the footpaths, the local roads, the parks, the gardens and home and community services — just about everything that people do every day — are delivered by local government. It really affects our lives. I am glad the Auditor-General has brought out this report at this stage because I have always suspected that state governments give local governments very little. Regularly in this chamber we hear that one of the Labor members of Parliament has driven to one of our towns and local government areas and handed over a cheque for $20 000 or $50 000, or however much. That is nice, but it is a pittance compared to what they really need. I am glad the Auditor-General has brought out this report. It clearly highlights the fact that local government is the poor cousin as far as state government funding is concerned.

Victorian Multicultural Commission: Victorian government achievements in multicultural affairs 2007–08

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise and talk about the *Victorian Government Achievements in Multicultural Affairs 2007–08* report

which was provided by the Victorian Multicultural Commission under the leadership of George Lekakis, the chair; Hakan Akyol, the deputy chair; and the board of commissioners. They do an excellent job of communicating with and consulting our very diverse multicultural communities right across Victoria. They provide a report on the activities they undertake in the course of their consultation with and participation in our CALD (culturally and linguistically diverse) communities. There have been many achievements, and I want to mention but a few that are raised in the report. I encourage members to take a look at it, because there have been some major improvements and initiatives that this government has been involved in.

Our population in Victoria is more than 5 million, we come from over 200 countries, we speak over 200 languages and we participate in more than 120 faiths. The Victorian government recognises the value that such diversity brings to our state and it strongly supports multiculturalism and is very involved in ongoing efforts to build harmony in that diversity in our community. That was very much reaffirmed in our multicultural policy All of Us.

We also recognise and acknowledge that cultural diversity has really enriched our society and enriched our communities, not only socially but economically and culturally. It has played an enormous role in our economic growth and prosperity over many, many decades, and continues to do so today. Migration has brought not only new skills to our state and to our communities but to business and investment right throughout Victoria. In 2007–08 the Victorian government invested heavily in a broad range of services, programs and activities right across the state that supported our CALD communities. I want to run through some of them. They are very much aimed at supporting our CALD community so its members can fully participate in community life. That ranges from the newest comers, whether they be skilled migrants or refugees, right through to those who have been here for many, many generations and are now ageing migrant communities.

We have invested considerably in programs and initiatives. We have invested $4.6 million in community grants that are managed through the Victorian Multicultural Commission to encourage greater participation and promote community cohesion; $2.8 million to increase accessibility to the English language, which is so important for new arrivals in Victoria's growth areas; $4 million for community organisations to support school-aged students to maintain community languages and cultures, which is really welcomed by families — and the government wants to support families in encouraging their children to speak their community language and understand the culture and traditions from which their families come; and over $2.7 million in workforce participation partnership projects targeting people from culturally and linguistically diverse backgrounds. Some of the highlights, apart from the — —

The ACTING PRESIDENT (**Ms Huppert**) — Order! The member's time has expired.

Victorian Bushfires Royal Commission: interim report

Mr FINN (Western Metropolitan) — This morning I wish to speak on the interim report of the 2009 Victorian Bushfires Royal Commission. I think those who lived through Black Saturday have all been affected by it in some way. Whether we lost property, whether we lost loved ones or whether we just experienced the dreadful day itself, that particular day will forever be in our psyche. I remember as a small child my father going out to fight the fires in Cressy which, from memory, was in the late 1960s. He was a Country Fire Authority volunteer with I think the Warrion brigade, not far from Colac. As a very young child I remember him going out to fight the fires and my mother delivering sandwiches, cakes and so forth to feed the troops on the front line. That is something that will stay in my memory.

Of course we also had Ash Wednesday in 1983. I remember that extremely well, too, because I was running for federal Parliament at that time as a 21-year-old Liberal candidate for Burke. The Burke electorate was pretty much devastated by Ash Wednesday in Macedon and right through that area. I remember driving up to Mount Macedon the day after the fires and the trees were still burning on both sides of the road. I thought to myself, 'What a horrific site it must have been for those men and women who had faced this inferno the day before'. I remember that as vividly as if it had happened yesterday. Those who have been through Black Saturday of 2009 will certainly carry that with them for the rest of their lives.

It is important to remember that this royal commission has a very important job to do. I am hopeful that the many, many questions that surround the events of Black Saturday will be answered, because we owe a lot of people the truth. That is important. I remember the day of 7 February last year. I was outside the house with a couple of my kids and had been outside for most of the morning. I recall that extraordinarily at about 12.15 p.m. it was as if somebody upstairs decided that they were going to turn up the switch. I would guess

that the temperature lifted about 10 degrees as if by the flick of a switch. I knew then that we were in a fair bit of trouble.

Of course we had been told in the lead-up to Black Saturday that it was going to be a shocker. We had been told by the Premier; we had been told by everybody that this was going to be one of the worst days in Victoria's history. Everybody should have been aware of it; everybody should have been prepared for Black Saturday. It was, however, something that I think caught a lot of people by surprise. Going by the number of people who died on that day, it is clear it caught a lot of people by surprise — very tragically.

However, of those who did know, of those who had been warning us in the lead-up to the day, you have to ask where they got to. Where was the leadership on that day? We already know from the interim report that the chief fire officer of the CFA (Country Fire Authority), Russell Rees, did not have a clue what was going on. He did not have much idea at all, yet he was reappointed just a short time later. That remains one of the great mysteries of our time.

We have discovered that when faced with the hard decisions, the then Chief Commissioner of Police, who was the head of Displan, went out to dinner. When her men and women — the men and women of the Victorian police force — and those of the CFA and of a whole range of bodies were out risking their lives, the Chief Commissioner of Police went out to dinner. She deserted her post. I can only add my voice to those who are calling for her to be dismissed from her current position with the bushfire reconstruction authority. I believe she should be sacked — and sacked now.

I could go on about the role of the Premier and that of the police minister in all of this, but none of us quite knows. I believe it is absolutely imperative that we call both the Premier and the police minister before the royal commission so they can deliver at least some of the answers we so desperately need.

Metropolitan Waste Management Group: report 2009

Mr EIDEH (Western Metropolitan) — I rise today to speak on the Metropolitan Waste Management Group and share with the house some of its activities and achievements in the waste sector, which are contributing towards a sustainable future for Victoria.

One of the consequences of Australia's fast-growing, materially intensive economy is the production of large quantities of waste. Figures from the Australian Bureau of Statistics show that in 2006–07 Australians generated approximately 43.8 million tonnes of waste — that is, approximately 2080 kilograms of waste per person. Of this waste, 23 per cent was generated by Victorians.

Given this reality, there can be no doubt that effective waste management is an essential component of environment sustainability and securing the future of all Australians. Waste management involves creating and implementing methods and solutions that maximise resource efficiency, including recycling, recovery, energy recovery and safe and efficient final disposal. It assists in minimising or avoiding adverse impacts on the environment, while allowing economic development and improvement in the quality of life.

With the challenges of climate change, looking into ways of reducing waste and more efficient means of disposing of waste safely is indispensable. The Metropolitan Waste Management Group plays a key role in this area, and it is its commitment to reducing the environmental impact of waste produced by metropolitan Melbourne that I would like to acknowledge here today.

The group was established under the Environment Protection Act 1970 in late 2006 to facilitate and foster best practice in waste management and coordinate municipal waste management activities in metropolitan Melbourne. Having read its 2009 annual report, I am pleased to report that the group is not only meeting its core function but also is going above and beyond its responsibilities.

I take this opportunity to highlight some of its central initiatives and activities as articulated in its 2009 annual report. Importantly the group has worked with Sustainability Victoria, the Department of Sustainability and Environment, and the Environment Protection Authority to develop a draft metropolitan waste and resource recovery strategic plan. The waste management group was responsible for the development of parts 2 and 3 of this plan, which can be found in the annual report; they articulate the waste management group's long-term strategic position on waste management.

This plan, released in March 2009 by the environment minister, Gavin Jennings, has at its heart the need to continually improve existing services and infrastructure and the requirement to establish advanced resource recovery technology for Melbourne. The plan plays an essential role in delivering on key targets and intentions of this state Labor government's Towards Zero Waste

strategy, launched in 2005, which embodies the government's approach to waste management.

Towards Zero Waste sets four targets relating to reduction, resource recovery and littering as well as specific targets and actions for Victoria's municipal and business sectors in terms of delivering more sustainable use of resources by 2014. While the targets are statewide, action in metropolitan Melbourne is critical, because metropolitan Melbourne is the source of about 70 per cent of waste generated in Victoria and is home to three-quarters of resource recovery and reprocessing activity.

This $10 million initiative announced by the Premier in the first quarter of the 2008–09 financial year will further support the implementation of the strategic plan and speaks volume of this government's commitment to developing the most advanced and efficient means of resource recovery. Indeed this Labor government continues to lead by example. Since then Premier Bracks made a commitment in 2002 to introduce best practice business tools for environmental management in government departments, this Labor government has continued to demonstrate its commitment to the achievement of real environmental outcomes by taking action to reduce environmental impacts associated with its own operations.

I am proud to say that I am part of a government that continues to implement an environmental management system that is addressing environmental issues through incorporating general principles of an environmental management system into normal business operations across the 10 major state departments and several state agencies and authorities.

Department of Planning and Community Development: report 2008–09

Mr D. DAVIS (Southern Metropolitan) — I am pleased to make a contribution on the Department of Planning and Community Development's annual report for 2008–09 and particularly on matters surrounding local government, two of which I wish to raise today.

The first relates to an auditor's report tabled yesterday. I note the department's annual report has only a very small section dealing with the activities of local government, so I think there is a long-term issue here about the department's support for, management of and partnership with local government. There needs to be a greater level of reporting to the department, and certainly the department needs to come clean, as it were, with the Victorian community about the performance of councils, which of course varies massively with the issues and challenges of different councils. By and large councils do a very good job in this state and are a very strong force for community involvement and the delivery of critical services.

The Auditor-General's report yesterday was a very timely report, a thoughtful report and a report that puts one area of council service provision on a firmer footing. The Auditor-General looked specifically at the fees and charges of local councils and the services delivered by them — in many cases in competition with the private sector, and I think that is a healthy competition. He made points about the issues surrounding competitive neutrality and the need for proper accounting to ensure that that competitive neutrality is actually a key part of the arrangements that are in place, but he also indicated that it is clearly in the councils' interests and their communities' interests that these fees and charges that are applied to services delivered to the community on a fee or cost-recovery basis are accurately costed to reflect the challenge and cost of the council in delivering those services, and I can only agree with him. I believe it is important that that proper accounting structure, if you will, is around the service provision. It will lead to better service provision and better targeted service provision and thereby better service for the community.

I commend the Auditor-General on that report. I was very pleased to attend his briefing yesterday and to compliment his audit team on the magnificent work it has done with this particular report.

Let us face it, councils are a major economic institution as well as a critical social and democratic institution in our community, so the efficiency and the effectiveness with which councils deliver these services is important socially but it is also important to our local economies.

The other matter I want to raise today concerns the report tabled by the Ombudsman today, which looks at Victoria's response to the report of the inspectors of municipal administration on the City of Ballarat. This goes back some time to the Cr Vendy fiasco and the resultant charges and conviction of certain councillors. I note that is not a reflection on the current Ballarat council, and it is very important to put that on the record.

But what the Ombudsman does — and I think importantly — is point to structural weaknesses. I quote from his summary at point 8, which states:

> This investigation has highlighted a gap in the overall integrity coverage in Victoria which leaves inspectors of municipal administration, who exercise significant statutory powers, exempt from independent scrutiny except where the

> Whistleblowers Protection Act 2001 would apply. The recent establishment of the Local Government Investigations and Compliance Inspectorate has reinforced my view that there needs to be changes in the Ombudsman Act 1973 to address this gap.

I understand his point, and I think it is a point well made. There are gaps in the overall structure here, the overall framework, and this reinforces the opposition's commitment to an independent broadbased anticorruption commission. We have a structure, an overview, a control structure for these matters that is ramshackle and has been built up in a piecemeal way. It is not satisfactory. Local government is a major area of activity, as are the many other areas around planning and so forth that have been discussed in this chamber in the recent period, but I again compliment the Ombudsman. He says at point 12:

> My investigation has identified concerns with the process by which reports of inspectors of municipal administration are finalised and tabled in Parliament.

That is a concern.

TRUSTEE COMPANIES LEGISLATION AMENDMENT BILL

Statement of compatibility

For Mr LENDERS (Treasurer), Mr Jennings tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

> In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Trustee Companies Legislation Amendment Bill 2010.
>
> In my opinion, the Trustee Companies Legislation Amendment Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.
>
> **Overview of bill**
>
> **Human rights issues**
>
> ***1. Human rights protected by the charter that are relevant to the bill***
>
> The following human rights are protected by the charter and are relevant to this bill:
>
> property rights;
>
> protection of families and children.
>
> The bill itself removes trustee companies, other than State Trustees Ltd, from prudential supervision by Victorian government institutions. It does not alter the property rights of those companies, nor the property rights of those whose estates or other assets are managed by those trustee companies, or the beneficiaries of those estates and other assets. Similarly, it does not alter the protections in respect of estates or assets management that are provided by legislation for children or others without legal capacity to manage their own affairs.
>
> The commonwealth regulatory regime that will apply in future to trustee companies, other than State Trustees Ltd, is not created or imposed by this bill. Nevertheless, it is relevant to state that this commonwealth regime will not result in any reduction of human rights either.
>
> **Conclusion**
>
> There is nothing in this bill that will have any adverse implications for the human rights of Victorians.
>
> John Lenders, MP
> Treasurer

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Minister for Environment and Climate Change).

Mr JENNINGS (Minister for Environment and Climate Change) — I move:

> That the bill be now read a second time.

Incorporated speech as follows:

> This bill will facilitate the transfer of responsibility for the regulation of private sector trustee companies from the state to the commonwealth. As part of the reforms of the financial system during the 1980s and early 1990s, the states and the commonwealth agreed in principle that responsibility for regulation of deposit-taking and funds management activities should lie with the commonwealth.
>
> Over several years this resulted in the commonwealth assuming responsibility for regulation of most financial institutions, in addition to responsibility for banks and insurance companies which the commonwealth already had under the constitution. Trustee companies were included in this general in-principle agreement. However, in the 1990s the commonwealth deferred legislating to assume this responsibility, on the grounds that the Australian Prudential Regulation Authority (APRA) was fully engaged on issues relating to insurance and superannuation, and would be distracted by the addition of responsibility for trustee companies.
>
> Following a commitment by the Council of Australian Governments (COAG) in July 2008 that the commonwealth would assume this responsibility, the commonwealth made provision in its Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 for regulation of trustee companies.
>
> The commonwealth is relying on its corporations powers for this assumption of responsibility and so does not require a referral of powers from the states. However, this means that the regime that will be applied will be a national licensing and

consumer protection regime administered by the Australian Securities and Investment Commission (ASIC) rather than a prudential supervision regime administered by APRA.

The commonwealth legislation is expected to commence on 1 May 2010, although this date has not yet been proclaimed. If no commencement date is proclaimed, the legislation will automatically commence on 6 May 2010. It is therefore desirable that this complementary Victorian legislation commence at the same time as the commonwealth provisions, as otherwise the outcome would be overlapping state and commonwealth regulation of private sector trustee companies.

The principal purposes of the bill are to ensure:

> continued smooth operation for trustee companies of provisions of Victorian probate and estate administration law, including the jurisdictions of the Victorian Civil and Administrative Tribunal (VCAT) and the Victorian courts in these matters, without conflict with the operation of Victorian laws in respect of unincorporated trustees;
>
> repeal of provisions of Victorian law that regulate certain aspects of trustee companies, such as setting of fees and requirements to provide accounts, that will now come under commonwealth regulation, to avoid either imposing additional superfluous duties on trustee companies or retaining redundant and spent provisions in Victorian legislation; and
>
> continued retention of current provisions applying Victorian government regulation of State Trustees Ltd, which is a corporation wholly owned by the state that the state and the commonwealth have agreed will not be subject to commonwealth regulation.

State Trustees Ltd undertakes certain functions that in other states and territories are performed by the public trustee, who is not incorporated and therefore not subject to commonwealth regulation. The state and the commonwealth have agreed that, at least for the time being, State Trustees Ltd should continue to be regulated by the state, so that these public trustee functions can continue unaffected.

The similarity between the regulatory regimes of the state and the commonwealth means that there will be no commercial advantage or disadvantage in respect of those activities of State Trustees Ltd that are not of a public trustee-like nature and are undertaken in competition with private sector trustee companies.

The bill amends provisions of legislation administered by the Attorney-General and the Minister for Consumer Affairs, and I am grateful for the cooperation and support they and the Department of Justice have provided.

I commend the bill to the house.

Debate adjourned by Mr D. DAVIS (Southern Metropolitan)

Debate adjourned until next day.

EQUAL OPPORTUNITY BILL

Second reading

Debate resumed from 13 April; motion of Hon. M. P. PAKULA (Minister for Public Transport).

Mr ATKINSON (Eastern Metropolitan) — I will be fairly brief in terms of my remarks in regard to the legislation, despite the fact that this is obviously quite far-reaching legislation. It is an important bill, and as a number of speakers have mentioned in the context of this debate it is an area that has been championed by the Liberal Party and its coalition colleagues over a number of years. Indeed the original equal opportunity legislation was introduced by the Liberal Party under the Hamer government.

It has been interesting for me to observe the progress of the equal opportunity laws in our community, the way in which the commission has operated over an extended period of time and certainly the ambitions of that commission and some of its champions in terms of trying to extend the role and particularly develop a more proactive role for the commission.

That is where I have some real concerns, because I believe that this legislation dramatically changes the scope and nature of the Equal Opportunity Commission. This body is an organisation which has responded to complaints and certainly established a quite strong education agenda on the need for all organisations to be a lot more alert to any instances of discrimination or issues which might prevent people from advancing in their employment or prevent other activities within organisations on the basis of some discriminatory behaviour — and none of us supports discrimination.

I notice that Mr Tee, I think it was, referred to the fact that he has a daughter, and he would expect that she would enjoy the same opportunities as a son in the workplace and no doubt in all areas of endeavour. Certainly every one of us has that sort of view — that people ought not be discriminated against and ought not lose out on opportunities in either their careers, their social activities, their sporting opportunities or any area of participation in our community on the basis of some discriminatory behaviour. Discrimination ought not to occur in terms of gender or race but disability or any personal attributes or a range of other areas of what might be a classification of an individual.

My problem is I am concerned about some of the aspects as they relate to the ability of religious

organisations to continue to choose the staff they want to work in areas of their mission, be they education facilities, aged-care facilities or other community service agencies that they run. Certainly like other members of Parliament I have had a significant number of letters and emails and other communications from people who are very concerned about the impact of these changes on religious organisations.

In some ways I find the heavy hand of this legislation a bit ironic when it comes to talking about religious organisations, because in most cases it has been my experience that they are probably the least discriminatory of most organisations in the community. They go out of their way to be inclusive and to support, encourage and often employ people who are not necessarily part of their membership but who clearly are prepared to respect and advance the values that they have. For most of the religious organisations, the values issue is probably more important than people actually being members of their organisations.

That certainly concerns me, but I am concerned, as I said, about the apparent shift in the role of the organisation as part of this. It is an ambition that the Victorian Equal Opportunity and Human Rights Commission has had for some time. Indeed when I was my party's spokesperson for small business, I noticed at that time that the commission and its chairman were out advocating at every opportunity that they ought to have the powers to go into organisations and look for areas of discrimination, to encourage complaints rather than to simply respond to those complaints that were lodged with the commission. That is a step that I do not believe is warranted at this time.

I support an expanded role that the commission might enjoy under this legislation in terms of education, and promoting practices and codes of conduct within organisations, and behaviours within organisations and workplaces that ensure that discrimination is not part of their culture; and that incidents of discrimination are dealt with appropriately to ensure that those behaviours, those practices or that culture do not persist.

As I said, none of us wants to see discrimination in the workplace or in the community. We have come a long way in recognising the value of individuals and the fact that people bring very different skills, experience, knowledge and attributes to our community and to the organisations we are associated with. Those differences are obviously to be celebrated and not to be in some cases ridiculed or sidelined.

Organisations are much the better for the participation of a wide range of people with very diverse experiences and contributions to make. Frankly my experience of most employers is that that is the case. I am concerned about areas where this legislation could see an intrusion in more small business workplaces, which is, in my view, unwarranted.

Whilst, as I have indicated, discrimination is something that I do not think we as a community should tolerate, at the same time we need to recognise that if you put two people in a room, it does not mean they are automatically going to get on and be great friends forever. Indeed two people in a marital bed does not seem to work out all the time, and they go through a rigorous process of assessment before they get to that marital bed.

The interesting thing about small business is that many small businesses employ people in good faith, but the relationships simply do not work out. The personalities in a small workplace, the demands of a small business and the constraints involved in running a small business sometimes mean that those relationships are tested, and they do not work out.

One of the concerns I have is that in the past a number of complaints have been advanced against small business owners. In many cases those complaints, at least on face value, seem to be rather ludicrous; they are a rort. But it has always been my experience that those small businesses, whenever they have sought legal advice on whether to go to the equal opportunity commission or anywhere else for arbitration of disputes with their employees, have been told, 'Just pay up, because it will be cheaper and you will not get adverse publicity'.

I am concerned that under this legislation there is likely to be a greater focus on some of those issues in small business and unwarranted intrusions into some of those small business workplaces, and, if you like, in some ways an immature approach generally to the management of small business workplaces. From my perspective I do not believe the commission should proactively — that is probably the softest word — go out into the community to try to stir up business as a positive development or a positive objective of this legislation.

I might add that not everything about the legislation is of concern to me. There are some good aspects to this legislation, and the coalition might well have supported it had it not been for a couple of key points. As one government member suggested, there has usually been bipartisan support for any equal opportunity legislation. We would have hoped that might have been available to us on this occasion as well, because the basic

principles of equal opportunity are undisputed and opposition members support those principles. However, if the legislation is enacted, we are concerned about the operation of some of the clauses in workplaces and in organisations. It is my understanding that the government is not enthusiastic about amendments to those key areas and that the Greens are also not enthusiastic about amendments, so we are not in a position to wholeheartedly endorse the legislation as it stands.

From my point of view the extension of the commission's role in terms of education and, euphemistically, training has some merit, but I do not think the commission moving out into organisations and trying to build its statistics by taking a more interventionist role is warranted. That would be to the detriment of our community and is likely to lead to a lot of disputes that really are not warranted and could well impact upon the viability of quite a number of businesses.

From my perspective this legislation has some open-ended obligations for employers and service providers. I note that the government pulled out some provisions relating to volunteers. I expect that that was because the government was given legal advice that if volunteers were classified as employees for the sake of this act, the government would be visiting upon itself considerable difficulties in respect of the classification and obligations to volunteers in a wide range of legislation and settings within our community.

The government has had to pull back from that position, and the fact that the government even got there in the first place indicates to me again that there was a lack of effective consultation with organisations on the legislation that is before us. It would not have taken government members very long to sit down and talk with any of the organisations that have a large number of volunteers, such as churches, sports organisations or community agencies. It would not have taken too long to sit down and consider immediately the implications for that volunteer process. It would not have taken government members long to sit down with people in small business, or organisations that advocate on behalf of small businesses, in order to understand the likely impact of this legislation on small business workplaces.

None of us would encourage direct discrimination in those small businesses. It is my experience that most small businesses will go out of their way to try to employ, encourage and support their employees. Nobody goes to the trouble of employing someone only to then in some way humiliate that staff member or diminish their self-esteem in the workplace, because a dissatisfied employee does not make for a good business. In terms of discrimination, the objectives of any owner of a business are fairly clear, and I would have thought they would be consistent with community opinion and the opinion of members of this house.

I note the unfortunate provisions on youth wages in this legislation. Again, whilst this issue has been a cause célèbre for some people on the government benches and for people in the union movement, the reality is that provision is likely to see a significant drop in opportunities for young people in many businesses because of the costs associated with having somebody who is young and untrained and who does not bring the same skills to a workplace as an older person. Decisions will be made on the basis of who is going to be the walk-up start and who is going to be the most effective employee in a business from the outset. In many cases that will not be the young person who presents with no experience, given that the incentive to employ that person previously and to invest in their training and development might well have been the youth wage opportunity that used to exist. That provision in this legislation is also penny-wise and pound-foolish.

I know my colleagues are not concerned about the principles of this legislation. It should be clear from the public record that we do not support discrimination in the workplace or in organisations in the community. We believe significant steps have already been taken in the community to eradicate discrimination in many areas and to improve people's behaviour so that they are more enlightened in areas in which they might have been insensitive to other people's needs. This legislation attempts to advance that position. As I said, some aspects of this legislation could easily have been supported by the opposition as being appropriate, but because the government is not prepared to entertain amendments to a couple of the key clauses it will be untenable for opposition members to support this bill at this time, which is a shame.

We also know there are a great many critics of this bill in the community. Those critics are fine, upstanding people who have strong convictions and in many cases have a strong spiritual and social commitment to other people, so we are not talking about people who are trying to duck their responsibilities in the community or who are looking for some sort of endorsement of discriminatory behaviour on their part. They are simply saying that we need to ensure that this legislation does not impinge upon the values and mission of their organisations. We think the arguments of some of those people, particularly those in religious organisations and

the religious sector in our community, have merit, which makes it difficult for us to support this legislation at this time.

Ms HUPPERT (Southern Metropolitan) — I rise to make a few brief comments in support of the Equal Opportunity Bill 2010. As a member of a faith-based minority group which has often suffered from discrimination in the past I am proud to be part of a Labor government which is committed to strengthening Victoria's laws against discrimination and the capacity of the Victorian Equal Opportunity and Human Rights Commission to take action against systemic discrimination.

This bill responds to the recommendations of an independent review of the Equal Opportunity Act 1995 carried out by Julian Gardner, set out in the report *An Equality Act for a Fairer Victoria*. There was significant public consultation as part of that review into the provisions of the act and the proposed changes. There was also public consultation as part of the review by the Scrutiny of Acts and Regulations Committee of the exemptions and exceptions in the current legislation. There has also been significant consultation carried out with various faith-based groups, including my own. I have had reports from members of the Jewish community who have held extensive discussions with Mr Tee in his capacity then as Parliamentary Secretary for Justice, and who were very happy about the level of consultation that was carried out by the government.

Rightly, Victoria is proud of its record in human rights and equal opportunity and has had equal opportunity legislation for over 30 years. However, it is time for that legislation to be reviewed. As everyone will appreciate, the community has changed a great deal in those 30 years. Previous speakers have spoken at length about the provisions of the bill; I will focus on a number of the key reforms.

The bill will give the Victorian Equal Opportunity and Human Rights Commission a broader role, changing the commission from a complaints-handling body to one that educates and facilitates dispute resolution, best practice and compliance. The commission will have a duty to inform and educate the community about rights under the act and how to complain under the law, including the ability to issue practice guidelines.

The duty to inform and educate the community is very important because we all know that having penalties for breaches of law sends a very important message to the community, but what is most important is that people in our community understand that discrimination is not acceptable. The expanded role of the commission in education is a very important one. One of the main provisions of the bill is the changes to the exceptions and exemptions. There have been a lot of wild statements in the media about the impact of these changes. There will always be circumstances where discrimination is justified. This bill seeks to find a balance between the right to be free from discrimination and other rights; it was drafted, as I mentioned above, following extensive consultation with faith groups, the community and other stakeholders.

I have received a great deal of correspondence from constituents who are concerned about the exemptions available to religious bodies and schools. The exemptions available under the Equal Opportunity Act 1995 are very broad, allowing discrimination on all attributes, including race, impairment and age. This bill narrows the attributes on which discrimination is to be allowed. The religious body or schools will no longer be allowed to discriminate on grounds such as race, age or impairment.

As I mentioned earlier, a lot of the correspondence I have received has expressed concern about the rights of religious schools to employ teaching staff who uphold the beliefs and traditions of that school. This right is not removed by the bill. Religious groups, including my own, will continue to be able to discriminate on the grounds of religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status and gender identity if the action pertains to the religion's doctrines, beliefs or principals.

In relation to employment, in order to rely on the exceptions, a religious body or school will need to show that being of a certain faith, being heterosexual or being married, for example, is an inherent requirement of the job. In assessing whether such a requirement is inherent, the nature of the religious organisation will be taken into account. The fears that have been expressed to me that Christian schools will not be able to limit their teaching staff to Christians are completely unfounded. If the Christian school is able to adequately demonstrate that as part of its own faith, it is important that the teaching staff share that faith and are able to transmit their faith, morals and principles to their students.

The bill also clarifies that an exemption is a defence against claims of discrimination and that the onus is on the person relying on the exemption to prove that they have been discriminated against. In other words, the person will have to be able to make a case that they do have an attribute that fits within the exemptions and that they have indeed been discriminated against.

Victoria can be very proud of its record in human rights and equal opportunities. This bill will ensure that Victoria continues to be a place where people get a fair go. I think all members will agree with me that this is a very important principle and one that has led to the creation of a community and environment in Victoria where people of all abilities, faith groups and racial backgrounds are comfortable in making a home. On this basis I commend the bill to the house.

Mr DRUM (Northern Victoria) — It is with pleasure that I take the opportunity to contribute to the debate on the Equal Opportunity Bill that is now before the house. This is a bill that has been well covered in debate in the lower house and also in the upper house by previous speakers. Many members of the coalition are concerned about the way this bill has effectively been put across in this chamber. We are concerned about the direction this bill is taking in relation to equal opportunity.

I have shared my thoughts with other members of the coalition. Those members of the coalition who have spoken on this bill have stated very clearly at the start of their contributions that they fully support equal opportunity. We all realise that there is one area of this matter that needs further work within the community — that is, the opportunities that exist for women so that women can reach their potential and be treated totally on merit when they are applying for positions. I believe there is still scope for education within the workforce. We need to look at skills in a broader sense. It is still harder for women to attain their optimum levels of employment than it is for men. I think we need to push that point hard and push that point often. However, I do have some concerns about people who wish to actually legislate or regulate so that we change that outcome. We have to educate to ensure that everybody is made aware that women must be given every opportunity to achieve the position for which they are best suited.

Time and again when positions become available we have to promote the fact that women must be given every opportunity to fill them. If they are the best candidates, then they must be encouraged to stand and possibly be employed. We must continually push and be vigilant about ensuring that women are given every opportunity. The coalition has a history of leading the way in this area, which is something we need to be very proud of.

This bill, however, is very clearly taking the whole idea of equal opportunity a number of steps too far. Giving the Equal Opportunity and Human Rights Commission the powers this bill is going to give it will place in jeopardy a whole range of freedoms we value so dearly in Victoria and Australia.

Mr Tee — Rubbish!

Mr DRUM — Mr Tee says that is rubbish. I have probably 3000 text messages on my phone, telling me it is not rubbish. I have enough letters and I have been contacted by enough people to suggest that it is not rubbish and that these people are not fearmongering; they are simply concerned.

How are employers, who are now going to be duty-bound to ensure that they take reasonable and proportionate measures to eliminate discrimination, going to cope when the definitions of what is a reasonable and proportionate measure are so lax? Those definitions lack clarity, and that is going to be a major concern.

I also highlight the fact that the coalition has put on record its disgust at the recent racist violence and assaults. This racism needs to be stamped out and dealt with under equal opportunity legislation. The coalition has a fine record in standing up for minority groups and highlighting to the current government the fact that we are experiencing regular racist assaults in this city.

Whether the Premier wants to acknowledge that or continue to deny it is up to him, but it is important to know that when it comes to equal opportunity, whether that be the opportunity to get employment or to be treated equally, we cannot stand by and let racist assaults happen without putting measures in place to eradicate those types of assaults.

We know that this bill, which has three major areas, has been rushed through the legislative process. The coalition wanted the community to have more time to examine its consequences. All members of Parliament have been receiving literally hundreds of emails — I think I have now gone past the 1000 mark — from constituents urging them to oppose this legislation or to at least give the community and the public an opportunity to go through it and truly understand the consequences that will arise if this bill is passed. The people who have been complaining to all members of Parliament understand exactly how much their freedoms will be eroded by this bill, and they are calling on all members of Parliament to maintain those rights and freedoms.

I said there were three major areas in this bill; although they have been well covered by other members, I will quickly go through them. Firstly, the bill will give sweeping and unjust powers to the commission. Secondly, its complexity will create uncertainty in

various communities, community organisations and businesses. It will also attack our freedom of beliefs and our freedom of association.

The investigations I spoke about earlier that will be able to be instigated by the commission mean that members of any community organisation can be forced to hand over documents and be hauled before a panel to give evidence in the event that the panel is not satisfied with the result of its investigations. If that happens and the panel is still not satisfied with the evidence it is given, a compliance notice can be issued to an organisation without any semblance of discrimination having taken place. It is then in effect going to have to prove its innocence, and that is something that is not in place at the moment. Having to prove your innocence is a provision that will be included in the bill. These investigative powers will exceed the powers that are currently in place for use by the Victorian police force. That is something this government has no issue with whatsoever.

The definitions of what is reasonable and proportionate in relation to the measures that must be taken to eliminate discrimination have now been broadened to include direct and indirect discrimination, thereby creating uncertainty and complexity for community organisations and business. It will now be very easy for any employee to lodge a ridiculous claim and to make a range of unjust allegations. Such unjust or ridiculous allegations will need to be proven to be false as opposed to how we would expect these types of investigations to be put in place. This is going to put business and community groups in a very difficult and serious position.

The bill further restricts the freedom of belief exemptions for schools and other groups. Religious and non-government schools need to have the flexibility to employ people they believe can carry out the duties that exist within those organisations to the best of their ability. In many instances certain values need to be adhered to so as to ensure that the duties required under these positions can be carried out to the best of their ability. That is simply stating how it is.

There is a very strong and genuine belief that if this bill is passed, it will be near impossible for any faith-based or non-government school to prove that a maths or science teacher with like beliefs to the employing organisation or school would be a better employee for that school as opposed to a teacher who has contrary beliefs. That is an area that is causing an awful amount of grief with this bill.

In finishing, I want to reiterate a point that I have raised many other times in this chamber. About 70 government MPs in this Parliament think it is totally okay for them to discriminate as to who they employ in their offices. Also, this government thinks it is totally okay and not a problem for it to discriminate as to who it puts on boards of water authorities and health boards around the state. This is all based around political belief. It thinks it is fine to put its mates into paid employment because of their political beliefs.

If anybody wants to join a health board around the state, the first question they are going to be asked is, 'What are your political beliefs?'. If they have any political association with someone from another political party, they will be black-listed. They would not have a hope in hell of being put on a health board, water authority or any other government-paid board position, let alone serving an electorate in the position of an electorate officer.

With this bill the government is breaking new ground in the art of hypocrisy and will continue to do so every time it stands up in this chamber and starts championing the rights of equal opportunity, because we know that like no other political organisation ever, the Labor government in Victoria practises the art of discrimination each and every day. It makes sure that it reaches into every organisation it possibly can to ensure that it has its own people in paid positions to limit criticism by the public of the horrendous way in which this government is governing the state of Victoria.

Mr SCHEFFER (Eastern Victoria) — I am very pleased to speak in support of the Equal Opportunity Bill, because its provisions embody a major step in the long struggle to remove discrimination against individuals and groups and to make equality amongst citizens more of a reality in Victoria. I am pleased that part 2 of the bill reaffirms the 17 attributes that may be possessed by an individual and which cannot legally be the basis of discrimination. This is a comprehensive list, and after 15 years I believe it is well accepted by the Victorian community.

Victorians widely support the view that employers, and fellow workers for that matter, should do what they can to support the workplace needs of employees who have parental or carer responsibilities, provided that those demands are reasonable. Victorians accept and support the idea that employers, educational institutions and businesses should make reasonable efforts to accommodate the needs of people with impairments. I believe Victorians also overwhelmingly support the view that as a community we should go the extra distance towards meeting people's special needs. These

are very positive attitudes and values, and they are the social basis of the further steps presented in this bill.

The government has said that a key aim of this new Equal Opportunity Bill is to stamp out entrenched and systemic discrimination against minority groups. The bill will give the Victorian Equal Opportunity and Human Rights Commission the ability to investigate persistent and systemic discrimination without first requiring a complaint to be made.

I fully support this more proactive approach to step up the removal of discrimination against individuals and groups on the basis of the attributes identified in the bill. I agree with the premise of the legislation that discrimination is structural and can only be progressively removed through understanding the complex ways in which discrimination is effected in our community.

Let us be clear that this is not about social engineering. Each of us continually evaluates the ways in which our own inadvertent attitudes and behaviours may unfairly discriminate against certain individuals and groups. We change and grow through being challenged, and the provisions in this legislation will require us as a community to acknowledge the inequalities that exist and to act proactively to address systemic discrimination against groups of people as well as individuals.

As legislators we have a responsibility to put in place laws and structures that promote the common good, and the provisions in this bill move us in a very positive direction. It is not good enough for us to believe that discrimination is simply about an interaction between individuals on the basis of their gender, race, sexual orientation, parental status or political belief. While discrimination certainly takes place where one individual decides that he or she has no responsibility to deal fairly with another person on the basis of one or more of their personal attributes, it is also true that people experience inequality and discrimination because of their social circumstances.

It is not good enough to continue to hold that problems of discrimination can be solved if institutions simply deal with everyone equally, being blind to the race, age, gender or disability of a client, colleague or employee. People are discriminated against because their social power is weakened by their economic circumstances and also because of the place they and the group they belong to have in the wider culture, the status of their job, their status as a woman, their age, type of education, sexual orientation, ethnicity or immigrant status as well as their language and accent.

The Attorney-General's second-reading speech draws attention to the practical effect of systemic discrimination: pay inequity between men and women, persistent disadvantage experienced by Aboriginal Victorians and facilities that are accessible to some but not others on the basis of their physical attributes.

The Attorney-General reminds us of recent Australian National University research which showed that employers are still more likely to interview job applicants if they have Anglo-Celtic names. The work of the Productivity Commission found that only 53.2 per cent of people with disabilities are in work, compared with 80.6 per cent of those without a disability. These are concerning statistics.

A structural approach is the basis of this legislation, and we can see this in the emphasis placed on eliminating systemic discrimination and on the power given to the commission to initiate an investigation within certain constraints without a complaint having been made. The commission will be empowered to act on pervasive and systemic discrimination by working with communities and responsible organisations to encourage them to comply with the legislation through education and through developing guidelines to enable specific organisations to act responsibly for the removal of discrimination within the area of their activity.

The clarification of the meaning of direct and indirect discrimination contained in clauses 8 and 9 is useful. Direct discrimination involves one person treating another person unfavourably because of an attribute they possess. Indirect discrimination occurs when a person imposes or intends to impose a requirement, condition or practice that unreasonably disadvantages persons with an attribute. Indirect discrimination applies to groups of people who share an attribute, and the bill provides useful examples of how businesses and employers can unreasonably discriminate against groups of people with, for example, a visual impairment, or people who do not have fluency in English. Importantly the bill requires the person imposing such a requirement to show that it is reasonable. Clause 9 sets out a number of relevant circumstances that need to be taken into account in deciding whether the requirements are indirectly discriminatory.

It is also important to recognise that clause 12 takes up the point I made previously about everyone being treated equally, being as it were blind to the specific attributes of a person. The clause provides that a person may take special measures to ensure that there is equality amongst members of a group with a particular attribute, and again the bill provides some useful

examples. Special measures include strategies that we used to call positive discrimination, providing special training or opportunities for members or groups who are unrepresented in particular fields of work or community activities. The approach taken in these clauses is premised on the view that discrimination is structural and the specific objectives of the bill need to be understood against that philosophical background.

As previous speakers have pointed out, the bill is the culmination of a two-and-a-half-year process that commenced with the Auditor-General's announcement in 2007 that Julian Gardner would undertake a review of the Equal Opportunity Act. The final report of the review was released in June 2008 after very extensive consultation. The key recommendations that are now elements of this bill include the shift in the commission's work, as I said before, from a complaints-handling body to one that has an educative role and that can facilitate dispute resolution, best practice development and also compliance. The commission has been provided with more effective options to respond to systemic discrimination without having to rely on individuals making complaints. The commission is empowered to focus on early and flexible dispute resolution.

Along with other members of this house, I have received many emails — maybe not the 3000 that Mr Drum mentioned, but certainly a considerable number — from individuals and organisations expressing concerns over the provisions contained in part 5 of the bill. These emails and letters have expressed concern that the amendments in relation to religious exemptions will restrict the ability of religious bodies and schools to employ people who share the same religious beliefs and values as the employer. Some who wrote to me believed the legislation would mean that staff would be replaced with people who oppose or care little for their beliefs. Some expressed the concern that religious bodies and schools will be required to prove that it is necessary to employ a person in a particular position who shares the same faith values as those espoused by the employer. Some also put the view that parents send their children to religious schools with the expectation that the staff of the school share the religious views of the employer. Concern has also been expressed that the Victorian Equal Opportunity and Human Rights Commission will, under this legislation, have the power to investigate breaches of the legislation.

I take this opportunity to thank all those people who have taken the time to write to me, and I assure them — —

Mrs Peulich interjected.

The ACTING PRESIDENT (**Mr Vogels**) — Order! Mrs Peulich!

Mr SCHEFFER — I hope I have demonstrated in my remarks today that I have carefully considered their views in coming to a decision on the various parts of the bill. The government took into consideration the recommendations of the Parliament's Scrutiny of Acts and Regulations Committee in relation to exemptions.

Clause 82(3) of the bill deals with employment by religious bodies and also allows discrimination where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position that a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity means that they do not meet that inherent requirement.

The government has taken care to balance the rights of religious bodies and schools to preserve their religious culture and the rights of individuals and groups to be free of discrimination. The fact is that religious bodies and schools will no longer be permitted to discriminate on the basis of race, age and impairment that are not connected to religious doctrine. I have not heard that any religious body or school objects to this measure.

Where a religious body or school wishes to discriminate in the employment of a person on the basis of the person's conformity with the relevant religious doctrines or their religious belief, sexual orientation, marital status or gender, it will be required to demonstrate that the basis of the discrimination is an inherent requirement of the religion. The balance here gives the religious body or school some latitude but places on it the responsibility to defend the case so that a job applicant, for example, is protected against an arbitrary, discriminatory decision that has nothing to do with religious belief or culture.

This bill is a detailed piece of legislation. It is of course not possible to do justice in a contribution such as this to the many positive reforms that it makes to extending rights and reducing discrimination against individuals and groups. I support the bill and commend it to the house.

Mr KAVANAGH (Western Victoria) — Like other members, I have received a lot of correspondence opposing this bill on the basis that it seeks to interfere with the proper freedom of churches and, like Mr Philip Davis, I have not had one single letter or email supporting the bill. In fairness it should be noted that this bill is a compromise. The government did listen to the concerns of churches before modifying this bill and

putting it into its current form. Nevertheless I feel compelled to vote against this bill because to me, even as modified, the bill does contravene an important principle — the separation of church and state. This bill would deny or at least undermine certain freedoms of churches while retaining them for politicians.

We have heard a lot today about discrimination and what a horrible thing discrimination is. Yet there does not seem to be much consideration as to what is the proper role of the law in limiting discrimination, because surely we do not want to live in a world where we are prevented from discriminating entirely — for example, are we to have friends imposed on us by the state?

Mrs Peulich — That is the next chapter of reform.

Mr KAVANAGH — Yes. Are we going to have a bill that says you are not allowed to discriminate in choosing your friends and whether you like somebody, and that you are required to act towards them by not discriminating on the basis of your reaction to their gender, age or any other qualities that they have? It would be rather unusual if we did not discriminate in our choice of marriage partner, for example.

Mrs Peulich — How about using the word 'select'?

Mr KAVANAGH — I say to Mrs Peulich that the point is there is a great deal of confusion about the word 'discrimination' and no real consideration as to what are the proper limits of personal discrimination — where the line is or should be. This bill seeks to prevent the churches discriminating in certain respects. Many Australians assume that the separation of church and state is a feature of our constitutional system. Presumably Australians gain this impression via our American-dominated popular culture, just as many Australians also gain misguided presumptions of a constitutional right to bear arms and a belief that teachers are underpaid. Contrary to public expectations, Australia's political and legal systems are not based on a separation of church and state, even though a properly understood and applied separation is a worthy and desirable outcome in a religiously diverse society such as ours.

One speaker today said she belongs to a religious minority. I think everybody in Australia belongs to a religious minority. There is no church to which a majority of Australians belong, and indeed atheists are not in the majority either in their religious views, so everybody in Australia belongs to religious minorities.

The most famous proponent of the separation of church and state was Thomas Jefferson. It was of such importance to Jefferson that he regarded his authorship of the *Virginia Statute for Religious Freedoms*, in which he manifested the principle of separation of church and state, as important enough to warrant being recorded on his tombstone. In contrast, merely being the third president of the United States was not, in Jefferson's opinion, worthy of mention. As in the case of his advocacy of rights, Jefferson believed in the proper separation of church and state, which is also widely regarded as extremely desirable by a majority of modern-day Australians.

That there is not a tradition of separation of church and state in our legal and political tradition is more than amply demonstrated by the rules which govern the selection of the head of state of the United Kingdom and therefore Australia and indeed Victoria. While our constitution does indeed prevent the commonwealth from establishing a religion or setting religious tests for the public service, there is no general attempt to separate the church and state under our constitution.

Royal succession in the United Kingdom, and therefore Australia and Victoria, is governed by the Act of Union 1800, which restates the provisions of the Act of Settlement 1701 and the Bill of Rights 1689. These laws stipulate that those who are not legitimate descendants of Sophia, Electress of Hanover, and those who have ever been Roman Catholics or who have married Roman Catholics are disbarred from succeeding to the Crown. Indeed upon the death of Queen Anne in the early 18th century — 1714, I believe — the person who became King George I of England was brought to England from Germany. He was actually 50th in line to the throne, but the other 49 were all Catholics and therefore ineligible to become King or Queen of England.

Ms Pennicuik interjected.

Mr KAVANAGH — He succeeded Queen Anne. Women were not disbarred, they were only put down on the lower rung.

The laws that prevented those 49 Catholics from succeeding to the throne still exist today, and they remain operational, not only as part of the laws of the United Kingdom but effectively, thereby, as part of our constitutional system also. It is thus the case that Catholics are specifically and explicitly excluded from being the head of state of Australia and indeed Victoria.

The Queen's role as head of the Church of England is very well known. What is less well known is her Presbyterian identity. The Queen of Australia is not the supreme governor of the Church of Scotland, as she is

for the Church of England. She has the right to attend the general assembly of the Church of Scotland but not to take part in its deliberations. The oath of succession, which all kings and queens of the United Kingdom make, and indeed kings and queens of Australia, includes a promise to maintain and preserve the Protestant religion and Presbyterian church government.

The Queen maintains warm relations with the Church of Scotland, where she worships when she is in Scotland and also from which the chaplains of the royal household in Scotland are appointed. In other words, the Queen becomes Presbyterian as she enters Scotland; the Queen of Victoria becomes a Presbyterian as she enters Scotland. As the Queen flies from London to Edinburgh to stay at Holyrood Palace or Balmoral Castle, there must be moments in time when she actually suffers from a peculiar form of schizophrenia. Parts of the royal person are obviously Presbyterian while other parts remain momentarily Anglican.

Mr Finn interjected.

Mr KAVANAGH — It is true. Today there is such hostility to churches that many people assume that our constitutional system already demands a separation of church and state, and that it is desirable, on the misguided assumption that that doctrine is necessarily damaging to churches.

I was frankly shocked in a recent discussion with a member of this house to be told by him, 'I believe in the doctrine of separation of church and state'. He made it quite clear that he thought the churches should be separate from the state but that the state did not need to be separate from the churches. That is a view manifested in the bill before us. He said that while the state should be able to boss the churches around and get them to do what they want, the churches should have no influence and should not be allowed to even comment on what the government does.

Unfortunately this kind of thinking is not uncommon these days, but logic surely dictates that if two things are separate from each other, then A is separate from B and B must also be separate from A. Letters to the newspapers reveal growing assertions by atheists that religions have caused wars and that instituting atheism would automatically create an earthly kind of Utopia.

Mrs Peulich — Wasn't that a Karl Marx thought — religion is the opiate of the people?

Mr KAVANAGH — Indeed. While there is some truth in the assertion that religions have led to conflicts, along with money, territory, property, sex and a hundred other things that have lead to conflicts, there is no concept, it seems to me, of the role of Christianity or religion generally in motivating millions of people to selfless, long-term service, lifelong service, to others and vastly improving the lives of many other people. Nor is there any understanding of Christianity's role in creating societies like our own that, while imperfect, are clearly the most desirable places in the world to live, as we can see by the flow of people around the world and indeed to our northern border. Nor is there even a suggestion of recognition that atheistic regimes, principally communist ones, in the 20th century have been tried.

When you read the letters to newspapers you would think there had never been an atheistic government before in the history of the world. There have been plenty of them; they have been tried right across Eurasia, and in every case that experiment of atheistic government has resulted in economic backwardness, to the point of inducing the largest famines in the history of the world, systematic repression and mass murder on scales previously unprecedented in human history.

I submit that reciprocation is the essence of justice, and that any rule or principle or law to be just must have both costs and benefits to both sides. To me the proper separation of church and state should entail three things.

Firstly, that the government does not discriminate between religions or between churches. From this I exclude only extraordinary examples, like thuggi, the religion of India principally in the 18th century which demanded of its adherents that they murder people travelling across India.

Secondly, a fair rule of separation of church and state would mean that political office, state office, is not achieved and not awarded on the basis only of holding a religious office or vice versa. That is unlike, for example, with the Prince Archbishop of Salzburg. We would not have a situation where people on the basis of having a religious office automatically assume a government office.

Thirdly, it seems to me that a proper separation of church and state would mean that the church may not interfere in the way that churches run their affairs, and it may not suppress or eliminate established religious practices unless they are directly harmful to others, as in the case of thuggi.

In my opinion the religious vilification laws that have been passed by this Parliament are a mistake and they form a warning to us — firstly, because those laws improperly restrict freedom of speech. They are also

wrong because they do not appear to me to be evenly or fairly applied, they do discriminate in their practice between different religions and churches, and they are an improper interference in the freedom of churches. The result has been to do infamous injustice in Victoria to some church people, mistreatment by the state in Victoria that until recently would have been regarded as Kafkaesque and unimaginable.

The present bill could prevent churches discriminating in their employment on the grounds of the religious views of job applicants. But while members of Parliament in this chamber are prepared to restrict the freedom of church people in this way, they are not prepared to have their own capacity to discriminate on the basis of political allegiance restricted in a like manner. Politicians, even after this bill is passed, will be properly allowed to discriminate in the employment of electorate officers, for example, on the basis of political affiliation and political belief.

As I have asked this house before, what would we think of a law which was to tell political parties that they were not able to discriminate in their preselection of candidates on the basis of those candidates' political beliefs? What would we think of a law that told the Greens political party that they had to endorse me as a Greens candidate, even though on certain matters I strongly disagree with the Greens and I agree with them on some others? Is that not really what this law is intending to do in a limited way to churches?

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

The PRESIDENT — Order! Mr Atkinson can ask his supplementary question from yesterday.

Planning: green wedge zones

Supplementary question

Mr ATKINSON (Eastern Metropolitan) — Not entirely without notice, I thank the Minister for Planning for his answer yesterday to my substantive question, and I remind the minister that I was talking about the green wedge and his current policy position in respect of the green wedge. My supplementary question yesterday was: I note the minister has approved an amendment to the Manningham City Council's planning scheme, without any form of community consultation, to facilitate an application to triple the size of the On Luck Chinese nursing home which is located in the green wedge — a project which, I might indicate, I am supportive of. It is the lack of consultation that is my concern. Can I ask the minister what criteria he used to approve the amendment for a significant development in the green wedge and why he would consider this decision and the rationale for it would not set a precedent for other developments in the green wedge?

Hon. J. M. MADDEN (Minister for Planning) — I thank you, President, and Mr Atkinson for the surprise question. I first of all thank the member for his interest in these matters, and particularly this one on the On Luck Chinese nursing home.

Just to give a little bit of background, the On Luck Chinese nursing home is a lawfully established, 60-bed nursing home located on land outside the urban growth boundary, as the member mentioned, and in a green wedge. Normally a nursing home would be prohibited. However, a site-specific control in the Manningham planning scheme allows the land to be used and developed for this purpose. What I have done, as Mr Atkinson has correctly mentioned, is that I have approved an amendment to the Manningham planning scheme which will enable the consideration of further expansion to the existing On Luck Chinese nursing home. That is not to say it will or will not happen, but it will enable the Manningham planning scheme to allow consideration of that. Of course any future development plan approved under the controls would be carefully considered in consultation with the council and balanced against decision guidelines relevant to the green wedge provisions, so they will also be factored in.

Mr Atkinson was interested in the extent of public consultation. The amendment was approved with exemptions from the usual notice requirements. However, in making that decision I decided to seek the views of the Manningham City Council regarding the request. Can I also say that not only was the Manningham City Council supportive of that approach, but as well as that there has been strong and overwhelming endorsement from a number of local members. Of course my colleague Mr Tee has been very enthusiastic about the prospect of more nursing home beds, especially for this particular community and this facility.

I have also had strong representations through correspondence from Robert Clark, the member for Box Hill in the other place, and Mary Wooldridge, the member for Doncaster in the other place, as well as overwhelming and almost glowing endorsement of the proposition of prospective extension to this facility from the federal member for Menzies, Kevin Andrews.

So there has been a large degree of support, but it was well — —

Honourable members interjecting.

Hon. J. M. MADDEN — Mr Atkinson, can I point out that the consultation with the Manningham City Council is an opportunity for the council to also reflect the views of its broader community, and that is in many ways the expectation of any response from the council. It was very supportive, and hence we progressed that accordingly.

Planning: Chirnside Park development

Mr ATKINSON (Eastern Metropolitan) — I direct my question without notice to the Minister for Planning. My question to the minister yesterday referred to — —

Mr Jennings — Which time zone are we in?

Mr ATKINSON — I am discussing this question with the minister today. Yesterday I asked him about an application by KFT Investments in Chirnside Park, and the minister gave an answer about a development that he had called in in Chirnside Park. Given that the KFT project I asked about, neighbouring Chirnside Park shopping centre, is well over 1 kilometre away from the Chirnside Park golf course redevelopment he spoke about in his answer and is a completely separate project from the KFT plan, I ask: can the minister clarify the relationship between the KFT application and the Chirnside Park golf club project that he also called in?

Hon. J. M. MADDEN (Minister for Planning) — I again thank Mr Atkinson for his interest in these matters. I did say in my remarks yesterday that I would take the initial question on notice because I was not specifically aware of the particular element of the project that he was referring to in relation to that. I was happy to take that on notice, and I am also happy to respond to that today in relation to the licensed venue that Mr Atkinson referred to. There were two major projects in and around the Chirnside Park area. Of course Mr Atkinson rightly has identified that the one I spoke of at length, which I suspected was the one he was referring to, given that he did not identify specifically — —

Honourable members interjecting.

Hon. J. M. MADDEN — I was happy to speak at length around the broader Chirnside Park country club redevelopment, and I am also happy to continue to speak about the matters of interest Mr Atkinson refers to today as well.

As background in relation to that, I sought some information from my department. A development plan has been approved for that site, and it shows part of the site for use as hotel and gaming. The approved development plan overlay 5 includes the requirement that the number of electronic gaming machines be limited to no more than 70 in that venue. I understand these machines are to be sourced from within the Yarra Ranges shire from existing licences. I understand that is critical in the sense that there would be no more gaming machine licences because of this venue in the Yarra Ranges shire.

Supplementary question

Mr ATKINSON (Eastern Metropolitan) — That is interesting, because my understanding is that Yarra Ranges does not have a cap on the number of machines. I thank the minister for his answer. In the minister's answer yesterday he clearly did not realise that the KFT and golf course plans were two completely separate projects — and I did try to bring him back to the actual question I asked — despite him calling in both of those projects, fast-tracking both of those projects and bypassing communities and councils on both projects. I ask: how can Victorians have confidence in the Minister for Planning when he clearly has no idea about the details of multimillion-dollar projects that he calls in and approves?

Hon. J. M. Madden — On a point of order, President, the question Mr Atkinson has asked does not sound like a question for me but a question for Victorians, so I would ask him to clarify the way in which he has phrased that question.

The PRESIDENT — Order! Clearly the minister would like further clarification before he can answer Mr Atkinson's supplementary question.

Honourable members interjecting.

Mr ATKINSON — Yes, we can do this next sitting day, if you like, but I am happy to continue. The question is: how can Victorians have confidence in the minister when he calls in projects and does not even know which projects he has called in and which ones he has signed off?

Hon. J. M. Madden — On the point of order, President, it seems that Mr Atkinson's — —

The PRESIDENT — Order! We are not on the point of order.

Hon. J. M. Madden — The question does not seem to be directed to me.

The PRESIDENT — Order! Then the minister cannot answer it.

Hon. J. M. Madden — He has asked — —

The PRESIDENT — Order! The minister does not have to answer.

Honourable members interjecting.

Hon. J. M. Madden — Do you want to hear me out or not? The point is — —

The PRESIDENT — Order! The minister has no point of order. I remind the minister and all ministers that a minister is not compelled to answer. If he does not feel it is a question for him, he just says so and he does not answer it. It is the minister's choice.

Rail: Maryborough line

Ms PULFORD (Western Victoria) — My question is to the Minister for Public Transport, Martin Pakula. Can the minister — —

Honourable members interjecting.

The PRESIDENT — Order! I cannot hear the question.

Ms PULFORD — Neither can I, and I am asking it! Can the minister update the house on the progress of the return of passenger rail services to Maryborough?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Ms Pulford for her question. On 1 April I joined the Premier — —

Mrs Coote — April Fools' Day!

Hon. M. P. PAKULA — There is no significance in the date, Mrs Coote. I joined the Premier and the member for Ripon in the Assembly, Joe Helper, who is also the Minister for Agriculture, to announce the commencement of the next stage of major construction work to bring passenger rail services back to the Maryborough community. We took the opportunity to visit Maryborough's magnificent historic railway station to announce the awarding of two very significant contracts to undertake civil works at both Maryborough and Creswick railway stations and to deliver planned level crossing upgrades.

This major investment is going to enable people living and working in Maryborough to commute to Ballarat and Melbourne for work, study or leisure. This stage of the $50 million investment will include the upgrade of eight level crossings between Ballarat and Maryborough. The upgrade is going to include boom gates and flashing lights and provide a significant boost to safety for motorists and train commuters in the region.

Works to build a new station platform at Creswick and construction of a new ticketing office and stabling yards at Maryborough are all well under way. I remind the house that these are in addition to the $1.9 million heritage upgrade for Maryborough station that that historic station has already benefited from.

Abigroup has been awarded the contract to undertake the civil works at Maryborough, including more car parking spaces, closed-circuit television and passenger information displays and to construct the new platform at Creswick station. Rail Signalling Services has been awarded the tender for the level crossing safety works. Both of those companies are based here in Victoria, and around 60 people will be employed across the civil works and the level crossing upgrades. The next stage of works at Maryborough railway station will include a bus interchange, additional car parking and Disability Discrimination Act-compliant toilets.

This government, as members well know, has a strong record of returning passenger rail services to the regions after the Kennett government closed a number of rail lines, including the line to Maryborough. We have already brought back services to Ararat and Bairnsdale. We have completed the biggest ever upgrade of the country network through the regional fast rail project; we have delivered more than 100 new V/Locity carriages and upgraded all the gold and silver freight lines as well, including the $73 million upgrade of the freight line to Mildura.

The return of passenger rail to Maryborough will open up opportunities for that community to access more jobs and better education opportunities. It will boost access to health and boost access to vital retail services and other services. Importantly it will mean the people of Maryborough will find it easier to visit their families and their friends.

Rail: peak-hour congestion

Ms PENNICUIK (Southern Metropolitan) — My question is for the Minister for Public Transport, Mr Pakula. On 27 November last year. I raised an adjournment matter for the previous public transport minister, and Mr Pakula was kind enough to respond to it on 23 February this year. My adjournment matter was about peak-hour congestion on the rail system, and in response the minister said:

> … a number of initiatives have been implemented, including a reduction of seats in carriages, and an increased number of hand rails.
>
> The government has … announced the removal of 12 seats from each carriage of the 38 new X'trapolis trains.
>
> The 528 seats on a six-carriage train will be reduced to 456 seats, making travel more comfortable during peak periods.

We understand trains are supposed to have seats removed from around the doors so people can get in and out. I travel on the rail system all the time. I have not seen this work done; I have not seen the removal of seats or installation of hand rails, so my question is: what is the estimated time of arrival of these much-needed improvements to metropolitan trains?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Ms Pennicuik for the question — it is probably better described as a long dissertation with a question at the end!

Ms Pennicuik, in her question, refers to the design of the new X'trapolis trains and asks for a timetable for them. As has been indicated many times in forums both private and public, the new X'trapolis trains are designed to be delivered at an average of one new train per month.

There are two X'trapolis trains currently in full revenue service. A third new X'trapolis train has concluded or is about to conclude its testing and will go to its 25 hours of fault-free revenue testing, which should occur in the next day or so. A fourth X'trapolis train is here in Victoria as we speak and is about to commence its testing. A fifth and a sixth X'trapolis train are currently on the water and on the way, and those are the trains which, as Ms Pennicuik describes, are going to have this new configuration.

In regard to works on other trains, there is obviously the need to ensure that there are enough trains in the network running peak-hour services to enable other vehicles to be removed from service to have them modified, and there is also a commitment under the Victorian transport plan to secure next-generation trains in the future, which, as Ms Pennicuik may well know, are likely to be in a design where they will have fewer seats and more doors to ensure both easier access and egress from trains to reduce dwell times and to provide greater room within the carriage to enable more passengers to be boarded on those trains in greater comfort.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — So there is no timetable that the minister can give to the people of Victoria for the reconfiguration of all the trains so that people can get in and out of them easily? The other part of my question was about hand rails, and I made a point of noticing that on the three trains that I have caught into Parliament this week there were no hand rails, and on other trains where there have been hand rails installed I have been very lucky if I could touch with them my fingertips because they are high. They are not very useful for people who are under 6 foot tall, so what will be the estimated time of arrival of the fitting of hand rails that people can actually reach?

Hon. M. P. PAKULA (Minister for Public Transport) — Let me say a couple of things to Ms Pennicuik — and I take issue with her in regard to one thing: I am well under 6 foot tall and I can reach them, so it is not just for those who are 6 foot. Six foot tall is certainly not the limit. I am 5 foot 9 on a good day; that is my point.

Having said that, as Ms Pennicuik knows — I have been on a train with her — on some trains the configuration of hand rails or other devices for holding on is different to others. There are, as she knows, a number of different trains that make up the fleet. There are 7 of the old Hitachi trains; there are about 36 Siemens trains; there are something like 90-plus Comengs; and there are new X'trapolises — and it is true to say they all have different modes of rails, if you like, for holding on.

Some have hand holds on the back of the seats; some have bars; some have straps, and that is the consequence of having a fleet which has been purchased over many years, over decades, and they all have different configurations and different modes of support for passengers who are not seated.

But if Ms Pennicuik asks specifically about the nature of the hand straps in a particular configuration of train, that is something that the department continues to take note of, and it is a feature of the design of a particular train. At this stage there are no plans to change the design of those hand straps, but it is a matter that we will take on notice for the design and construction of trains in the future.

Planning: Wodonga pool site

Ms DARVENIZA (Northern Victoria) — My question is to the Minister for Planning, Justin Madden.

Can the minister update the house on the recent planning decision to facilitate the future sale and redevelopment of the Stanley Street pool precinct in Wodonga?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Darveniza's interest in these matters, particularly around Wodonga, because I know it is part of her electorate and I know she spends a lot of time travelling the length and breadth of her electorate.

We have seen enormous growth and economic prosperity occur in Wodonga — enormous growth for a regional centre — and that is reflected in not only the great work of Ms Darveniza and this government but also the great work of the local council when it comes to planning for the future.

We are very conscious that growth and demand in and around the Wodonga region are great things. They allow the prospect of a lot of development occurring, particularly around the central business district of Wodonga and associated areas alongside that. We have seen a number of issues being advanced, particularly with the prospect of the release of land over time in some of these areas.

One of the areas that has seen significant work has been what is currently the Stanley Street pool site. That will over time be phased out as an operating swimming pool. I know these issues are often very sensitive to local communities, but there is a new aquatic facility to be constructed in the new White Box Rise estate. This will be a great development. It will bring the best new aquatic facilities to Wodonga and improve their operational usage.

Importantly the old site, along with many other areas in the precinct, will allow for enhanced development. The amendment rezones the Stanley Street pool site from a public use zone 7 to a mixed-use zone and the adjoining Richardson Park from a public park and recreation zone to a business 1 zone. This has taken place, I understand, after an extensive consultation process which was established with a number of design principles for the redevelopment of the precinct. The design principles were formally endorsed by the council and are consistent with the directions of the municipal strategic statement in regard to encouraging mixed-use development in the Wodonga central business district.

This development is a great opportunity to enhance Wodonga and enhance business prospects and economic prosperity in the region. The existing community facilities on the site will be replaced, as I mentioned, by new facilities that will better meet the community's needs. That is a very important part of this project. Prior to the subject land being sold after the completion of the rezoning, it is necessary for that change of zone to be consistent with adjoining zones and the planning strategy for the redevelopment of Wodonga central business district.

Whilst there is cynicism and scepticism on the other side of the chamber about what is taking place across the state in terms of economic prosperity, not only are we seeing enormous growth in the greater metropolitan area of Melbourne, we are seeing almost equivalent growth in our regional centres. One of those is Wodonga. This goes a long way towards making sure that Wodonga is a great place to live, work and raise a family.

Planning: municipal administration

Mr D. DAVIS (Southern Metropolitan) — My question is for the Minister for Planning. I refer to the Ombudsman's report tabled today entitled *Report of an Investigation into Local Government Victoria's Response to the Inspectors of Municipal Administration's Report on the City of Ballarat*. The role of local government includes significant activities and responsibilities under the Planning and Environment Act 1987. In point 8 of his summary the Ombudsman points directly to a gap in overall integrity coverage in Victoria. Does the minister support recommendation 3 of the Ombudsman, that legislative amendments to provide the Ombudsman with jurisdiction to investigate the administrative actions of municipal administration under the Ombudsman Act be made? Is it his, the department's and the government's policy that such strengthening of the integrity mechanism would improve public confidence in the administration of local government's responsibilities under the Planning and Environment Act 1987?

The PRESIDENT — Order! Before I call the minister, I would like Mr Davis to confirm that he is confident that the matters he raises are the responsibility of the Minister for Planning.

Mr D. DAVIS — On that point, President, the minister has responsibility for the Planning and Environment Act 1987.

The PRESIDENT — I am just asking.

Mr D. DAVIS — I am explaining.

The PRESIDENT — Order! I do not need an explanation. Is Mr Davis confident?

Mr D. DAVIS — Yes, I am; absolutely.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Davis's interest in these matters. To be frank, I have not yet seen the report. I am happy to consider these matters appropriately and ascertain whose responsibility the implementation of any recommendations that come from the Ombudsman might be. I would expect that the Premier, being responsible for the Ombudsman, is likely to make a statement in relation to this, or the Attorney-General or the Minister for Local Government.

We have great respect for the Ombudsman and the recommendations the Ombudsman makes. I look forward to reading that report in detail and receiving advice from my department in relation to these matters.

The PRESIDENT — Order! I just want to say on the record that I have some serious doubts as to whether the majority of the question was related to the minister's portfolio, but we shall see how it develops.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — Given the Minister for Planning is the senior minister in the Department of Planning and Community Development and has significant responsibilities to ensure that the Planning and Environment Act is administered appropriately by local government, I ask: what steps has the minister taken to ensure that the Planning and Environment Act is administered in that way? Will he examine this report in the context of the Planning and Environment Act?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr David Davis's question, and it is a refreshing question in many ways. It is a very generous question and a refreshing change of tone from the sorts of questions opposition members have been asking me over recent weeks and the last few days. Funnily enough, I can understand why they have changed their tone, because when you allege a scandal and you find out there is no scandal, then you need to apologise, and we are yet to hear one from opposition members.

Honourable members interjecting.

Hon. J. M. MADDEN — Yes, that's right — a scandal that wasn't. It was a scandal of their own making in their own minds. Suddenly there is a change of tone in the questioning from opposition members. They have turned down the volume a bit. They have changed the tone of their questions, and I welcome that. I am nearing the end of my contextual introduction to the answer I am about to give.

As I said, I am happy to take advice from the department in relation to any potential changes that we can make in relation to the Planning and Environment Act that would see better outcomes on a number of fronts, bearing in mind that we currently have out for public comment after a long consultation period a draft bill to amend the Planning and Environment Act. It is likely that this will result in it being introduced into the chamber at some time, and I look forward to the enthusiastic endorsement of those adjustments and reforms to the act after a very extensive consultation period. I also look forward to opposition members even from time to time suggesting amendments to planning reforms if they believe they are warranted, given that they have opposed every other planning reform we have introduced to this place at every opportunity.

I welcome the opportunity for the opposition to support any adjustments or changes to the Planning and Environment Act when any opportunities here in this Parliament present themselves to make sure we can consistently improve the planning system as it now stands.

Werribee Open Range Zoo: gorilla enclosure

Mr ELASMAR (Northern Metropolitan) — My question is to the Minister for Environment and Climate Change, Gavin Jennings. Can the minister update the house on how the Brumby Labor government is taking action to ensure that the world-class facilities at the Melbourne Zoo and the Werribee Open Range Zoo can continue to provide all Victorians with a wonderful wild animal experience?

Honourable members interjecting.

Mr JENNINGS (Minister for Environment and Climate Change) — Before I even rose to my feet I had a wild animal response from the opposition benches. It was quite extraordinary. They were champing at the bit to get themselves in as part of the act. I can assure Mr Elasmar and other members of the Victorian community that we can participate in the wonderful acts and attractions that we see not only at the Parkville zoo precinct but at the Werribee Open Range Zoo precinct as part of the ongoing development that our government is committed to doing to make sure not only that we have world-class attractions but that we play our role as being one of the world's leading zoo-based conservation organisations. That is the commitment that we have. Our gorilla program has been an outstanding success.

Honourable members interjecting.

Mr JENNINGS — Don't worry; there are some references that may be coming! There are some outstanding contributions that we have made through the captive breeding part of our gorilla program, going back to the world-leading, world-first artificial insemination that took place in 1984 that gave rise to the birth of Mzuri, one of the most famous gorillas to have come out of the zoo. There have been five subsequent births in our captive breeding program at the zoo. Now Mzuri is playing a very important role as a silverback and siring offspring at the zoo on the island of Jersey — a very famous zoo that was established by Gerald Durrell, so we are playing our role in the captive breeding program of these very precious western lowland gorillas.

I have learnt something about western lowland gorillas, because I needed to know about the design and implementation of the enclosure that we will build at the Werribee zoo. The enclosure will cost more than $2.2 million, and our government has committed the first $1.5 million and is seeking support from the generosity of our community to complete this enclosure. The importance of the enclosure is that western lowland gorillas require a separate and isolated spot for the leaders of the pack — the silverbacks. The silverbacks need their own spot to sit in high locations. They need to have their own vantage point on high ground. They need to have an opportunity to engage in polygamous activity, so they have females surrounding them in high locations on the high ground.

If I look for reference points I can see silver-haired people in certain locations, but there is only one silverback who is orientated in the right configuration. I am somewhat confused, because Mr Finn does not quite fit the description. I am confused. But I do understand the importance of this configuration in the landscape, and this is what we are going to create at the Werribee Open Range Zoo.

In future visitors will be able to see from the entrance right inside this wonderful enclosure that will have Motaba and two other young male gorillas who will — —

Mr Leane — Magilla?

Mr JENNINGS — No. Good guess! That is about as relevant as the Colonel Klink and Sergeant Schulz references; it is about as old as that. The enclosure will be in pride of place at the Werribee Open Range Zoo so in future visitors in their thousands will be able to see these gorillas having pride of place. Gorillas are very important in terms of the international message of conservation. Dian Fossey was associated with *Gorillas in the Mist* and the protection of gorillas. Being at the heart of the Werribee Open Range Zoo, the enclosure will be a timely reminder of the importance of this species and the importance of the conservation message. This wonderful enclosure will be a very popular attraction for thousands of visitors from across Victoria in the years to come. Our government is very keen to support the appropriate development of that facility at the Werribee Open Range Zoo.

Planning: ministerial intervention

Mr GUY (Northern Metropolitan) — Oh, to follow the resident thespian! My question is to the Minister for Planning. Can the minister advise the house how many projects he has called in under the government's increased call-in regime, how many have actually been started and what updates he has received about the projects of these call-in applications?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these matters, and I welcome his interest in the fact that a number of these projects have been called in. I think he highlighted yesterday that some of these have been multi-residential developments. A number of multi-residential developments, which he obviously is keeping a tally of, are important in terms of the diversity of housing options that are provided in this state.

As we have mentioned on a number of occasions, not only are these multi-residential developments important, it has also been particularly important to fast-track them through the system — not to guarantee them through the system, but to fast-track their consideration through the system — so that they could be resolved and those who might want to invest in them could determine whether they were going to proceed or not and then make associated decisions about where the investments would go, either into those projects or, if those projects did not get the go-ahead, potentially into other projects.

It is very important to be aware that a fast track does not necessarily mean the project is going to go ahead; it is just a fast-tracking of the resolution of the project. It is particularly important because whilst the traditional cottage building industry in housing has been going gangbusters in this state throughout the global financial crisis, what have been under threat are jobs in the commercial building sector. It was very important to intervene in a number of these projects so that they could be resolved quickly in order to determine whether they would proceed, thereby assuring those jobs and the investment in and the financing of those jobs into the future.

I know that Mr Lenders, the Treasurer, has been talking about the success story that the Victorian economy has been throughout the global financial crisis, but that has been largely driven — not completely driven — by the performance of the building sector. A lot of that has also been driven by the performance of the commercial building sector, when it could have potentially declined significantly. That has been highlighted by a number of industry representative groups who have said they were very enthusiastic about the resolution of these projects sooner rather than later to guarantee those jobs.

In terms of all of the figures that Mr Guy wants, I am happy to provide him with all those figures and an update of those figures. I am updated on a regular basis on which projects are under consideration. What is particularly important is job numbers: we are performing particularly well in this area and, because of that, our economy is the standout economy across all of Australia — and of course the Australian economy has been the standout economy among Western-type economies across the world during the global financial crisis. We can take great pride not only in what a great building industry we have but also in the performance of the building industry throughout the global financial crisis.

Supplementary question

Mr GUY (Northern Metropolitan) — I look forward to the minister providing that answer in full in due course. Given that the minister calls in multimillion-dollar projects where he does not know the building's height, like the Hotel Windsor, he calls in projects where he does not know their location, like Chirnside Park, and he forgets that he actually approves them when he calls in projects like Sunshine, I ask: why should Victorians have faith in the call-in regime of the minister and the government when the minister, in making those decisions, clearly has no idea of the details of the projects he approves?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these matters, because, as I have said, we are the standout economy because of what we have done. We are not only the standout economy, but we have some of the most affordable housing in the entire country. We not only have some of the most affordable housing based on the pricepoint entry for first home buyers, but as well as that, it is well located in terms of distance from the central business district. When it comes to housing affordability, housing options, jobs and the building industry — not only that but also the strategic direction of implementing planning reforms — we stand out across all of Australia.

More importantly than that, when it comes to the planning system and the reforms, what we are seeing right across Australia is a catch-up by other states, because we have been leaders time and again on all fronts. Whilst I am always happy to talk about the detail, I cannot guarantee that I have got all the detail behind me because there is so much going on at any one time.

Honourable members interjecting.

Hon. J. M. MADDEN — I take up the unruly interjections from the other side. I can understand why members opposite have an issue around height; I certainly do not. I can anticipate that they might have issues around that.

Honourable members interjecting.

The PRESIDENT — Order! Mr Guy is warned. One more interjection and he will be going to an early lunch.

Hon. J. M. MADDEN — The performance of the economy is a standout and the building sector is a standout. We are leaders not only when it comes to planning reform but also the strategic planning necessary to ensure that we have a city and a state that leads on all fronts when it comes to housing and settlement patterns and urban development across Victoria.

I take great delight in that. I know my job is not easy. I will always cop a lot of flak, but can I just say I have fairly broad shoulders. I am happy to receive that flak, because I know that it is only by doing the hard things that you actually make a difference in this world. I am happy to make the biggest effort to make sure that we make the biggest difference in improving the economy, our prospects for the future and the opportunities for our children so that Victoria is the best place to live, work and raise a family.

Employment: government initiatives

Ms BROAD (Northern Victoria) — My question is to the Treasurer. Last week it was reported that job advertisements for the last month had risen by 5.6 per cent in Victoria. To what extent are these figures related to the sustained rise in consumer confidence levels in Victoria and the Brumby Labor government's emphasis on keeping the Victorian economy confident?

Mr LENDERS (Treasurer) — I thank Ms Broad for her very insightful question on the connection between confidence and job growth and the role governments have to play in building up that consumer confidence.

Ms Broad identifies correctly that the number of newspaper job ads has gone up quite strongly in Victoria recently. In all but two of the individual months since the last budget we have seen employment growth go up in Victoria, and since the budget we have seen net growth of more than 100 000 new jobs in Victoria.

A lot of that has clearly come from the government stimulus program — the new hospitals, schools and other infrastructure projects that have been built. We have seen a lot of that from the surge in new homes being built — the construction growth. We have also seen an amount of that coming from the consumer confidence aspect that Ms Broad addresses.

Last Friday I had an absolutely delightful day getting away from the budget papers and going out to actually listen to the views of some Victorians. I went down through the city of Kingston, the city of Casey, the city of Greater Dandenong and the city of Monash talking to groups of Victorians. Whether I spoke to citizens in retirement villages, people at business round tables, first home buyers or other ranges of people, the thing that amazed me was the upbeat nature of their remarks. Talking about the role confidence plays in jobs, that was reflected in the number of Bunnings stores right through Kingston, Casey, Greater Dandenong and Monash. It seemed that everywhere I went there was a Bunnings store.

In Cardinia, for example, as recently as November last year Bunnings opened a new warehouse in Pakenham. One might say, 'A Bunnings warehouse in Pakenham — why should that make you excited?'. I have a confession to make. When I have leisure time I love going to Bunnings to buy those bits and pieces for the yard and around the house. I do not know whether it is my age and stage in life, but I enjoy going to Bunnings. I will disclose that; I have no shares in Wesfarmers, but I enjoy going to Bunnings.

What is interesting, though, about the Bunnings phenomenon that I will talk about here in answer to Ms Broad's question is that this Bunnings warehouse in Pakenham, as an illustration, opened in November last year. We are talking about decisions made by Wesfarmers because of the global financial crisis. In November last year Bunnings opened a store in Pakenham which now employs 124 people. It is fine for me to talk about 106 000 new Victorian jobs, but 124 of those are at Bunnings in Pakenham.

These are jobs for families in the south-eastern suburbs of Melbourne that would not have been there except for the rising consumer confidence that means people like me and most of us in this chamber will use discretionary income to improve things. If you are a tradie, you obviously buy goods, but if you are someone who is not a tradie and you want to paint the pergola or paint the spare room or you want to go and put some more plants in the garden, whatever it may be, you go to a Bunnings store. You do that when you are confident. You do that when you feel secure in your job and you have some extra discretionary income.

The Bunnings Pakenham phenomenon is just a reflection of retail confidence across Victoria. Eleven per cent of the Victorian workforce works in retail. Three-quarters of the value that goes into that retail sector is Australasian generated, so confident consumers who go into Bunnings or any other new retailer add to jobs. In this case we are talking about 124 jobs in Bunnings at Pakenham. Maintaining that consumer confidence is critical for jobs for real Victorians in the outer suburbs, right throughout metropolitan Melbourne and in the regions.

I mentioned earlier on that for all but two months of last year we have had job growth forecasts from the Australian Bureau of Statistics. The shadow Treasurer, the member for Scoresby in the Assembly, has only twice in the last year uttered that word — 'job' — that I have heard, and both times it was used gleefully in a month when job figures went down. He was mute in all the other months when they went up. Rather than celebrate 106 000 jobs net growth in Victoria since the budget, rather than celebrate a Bunnings store like the new one in Pakenham that is directly employing 124 people, Mr Wells, like a Dementor from a Harry Potter book, revels in gloom, sucks the joy out of the state and in that process costs jobs.

Mr D. Davis — On a point of order, President, the minister knows it is his task to answer questions and not overtly to attack the opposition. I think that was an overt attack.

The PRESIDENT — Order! The Leader of the Opposition is correct that it is not appropriate overtly to attack the opposition. I am not sure that referring to someone as being like a character out of a Harry Potter book is overtly criticising or attacking someone, and I do not believe the comments made by the Leader of the Government were overt criticism.

Mrs Peulich — On a point of order, President, in the interests of consistency, I was asked to withdraw when I called the Minister for Planning 'Goofy'.

The PRESIDENT — Order! That is clearly not a point of order. I remind the house that determining

whether comments made are in or out of order is a matter for me. I will take into account not only what is said but the circumstances in which it is said and the intent and delivery. I do not see that this is inconsistent, but I thank the member for her attempt to assist me.

Mr LENDERS — I will conclude on the reason a Bunnings has opened in Pakenham and created 124 new jobs, jobs that would otherwise not have been there: it is because the Victorian population is made up confident consumers. What we see in the shire of Cardinia with these jobs being created is a concrete response from a corporate citizen to engage 124 people in real jobs that otherwise would not be there, because it feels — —

Mrs Peulich interjected.

The PRESIDENT — Order! Mrs Peulich is fully aware of the issue of flaunting props and the like in the chamber, but she has been doing it. I ask her to cease.

Mr LENDERS — As a result of Victoria being a good place to live, work, invest and raise a family we are seeing jobs created because those confident Victorians are doing so. I am all with those who create jobs in Victoria, and I am absolutely delighted that 124 people who work at Bunnings Pakenham have those jobs because this government has talked up the state of Victoria, our consumers feel confident and that is creating jobs.

Mr Atkinson — On a point of order, President, you just pulled up Mrs Peulich for displaying a prop. Can I suggest to you that Mr Leane is holding up a photocopy of a newspaper article which is headed 'The scandal that wasn't' and taunting Mrs Peulich and other members with that prop.

The PRESIDENT — Order! We would not want to taunt anyone in here! The point is well made, and in terms of being consistent I remind all members of the house. and especially Mr Leane, that it is inappropriate.

Planning: housing approvals

Ms LOVELL (Northern Victoria) — My question is for the Minister for Planning. I refer the minister to the 172 public and social housing documents tabled in this house yesterday. Is the minister confident that strict probity measures have been adhered to in each of the applications approved by him as the planning authority?

Hon. J. M. MADDEN (Minister for Planning) — In relation to applications for any specific projects, those decisions are made by the relevant authorities. If in those instances the department or I are the relevant authorities, then we have a process by which those matters are handled and those applications dealt with. I understand we have a probity system in place to ensure that these projects have been dealt with and processed in the appropriate way so that, with respect to decisions that are made or arrived at because of the processing, we can all be confident they have been dealt with accordingly.

Supplementary question

Ms LOVELL (Northern Victoria) — Is it a fact that in each and every one of the 172 applications the local community has been overridden and local government's role has been downgraded to nothing more than a vague advisory role? If it is not the case, will the minister list each of the cases where the council is the responsible authority, and how is the minister's role as the planning authority consistent with Labor's 1999 pledge of 'redefining the planning minister's powers, allowing fewer areas for intervention' and its pledge to 'deal with local government as an equal partner, give it recognition in the constitution and provide councils with autonomy and independence'?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Lovell's interest in these matters around social and public housing, but I again express my disappointment at the tone of the question. Time and again I am asked about social and public housing approvals and the process by which they are approved, and I cannot help but be left with the feeling in the pit of my stomach that, while Ms Lovell might make out that she is supportive of public or social housing because she is the shadow Minister for Housing, at the same time she is the first to highlight reasons for not having public housing in any local community.

Mr D. Davis — On a point of order, President, the minister well knows his task is to answer the question, not to attack the opposition.

The PRESIDENT — Order! The minister has just started his response to the supplementary question. He is allowed to elucidate and expand on his answer, and I am sure he is doing just that. I do not believe he is out of order.

Hon. J. M. MADDEN — As I have mentioned on a number of occasions in relation to these social housing projects, we notify the council that there has been an application, and in the vast majority of cases councils are not ignorant of the potential of these projects, because anybody who might be wanting to do at least the basic work around such a project would have to seek advice from the council around the pipe

infrastructure that goes into these locations. People would at least have to seek some initial advice.

When we receive an application we inform the local council so it can respond if it can foresee any concerns in relation to the project. We notify councils of these projects. Some councils may not respond, because they do not care to. Some councils may respond, and we will respond to them and work out what the issues might be. If councils respond accordingly and believe these issues are quite sensitive in nature, then we are happy to work with those councils. If there are heightened sensitivities, we can refer them to an independent committee which is specifically set up to consider these matters rapidly and provide advice on the concerns that may be raised by councils.

If councils do not raise any matters, it is a given then that they do not have any problems with these projects. There is ample opportunity for the council to represent its community and have — —

Mrs Peulich interjected.

The PRESIDENT — Order! The persistent interjections from Mrs Peulich are unruly and inconsistent with our standing orders. If she interjects once more today, I will use standing orders to remove her.

Hon. J. M. MADDEN — If councils feel strongly either in relation to their community or on behalf of representatives from their community, they can let us know and we will involve them in the consideration of these matters. Unfortunately the opposition wants to make a lot out of social housing, but it does not want to make good out of social housing. Opposition members want to do the opposite.

My concern here is if opposition members come in here and criticise any of these social housing projects, they should name the ones they specifically do not want.

Honourable members interjecting.

Hon. J. M. MADDEN — I say to Ms Lovell that she should name the projects she does not want. She should give me a list of the projects she does not wish to go ahead. We have a process in place into which councils can feed their concerns, and if there are significant concerns, we will give them consideration through an independent panel process established specifically for that purpose. However, if the opposition is making out that it supports social housing on the one hand, but on the other hand is making out to the public that it does not want those projects — —

Ms Lovell interjected.

Hon. J. M. MADDEN — Ms Lovell should just name the project; give me a list, bring it into the chamber, because I know that the opposition will not make that clear — —

Mr Hall — On a point of order, President, as you know I am reluctant to interrupt ministers. We give them a fair go. But it is obvious the minister is debating the answer to this question, and he has been debating it for more than 5 minutes now. I suggest the tolerance of the house has been somewhat stretched. Therefore I suggest that, as he is debating the question, he should be ruled out of order.

Mr Viney — On the point of order, President, the nature of the questions to the Minister for Planning today and on previous days has been to invite responses that are if not highly political, certainly highly controversial. If the opposition wants to ask those kinds of questions, there has to be some reasonable opportunity for a minister to respond.

The PRESIDENT — Order! On the point of order, the only thing I want to comment on is the issue of repetition. I think it is fair to say there has been a fair bit of that in the minister's contribution over the last few minutes. This is part of robust debate, particularly in question time. People sometimes do not like the answers they are getting, and that is all part and parcel of it, but I am more concerned about relevance and repetition in particular.

Hon. J. M. MADDEN — If the opposition does not want the projects, it should just name them.

The PRESIDENT — Order! That comment from the minister is extraordinarily unhelpful to me. It is exactly the matter I was raising, and I ask him to withdraw that comment.

Hon. J. M. MADDEN — I am happy to withdraw, President.

Economy: government performance

Mr DRUM (Northern Victoria) — My question without notice is to the Treasurer. In June last year the Treasurer took a question from Jenny Mikakos about confidence within the household sector, and on that occasion he took credit on Labor's behalf for us having the lowest interest rates in a generation. Does the Treasurer now accept responsibility on Labor's behalf for the last five consecutive interest rate rises?

Mr LENDERS (Treasurer) — I am not the Governor of the Reserve Bank. That matter is outside my portfolio area.

Supplementary question

Mr DRUM (Northern Victoria) — In the Treasurer's response to that same Dorothy Dixer from Jenny Mikakos last year he also took credit for creating consumer confidence. Figures published yesterday show a slight fall in consumer confidence, and I ask if the Treasurer takes any responsibility for that, or is he just a Treasurer for good times?

Mr LENDERS (Treasurer) — I thank Mr Drum for giving me the last question on a Thursday with no limits to speaking time. Thank you, Mr Drum. I hope Mr Drum has had a big, big breakfast. Let me commence by saying that whenever I have got to my feet in this house on the issue of confidence — and I would challenge Mr Drum to contradict this, and he can spend all of the next sitting Wednesday on this — any statistics that I have ever quoted in this place have always been measured. What I will say if I talk about employment figures is, 'This month there is a trend', and I will talk about where they are going month to month. As I responded to Ms Broad earlier in my answer to the Bunnings question, confidence is something that is built on a range of things. As part of this state Labor government I will claim credit for this government for keeping confidence higher in Victoria than in any other Australian state. Australia has, as Mr Madden said, had confidence generally at higher levels than most of the world.

Why is it so? — as Professor Julius Sumner Miller used to ask. I will explain part of the reason why it is so. I love these sessional orders which give no speaking time limits. It really makes it easier for me to give the measured answer that Mr Drum deserves.

Confidence is about a balance of items that drives businesses and consumers. Since the start of the global financial crisis we on this side of the house have sought to build confidence. Part of the reason I get angry in this house at Kim Wells, the member for Scoresby in the Assembly, and others when they trash the reputation of the state is exactly that: it affects confidence.

If I go back to my answer to Ms Broad, the reason those people got the jobs in Bunnings was that there was confidence in the community to go out and invest. There was confidence in Wesfarmers — —

Mr Koch interjected.

Mr LENDERS — I am happy to spend time on Mr Koch's question once I have finished with Mr Drum's question. Firstly, there is a confidence from Michael Chaney and the board onwards at Wesfarmers to say that it is worth investing the millions of dollars that Wesfarmers has invested in buying the Bunnings store in Pakenham.

Mrs Peulich interjected.

Mr LENDERS — Mr Drum asked about confidence and how it worked, and I am explaining to him why there is now a Bunnings store in Pakenham. Wesfarmers felt the confidence to invest in a new Bunnings store in Pakenham. Why did it choose Victoria? Why did it choose the growth suburbs? That is a question you could ask Wesfarmers, but I will say — and Mrs Kronberg is rushing off to buy some Wesfarmers shares, quite clearly — through you, President, to Mr Drum, that Wesfarmers made that decision because there was confidence in its business to go forward.

Hon. M. P. Pakula interjected.

Mr LENDERS — Or Woolworths big box or Aldi. Aldi now has 5 per cent of the Victorian market, and it is growing.

Hon. M. P. Pakula interjected.

Mr LENDERS — And Ford yesterday. It might be Boeing coming to Victoria with 300 jobs in the electorate of Mrs Coote and Ms Huppert, which is also my electorate — why do these businesses do this? Because they have confidence in the state of Victoria despite the member Scoresby in the other place, Kim Wells, and those who so loyally sit behind him.

Mr Drum asks if we are taking credit for this. We are not taking credit for a board decision of Wesfarmers, but we are taking credit for working in partnership with the Victorian community, the commonwealth government, local government and businesses to have the confidence in this state that lets the decision be made. Once Wesfarmers has made the decision, its human resources manager goes out and recruits 100-plus people who now have jobs in Pakenham, who would not have jobs if there was no confidence there in the first place.

I go on then to us claiming credit for things that are going forward. We work in partnership. We have never as a government — and I would stand corrected, I cannot recall such a time — failed to acknowledged the work of Victorian businesses, Victorian workers and Victorian communities for any

success we have achieved. We do not build projects by ourselves. Government is a very small part of the community — —

Mr Atkinson — I think Mr Theophanous suggested he had.

Mr LENDERS — And Mr Atkinson may wish for me to deal with him after I deal with Mr Koch. It is going to be dinnertime by the time I am through!

What we may need to do going forward is to work with communities. This is where the fundamental difference is. It is 10 months since the budget, we have 106 000 net new jobs in Victoria and the only mention we have of jobs from the shadow Treasurer is in the two months when the monthly figures dipped. When they go back again, the opposition is mute.

I will say Victoria is the best place to live, work, invest and raise a family because it has confident businesses and confident consumers who work in an environment which encourages them to invest in a business and in their homes. We are the state where 69 per cent of people own their own homes or are in the process of buying their own homes. That is the highest figure for any state in Australia. Are we claiming credit for that? What we are saying is that Victoria has the environment that lets its citizens make those choices. We are proud that our business environment and our consumer confidence environment are such that people will continue to invest going forward.

If Mr Drum wishes to talk about interest rates, it was John Howard who put the election advertisements out in 2004 saying what would happen under his stewardship — —

Honourable members interjecting.

Mr LENDERS — I can understand the interjection of Lord Voldemort! In 2004 what he promised under his stewardship — and he actually put advertisements out there on the television sets saying it — that under a Liberal government — —

Mr D. Davis — On a point of order, President, the question was about economic matters in Victoria and whilst the national economy is absolutely important to that, I think the Treasurer has strayed a long way in his discussion of election advertisements in 2004 by a former federal government.

The PRESIDENT — Order! It is fair to say that the supplementary question asked was so broad in terms of the portfolio held by the Treasurer that it is almost impossible for me to rule out almost anything from a Treasury or financial perspective with regard to the state. Mr Davis's point in relation to the federal scene is noted, but the minister is still consistently referring to matters about Victoria.

Mr Dalla-Riva — He can talk about Zimbabwe's economy!

Mr LENDERS — I take up Mr Dalla-Riva's interjection about the Zimbabwean economy, and I can, if he wishes, table for the benefit of the house, a $20 billion Zimbabwean note. That is what could happen to our economy if you risked going down the path of the voodoo economics of Mr Wells and Mr Baillieu, who go out to every community in this state and say — and we are talking about confidence in the economy, so I will stick to Mr Drum's question, because it is a confidence trick — 'build us a new school'.

Then they come back in here and say the Building the Education Revolution is a failure and the stimulus is a waste of money. They will go to the school and then they will come back and you will get the message from The Nationals, 'It is outrageous, Building the Education Revolution is a waste of money'. Darren Chester is a disgrace on this.

Then out with the next breath they will go to the community and say, 'Speed up the process'. Then they will say they want value for money, and if the government slows it down, they will say the government is being prescriptive.

Mr Atkinson — On a point of order, President, this really is debating the answer and it has absolutely nothing to do with either interest rates or consumer confidence. The minister is simply performing.

The PRESIDENT — Order! As I said at the start, the opposition has certainly given the minister the brief. However, Mr Lenders is starting to debate the answer, and I ask him to reflect on that.

Mr LENDERS — On the matter of confidence, consumers will be confident in the economy going forward if they know that there is consistency in policy. If a consumer knows that a government balances its budget, invests in infrastructure, invests in skills and invests in competitiveness, it will give confidence. If a government or those who propose to be a government seek to be all things to all people, to go into a community and promise that they will cut debt and cut taxes but increase services, they damage confidence. And we have seen in too many places in the world — and Mr Dalla-Riva's interjection was an example —

what happens to an economy when you have that irresponsible economic narrative.

I could go on for many, many hours, but I think I have made my basic point. On the issue of confidence, you need a government focused on balanced budgets and you need a focus on competitiveness, on skills and on infrastructure which creates the 106 000 jobs we have seen in Victoria — whether in the centre of Melbourne or right out to the furthest regions of the state, which we cherish and value — versus the fact that confidence goes if you are reckless and promise to be all things to all people and you trash every institution.

Our side of politics has helped build that confidence, and that is exactly the thing that makes this state such a better place to live, to work, to invest and to raise a family.

Mrs Coote — President, I would like to raise a point of order, and I would like your advice as the Presiding Officer. It deals with the Minister for the Respect Agenda in this chamber. I am the first to agree that we need to have robust debate in this place. I think it is healthy; it is what this place is about, and I praise you for some of the rulings you have given. You have given several today. There was a point of order taken on the Treasurer where you said that you were going to look at the circumstances and the intent and the way in which answers were given, and I would agree with that. But my concern is that in this very week when we are debating equal opportunity the Minister for the Respect Agenda has made several snide comments which you may not have been able to hear but which have prompted members from this side to react as they have done. One of them today was on Mr Guy about a size issue. We have had gender issues.

Honourable members interjecting.

Mrs Coote — We have had gender issues that are — —

Honourable members interjecting.

Mrs Coote — We had gender issues that were inappropriate yesterday. We have had not just height issues, we have had size issues from the Minister for the Respect Agenda. I would like your advice, President, as to how that fits in with the integrity of this place.

The PRESIDENT — Order! I think members here pretty well understand my views about the way we should function in this chamber and the standards I have tried to maintain. At the very, very earliest opportunity I stated that I wanted a dignified house. I think we are all guilty on occasion of accepting a lower standard, during question time in particular, where we have allowed — mea culpa — a loosening of the standards that would normally apply. On occasion there have been numerous comments flying across the chamber. I have sometimes responded to them when I have heard them distinctly, and I have made my views very clear about whether members should or should not be critical of or refer to other members in any way that causes offence. I have had some women members tell me that they have been offended by remarks and imputations about their stature. I did not accept that as being a fair comment, but I did make the point that if I ever hear any remarks about those sorts issues that are meant to and are delivered in a way that would offend, then I will deal with them as severely as I can.

I remind the house about the issue of hypocrisy when it comes to this matter. Mrs Coote raises a valid point, and I know she genuinely believes it is offensive to the house. I agree with her. But you cannot expect people to be on the receiving end of remarks that are meant to be detrimental to them. Some of us are a little bit more robust than others and have thicker skins et cetera, and we do not see things in the same light as some others may. However, even today I have heard references to a member on my right who has never complained or said he was offended. That is a matter for him.

As I say, this issue goes both ways. I am responsible for maintaining a certain standard in the house with regard to these matters, and I do take into account, as I said earlier, the delivery, the intent and the circumstances in which the remarks are delivered. I do not recall any comment today of the sort Mrs Coote may be referring to. But if she heard it, she heard it, and I would like whoever it was to talk to her about that. I would suggest to all members of the house that they have a good think about the way they refer to each other in this place.

Sitting suspended 1.21 p.m. until 2.28 p.m.

EQUAL OPPORTUNITY BILL

Second reading

Debate resumed.

Mr KAVANAGH (Western Victoria) — I would like to briefly recap some of the points I made before lunch. The first point I made was that the vast majority of correspondence I have received on the Equal Opportunity Bill is opposed to it, and that also seems to be the experience of other members. I talked also about discrimination and how it is such a dirty word, yet how we all discriminate all the time. We do so properly in

terms of discriminating between people who we make our friends and those we do not, and people we might marry, to take another example, and those we do not. We discriminate on lots of bases. The problem is not discrimination itself. The question is: what is lawful discrimination, right and proper, and what discrimination should be made illegal by the state?

As a teacher I know the word 'discrimination' automatically gets a response from a lot of students; even year 8 students will say, 'Don't tell me not to talk in class. That's discrimination'. It has become a word meaning 'something I do not like, something that is wrong, something that should not be allowed'.

I also said earlier that contrary to public expectations, perhaps we do not have a system — although perhaps we should — of separation of church and state. I indicated, for example, that under our constitutional arrangements the Queen of Victoria or the King of Victoria must not be a Catholic. Indeed the King or Queen must be the head of the Church of England, though strangely he or she becomes legally a Presbyterian as he or she enters Scotland, leading to a kind of unusual royal religious schizophrenia.

Honourable members interjecting.

Mr KAVANAGH — There is so much hostility towards churches! I pointed out that in fact everyone in Australia belongs to a religious minority. There is no religious majority in Australia, no one church or religious organisation that commands more than half of the Australian population. Indeed that would apply to atheists as well: people who are not in a majority, although they form a large minority.

I noted too that there is such hostility to religion and to churches these days, expressed through our media, that many people assume that separation of church and state would necessarily be harmful to churches and support it on that basis, but that separation of church and state would bring both benefits and costs to churches and other religious organisations if it were implemented properly.

There is an assumption that is quite common in the letters pages of our newspapers that atheism would lead to a wonderful society, but in fact every time it has been tried it has been an utter disaster, leading to the worst kinds of societies humanity has ever seen. An example I did not mention earlier would be Cambodia. I recall not many years ago speaking to a priest in Cambodia near the killing fields. These of course are the site of the mass burial of 20 000 people who had been imprisoned in Tuol Sleng, also called S21. Tuol Sleng or S21 had been a high school until the Red Khmers came to power. They turned it into a concentration camp. They imprisoned 20 000 people there, whose photographs they took, and they lined the walls with those photographs. Some of them were three-year-old children. They took them from Tuol Sleng to the killing fields only a few kilometres away and bashed their brains out with lumps of iron. They are buried there on the killing fields.

Anyway, the Catholic priest I was speaking to said that before the Red Khmers there were 35 Catholic priests in Cambodia. Every single one of them was murdered by the Khmer Rouge, but he said, 'We live again'.

It is my opinion and I submit that the proper separation of church and state means rather limited things. It means that the government does not discriminate between different religions — helping some and burdening others. It means that political office does not bring with it a religious position and a religious position does not bring with it automatically a political office. It also means, most pertinently in the case of this legislation, that states may not interfere in the way that churches run their affairs or suppress, eliminate or for that matter encourage established religious practices unless they are directly harmful to others.

I noted the contrast between the way that this Parliament is prepared to treat churches and the way it is prepared to treat politicians — that is, what the members are prepared to demand for themselves. Even after passage of this bill it will be quite lawful for politicians to choose electoral officers, for example, on the basis of their political beliefs and their political allegiances. However, those same politicians who will retain that benefit will be prepared through this bill to make an identical practice illegal in the case of churches and other religious organisations.

The term 'hypocrisy' has been used today. I will not use that. I will just say that there is certainly a dramatic contrast and inconsistency here. Indeed I ask: what would we think of a bill or an act of Parliament that told political parties, 'You may not discriminate between people when you are preselecting candidates for office. You may not discriminate between them on the basis of their political beliefs'? If this Parliament told the ALP, 'You cannot discriminate against Peter Kavanagh when you are selecting a candidate for your best seat on the basis that Mr Kavanagh does not agree with you politically', that would be an absurd situation, and yet that is very much like the situation that the politicians are prepared to demand of churches.

Last night in this house we debated police numbers. We all know that police numbers are indeed a factor affecting the crime rate, but I feel very sure that much more important than the numbers of police are the persuasive cultural attitudes and assumptions that are generally held within our society about our fellow citizens.

In my opinion Christianity has played a crucial role in making places such as Australia, Europe and North America obviously the most desirable places in the world to live. They are not perfect, but they are clearly the most desirable places in the world to live, as is shown by the voluntary movements of people around the world. That is largely because of the Christian influence. Christianity teaches that God regards the treatment of another person as treatment of God himself. In saying that, of course, I acknowledge that many other religious traditions also encourage their followers and adherents to treat other people well.

The bill before us would make it even more difficult for churches to continue to effectively contribute to our society and make it even more difficult for them to maintain that ideal that permeates our society that other people are of inestimable value, and that ideal is of enormous benefit to our society. It is something that I think we are putting at risk through restricting the freedom of churches as this bill is seeking to do.

In spite of all the criticism and insults of churches, religious people and other religious organisations that pervade our media, I believe that churches still have important and indeed potentially vital roles to fulfil in our society, and their role in preventing crime is probably the best example of that, but it is only one of the examples.

In recent decades, of course, church schools have received significant government funding, though I will note that in spite of many claims to the contrary and widespread beliefs to the contrary, the total amount of funding for students in non-government schools — in religious schools and independent schools — is only a fraction of the funding per student given to those in government schools. Nevertheless they do receive money, and considerable money, from the government, and it is not entirely unreasonable to think that that would bring with it responsibilities to the broader community — that as a result of this funding the schools would be responsible not just to their own religious communities but to the values of society as a whole.

Christian churches, however, or other churches if there are non-Christian churches, as distinct from the schools they may operate, do not, however, receive government funding — nor should they. The government should not fund churches. Our schools are another matter. But not receiving government funding absolves them, I think, from responsibility to conform to government regulation and even to social expectations.

On the other hand, of course, in contrast we politicians are 100 per cent funded by government. Our salaries, our staff and our offices are 100 per cent funded, and yet we say that in spite of that funding we should not be bound by the same rules that we are prepared to apply to other people and to churches.

In short, my concern about this bill is that I regard it as an improper attempt by the state to interfere in the rightful freedoms of churches and other religious organisations while retaining precisely those freedoms for the politicians who are making this very law. I think it is an attack on what has made our society great, and in spite of recognising that the government has moderated its original intentions, to its credit, I think that this bill would be passed at our peril.

Ms PULFORD (Western Victoria) — I am pleased to rise and speak in support of the Equal Opportunity Bill, and at the outset I express a little disappointment that in this area that has often enjoyed support across the chamber over the decades this legislation in its endeavour to reduce discrimination wherever it occurs in Victoria does not have bipartisan support on this occasion.

I made rather a lengthy contribution on some of the matters around this legislation and the work that has been undertaken in preparation for this legislation in an earlier discussion in this place when the Scrutiny of Acts and Regulations Committee tabled its report. Members of that committee undertook a great deal of work in consideration of the exceptions and exemptions to the Equal Opportunity Act.

The Equal Opportunity Act exists to ensure that wherever possible Victoria is a place where people can enjoy a life free of discrimination and where opportunity to participate in society is truly equal.

The act defines a number of attributes to assist in identifying and defining discrimination as unfavourable treatment experienced by somebody because of an attribute. The attributes are important, but in the current legislation there are many pages that list all the loopholes, exceptions and exemptions to that very nice idea that people should be able to live free of discrimination.

It was a considerable undertaking of the committee, and we had a good many robust debates and a good exchange of views, as I am sure all parliamentary committees experience from time to time. There were many submissions from individuals and organisations, and an incredibly wide-ranging spectrum of areas were covered by different exceptions and different exemptions in the act. This work was only part of the picture, because Julian Gardner also undertook a review of and reported to the government on the Equal Opportunity Act. That was a much broader inquiry than that undertaken by the Scrutiny of Acts and Regulations Committee. The Gardner review made some 93 recommendations which have been considered by government.

That fact that we are here today seeking to modernise Victoria's equal opportunity legislation will come as no surprise to anyone. This undertaking was a commitment that Labor made prior to the last state election. The statement of government intentions further outlined the government's intention to legislate in this area. It has been a discussion that has taken place across the state in a number of forums. Members have received many submissions in emails and in the form of approaches for meetings and discussions with members of their electorates during the development of this legislation.

One of the purposes of this bill is to make the Equal Opportunity Act more compatible with the Charter of Human Rights and Responsibilities. The charter of human rights seeks to define and balance a number of rights and responsibilities so that people in Victoria can fully participate in life without disadvantage. Some of these rights inherently come into conflict. This is not a simple undertaking at all. For example, as Mr Kavanagh has expressed, the right to expression of religious belief in some instances comes into conflict with other rights. This has been the area of greatest importance to many of the people who have contacted members of Parliament to express their view about this.

Another key purpose of the bill is to move the focus of the equal opportunity commission from complaints processing to a focus on encouraging and facilitating best practice and compliance through education, information and advice — an important emphasis indeed — and to give the commission more effective options to respond to systemic discrimination.

This legislation has existed in one form or another in Victoria for many years. Some of the things for which we needed to legislate to provide antidiscrimination protection in the law have now almost come to pass as needing to be specifically articulated in legislation. It is incumbent upon members of Parliament to ensure that our legislation reflects the times in which we live. Some of the more recent amendments to the Equal Opportunity Act have provided for additional attributes or for additional rights — for example, the addition of breastfeeding as an attribute was very much a reactive amendment to the legislation. It was an important amendment that came about in response to public outcry about a certain incident where a breastfeeding mother was asked to leave a restaurant.

It is important that our legislation is modernised and reflects the changing expectations of our society about who is entitled to which rights. The legislation empowers the commissioner to provide a more effective and efficient dispute resolution system with a strong emphasis on early dispute resolution through flexible and appropriate dispute resolution services at the commission, while enabling complainants to apply directly to the tribunal to have the matter determined.

The legislation seeks to remove many legal and technical barriers to the elimination of discrimination and seeks the progressive realisation of substantive equality as far as is reasonably practicable. The legislation seeks to clarify, update and amend some exceptions to unlawful discrimination.

Clause 20 of the bill requires an employer to make reasonable adjustments for a person in employment who has been offered employment but who suffers a subsequent impairment and requires adjustment in order to perform the genuine and reasonable requirements of employment. Many people have circumstances in the course of their lives that change through injury or illness or through the execution of responsibilities to their family as carers.

This bill, as I said, is needed to ensure that as a government we are not being reactive in this area; rather we are providing a legislative framework that is modern and which provides society with a degree of certainty rather than a constant reliance on a traditional interpretation of various clauses or bit-by-bit amending of legislation for special circumstances.

The bill also provides 13 new or amended definitions, taking the total up to 58 key terms, which are defined. This is part of the government's aspiration to make this law more accessible to the layperson. I think the Equal Opportunity Act has always been a reasonably accessible piece of legislation, and it is very important that it continues to be so.

The bill will make the dispute resolution process far more efficient and will provide early and active

intervention by the commission, flexible dispute resolution processes, the ability for complaints to bypass the commission, legal advice at early stages of the dispute and equal effective access at the Victorian Civil and Administrative Tribunal. The commission will no longer have a role in handling, investigating or processing complaints per se.

This legislation will ensure that systemic discrimination is reduced wherever possible in Victoria. Tackling disadvantage and discrimination and improving people's lives has always been a core tenet of Labor Party policy. This legislation seeks to balance competing rights and competing views where a right as perhaps best expressed through the human rights charter comes into conflict with another right. I believe the government has struck the right balance in this very difficult area.

In conclusion, I have spent a great deal of time thinking about this legislation during the committee process which led to its introduction to Parliament. Before I entered Parliament I used this legislation from time to time in my work, and I learnt something that concerned me greatly through the process. This legislation does not address that issue, but perhaps on another occasion in another Parliament or with the further passage of time and a further diminution of discrimination and unequal opportunity in Victoria, I would certainly hope that one day this legislation does not stand subservient to all other statutes in Victoria and has a rightful place as a very important and effective tool for all purposes — for public institutions, for schools and for workplaces in Victoria.

Mrs PEULICH (South Eastern Metropolitan) — I also wish to place on record some remarks about this bill. I express my vehement opposition to this legislation, which is nothing short of an attack on the culture and values which have been the basis and foundation of the democratic way of life in Australia. I think Australia is probably the only Western country in the history of the world that has been formed without a bloody revolution or blood being spattered, though we have engaged in conflict to defend the rights and liberties that we currently enjoy.

Let there be no dispute: anyone who votes for this legislation votes against freedom of speech and votes in support of an attack on the freedom of speech. Anyone who votes for this legislation is voting against freedom of religion. In the true form of left wing politics, those opposite still believe that religion is the enemy of socialism.

Mr Finn — The opiate of the people.

Mrs PEULICH — Like Karl Marx, they believe that religion is the opiate of the people and they are subservient to only one master, being God, which makes those people much more difficult to control and frustrates centralising governments.

Mr Finn — Hulls thinks he's God.

Mrs PEULICH — Unfortunately, Mr Finn, I do believe that the Attorney-General, who is behind this legislation, is probably the most dangerous person I know in the history of this state when it comes down to wearing away — corroding, eroding and attacking — the values that we have been able to enjoy.

People have come to Victoria from many countries of the world. Like me, they have come here from multicultural backgrounds, seeking freedom and a better opportunity than they had enjoyed previously. Here they have had the freedom to speak and believe in the things that are very close to their hearts.

Even before I knew anything about the Liberal Party I knew I was a liberal. Let me mention some of my formative experiences: I am sure members have heard me speak of them before. One of those was a day, when I was five years of age and I lived in communist Yugoslavia, I ran around our home — a very small apartment with a grey communal yard and a communal toilet — and I said to my mother, 'Mum, who do you think is worse, Hitler or Tito?'. On my uttering those words my mother turned around and went, 'Sh!', because if anyone had heard that sort of comment, then that would have been seen as subversive to the state and to the collectivist interest of the state, and either my mother or father — possibly both — would have been imprisoned.

Unfortunately over there, in the good old traditions of socialism, if you do not work and your parents are not bringing in the dollars to feed you, you do not eat, because there is no such thing as social security. Socialism is a false god. I am not a particularly religious person. I am not an irreligious person — I may be irreverent, probably on too many occasions — however, I certainly respect people's right to believe in what they believe within the broad framework of laws that maximise our freedom and our opportunity to be free individuals.

Multiculturalism of the nature that we enjoy is a very different form of pluralism than this government of the Labor brand of politics tries to push or present as a greater democracy.

As I have said before, the virus of socialism lives very strongly in the heart and soul of the Attorney-General,

Rob Hulls. His notion of pluralism and multiculturalism is that we all have to be the same — that is, that we all have to be an imitation of each other and subscribe to his values. The arrogance of socialism is frightening.

Mr Finn — In his image.

Mrs PEULICH — In his image! It is about his notion of freedom, his notion of pluralism, his notion of multiculturalism and his defiance of religion, despite the fact that he may have had a belated enlightenment in his change of life.

Mr Finn — I wouldn't be complaining on that.

Mrs PEULICH — I wouldn't be complaining about that either. This is a huge attack on a key and important principle and values including freedom of association. Freedom of association is the antithesis of Labor politics. Labor believes in compulsory unionism, so anything to do with choosing to associate freely is seen as the antithesis and something that undermines Labor's core beliefs. Let there be no doubt that this legislation is an attack on key and fundamental principles that our country, our nation and our state enjoys: freedom of speech, freedom of religion and freedom of association.

Unlike Mr Scheffer, who is a true believer in socialist ideals, many Victorians have the view that this legislation is an attempt to erode progressively, like a dripping tap, the values that have been the foundation of our way of life. The approach taken by this government has been the salami approach. It has sliced away the opposition.

We have received thousands upon thousands of signatures on petitions which have been tabled in this Parliament, including ones that I have tabled, opposing the proposed removal of exemptions and exceptions to the Equal Opportunity Act. The Liberal Party has a proud history in supporting equality of opportunity. Equality of opportunity is very different to equality of outcome. The state should not be forcing or funnelling outcomes. When you do that you are engaging in social engineering, and you are doing that at the cost of freedom of religion, freedom of expression and freedom of association; when you do that it is a cultural shift brought about by coercion. Coercion makes people feel that things that are precious to them are being denied or suppressed.

Mr Madden would not know about this because he has never lived in this sort of political environment. With that, a government can end up creating fomentation and dissent, and political and cultural instability. It will bring about a society that is far less politically stable, where perhaps further down the track revolutions may become much more plausible than they are now.

When people feel that the heavy boot of government intervention is crushing the values that are precious to them, they become immensely resentful of that sort of cultural change and denial of liberty. That is reflected in the literally hundreds of submissions we have had, the thousands of emails we have received and the thousands of petitions that have been tabled here.

The Labor Party has tried to wear away that opposition to this legislation. This is a very strategic tactical move. The government has had the Gardner review of the existing equal opportunity legislation. Then it had the Scrutiny of Acts and Regulations Committee, that I sit on, review the exemptions and exceptions. In that committee the government members are in the majority, and the committee is chaired by the government.

The government members frustrated the non-government members at every stage of the way. The government has a human rights charter which is a flawed document. It is a charter which enshrines a range of rights but just not those rights and conventions that subvert the beliefs of this Labor government; for example, the conventions in relation to the rights of children is a key convention that has been excluded from the Charter of Human Rights and Responsibilities Act. That is why the government can get away with having some very radical social legislation brought in that triggers no concerns about breaches of human rights in terms of the compatibility statements with its own the charter.

Furthermore, this government has no respect for its own narrow charter. It routinely breaks it. It trashes it and abuses it. We see that in this chamber and in the community. Government members play politics — it is all a Labor fix — and they really do not care about due process or about people who do not share their views or people who do not share the same ebullient enthusiasm about leftist collectivist values. They do not believe in a conscience vote.

I am a Liberal because a conscience vote will always enable me to cross the floor, and I have. I crossed the floor against the passage of the Racial and Religious Tolerance Act, not because I believe in vilification or discrimination against people who are different. No, in fact I would probably be one of the few people who actually knows what it is like to be discriminated against. I bet my experiences are very starkly different to those of many of the other members. When I immigrated to Australia as a 10-year-old I was beaten

up by a school bully every Friday of my school life because I was a wog, so I do know what it all means.

The reason I believe and welcome the Liberal Party's rejection of this legislation is that it crosses the boundary of keeping the state out of religion. What this legislation is endeavouring to do is have the state run religion and in doing so destroy those fundamental values of which I spoke.

Specifically the areas of concern that have been raised with me on numerous occasions are the sweeping powers of the Victorian Equal Opportunity and Human Rights Commission to launch investigations and public inquiries, and compel production of documents and giving of evidence which is intended to be used against systemic discrimination. If this is not reminiscent of your Stasi, communist-type investigations, I do not know what is.

Compelling the production of documents on inquiries that the commission itself can launch could lead to the commission — or should it be the commissar? — expecting employers to introduce measures such as a de facto quota employment obligation. I am a strong supporter of equality of opportunity for women and for people from other backgrounds; I am a fervent believer in due process. Due process is what keeps a society civilised. Every person must have the belief that the system can work for them and will protect them equally, but not to the extent where in fact it drives a socialist agenda and destroys their core beliefs, their core principles and the cultural traditions of this nation and the state.

This bill would give sweeping powers to the Victorian Equal Opportunity and Human Rights Commission to issue compliance notices requiring actions to be taken if the commission believes discrimination has occurred. These notices are mandatory unless appealed. Immediately, of course — this is going to be an absolute picnic for lawyers — you trigger a VCAT (Victorian Civil and Administrative Tribunal) process, and that system serves those who are politically and educationally more articulate. It works against the very people that some of this legislation may indeed have initially sought to assist.

This is an attack on religious freedom and freedom of association, because it prohibits schools and religious bodies from selecting staff who will uphold the schools' values unless they can demonstrate that conformity with the doctrines of the schools' faith is an inherent requirement of the job. Perhaps what Labor politicians or collectivist ideologues have failed to understand is that religion is a whole-of-life set of standards. It is not something that can be isolated or compartmentalised into a single portion of their lives. If you are a Muslim, there are prescriptions about dress code, about what you eat and how you prepare food, of how you court, of how you live — —

An honourable member — Of how you think.

Mrs PEULICH — And of how you think. If you are Jewish, similarly there are whole-of-life prescriptions. There are implications in relation to finance for both of those cultures. You cannot just say, 'Look, the only person you can hire, who you can discriminate in favour of' — I have a great problem with the misuse of the term 'discrimination' — 'or choose or select is the person who teaches religion', because the point of whole-of-life religious teaching, whether it is Christian, Jewish or Islamic, is that it is pervasive, that it reaches every corner of life. By looking only at religious education, clearly the intention of this reform is to undermine, erode and corrode religion and to break it down.

If I were a school principal — my background is in education — I would describe every job as potentially a job that may have a component of religious teaching. Every single person, even the sports teacher, could potentially be a part-time religious education teacher. I have every faith and every belief that religious schools will do precisely this as a way of subverting what is obviously an aggressive, socialist push and an aggressive socialist agenda.

The commissioner stated that she does not consider that the employment of, for example, maths teachers will satisfy the requirement — that is, that it be an inherent requirement of the job. Everyone who is involved or chooses religious education disagrees, and I will quickly read out a couple of letters I have received.

The open-ended duty on employers and businesses to take action to prevent discrimination by others has the potential to be an absolute floodgate. It is uncharted waters, and the costs and implications can only be envisaged by those who will benefit from that litigation; no doubt there will be people who will be testing those requirements.

I will quickly jump to some more absurd things which have been ditched in this bill but which I believe signal the direction of this government in the future. This is only a slice of the salami. The government will come back with more and more amendments, because in its drawer it has an equality act. It knew that in terms of timing, this legislation was perhaps going to cause it a bit of grief.

It will want to crunch this through today to stop the emails coming in, because people out there know there is more to come. If this government is re-elected, there is more to come, because there is a draft equality act in the dark recesses of the justice department or the Attorney-General's office. What the government will want, of course, is no exemptions and exceptions.

There was a belated amendment to the legislation which excludes the liability for discrimination in the treatment of volunteers. That provision was included in the bill when it was first introduced into the Legislative Assembly, and I have no doubt that further down the track this will be returned. In addition there is a push to include provisions in the bill regarding the homeless and those with criminal convictions.

The attacks on our values will continue, and people will wise up to them. They might be spent, they are not as organised — and I am a Catholic, so I can say that — the government may have brought some degree of compliance or endorsement from the Catholic church by promising it higher funding for Catholic education, but it is only temporary; and they regret it because the government will want its pound of flesh. The objectors are disorganised; however, they are many, and they will make their displeasure known. They will remember this bill when they vote in November.

Some of those objectors include Don Kumaraperu of Hallam, who says:

> Please reject the Equal Opportunity Bill 2010 in its present form.
>
> The inherent requirements test for employment in faith-based bodies create legal uncertainty for organisations providing essential services.
>
> The government must respect the right of parents to have their children taught and influenced by people who share their faith and ethos.
>
> Allowing the VEOHRC to launch investigations without any complaints gives them too much power.
>
> There is no public demand for religious freedom to be restricted in Victoria and there is no evidence of unjust inequality caused by religious groups.
>
> It seems the government has learnt nothing from the farcical Two Dannies case and is inviting further community division through this bill.

I also received a very compelling case outlined in an email written by Jane Munro, who says:

> The Equal Opportunity Bill 2010 will have a profound effect on religious groups and their ability to practise their faith yet Victorian citizens have only been given nine days or less to prepare a response to this bill. This is most unfair and could be regarded as discriminatory in itself … most ironic from a bill designed to eliminate discrimination to the greatest possible extent.
>
> The rights of people to hold conscientious objection, practise their religion and have religious beliefs are all upheld by United Nations charters, conventions, covenants, statutes, platforms et cetera. Yet these rights are about to be eroded in Victoria.

They may be disorganised and may have had little time to respond, but they will remember — and they will be organised.

A person who has done an enormous amount of work in this area and is a very impressive man is Dr Mark Durie, a clergyman, who tells me that the Melbourne Pastors Network has called for action. The Free to Believe campaign sent out an excellent email in order to rally the troops.

I commend those who have been behind the Free to Believe campaign and its website. When somebody first spoke to me about that campaign I had a chuckle. I said, 'We are not that far gone. It is not a battle about the killing of freedom', but now we know that of course it is. These people were wise to it, and more Victorians are wise to it as well.

A very compelling case was made to most members by Bryan Greenwood who lives in Frankston South. He is certainly not a fan of this legislation, which, he believes, shows government hypocrisy, especially when political parties but not churches would be exempt under this bill. He points out that it would have a huge number of ramifications for employment contracts of church-based organisations. He says that the 'inherent requirement' rule in the legislation targets churches, the intention being to destroy churches.

The very loose definition of 'religion' means that when VCAT, a secular tribunal, makes decisions it will not make them based on the cultural beliefs of a particular religion but perhaps Christianity as a broad concept.

History shows how Sir Thomas Morehas been lionised by a similar process. I have no faith whatsoever in secular tribunals making decisions about religious matters, and nor should anyone who does not have collectivist, socialist and communist views.
Mr Greenwood has concerns about the commission getting new powers to investigate an organisation. That is frightening for anyone who has lived under a Communist regime.

I received a very short but compelling email from Jacqueline Thomas of Narre Warren South, who says:

> Please do not support the Equal Opportunity Bill 2010. It is not being fair to the churches at all and giving the Victorian

> Equal Opportunity and Human Rights Commission too wide powers to investigate without complaint. That really seems totalitarian. If there were a few persons against the Christian faith, they could then use this legislation to start very onerous investigations.

That is a commonly held view.

I have also received notes from a number of religious schools including one from Jill Healey, the executive principal of Flinders Christian Community College. As I mentioned before, Dr Mark Durie, the vicar of Caulfield, wrote, as did Ian Erskine from Highett, who said:

> Please listen to the silent majority. I am opposed to this equal opportunity legislation.

He is not presenting the full case and has not been privy to the hearings or the submissions. He is just an ordinary concerned person in the community in the electorate of Mordialloc saying, 'Please vote this down'.

Mrs Rachel Duflou-Weymouth of Mount Waverley said:

> I'm writing to you to express my grave concern regarding the proposed changes to equal opportunity legislation. If the changes go ahead, religious institutions will not just lose the right to select staff based on their allegiance to the religion or philosophy upheld by the institution but may also be forced to employ those who are actively opposed to it, due to the lack of definition of such terms as 'religion' and 'inherent requirements' and the fact that it would come down to the courts deciding what these terms actually covered.

She went on to say:

> I urge you to oppose this bill, which seems to promote tolerance and opportunity but in reality would be very discriminatory and destructive.

The sorry part of this is that all of these people who have written to me have local Labor MPs who have let them down because they have voted for this legislation, and those Labor MPs ought to be condemned because they have voted against freedom of religion, they have voted against freedom of speech and they have voted against freedom of association.

Elizabeth Ryan from Berwick is also passionately opposed to the bill. She argues that:

> The proposed powers to allow the EOHRC to launch its own investigations into discrimination are excessive and allow the EOHRC to interfere in society in a way that infringes on the rights of organisations, companies and individuals. It would infringe on the right to freedom of expression (see section 15 of the charter) and also the freedom of religion and freedom of conscience.

This bill is contrary to the government's own human rights charter. There is a letter from Mrs Alison Stanley of Clayton, who is also very concerned about this. She writes:

> … it is impossible to have non-Christian staff or staff whose behaviour and practice do not conform with Christianity as spelt out by that school. It is not the role of courts and tribunals to determine doctrine matters.

There has been a very long campaign. Tony De Munck of Blue Wren Place in Berwick is strongly against the legislation from the point of view of being a parent who chooses to send his children to a Christian school. He writes:

> We live in a democracy where we have the constitutional right to choose where we send our children to school. This right to choose should be maintained by all federal and state governments. Why would I exercise this right to send my children to a so-called Christian school if that school was forced to employ teachers and staff members that practised an opposing religious belief?

How true is that concern. Annelise Costelow of Swanpool Avenue in Chelsea said:

> To go to and be involved in a church or faith-based school, you want all the staff to share the same faith, whether they are the administration person who answers the phone to the science teacher.

Peter Horton of Clayton, David Lee of Dandenong North and Salah Tawfik of Scoresby, who is a committee member of St Anthony's Coptic Orthodox College, have also written to me. There are many people who share these concerns, including Pam Mamouney, who recently received an Australian honour. The government is out of touch with the Victorian community. It does not know what it is doing, but we do, and we will make sure it is held to account come the next election.

Mr FINN (Western Metropolitan) — I join Mrs Peulich in vehemently opposing this legislation. I strongly believe equal opportunity should be just that — equal. There should be opportunity and equality for all, but unfortunately under this Hulls rewriting of the equal opportunity legislation that is just not going to happen; it is quite the opposite. Nobody likes unfair discrimination. It flies in the face of the basic ethos of being an Australian: the fair go. Everybody I know wants to give people a fair go, but this legislation does not allow that. It is a major concern.

This legislation undermines the basic freedoms that we as Australians enjoy and have enjoyed since 1901. This is a savage attack on the freedom of religion in this state. Freedom of religion, freedom to worship and believe, is a fundamental right. It is interesting that

under the totalitarian administrations we have seen overseas the very first right that is always attacked is the right to freedom of religion, because that is something which threatens dictators and those who would seek to harm their own people. It is pretty clear to me that we could be going down that path now in Victoria. It seems to me that we have a situation where this Labor government has declared open season on people of faith, and it is not just in this legislation; this has been going on for quite some time now. It is about time that people who perhaps may have been browbeaten into silence up to this point, perhaps some church leaders, got a bit of spine about them, that they stood up, defended what they believe in and came out fighting.

It is all very well for church leaders to say, 'We have to work with these people', but at some point you have to draw the line and say, 'No more'. If under this proposed act we have a situation where the right to religious freedom is under attack and church leaders do not come out and criticise this legislation and defend our right to religious freedom, you have to ask yourself what they are doing and what role they play in the public life of this state. It is something that concerns me a great deal.

This basic right that I speak of, the right to freedom of religion, is something that is worth fighting for. The Attorney-General, Rob Hulls, and his comrades know it is something that is worth undermining, something that is worth destroying if they possibly can. We on this side of the house believe it is something worth defending, because this is a free nation. Men and women have died in wars to keep this a free nation. Too much has happened over such a long period of time; too much suffering and too much death have occurred in wars to allow somebody like Rob Hulls to take away our basic freedoms. It cannot be allowed to happen.

I appeal to the Greens to take that into consideration. I know the Greens do not like religion. That is a given. But I appeal to the Greens on the basis that this is an attack on a freedom that many people hold dear. It is a very important part of this nation and of being an Australian to be able to believe what you want. If you cannot, then a very important part of Australia is out the window. That is something I think we should all be extremely concerned about today.

Here we are late on a Thursday afternoon as we move towards the end of the sitting week, and I am sure that the average person on the street, whether it be Bourke Street, Collins Street or any other street, would not be aware that this legislation was under debate here today. They would not be aware that this legislation actually exists. The Attorney-General has a vested interest in ensuring that that does not occur. The Attorney-General has quite a significant record in bringing to this house and to this Parliament legislation that not too many people know about until it is too late. There is an agenda at work here, and I will make some reference to that in a little while.

Apart from the attack on the freedom of religion in this state, this legislation provides a basic change in premise of the Equal Opportunity Act. Up to this point the Victorian Equal Opportunity and Human Rights Commission could investigate a complaint if one was brought to that commission. Under this legislation there is no need for a complaint to be received; the commission can now institute an investigation based on whatever it likes. If it thinks somebody might be in breach of the act, it can sic the dogs onto them. That is something that concerns me enormously, because I have to say that from my own experience the equal opportunity commission is a body that I do not trust.

I had some dealings with the equal opportunity commission some years ago. I will relate this particular story to the house. I was doing breakfast radio on 3AK at that time, and I can assure you that getting up at 2.30 every morning is not a great deal of fun. Nonetheless I was for my sins doing that five days week. I think I was there for four or five months. During the course of that time the station had a change of ownership, and into the management of that radio station came a chap called John Jost who, as some people would be aware, is an extreme left-wing journalist — 'journalist' in very loose terms — and commentator who has worked for the ABC and the *Age*. A left-winger at the ABC and the *Age* — gee, that is a surprise!

John Jost took over the management of the radio station, and from the very first day, when we had our first meeting, he abused me in the vilest of terms — in terms that I could not possibly use in this house — over my political views. He did not like my political views; he made that extremely clear in front of a whole range of people. Every time that I spoke with him, every time that I met him and every time that we had discussions about the program or whatever he made his position very clear — he did not like my politics. It was not long before stories started to circulate in some of the papers throughout Melbourne that my days on the air were numbered because this particular chap was pretty much out to get me.

A week after we had had a ratings survey and I and Robert Hicks, who was my partner on air, had received a letter congratulating us for lifting the station's rating from 0.9 to 4.4 over just a brief period of time, I was

sacked — for poor ratings, according to the management. But everybody in that building knew why I had been sacked. I had been sacked because John Jost did not like my politics. I thought that was, to say the very least, unfair, and I got lawyers on board. They prepared a case, and we went to the equal opportunity commission. Surprise, surprise. The equal opportunity commission refused point blank to even entertain the case that we had prepared.

Mr Tee interjected.

Mr FINN — The commission had the power, Mr Tee. It could have stitched this bloke up who had sacked me because he did not like my politics. That is why I was sacked, and the equal opportunity commission could have done something about that. It had the power then; it has the power now — if it wanted to do that. I cannot help but think that if the boot had been on the other foot and this chap had sacked me because he thought I was a left-winger, all hell might have broken loose. I think people would have been marching in the streets in support of my right to have my political views — but not the equal opportunity commission.

I cannot help but say the equal opportunity commission has its own agenda. It is a politically driven agenda. It is one that I do not support. I believe it is one that the majority of Victorians do not support. The concept of equal opportunity is quite the opposite of what the equal opportunity commission is pursuing. The commission is pushing its political barrow, and to give it the power to start investigating people on a whim quite frankly terrifies me. It should terrify every employer, it should terrify every community club, for example, and it should terrify every church that these people would be allowed to become Rob Hulls's storm-troopers in their quest for political correctness in this state.

If this legislation is carried today, this day will be remembered by a lot of people for a very, very long time. It will be a day that people will regret for a very, very long time, because there will be a lot of people doing a lot of suffering as a result of the actions of the equal opportunity commission with the expanded powers that this legislation will give it. Quite frankly it terrifies me that we are even talking about this. Of course it is all a part of the agenda of Rob Hulls, the Attorney-General. I have said this in the Parliament before and I will say it again now: in my view he is the most dangerous politician in Australia. When he is gone — in November of this year, one would hope — his legacy will unfortunately survive him. It will take us years to clean up the legacy that he has left us.

Mr Scheffer said in his contribution that this bill is not about social engineering.

Mr Guy interjected.

Mr FINN — That is what Mr Scheffer said, Mr Guy. Then he gave a sterling defence of the sort of social engineering that he claims does not exist. But we all know that it does. That is exactly what this bill is about. It is exactly what the Attorney-General is about. It is exactly what the social agenda of this government is about. It is about social engineering. It is about trying to create a society in the image of the Attorney-General and those like him in the government. It has to stop. No more! The people of Victoria have had enough. They have had more than enough, and this has to stop. We have to do something about it.

I say to those people who have written to me in very large numbers — I am sure we have all received a deluge of emails and correspondence over this legislation; I have not received even one that supports it, so I am not sure where the Attorney-General can say the public support for this legislation comes from, because I certainly cannot see it — it is not the coalition that is providing the support for this legislation. This is Labor's attack on our freedom. This is Labor's attack on our right to believe and on our right to religious freedom. This is what the Labor Party is delivering to the people of Victoria. I say to those people who have written to me, who have rung me and who have visited me, that if this legislation is carried today, and it appears it probably will be, this is Labor's gift to Victoria. This is Labor's attack on the freedom of every Victorian.

There is something that those people can do about it: they can wait until 27 November this year and then vote Liberal. They can turf this government out, because I can assure members that once this government has gone, the opposition in government will repeal this legislation. This legislation will be repealed and I, personally, will make sure it is; I give the house my guarantee.

Finally I appeal to those on the other side of the house — those who care about freedom, whether they be Labor or Greens, those people who care about the rights of individuals — to vote against and defeat this legislation. Too much is at stake; our freedom, under this legislation, is very much at risk.

Mr GUY (Northern Metropolitan) — It is always a hard act to follow Mr Finn when he delivers a very good speech, as he has done today, and he made a number of points succinctly and passionately once

again. Like other coalition members, I rise to oppose the Equal Opportunity Bill, and I do so for a number of reasons.

While I will not go into the details of the bill, as a number of my colleagues have done, I place on record a number of issues that I find concerning. In doing so I articulate, from my own perspective, why I also think this bill is rotten to the core in many ways and where it has some profound implications for our society — implications that members opposite are dismissing purely in a textbook form of spin that they have got so used to absorbing and repeating like sheep.

At the very outset I say that in my 20 years of being a member of a political party, what I have noticed about my political opponents is that they are the first ones to preach about people they believe are intolerant; they are the first ones to brand other people as intolerant. They brand a person as an '-ist' or '-ism', or whatever you want to put on the end. They are always the first ones to start pigeonholing and branding people as intolerant, and yet the Australian Labor Party, by its own nature, is a party that does not breed or encourage tolerance.

A number of members of the Labor Party, in particular councillors, even from my area, have recently been expelled from the party simply for having and airing publicly a different point of view to that party. So much for equal opportunity and the right to express one's point of view within the confines of a political party!

That is so much so that the party advocating this bill today, a party that claims to be introducing a law based on tolerance and justice for all in society, in fact so little tolerates a difference of opinion in its own party that it venomously attacks any of those on its own side who dare to differ from it in a public forum, or dare to leave it on a policy point of view, or people who decide to criticise the Labor Party or its governments on different movements.

Mr Lenders — Like you did with Andrew Olexander?

Mr GUY — Sometimes I really wonder how Mr Lenders ever rose to a position of leadership in his party in this chamber, because he is such an immature schoolboy in the way that he manages himself; I really am surprised.

I find it amazing that those who preach tolerance are the first to behave as intolerantly towards others as they possibly can. On this side in the Liberal Party we have had, and still do have, a proud history of dealing with people with fundamental objections. They have the right to a conscience vote on every bill, because we value and respect tolerance in our party and different points of view, and we have done so for some time.

Mr Lenders — Like with Charles Francis.

Mr GUY — I could start — —

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! Through the Chair.

Mr GUY — I will desist, Acting President. I just have to look over to examples in Western Australia where Labor Party members have left that party in the last 12 months, for example, to see that suddenly the Labor Party is accusing those who have left the Labor Party to go to The Nationals. Financial scandals are also aired by the Labor Party. All the dirt is aired, and I wonder if it would ever have been aired if those members had remained in the Labor Party.

Mr Lenders — Andrew Olexander.

Mr GUY — I have known him very well, better than Mr Lenders ever did. If Mr Lenders wants to talk about him or if he wants to talk about Dianne Hadden and the way he and his party treated her, we can do that. I say again that Mr Lenders is really the product of a third term. I am amazed he is in that position in his party, but that is more a reflection on his party than anything else.

Indeed, as Mr Finn said earlier, the Attorney-General, the man who oversees this kind of social engineering in this state, is a dangerous politician and a proud hater. I find this astounding about those opposite who idolise people like Paul Keating, a man who is also a proud hater. He is someone who proudly espouses the language of hate.

I teach my children to respect others, despite differing opinions and despite who they are. But there are those members who idolise Paul Keating, a man who goes on hating other individuals and makes no bones about hating other people, yet this is his party in here today, preaching tolerance. This party is telling us all that we have got to improve and by law we have to enact tolerance, but somehow, maybe it should look at its own side in the mirror. These members should look at themselves and realise that they are the biggest haters of the lot.

I find it astounding that it is revered in the Labor Party to be such a great hater. Its members actively say how great it is. How many YouTube clips can be found from these Labor Party apparatchiks who have posted images of Paul Keating to show how good this one or that one is. They are all images of Keating at his venomous and

poisonous best in Parliament, and yet these are the same people who come to parliaments around Australia to espouse tolerance, peace and love.

Mr Leane — You do all right.

Mr GUY — I am not voting for this bill today, and if Mr Leane believes that, he would not be either. I am voting against it, proudly, because the bill is wrong. As I said from the start, I find it astounding that the Attorney-General, of all people in the Labor Party, has introduced and now stands by a bill that he claims is about enforcing tolerance. This is coming from Rob Hulls. All of us on this side of the house are just shocked. Rob Hulls has no credibility left when we are talking about tolerance. The provision might need to be applied to him. We might need to enforce a bit of tolerance from Rob Hulls, because any differing of opinion from Rob Hulls enacts the most venomous, most vitriolic and, as Mr Rich-Phillips has found, most personal of attacks on individuals. This is a guy who is voting for this bill.

Mr Lenders interjected.

Mr GUY — Are you voting for this bill?

Mr Lenders — What have you done to Justin Madden?

Mr GUY — Are you talking about the references people on your side made about my wife? Is that what you are referring to, Mr Lenders?

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! I bring the speaker back to the bill, and I ask the minister to stop provoking the speaker.

Mr GUY — Acting President, if the Leader of the Government, in all his glory — —

The ACTING PRESIDENT (**Ms Pennicuik**) — Order! I have spoken to the Leader of the Government.

Mr GUY — I respect that, I understand that. For the information of the Acting President, if there are members who previously, before 2007, made comments about my wife in this chamber who now want to get up and make references to other people, then sure, we can have that debate, we can put that on the record. I am happy to talk about that. I will let that pass, now that we are talking about equal opportunity, but this is how the members opposite — who are trying to preach and enforce tolerance on all of us — have behaved in the past in this chamber in this Parliament.

I look at this bill today which has been put forward by Rob Hulls. It will enable the equal opportunity commission to act without any justification to investigate complaints, or rather investigate people without there being complaints, and to go into a church or into a school to see whether they are complying with this legislation. But, funnily enough, does it apply to electorate officers or politicians or the Labor Party? Does it apply to them? No, it does not.

Here we have this institution — that is, the church — being attacked by the Labor Party. There has been a separation of the Christian church and the state in the Westminster system and in English-speaking and European-founded societies for hundreds of years, and now we find, for the first time, the state actively trying to interfere in the church. It is the first time we have seen the state trying to actively interfere in the running of religious organisations, be they Christian, Islamic, Jewish, Buddhist, Hindu, Taoist, whatever. The state is trying to interfere in the operation of a religious institution.

One could understand if it was necessary because of any one of those institutions preaching clear and obvious intolerance. But when we are talking about the employment of a religious teacher, a maths teacher or another teacher — this is a hypothetical example — in a Catholic primary school, one would have thought it quite understandable, given it is a faith-based school, that they might want to employ someone who is of that faith to be in keeping with the general view of the school. I do not think that is unreasonable. It is the same with an Islamic school, and there are some of those in my electorate in the northern suburbs. I have absolutely no problem and I can fully understand it.

I find it astounding that this bill, Rob Hulls's bill, will give power to people in the equal opportunity commission to run around as a police force, answerable to no-one except Rob Hulls, and terrorise, hunt down or look for examples, or whatever you want to call it, of where this bill is not being adhered to. That deeply concerns me and that deeply concerns people on this side of the chamber.

The only example I can go to after looking at this is when we had a debate in this chamber — I think it was two years ago — on the establishment of a same-sex couples register in Victoria. I voted for that. One of my colleagues, on a conscience vote, voted against it. My colleague Mr Koch was roundly abused for voting against it by the head of the equal opportunity commission in a letter to his local paper. I find this astounding.

Members opposite have talked about democracy; all through their speeches they talk about democracy and the rights and tolerance in a democracy, which is astounding. I thought that in a Western democracy one of the most fundamental institutions in existence is the true independence of a public service to provide fearless, frank advice to whomever is in government — any party of any persuasion, any time, any government around Australia, state or federal, even local — and to not get involved in the politics of the day. But I find it astounding that the head of the equal opportunity commission wrote letters to the editor roundly abusing state members of Parliament because they did not vote a certain way on a bill.

In 2008 I raised this on an adjournment debate in this Parliament. The reference I got back from Mr Hulls, the Attorney-General, was that under the act:

> … in any democracy —

these are his words —

> this is something that should be encouraged rather than discouraged.

I find it abhorrent that in a democracy, where a public service is meant to be independent, Rob Hulls is actively promoting that the public service involve itself in the affairs of the state, involve itself in the politics of the day, write letters to the editor in a partisan manner and attack individuals in local newspapers, designed in a political and partisan way to do over state politicians of a different persuasion to the Attorney-General. For this man to give these powers to the equal opportunity commission with this bill I find terrifying, I have to say.

We have examples of where the equal opportunity commission is not acting in an equal frame of mind. If the equal opportunity commission lived up to its name, it may have a respect for a differing point of view that might have been on the mind of one of those members who did not vote a certain way on a bill. The member, who was elected by constituents and who has been an elected member of this Parliament now for 10 years — 8 years at that time — made a reference in this Parliament on a bill which he voted on and was then done over by a public servant. It is a very bad precedent or state of affairs to put the equal opportunity commission in charge of a situation where it will be able to run around, hunt around trying to find examples to attack faith-based schools on basic points where they may not have realised they have done anything wrong.

Mr Finn — Carte blanche.

Mr GUY — Absolute carte blanche, Mr Finn. They may not realise that what they have done, in seeking to employ someone who is of their faith, simply to have a base of faith in that school, is breaking the law under this legislation, and that they will be hunted down by the equal opportunity commission and fined. I just find the premise behind it unfair.

Those opposite are seeking to enshrine equal opportunity, and in this Parliament up until this day there has been a bipartisan point of view where no-one — and I say this quite solidly — has ever disagreed with the premise of equal opportunity, that people should not be discriminated against in our society on anything else but merit. I find it massively contradictory to have a bill come before the house that is so divisive on something that is so fundamental to our parliamentary democracy and the operation of this society, without any due regard for differing opinions. It is an equal opportunity bill.

It is very disappointing that we have got to this stage on an issue of such importance in our state, and to the situation we have in Victoria today which has been put forward by an Attorney-General who is proud of his history of being a great hater of those who have a different political view to him. I find it astounding that we have a situation where the Attorney-General of this state wants to enact a piece of equal opportunity legislation that will in fact not be equal for, particularly, faith-based schools and will not be equal for other people in our society.

I find that the bill has massive contradictions. It is a shame that equal opportunity legislation has today come down to being an issue of political debate. It is an issue that should unite Victorians rather than seek to divide us.

Mr HALL (Eastern Victoria) — The concepts of equal opportunity and antidiscrimination are absolutely fine ideals to which we should all aspire, and I think we all do aspire to them. I say ‘aspire’ because there is no doubt whatsoever that everything we do and every action we take may have some impact on others. Sometimes it might have some unfair impact, and we need to be careful of every action we take and think carefully about it. We should always be aspiring to that — that is, to treating every person in our society equally and fairly. Not only should we aspire to those ideals ourselves, we should also encourage other members of our community to aspire to them. The example we set as legislators in this chamber and also as adults in our community is very important. Young people will follow the example adults set, so it is important that we convey as best we can the example of

these ideals of equal opportunity and antidiscrimination.

I would also say that it is very difficult if not impossible to legislate for these ideals in every respect. One of the problems I have with some of the legislation that is based on principles and ideals such as equal opportunity and human rights is that the more you try to prescribe ideals in legislation the more complex the legislation gets. Indeed it gets to the point where I think it can get counterproductive, because people will try to pick holes or notice deficiencies in the legislation and therefore see it as incomplete and seek to amend it, change it and make it complex. Sometimes complex legislation is more of a hindrance than a help. I think we need to keep that in mind when we are legislating on matters of principle, as we are this afternoon.

I might add that I reckon the Parliament has done a fair job over the years in terms of trying to legislate for equal opportunity. There is a good history now of equal opportunity being supported by both sides of politics, and I think that has been very positive on the part of governments of both persuasions. We have done our best to produce legislation which tries as far as it can to match the ideals of equal opportunity and antidiscrimination. There have been bills amending the Equal Opportunity Act over the years, and each of those amending bills has been carefully thought through.

Again with this bill this afternoon we are seeking not only to re-enact the equal opportunity legislation but to implement some significant changes. As other speakers have said, this bill seeks to do two principal things: it seeks to further narrow some of the exemptions under the Equal Opportunity Act, and it also seeks to give greater powers to the Victorian Equal Opportunity and Human Rights Commission.

I think this bill is unnecessary, and I say that because I do not think the proposed changes to the current act will improve the way in which equal opportunity is practised in Victoria. I honestly believe that in my heart. I look at the provisions in this bill and say to myself, 'Practically, what difference will these provisions make to the way in which antidiscrimination and equal opportunity are dealt with today?'. I do not think they will change anything. Indeed I think we run the risk — because we are trying to make the legislation more complex and more descriptive — of making it more impractical and harder for people in our communities, not easier.

Colleagues on both sides have spoken to some extent about provisions of the bill, and I am not going to canvass all of those. My colleagues in the coalition have spoken at length about some of the concerns we have with this legislation. Without going to the hundreds of emails I have received on this matter — I think the number would run close to 100 or thereabouts now — I want to assure those people who contacted me that I have read those emails and letters and that I think they made some valid points. Most of those concentrated on the narrowing of exemptions to the employment of staff, particularly by faith-based education providers. I think it will make it harder for those who are delivering education on a faith basis to employ and have as educators the people they think best suit the needs of the students at their school. Some of my colleagues have also spoken about the new powers being given to the Victorian Equal Opportunity and Human Rights Commission, and again I concur with some of those views, without repeating them.

I agree with Matthew Guy's comments criticising government members for their criticism of some opposition members who have indicated opposition to this piece of legislation. It was disingenuous of government members to make those criticisms, particularly given the history this side of the house has in supporting equal opportunity and antidiscrimination legislation. Every speaker I have listened to on our side of the chamber has repeated this afternoon their strong support of and belief in the practice of equal opportunity in this state.

I dare say the principal reason I am joining my colleagues in opposing this legislation is that I do not think the changes to the Equal Opportunity Act proposed in this bill are really going to change the way in which equal opportunity is practised in the state of Victoria. If someone in the government can tell me how they think this is going to make such a huge difference, I would welcome that explanation, because I have not heard it yet from government speakers. I did not see it in the second-reading speech, and I do not hear it from my constituents. They are not telling me we need to change the current provisions in the Equal Opportunity Act.

I needed to put those thoughts on the record to justify my position of not supporting this legislation. I repeat that it is not because I do not aspire to all of the highest ideals of equal opportunity — treating people fairly, properly and without any form of discrimination. We should all aim to do that to the very best of our abilities, but I do not see that this legislation is going to help me in any way to do that. I think the important thing is what is in our hearts, our minds and our souls. That is what is going to make a difference in Victoria, not changes to legislation.

Mrs KRONBERG (Eastern Metropolitan) — I am very pleased to rise to say that I unequivocally oppose this legislation, and I also want to commend the contributions of my colleagues on this side of the house to the debate. I think the heartfelt contributions have been really important in that they directly connect with community opinion and they have been enunciated on behalf of the community with great clarity. I commend them for that and I commend them for shining the light on their value systems. Those value systems clearly are a major differentiator between members on this side of the house and the government.

I must say also that the Liberal Party and the Liberal Party in coalition with The Nationals have a proud record of ushering in legislation to avoid discrimination and provide equal opportunity for all in our society. In fact these elements and these contributions over time must surely be one of the high points of the roles of my predecessors as legislators, and the benefit of that is manifest. It is fair and reasonable that such things are there for everybody to rely upon.

Unfortunately this legislation, which is all about freedom, actually takes away basic freedoms. It ushers in a duty for employers and businesses. They are meant to be proactive by taking reasonable and proportionate measures to eliminate discrimination, and that reverses the processes that people are accustomed to under practices for discrimination. The compliance with this and the sweeping powers of the Victorian Equal Opportunity and Human Rights Commission frankly make me shudder when I think about what the end game will ultimately be.

For me the most important aspect of this bill is how it restricts the freedom of religion exemption for schools and other bodies. I remind the architect of this legislation, the Attorney-General, Mr Hulls, that it was in part his Catholic education at Xavier College that gave him the opportunity of making a contribution to the Parliament of Victoria. I would also point out that in terms of religious freedom this government has isolated teachers of mathematics as not needing to be concerned with the actual ethos and values that prevail in a classroom setting in a religious school; mathematicians can be isolated from that and set apart. I am glad the government did not start talking about science because a lot of schools in our society actually teach creationism, so I think we would have a fault line at that point.

In my experience as a student of Catholic Ladies College, when our subject teacher entered our classroom, whether it was a lay teacher or one of the religious sisters, we actually said a prayer before commencing each subject. I want to know where this government's argument is in terms of saying, 'If you are a teacher of mathematics, that is okay because that has nothing to do with the religious teaching program of the school'. My religious education experience is that there was a prayer before every class. I do not think the government has thought about that.

Of monumental concern to me and faith communities the length and breadth of this state is what I regard as an unnecessary attack on religious freedom and freedom of association. It is just mind-blowing. I am dumbfounded as to the extent that this government would extend its dark interventionist shroud into the faith communities in this state.

This government would have received the same volume, the same avalanche, of emails and letters and visitations from concerned citizens as we in the coalition have, and yet what have government members actually said about those overtures and those appeals from so many people in the community? They have swept them aside. None of them incorporated any of this into any of their contributions to the debate today or in the previous sitting week. I have to remind government members that they come to this chamber fully aware of the majority view on this issue. People in the faith communities cannot support this legislation. They have been direct, they have been clear, they have been humble in their appeals, and they will be humiliated by this process.

These powers equally apply to businesses and sporting and social clubs and community organisations because this bill sweeps volunteers in those entities into the category of employees, and this is too much of a burden on organisations that rely on a volunteer force to have their organisations ticking over. That is a bridge too far as well.

The point that needs to be underscored is that many of the emails that I read — and I read the emails that came in to me at a steady rate — made the point that this in fact creates a double standard in that the government is left wide open to censure, because people will still be engaged by this government based on its prejudices to actively have people in its employ who follow its political beliefs. Put simply, people of faith in this state do not want to lose their freedom, which is on the chopping block with this legislation.

Frankly I think this government has always had a blind spot for religious and non-government schools, and it should have a look at its record in relation to the funding of non-government and religious schools. Small religious bodies and schools simply do not have

the resources to defend themselves if challenged on this issue, and it is an important point to make that religious organisations are entitled to be able to draw upon readily understandable and written provisions and not be consumed by the quicksand of political correctness. Religious communities and schools must continue to be able to engage people who share their ethos and importantly are prepared to uphold their values.

Out of the multitude of appeals to me, I think at this point it is important to quote a Mr David Burt of Mooroolbark. In his email to me he said:

> As a Christian parent who sent his children to a Christian school I expect to be able to choose an uncompromised Christian education for my children. There is enough red tape for schools and teachers to contend with as it is, much of it unnecessary, without adding further unwanted, ill-conceived restrictions on the freedom of schools to hire according to the mission statement that the school and parents value above all else.

Whilst I strongly empathise with faith communities of all religious beliefs in this state and recognise that they are all equally affected, I often feel this Labor government attacks with vociferousness Christian communities and their beliefs, and I think the Christian communities in this state are in the crosshairs of this government. I ask this government to cease and desist its assault on the Judeo-Christian values upon which this country was founded. For me this bill represents politically correct reverse discrimination against majority values.

Mr LEANE (Eastern Metropolitan) — In speaking on the Equal Opportunity Bill and on discrimination in general, I honestly believe it is important that we have a strong act and strong regulation around equal opportunity and antidiscrimination. However, I have to say I can never really see the day when there will not be some form of discrimination; it will always occur in some form, no matter what.

Mrs Peulich mentioned that she was discriminated against at school, which is a very sad thing. I myself have experienced a number of years collectively of unemployment that I honestly believe can be put down to discrimination arising from my union activities. There are probably a lot of people in this chamber who have felt some form of discrimination in their lifetime. That is why it is important that we have a good mix of people who can relate their own experiences in debating this legislation.

In relation to this bill and the contentious issues that have been discussed in debate, when the Scrutiny of Acts and Regulations Committee (SARC) report on the Equal Opportunity Act was produced there was real concern in the community, particularly about exemptions relating to religious schools and religious institutions. We have all received a number of emails and contacts from those particular groups. I invited around a dozen faith-based school principals in my electorate to come to a meeting in my office to discuss their concerns. Around 7 of those 12 were available and took up that offer to have that discussion. I really appreciated their taking the time to do that. Bluntly they were very concerned about these exemptions; they were concerned about these exemptions affecting their employment policies and the way they operate their particular facilities.

Drawing on what the SARC report said could or could not happen, the discussion I had with these principals was, 'Do you particularly want to not give someone a position at your school because of the colour of their skin?', because the current act gives the ability for those sorts of facilities to discriminate according to race. Another question I asked was, 'Would you particularly not want to employ someone at your school because they were a man or a woman?', because the old act had a provision for gender-based discrimination as well.

The reaction I got from those principals, especially a couple of them, was actually pretty fiery. They were pretty angry at me to even suggest that. Their position was that from where they come from they believe they have been leaders in social justice for a very long time. Therefore they said they would refute that they would ever discriminate against a prospective employee according to certain things like race and gender. Accepting that, they said they did not need to have the provisions to have a preference — for example, if it was a Catholic school, to have a preference that they would prefer to employ a teacher that was from their faith base. I respect that.

When it came to the point where this legislation would still give them that facility but take out the things they said they did not mind, I actually felt pretty good about the process that I had been through. I relayed the particular concerns of these principals to the Attorney-General's office straight after the meeting and followed up that particular discussion I had at that meeting.

Basically in regard to the provisions that were taken out of the old act, these particular principals, who were representing their school communities, did not care that they came out. They actually fired up on me when I asked them if the would be concerned if those particular provisions were taken out. When this bill was introduced into Parliament I thought, 'That is good'. As I said, I respected the position the principals gave to me on their employment policies.

Obviously we have had some more emails from individuals around concerns about religious-based schools. There has been a lot of debate today about an attack on freedom of association, particularly for religion. I have to say that I am surprised about that. I am surprised because the Catholic Church came out and said it would support the provisions in the bill. I am not too sure where all the angst is coming from. If the Catholic Church has come out and said it supports the provisions of the bill, I have to say that is good enough for me.

Mr Drum interjected.

Mr LEANE — I have to say that is good enough for me, Mr Drum, because I actually support the position that it should have some scope to employ people from its particular faith base.

Mr Finn — How very generous of you!

Mr LEANE — I think it is fair enough. It is not big of me or generous of me. It is a fact, and this bill has not taken away that opportunity for those faith-based schools and hospitals. This bill has taken out some of the worst exemptions that I believe the different faiths would not support anyway and would not even apply. When I spoke to these principals they told me they were employing people who were not from their faith, and they are happy to do that. They have been doing it for a long time. They are more than happy to do that, and they are actually offended to think that they would not consider that.

Mr Finn interjected.

Mr LEANE — I have to say, Mr Finn, that I am surprised at the frenzy that has been whipped up. I am not too sure who the people whipping up the frenzy represent. Fair enough; there have been a lot of emails. I can understand it if they represent the people who sent out the emails. How many would there have been: 400 or 500? I understand that, but if the Catholic Church has come out and said it supports the provisions of this bill, then I reiterate that that is good enough for me. If this is an argument about freedom of religious association and the Catholic Church comes out and says, 'We are happy with it' — —

Honourable members interjecting.

Mr LEANE — Obviously I am not a religious person, but I respect the argument these principals made.

Mr Finn — You respect any argument that agrees with you.

Mr LEANE — Mr Finn should listen to me. To give those principals credit, at the start of our conversation over 90 minutes they fired up on me. They were angry about the SARC report, and there was a bit of scaremongering about it. When that report came out the reaction was, 'The worst recommendations of the SARC report are going to be applied, and your religious freedoms will be completely wiped away by this evil Attorney-General'. But it did not come out like that when the bill was introduced.

In conclusion, I am grateful for the time those gentlemen — the principals — gave me. I respect the insight and honesty they shared with me, and I am very pleased that the scenario they gave me of what the outcome of the bill would be is actually what the bill is. The scenario, they said, they could live with is what this particular bill is all about.

Mr VOGELS (Western Victoria) — I want to make a few comments on the Equal Opportunity Bill. At the outset let me say that I will not be supporting the legislation. Like every other member in this place, I also have received hundreds of emails and letters from, and had conversations with, people from all over my electorate. I have had not one letter or email from anybody saying that I should support this bill. No-one has come out and said, 'Please support this legislation'.

No-one in this Parliament does not support the principle of equal opportunity; all members support it. As the Liberal's lead speaker, Mr Rich-Phillips, said, the Liberal Party introduced the first equal opportunity legislation in 1977 and rewrote it in 1995, and that is the current legislation.

In my opinion the bill gives too much power to the equal opportunity commission. If people from the commission are able to go out and kick their own goals, they will be able to pick and choose who they are or are not going to investigate, and I think that is dangerous. I think we would all agree that the most controversial part of this legislation concerns the restrictions on religious freedom, which allow people in Catholic or faith-based schools to determine who they can and cannot employ.

I do not think the government should be seeking to interfere in how religious schools recruit their staff and the values that are set by those schools. It is interesting to note that in the last 10 years or so enrolments in non-government schools have increased enormously as people have left government schools because they want their kids to go to schools which have some faith-based standards to which they would like their kids to aspire.

Each Labor government will always be remembered for something. The Cain and Kirner era will always go down in history as the government that bankrupted Victoria, and I believe the Bracks and Brumby governments will go down in history as the governments that turned us into a nanny state. You cannot move or do anything without the government having its finger somewhere in the pie. For example, we can all remember the debate on the working with children legislation, which provided that grandparents could not have their grandchildren on their farms doing a bit of farm work unless those grandparents underwent police checks. That is the sort of thing that this government delivers for us.

As has been mentioned a couple of times, it is hypocritical for the Labor Party to say that faith-based schools cannot discriminate in the employment of people who work in their schools, yet I can guarantee that not one Labor Party member of this house would have a person working in their electorate office who was not signed up to the ALP — otherwise they would not get a job. If you went in and said, 'I want to work for Mr Tee, but I am a member of the Liberal Party', the chance of you getting a job would be absolutely nil.

I think we are all looking forward to the committee stage of the bill so that we can put this bill to bed. I also believe that what needs to be said has been said, and I commend especially my colleagues on this side of the house who have made some fantastic contributions to the debate and put our point of view. I can tell everyone now that I will not be supporting the bill.

House divided on motion:

Ayes, 21

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

Noes, 17

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

Pair

Mikakos, Ms	Vogels, Mr

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 4, page 9, after line 2 insert —

"***homelessness***, in relation to a person, means —

(a) living in —

(i) crisis accommodation; or

(ii) transitional accommodation; or

(iii) any other accommodation provided under the Supported Accommodation Assistance Act 1994 of the Commonwealth; or

(b) having inadequate access to safe and secure housing within the meaning of section 4 of the Supported Accommodation Assistance Act 1994 of the Commonwealth;".

This amendment is to add to the definitions clause of the bill a definition of 'homelessness'. It is a test for amendment 4, which would amend clause 6 to add as a protected attribute under the bill the attribute of 'homelessness'. The inclusion of 'homelessness' as a protected attribute under the bill was a strong recommendation of the Gardner review. As I mentioned in my second-reading speech, a large number of legal bodies have supported the inclusion of homelessness as a protected attribute, including the Law Institute of Victoria. Also supporting this inclusion is the Fitzroy Legal Service, which said:

> Denying people with a criminal past a fair chance can become a life sentence of exclusion and does not give people a chance to move on.

The North Melbourne Legal Service said that it is:

> … gravely concerned that the failure of Victorian law to protect against irrelevant criminal record discrimination entrenches disadvantage, unemployment and social exclusion in already vulnerable sections of the community.

The legal service goes on to say that it recognised that:

> … in some circumstances, a criminal record is relevant in assessing a person's suitability for a particular job but we also recognise that in other circumstances a record is irrelevant and should not be used to unfairly deny employment opportunities or the provision of goods or services.

The Federation of Community Legal Centres Victoria expressed disappointment that the attribute of 'homelessness' had not been included as a protected attribute under the bill, as recommended in the Gardner review.

An open letter signed by Annie Nash from Flat Out, Phoebe Barton from the Centre for the Human Rights of Imprisoned People, Ariel Couchman from Youthlaw, Antony Calabro from the Australian Community Support Organisation and Dr Bronwyn Naylor from the Monash University law faculty states:

> Criminal record discrimination is an increasingly insurmountable barrier for many job seekers. With a 10-year mandatory release for any finding of guilt (including no conviction records) or five years if sentenced as juvenile, low-level offending can lead to significant exclusion from the workplace. In addition, persons who have served prison time of over a year now face a situation where their entire record will be released in perpetuity.

We can see there is a strong argument for the inclusion of homelessness as a protected attribute under this bill, and I cannot for the life of me understand why the government, when it was rewriting the whole of the Equal Opportunity Act, did not include this as a protected attribute. I think I have made a mistake, because I was talking about the attribute of irrelevant criminal record rather than homelessness, which relates to my next amendment, but it is the same argument. The Law Institute of Victoria and the Gardner review made the recommendation that people who are homeless are discriminated against by employers and landlords in terms of finding employment and shelter and in other aspects of their lives.

The two attributes, homelessness and irrelevant criminal record, need to be included as protected attributes under this bill. As I said, I cannot for the life of me understand why the government has passed up this opportunity when these were strong recommendations of the Gardner review. They are attributes that are included under other equal opportunity regimes around the world and in Australia, so this is a vast disappointment to me. My first amendment, which is amendment 2, seeks to include the definition of homelessness in the definitions section and to include homelessness as a protected attribute in the bill.

Mr TEE (Eastern Metropolitan) — Can I indicate that homelessness is a very important and serious issue. The concern in terms of the Gardner recommendation is the difficulty in defining what is homelessness. I note even in Ms Pennicuik's amendment the issue arises around what is inadequate access to safe and secure housing. There is difficulty in defining what is homelessness because individuals slip in and out of homelessness, so there is a difficulty in terms of the duty-holder being aware of whether or not a person is homeless and what their duty is to someone who is homeless.

Having considered the Gardner recommendation the view of the government was that the recommendation would not be accepted, and that is consistent with all other Australian jurisdictions. Whether or not they have grappled with the issues, they have not moved to amend their equal opportunity acts to protect homelessness. The other part of Gardner's recommendation in relation to homelessness has been acted on by the government. It has moved to provide other means of addressing the issue through its 10-year homelessness strategy and through funding for new approaches to address homelessness.

In terms of the response to Gardner, the government will not support a legislative amendment, but there are a number of practical measures and funding provided to address the issue of homelessness.

Ms PENNICUIK (Southern Metropolitan) — I thank Mr Tee for his comments, but Tasmania seems to have been able to define homelessness, because part (a) of the definition that I have moved to have included in the bill comes from its act, and part (b) of my definition is part of the commonwealth definition of homelessness. Other jurisdictions around the world have grappled with this very difficult problem of defining homelessness and have managed to do so. They have also managed to include homelessness as a protected attribute under their acts.

I hear what Mr Tee is saying about government initiatives to address homelessness and support homeless people, and I mentioned those in my speech in the second-reading debate. What I say in answer to that is that is not enough, because it is recognised around the world that homeless people are discriminated against and that including homelessness as a protected attribute is the way forward in this respect. That would assist homeless people even further, particularly along with the other positive changes to be made to the act under this bill. They would work together to assist homeless people in a resolution of the discrimination they face.

The appeal rights in the bill will result in an improved act. It would work really well if the attribute were protected under the act, but it will be very difficult for homeless people to access those particular provisions if they are not included and covered under a protected attribute.

Mr TEE (Eastern Metropolitan) — To clarify, in case there is any misunderstanding by Ms Pennicuik, I am aware that a number of acts define homelessness, and certainly the federal legislation does, but there is no Australian jurisdiction that has amended its equal opportunity law to protect homelessness as an attribute. That is because of the difficulties I have outlined in terms of duty-holders being aware of the homelessness of the individual and the difficulty when individuals becoming homeless and then maybe having a home. The third difficulty in that is the duty-holder knowing what the obligations mean in terms of their obligations under the act.

Ms PENNICUIK (Southern Metropolitan) — It certainly has been grappled with in other jurisdictions, and it is the way forward. It is very disappointing to us that it has not been taken up with this golden opportunity to do so.

Hon. J. M. MADDEN (Minister for Planning) — I will refer briefly to Mr Tee's comments, which gave a fairly substantial explanation of why the government does not support this amendment, but I recognise Ms Pennicuik's concerns. They are concerns of this government about the distress suffered by those who may find themselves homeless. As is always the case in government, we will monitor the situation and apply resources accordingly, and potentially in the future these might be things that could be considered in the light of further discussions.

Committee divided on amendment:

Ayes, 3

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

Noes, 36

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! I call on Ms Pennicuik to formally move her amendment 3, which is also directed at this clause. I indicate to the committee that I regard this amendment as a test for her amendment 5.

Ms PENNICUIK (Southern Metropolitan) — I move:

3. Clause 4, page 10, after line 36 insert —

"***irrelevant criminal record***, in relation to a person, means a record relating to arrest, questioning or criminal proceedings where —

(a) further action was not taken in relation to the arrest, questioning or charge of the person; or

(b) a charge has not been laid; or

(c) the charge was dismissed; or

(d) the prosecution was withdrawn; or

(e) the person was discharged, whether or not on conviction; or

(f) the person was found not guilty; or

(g) the person's conviction was quashed or set aside; or

(h) the person was granted a pardon; or

(i) the circumstances relating to the offence for which the person was convicted are not directly relevant to the situation in which the discrimination arises;".

I apologise to the committee for already having made remarks about why I think 'irrelevant criminal record' should be included as a definition under the bill and again, in relation to my further amendment 5, as a protected attribute under the bill. I direct anybody who in future may be reading the record of this committee stage back to my remarks on the previous amendment, in which I included the reasons this particular attribute should be included in the bill. I will not go on to repeat those, except to say that the inclusion was also recommended in the review and is strongly supported by those in community legal centres around Victoria who deal with these issues on a daily basis.

The DEPUTY PRESIDENT — Order! I do not think it will be a bestseller, but there may be people

who review *Hansard* for the member's remarks and will appreciate that explanation.

Mr TEE (Eastern Metropolitan) — I again indicate that this side of the house will not be supporting that amendment. Really the issue is that there are a number of jurisdictions that have spent conviction acts. It is an issue that the government is alive to and is considering, and a degree of work has been done through meetings of the state and federal attorneys-general at the Standing Committee of Attorneys-General (SCAG) — indeed, there is model legislation. It is not an issue that the government is closed to; it is an issue on which the government has been involved in some considerable work, and that work will be ongoing.

I suppose the view is that a spent conviction legislation regime is really the starting point and then from that you might get these sorts of amendments to the Equal Opportunity Act. But you should not really have one without the other, because of the vagueness that is then inherent in that approach. That is really highlighted by the amendment, where paragraph (i) talks about something being not directly relevant to the situation. Again there is a degree of vagueness in it. When you are talking about spent convictions a degree of certainty is required. In other jurisdictions there is a clear delineation of what is a spent conviction; there is a clear legislative framework for determining what is a spent conviction. That certainty is what is required and is important, and there is a process for reaching that position. I do not think Victoria or Victorians are in the space contemplated by the amendment.

Ms PENNICUIK (Southern Metropolitan) — I will just say that in some of the submissions I have read concerns have been raised about the track the SCAG process is going down regarding spent convictions and that the particular trajectory it is on now might not achieve all that is desired in terms of spent convictions and the desired outcome of not discriminating against people with irrelevant criminal records. I do not necessarily find that a huge defence, given that this attribute could be included in the bill and should be.

As I mentioned in my remarks on homelessness, given the other improvements under the regime, people who are discriminated against in that way would have better access to dispute resolution or appeal than existed before, which they cannot take advantage of without the attribute being listed as a protected attribute. Those are the reasons why it should be included.

Mr TEE (Eastern Metropolitan) — I will briefly respond to the comments made about the SCAG process. I do not think it should be assumed that there has been any consideration of or decision made by the government on the model that has been provided there. All I am indicating is that there is a process under way.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — This side of the house does not, in this instance, have a lot of sympathy for Ms Pennicuik's amendment. I note that although the title of the amendment is 'irrelevant criminal record', the way the amendment is framed, particularly the last subclause, would allow any criminal conviction, no matter how serious and depending on the circumstances, to be considered irrelevant; I do not think that is something the community would believe is acceptable.

Hon. J. M. MADDEN (Minister for Planning) — Mr Tee is well briefed on this and has encompassed most of the understandings in relation to this amendment. Whilst the government is very sympathetic to Ms Pennicuik's amendment, because of the practicalities and the work currently being undertaken, it will not be supporting her amendment.

Committee divided on amendment:

Ayes, 3

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

Noes, 35

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

Amendment negatived.

Clause agreed to; clause 5 agreed to.

Clause 6

The DEPUTY PRESIDENT — Order! I have already indicated to the committee that Ms Pennicuik's amendments 4 and 5 have both been tested by the earlier amendments. I invite Ms Pennicuik to move amendment 6.

Ms PENNICUIK (Southern Metropolitan) — I move:

6. Clause 6, after line 21 insert —

"( ) any other status;".

This inserts into the attributes clause 6 of the bill the phrase 'any other status'. That phrase is used in many international documents such as the International Covenant on Civil and Political Rights. The phrase is well established as being a catch-all phrase which would encapsulate phrases of 'homelessness' and 'irrelevant criminal record', which I have attempted in my previous two amendments to have inserted in the bill as definitions and protected attributes.

Given that the committee has not supported those definitions and protected attributes, I invite the committee to seriously consider amendment 6. The inserted phrase is recognised as one that could be used by homeless people or people with an irrelevant criminal record or any other status by which they are discriminated against, and in conjunction with the other improvements in the bill, as a redress against the discrimination they feel they have suffered. Even though the committee has seen fit not to support the inclusion of 'homelessness' or 'a relevant criminal record', it is recognised internationally as a way to capture those or any other attributes. I invite the committee to support the amendment.

The DEPUTY PRESIDENT — Order! I thank Ms Pennicuik, and I point out that three times she has made exactly the same point. I think in the interests of expediting the committee stage, once is probably sufficient. I think members have heard it.

Mr TEE (Eastern Metropolitan) — The way the current Equal Opportunity Act operates is that it identifies a number of attributes — I think there are some 17 attributes on which the act prohibits discrimination. They are broad-ranging, and they have evolved over time in the sense that a number of attributes have been added through the years. What is being proposed is a catch-all, but I suppose it then renders those 17 attributes void by providing a very open-ended and vague category.

It means the categories on which discrimination is prohibited are vague and limitless and should not be supported. Duty-holders would not know what their obligations are for what would be an unknown category of people. Duty-holders would not know who is protected from unlawful discrimination and how they should go about avoiding discrimination. For that reason, the government will not be supporting the amendment.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I find it ironic that Mr Tee talks about duty-holders not knowing their obligations as a consequence of Ms Pennicuik's amendment. I have to say it is one of our fundamental criticisms of the bill as a whole and of the changes it seeks to make to the current act. I agree with Mr Tee that the amendment would make the definition open-ended and unlimited. In her own words, Ms Pennicuik said as much when she said it would cover homelessness, criminal records or any other attribute. Because it is unlimited, it is something we cannot support.

Ms PENNICUIK (Southern Metropolitan) — I do not agree with what Mr Tee and Mr Rich-Phillips said. In fact article 26 of the United Nations International Covenant on Civil and Political Rights states:

> All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

It is in the covenant and added after a list of other attributes; it is not the only status, as Mr Tee was trying to suggest. He suggested that if we add it, somehow it would take away from the other attributes. In fact, that is the way it is used in the international covenant and in other international articles. In the main, its interpretation has been used to cover people such as homeless people or people with an irrelevant criminal record. Its inclusion in the Victorian act would be an improvement to the legislation, and that is why I moved my amendment 6.

Hon. J. M. MADDEN (Minister for Planning) — I think Mr Tee and Mr Rich-Phillips have encompassed most of the debate around these matters. The government does not support the amendment basically because of its open-ended, vague and uncertain nature.

Ms PENNICUIK (Southern Metropolitan) — I do not want to belabour it too much, but I just cannot let the fact that it is said that it is vague and uncertain go unremarked, because what it means is defined and established in international law.

The DEPUTY PRESIDENT — Order! I daresay that homelessness in Somalia means an entirely different thing to homelessness in Melbourne.

Committee divided on amendment:

Ayes, 3

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

Noes, 35

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

Amendment negatived.

Clause agreed to; clauses 7 and 8 agreed to.

Clause 9

Ms PENNICUIK (Southern Metropolitan) — I move:

7. Clause 9, after line 19 insert —

"( ) whether the requirement, condition or practice is legitimate, necessary and proportionate in the circumstances;".

This amendment would add another condition under clause 9(3) to strengthen the conditions of reasonableness when considering whether discrimination is warranted. I think that is self-explanatory.

Mr TEE (Eastern Metropolitan) — The bill provides that whether a requirement or condition is reasonable depends on a number of factors which are set out in the bill. They include the nature and extent of the disadvantage, whether the disadvantage is proportionate to the result, the cost of any alternative, the financial circumstances and whether reasonable adjustments could be made.

The bill provides a number of practical considerations that are to be taken into account when you consider what is reasonable. We think that is sufficient. We do not think the addition of a test around 'legitimate' and 'necessary' adds anything. We think it is unnecessary, and we are unclear, really, about what it means. We do not think it fits in with the rest of the provision, which has a number of practical considerations.

Amendment negatived; clause agreed to; clauses 10 and 11 agreed to.

Clause 12

The DEPUTY PRESIDENT — Order! I call on Ms Pennicuik to formally move amendment 8, and I indicate to the committee that I regard this amendment as a test for Ms Pennicuik's amendment 10.

Ms PENNICUIK (Southern Metropolitan) — Thank you, Chair. I was expecting that you might regard it as a test for amendments 9, 10, 11 and 12.

The DEPUTY PRESIDENT — I am happy to.

Ms PENNICUIK — I think they are related.

The DEPUTY PRESIDENT — Order! So you are prepared to accept that as the position?

Ms PENNICUIK — I am.

The DEPUTY PRESIDENT — Order! I indicate to the committee that when it votes on amendment 8, it will be regarding that as a test for amendments 9, 10, 11 and 12.

Ms PENNICUIK — I move:

8. Clause 12, line 33, omit "members of a group" and insert "persons, or members of a group,".

The Greens support clause 12, but seek to amend it. The clause is headed 'special measures'. It provides:

> A person may take a special measure for the purpose of promoting or realising substantive equality for members of a group with a particular attribute.

In the old parlance, it is positive discrimination, if you will.

In its submission the Law Institute of Victoria made the comment that perhaps the bill did not make it as clear as it could be, that the provision could apply to persons or members of a group with more than one attribute.

Clause 12 says, in part, 'with a particular attribute'.I note that my amendment 9 to this particular clause would add 'or with particular attributes'. That is the law institute's submission. Having looked at the clause it appears to me that that issue is not covered. Also, consultation with those groups is not included in clause 12, and that is important in the need for full consultation with the persons or groups of persons for whom these special measures are intended and should be specifically mentioned as an integral part of the bill. They are the reasons for those five amendments.

Mr TEE (Eastern Metropolitan) — The amendments deal with two issues. The first is whether the provisions capture people who have more than one attribute. The answer is that they do. That interpretation is based on section 37(c) of the Interpretation of Legislation Act 1984, which provides that the singular includes the plural. The fact that the singular is provided for in the bill means that the plural is captured in terms of the Interpretation of Legislation Act 1984. But if there is any doubt, the explanatory memorandum states that it is intended that 'members of a group with a particular attribute' encompasses a group with one or more attributes. I suspect that between the Interpretation of Legislation Act and the explanatory memorandum the issues raised by Ms Pennicuik in her amendments 8, 9 and 10 are covered.

In relation to the second part, which deals with amendments 11 and 12, the issue is that the amendments seek to insert a provision about consultation. Again we think there are sufficient mechanisms for protection provided in the bill. By reference to the explanatory memorandum, the measure must be 'necessary, genuine, objective and justifiable'. It must also be 'reasonably likely to achieve its remedial purpose and be a proportionate means of achieving that purpose'. What we have in the bill, as set out in the explanatory memorandum, is a rigorous test for what is a special measure. That rigorous test probably encompasses consultation, in any event, but there are within the provisions sufficient protections to make sure that the provisions are genuine and necessary, and we do not think the amendment is required.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I share the government's view on this: that the existing language which addresses an attribute does not exclude multiple attributes. Given that the particular clause is directed towards addressing measures for a particular attribute rather than a particular person with the attribute, I do not see the need for Ms Pennicuik's proposed inclusion of a reference to a person as well as a group, so we will not support the amendment.

Ms PENNICUIK (Southern Metropolitan) — I am sure the members of the Law Institute of Victoria are familiar with the Interpretation of Legislation Act. They also specifically mentioned that they did not think these issues were covered in the explanatory memorandum, which is why they have put forward these suggestions. Certainly the explanatory memorandum, as read to the committee by Mr Tee, makes no mention of consultation. It was not covered in the explanatory memorandum or in the particular clause. It is an important issue in terms of these special measures, which I reiterate we support. I do not necessarily accept the explanations given by Mr Tee, and I commend my amendments to the committee.

Mr TEE (Eastern Metropolitan) — Just to clarify the point in terms of what is contained in the explanatory memorandum, it deals specifically with this issue and states:

> The reference to "members of a group with a particular attribute" is intended to also encompass a group with one or more attributes.

That is on page 15 of the explanatory memorandum.

The DEPUTY PRESIDENT — Order! I will put amendment 8 to the test. As has been indicated, this amendment is a test for amendments 9, 10, 11 and 12.

Amendment negatived; clause agreed to; clauses 13 to 25 agreed to.

Heading to clause 26

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to move her amendment 13 to the heading to clause 26. This amendment will also be regarded as a test for her amendments 14 and 15 to clause 26.

Ms PENNICUIK (Southern Metropolitan) — I move:

> 13. Heading to clause 26, omit "**genuine occupational requirements**" and insert "**inherent requirements**".

This, as the Deputy President said, is an amendment to the heading of clause 26 and would replace the words 'genuine occupational requirements' with the words 'inherent requirements'. As mentioned in the second-reading speech, the term used in the commonwealth jurisdiction in this regard is 'inherent requirement', and it is in fact a term used elsewhere in the bill. The amendment would replace the words 'genuine occupational requirements' with the words 'inherent requirements' because they basically mean the same thing. The bill is apparently moving towards consistency with the commonwealth legislation, and, naturally to my mind, even though they apparently mean the same thing, 'inherent requirements' is a more specific term and a bit stronger.

Mr TEE (Eastern Metropolitan) — The language 'genuine occupational requirement', which is the language of the bill, is unchanged from the current act, so it has been in existence for some time. Ms Pennicuik is right, I think, that the case laws show that 'genuine

occupational requirement' means essentially 'inherent requirement'. It is not an issue that came through in the consultation or the various recommendations. We think the amendment is unnecessary, and we think that, as has been said before, parliamentarians make the worst drafters, so we would prefer the version that came through from parliamentary counsel.

Amendment negatived; heading agreed to; clauses 26 to 71 agreed to.

Clause 72

Ms PENNICUIK (Southern Metropolitan) — I move:

16. Clause 72, lines 2 and 3, omit "or with a gender identity".

This is an amendment to clause 72, which is an exception clause regarding competitive sporting activities that states:

> A person may exclude people of one sex or with a gender identity from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant.

My amendment seeks to remove the words 'or with a gender identity' from this clause. The reason I move this amendment is that I have consulted with TransGender Victoria, which advised me that that particular phrase is outdated and unnecessary and that this issue is being and can be dealt with without the inclusion of those words in the exception clause. Transgender people are already participating in competitive sporting activities in the community. It is the organisation's view that this phrase should not be included in the bill, and I agree. That is why I am moving this amendment.

Mr TEE (Eastern Metropolitan) — I point out that this exception does not apply to sporting activities for children under the age of 12, so we are talking about people over the age of 12. This is a difficult and complex issue, which has, as we are all aware, been grappled with by officials in relation to the Olympic Games.

What Ms Pennicuik's amendment requires is that a person with a male's physical features and stamina who identifies as being female be able to compete in a female competition. These are complex issues, and I do not underestimate that, but I think the current position — that is, that it is a matter for organisations and sporting bodies to grapple with — is the appropriate one. I do not think the law should at this stage impose the sort of situation that would be envisaged if Ms Pennicuik's amendment were successful.

I should note that the Scrutiny of Acts and Regulations Committee had a look at this issue, and in its report it identified this as a very complex issue and recommended that further review be undertaken. The government has indicated it will give further consideration to SARC's recommendation, noting that the gender identity issue has a wider impact than simply the equal opportunity legislation and should be considered accordingly.

Ms PENNICUIK (Southern Metropolitan) — I am aware of the Scrutiny of Acts and Regulations Committee recommendation, which mainly goes to the definition under the bill. In my consultation and discussion with TransGender Victoria the organisation accepted that the issue requires further work, but it still advocated the removal of this phrase from this particular exception clause. While Mr Tee said that officials have grappled with the issue, I am sure the people of TransGender Victoria have grappled with it as well, and it is its firm recommendation that this phrase be removed. I still agree that this should happen.

Committee divided on amendment:

Ayes, 3

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

Noes, 35

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

Amendment negatived.

Clause agreed to; clauses 73 and 74 agreed to.

Clause 75

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to move her amendments 17 to 19 together, as they are all related in their purpose.

Ms PENNICUIK (Southern Metropolitan) — I move:

17. Clause 75, line 5, omit "a provision" and insert "a prescribed provision".

18. Clause 75, line 10, after "purpose of" insert "prescribing a provision for the purpose of".

19. Clause 75, after line 14 insert —

"(3) A prescribed provision expires —

(a) if it was enacted or made before the commencement of this section, at the end of 12 months after the commencement of this section;

(b) if it is enacted or made after the commencement of this section, at the end of 12 months after it is enacted or made.

(4) In this section, ***prescribed provision*** means —

(a) section 220DA(3) of the **Transport Act 1983**; or

(b) a provision of an Act or an enactment that is prescribed for the purpose of this section.".

These are amendments to clause 75, which replicates section 69 of the existing act. It was recommended that section 69 be repealed. It has not been; it is basically still here in clause 75.

Other suggestions were that the provisions that section 69 and this clause refer to, which allow discriminations under other acts, be prescribed in this act. I talked about this particular amendment quite a bit with parliamentary counsel. Amendment 19 seeks to prescribe the provisions under regulations, with an expiry date of 12 months. That is basically the upshot of what was suggested as a fallback position on this particular clause. One would have to be familiar with the bill to understand what we are talking about here.

Mr TEE (Eastern Metropolitan) — Amendment 19 is very broad. Essentially what it does is remove prescribed provisions after 12 months. Our concern is that it is very vague. The amendment provides that provisions in other acts and the acts that discriminate are prescribed and therefore expire after 12 months, and those are provisions in existing legislation but also new provisions.

We have a concern with the breadth of those provisions. Also, a number of provisions and steps now in place seek to address the concerns that these amendments seek to address, and we do not want our legislation to discriminate. Now, through the Victorian Charter of Human Rights and Responsibilities, a number of mechanisms are in place. For example, if Parliament is proposing to legislate to discriminate, there need to be statements of compatibility. A breach of the human rights charter requires that it be debated in this Parliament. We have a statement of compatibility and the human rights charter picks up the issue around discrimination, but we do not think the blunt instrument which is this provision should be applied. It ought be applied on a case-by-case basis. The department and the government are monitoring and going through existing legislation, and already a number of acts have been brought to Parliament to repeal legislation which does discriminate.

As I indicated, in a forward-looking sense through statements of compatibility there is a decision made each time by Parliament about whether it wants to discriminate and breach the charter. The Victorian Equal Opportunity and Human Rights Commission continues its role of monitoring and reporting on provisions of existing laws that have a discriminatory impact, so we think those mechanisms are in place.

We think this is a blunt instrument and that it limits the capacity of Parliament to discriminate when, on some occasions, the democratic view of Parliament might be to discriminate. We do not think that ought to be removed. We think it ought to be used sparingly and consciously in the sense that everyone is aware that it is being done and that everybody is accountable for that decision. That is how it should be done; it should not be done with this blunt instrument.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — It is our view that clause 75 of the bill as written acts to remove inconsistencies between this legislation and any other legislation. The effect of Ms Pennicuik's amendment would be to remove that provision and thus allow inconsistencies between this bill and other legislation — as I identified, with the exception of the Transport Act, which is noted in her further amendment — and as such, introducing that sort of conflict and confusion as to how this act would operate versus other legislation without even identifying what that other legislation is, I do not think advances the argument for this legislation at all, so we will not support this amendment.

Ms PENNICUIK (Southern Metropolitan) — I agree that the interplay between this legislation and other acts where discrimination is allowed is a somewhat complicated issue. I wanted to comment more on what Mr Tee said rather than what Mr Rich-Phillips said, which was about statements of compatibility. I have made many comments in this place about assertions made in statements of

compatibility, that things are compatible with the charter when they may not be, and also statements of compatibility whereby the government has said certain provisions inserted in acts are not compatible with the charter.

Mr TEE (Eastern Metropolitan) — The whole point about statements of compatibility is that they generate debate and there might be alternative views. They mean that we look at legislation through the prism of human rights. I do not think we should expect necessarily to always agree with what is in those statements of compatibility. However, every time we consider legislation we should consider the human rights implications. That is the broader picture, and that is what those statements of compatibility do.

Ms PENNICUIK (Southern Metropolitan) — Except to say that they do not necessarily protect human rights.

Amendments negatived; clause agreed to; clauses 76 to 80 agreed to.

Clause 81

Ms PENNICUIK (Southern Metropolitan) — I move:

20. Clause 81, lines 2 to 9, omit all words and expressions on these lines and insert —

> "For the purposes of sections 82 and 83***, religious body*** means a body established for a religious purpose.".

The effect of this amendment would be to bring the definition of 'religious body' into line with the commonwealth definition.

Mr TEE (Eastern Metropolitan) — I am unclear as to which commonwealth definition Ms Pennicuik is referring to. The commonwealth antidiscrimination legislation uses the term 'a body established for religious purposes', the commonwealth Fair Work Act uses the term 'an institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed', so in terms of consistency we are concerned that there are at least two federal definitions.

Our preferred model is consistency with the Victorian Charter of Human Rights and Responsibilities. This definition is based on the definition in section 38(5) of the charter. In terms of consistency, we do not think there is a consistent federal approach, and this approach is consistent with the state charter.

Amendment negatived; clause agreed to; clause 81 agreed to.

Clause 82

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to move her amendments 21 and 22 together as they are similar in their scope.

Ms PENNICUIK (Southern Metropolitan) — I move:

21. Clause 82, lines 23 to 33, omit all words and expressions on these lines.

22. Clause 82, page 71, lines 1 to 16, omit all words and expressions on these lines and insert —

> "( ) Nothing in Part 4 applies to anything done in good faith in relation to the employment of a person by a religious body where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position.".

Amendments 21 and 22 would amend clause 82, which relates to the exceptions allowed for religious bodies in terms of discrimination. The effect of my amendment would be to delete subclauses 2, 3 and 4 of clause 82, such that the clause would then read:

> … Nothing in Part 4 —

that is, part 4 of the bill —

> applies to anything done in good faith in relation to the employment of a person by a religious body where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position.

It would allow discrimination where conformity was an inherent requirement of the particular position — and we were talking about the term 'inherent requirement' earlier — and it also adds the term 'in good faith' to that particular clause of the bill.

The amendments remove the exception which has obviously been the subject of much discussion in the community, both for and against. I would posit that most of the community are against the inclusion of this exception in the bill, which is allowing religious bodies to discriminate on the basis of sexual orientation, lawful sexual activity, marital status, parental status or gender identity. It removes that exception, but it allows a religious body to discriminate where conformity with the doctrines, beliefs or principles would be an inherent requirement of the particular position.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — As the house is aware, the coalition parties do not support the way in which the bill as written seeks to narrow the exemption for religious

bodies. Given that Ms Pennicuik's amendment seeks to further narrow that exemption, we will not be supporting it.

Mr TEE (Eastern Metropolitan) — These provisions have been carefully drafted, having taken into account the views of a number of organisations, including some religious organisations and some non-religious organisations as well. The amendments do narrow the current provisions in the act, but they do so in a way which I suppose has been carefully considered. The difficulty with Ms Pennicuik's amendments are twofold. There is the issue of what is meant by good faith, but also that the provisions in the bill prohibit discrimination on grounds such as race, impairment and age. There is a clear category where discrimination is prohibited. I am not sure that Ms Pennicuik's provision in an outright sense prohibits discrimination on those grounds. In that sense I disagree with Mr Gordon Rich-Phillips's interpretation and I think the provision in Ms Pennicuik's amendment is actually broader rather than narrower than what is in the bill.

Committee divided on amendments:

Ayes, 3

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

Noes, 35

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

Amendments negatived.

Clause agreed to.

Clause 83

Ms PENNICUIK (Southern Metropolitan) — I move:

23. Clause 83, lines 23 to 35, omit all words and expressions on these lines.

24. Clause 83, page 72, lines 1 to 18, omit all words and expressions on these lines and insert —

> "( ) Nothing in Part 4 applies to anything done in good faith in relation to the employment of a person by a person or body to which this section applies where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position.".

Amendments 23 and 24 go together and do a similar thing to my previous amendment to clause 82, the effect of which is that nothing in part 4 of the bill would apply to anything done in good faith in relation to the employment of a person by a person or body to which this section applies where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position. That would prevent a school that is established, directed, controlled and administered by a religious body from discriminating on the basis of sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a person or body to which this section applies.

I move these amendments because it is Greens policy that schools administered by a religious body should not be able to discriminate on any attribute. However, we would accept that in terms of a religious teacher it is perhaps an inherent requirement in a religious school to have a particular religious belief to be a teacher in that school. I noticed that Mr Guy, for example, said it would be reasonable that in a Catholic school teachers should be required to be Catholic. There are many Catholic schools that employ teachers who are not Catholic, and in the wide spectrum of schools that are administered by religious bodies that is the case.

These amendments cater to a very small minority of schools that are administered by religious bodies that want to continue to be able to discriminate on every attribute of members of their staff. The government has narrowed that down to the attributes I have read out and that everybody can see for themselves in the bill. I find that unacceptable. I would also add that most of these schools, if not all of them, are in receipt of large amounts of public money and should not be discriminating on the basis of these attributes. That is why I am moving these amendments to clause 83.

Mr TEE (Eastern Metropolitan) — This provision goes to employment, particularly employment in religious schools, but it is employment more generally in religious bodies. The amendment picks up the issue around good faith. I think the provision we have ended up with in the bill is not far from the provision that Ms Pennicuik has advocated for, except in a number of key respects.

What we have articulated in the bill is a clear test that looks at the inherent requirements of the job. It takes into account the characteristics and attributes of the individual and the context where the employment occurs, whether it be a school or hospital. We think those are the bits that you need to take into account and ensure that they align. Are there beliefs and doctrines and faith? What are they? What is the context — is it a school? What are the requirements of the job? What we have ensured is that if you take those into account, religious schools can continue to employ people of a particular faith so that there will not be the limitations that have been suggested by those opposite; we will prevent that. It brings out a degree of transparency, openness and accountability.

If you are going to discriminate against someone because they are married or unmarried, you need to identify how that fits into your religion, you need to identify how that fits into the position, you need to identify how that fits into the context, whether it be a school or otherwise. We think that is much better. It is an improvement on the current provision, which does not have that transparency, openness or accountability, and which is a complete prohibition. It ensures that parents who want to send their kids to religious schools to receive a particular doctrine can do so but with that openness in mind.

Ours is a clearer way forward; it does not have the vagueness of what 'good faith' means, but also we have drawn a line and said that no matter what your religious doctrine is, you cannot discriminate on the basis of race, age and a number of other attributes. I am not sure — I have not yet seen — how that complete prohibition is picked up in Ms Pennicuik's amendment.

Mr GUY (Northern Metropolitan) — I want to make some brief comments. I think Ms Pennicuik should be listening to people rather than hearing people, based on the comments she made about what I stated, which was very clear, and that is that schools of faith should have the right to hire someone of their faith without fear of persecution or prosecution, which under this bill they will have. That is one of the reasons that the coalition is opposing these amendments.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I want to say that, as with Ms Pennicuik's previous amendment relating to religious bodies, we will be opposing her amendment with respect to religious schools for the same reasons, noting that it still has the inherent requirements test applied, which is one of our fundamental objections to the legislation.

Ms PENNICUIK (Southern Metropolitan) — Mr Tee was talking about other bodies. This clause applies to what are called religious schools, but they are schools that are operated by religious bodies that are established to run the school. They are not seminaries, as my colleague Mr Barber said; they are academic schools and in most cases are publicly funded. There is no justification for drawing a line and leaving some people on the other side of that line, still able to be discriminated against under this clause. It is not justifiable to allow a school that is operating in the public sphere, teaching the curriculum as all schools in this state must and being in receipt of public money, to continue to be able to discriminate under the attributes listed under the clause as it stands, and that is why I have moved the amendments to the clause.

Committee divided on amendments:

Ayes, 3

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

Noes, 35

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

Amendments negatived.

Clause agreed to.

Clause 84

Ms PENNICUIK (Southern Metropolitan) — I invite the committee to reject clause 84, which seems to give carte blanche to any person to discriminate on the basis of sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity if the discrimination is reasonably necessary for the person to comply with the doctrines, beliefs or principles of their religion. I do not support that blanket ability of people to discriminate against others.

Mr TEE (Eastern Metropolitan) — There are existing provisions in the bill which deal with this issue. What this bill does is significantly improve and tighten up those provisions. It does that in two ways. It entirely prohibits discrimination on the grounds of certain attributes, such as race and age, and then allows discrimination in relation to some of the other attributes, but only where that discrimination is reasonably necessary for the person to comply with the doctrines, beliefs or principles of their religion. That means that there will now be an objective test of what is reasonably necessary, whereas under the existing act it is a subjective test.

We think that in making the test objective the bill narrows discrimination sufficiently but does not go to the other extent of requiring or forcing individuals to act in a way which is directly inconsistent with their religious beliefs, so we think it gets the balance right. It narrows the existing provisions, but not in a way that will offend an individual's religious beliefs, provided there is an objective measure.

Ms PENNICUIK (Southern Metropolitan) — The message that this clause sends to the community, by way of Mr Tee's explanation, is that it is no longer okay for people based on their religious doctrines to discriminate against anyone based on age or race, but it is fine for them to discriminate based on sex, sexual orientation, lawful sexual activity, whether they are married or not, whether they are a parent or not and their gender identity, which really homes in on certain sections of the community and makes that discrimination even more obvious. This is almost the most offensive clause in the bill.

Mr TEE (Eastern Metropolitan) — It does not in any way make it fine, to quote Ms Pennicuik. What it says is that you need to consider a person's religious beliefs, doctrines or principles. The individual might have a bona fide belief that they ought to discriminate against someone on the basis of their gender, and that is not sufficient grounds. What this requires is an objective consideration of the religious doctrine to ensure that objectively the discrimination would offend that religious doctrine.

Committee divided on clause:

Ayes, 35

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

Noes, 3

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

Clause agreed to.

Clauses 85 to 88 agreed to.

Clause 89

Ms PENNICUIK (Southern Metropolitan) — I move:

26. Clause 89, line 34, omit "5" and insert "3".

27. Clause 89, page 75, line 4, omit "5" and insert "3".

The effect of these amendments is to reduce the review time for exemptions by the tribunal from five years to three years, because we believe five years is too long.

Mr TEE (Eastern Metropolitan) — There is a large regulatory impact statement process when organisations such as Fernwood gym gather the evidence they need to make a case to be exempt from the application of the act — in the case of Fernwood gym, so that it is able to discriminate in favour of women. The organisations that bring their cases tend to be those representing minority groups or women; they tend to be community-type organisations that do not necessarily have the capacity to bring a case every three years, and we think they ought to have an exemption for five years.

There are two caveats on that. The first one is that a five-year exemption is not automatic; it is for a maximum of five years. The commission can order a much shorter period; five years is the maximum. Secondly, there is always the capacity for someone whose interests are affected to apply to the Victorian Civil and Administrative Tribunal to revoke an exemption that is in place. The five years is on the outside of the range. That five years is important to some organisations, particularly again in the case of Fernwood gym which has a business model which is expensive and which is based on and relies upon that exemption. Five years gives those organisations the certainty that is needed, but as I said, there are a number

of safeguards in place so that five years may not apply and so that it can be revoked.

Amendments negatived; clause agreed to; clauses 90 to 127 agreed to.

Clause 128

Ms PENNICUIK (Southern Metropolitan) — Clause 128 refers to when a public inquiry may be conducted by a commission. It follows clause 127, which outlines when an investigation may be conducted, and that is basically at the discretion of the commission. Clause 128 appears to make the commission's holding a public inquiry dependent on the consent of the Attorney-General. It concerns the Greens that the consent of the Attorney-General is required for the commission to hold a public inquiry into a matter that it considers is in the public interest. I ask the minister why the government has included that provision.

Mr TEE (Eastern Metropolitan) — I briefly indicate that currently the act is very much a reactive mechanism. It requires a complaint to be made and then the Victorian Equal Opportunity and Human Rights Commission can investigate that complaint.

The bill provides for two other mechanisms. The first is the capacity for the Victorian Equal Opportunity and Human Rights Commission, on its own motion, to investigate potential breaches of the act which affect a class of people, and there are a number of caveats on how that can be done.

Essentially there is the capacity for an investigation which picks up systemic discrimination, in which case the commission can have a look and see if there is a breach of the act in relation to a serious matter. That is more of a private investigatory approach but sometimes it may be appropriate to have a more public examination or public inquiry into a matter relating to the act. It is on those occasions when we are talking about a public examination into a broader range of issues that the Attorney-General should, we believe, be involved and should give consent.

In the bill we have provided the commission with the capacity to investigate on its own motion, but we have also provided another tool, which is a tool for a public inquiry through the government.

Ms PENNICUIK (Southern Metropolitan) — My question, just for clarification, is whether clause 128 means that the commission cannot commence a public inquiry unless the Attorney-General agrees.

Mr TEE (Eastern Metropolitan) — Yes.

Ms PENNICUIK (Southern Metropolitan) — Why does the government wish to take that independence away from the commission?

Mr TEE (Eastern Metropolitan) — I do not know about taking away the independence from the commission. The commission has the power to conduct an investigation. If the commission wants to have a broad-ranging investigation, which is expensive, then it is appropriate in those circumstances for the government to be involved.

The DEPUTY PRESIDENT — Order! In respect of this question, throughout this committee stage Mr Tee has assisted the committee. He is across the legislation and has helped to expedite the proceedings in terms of explaining to the committee some of the background from the government's point of view.

I have listened carefully to all the comments Mr Tee has made because, as I indicated during a previous committee stage, I am keen to accept contributions from other members of the house, particularly as in the case with Mr Tee, where he has had an involvement in formulating the legislation that is before us.

The particular question Ms Pennicuik has asked on this occasion, I feel, also needs comment from the minister to confirm Mr Tee's comments to the committee.

Hon. J. M. MADDEN (Minister for Planning) — Thank you Deputy President, I think that is very appropriate. Basically Mr Tee has covered the issues, but what is important is that it is really the Attorney-General who determines whether the inquiry is in the public interest, basically. Of course, as an elected official the Attorney-General is accountable for that decision and by virtue of that, his consent would determine that a public inquiry is in the public interest.

Ms PENNICUIK (Southern Metropolitan) — It is a concern that the commission is trusted to run everything else under the bill but not to make a determination under clause 128 as to whether something is in the public interest and requires a public inquiry without the imprimatur of the Attorney-General, which by definition is a political interference into whether or not the commission holds an inquiry. Did the government consider that possibility as we go forward into the next 30 years under this legislation?

Mr TEE (Eastern Metropolitan) — There is an important distinction to be made between the role of the commission investigating what may be a breach of the act and a broader role to investigate an issue that is in

the public interest that relates to the operation of the act. It is a broader role. It does not have a breach of the act as a prerequisite; it is something which requires a public interest test and therefore I suppose government involvement. I am sure it was a matter that was considered.

Clause agreed to; clauses 129 to 216 agreed to.

New clause

Ms PENNICUIK (Southern Metropolitan) — I move:

28. Insert the following New Clause to follow clause 83 —

> **"A Application of reasonable limitation test to sections 82 and 83**
>
> Sections 82 and 83 do not apply unless the thing done on the basis of a person's attribute is a reasonable limitation on the person's right to freedom from discrimination on the basis of that attribute, taking into account all relevant factors including —
>
> (a) the nature of the right; and
>
> (b) the importance of the purpose of the limitation; and
>
> (c) the nature and extent of the limitation; and
>
> (d) the relationship between the limitation and its purpose; and
>
> (e) any less restrictive means reasonable available to achieve the purpose that the limitation seeks to achieve.".

This amendment would apply the reasonable limitations test under the Charter of Human Rights and Responsibilities to clauses 82 and 83 of the bill, which are the clauses relating to the exceptions for religious organisations and religious schools. I recommend the amendment even more strongly because my earlier amendments to those clauses were not supported by the committee. The test would be that proposed sections 82 and 83 will not apply:

> … unless the thing done on the basis of a person's attribute is a reasonable limitation on the person's right to freedom from discrimination on the basis of that attribute, taking into account all relevant factors including —
>
> (a) the nature of the right; and
>
> (b) the importance of the purpose of the limitation; and
>
> (c) the nature and extent of the limitation; and
>
> (d) the relationship between the limitation and its purpose; and
>
> (e) any less restrictive means reasonable available to achieve the purpose that the limitation seeks to achieve …

With the problems we have already identified with clauses 82 and 83, we feel it is essential to add this reasonable limitation test at least to clauses 82 and 83.

The DEPUTY PRESIDENT — Order! Before I call Mr Rich-Phillips, I expect members have deduced we are going to continue on and we are not stopping for a dinner break. The government has advised it is keen to continue on.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — As with the consideration of Mr Pennicuik's amendments to clauses 82 and 83, which were not supported by the coalition parties, we regard the proposed new clause as also being a further restraint on the exemption for religious bodies and religious schools.

Ms Pennicuik interjected.

Mr RICH-PHILLIPS — For the reason Ms Pennicuik points out, and for the reason we did not support her previous amendments, we will also not support this amendment.

Mr TEE (Eastern Metropolitan) — The provision is an interesting one. Essentially what it proposes is to overlay a test onto clauses 82 and 83. We say that test has already been done in terms of the drafting, and we think the current clauses 82 and 83 have already involved a consideration of whether they are charter compliant. We believe they are. We believe the reasonable limitation test has already been applied to those provisions. We think they are charter compatible. We think the provisions are necessary.

There is another recourse provided for by the charter — that is, if anyone challenges any action taken as a breach of clauses 82 and 83, or indeed challenges any breaches of this act, then the charter does apply. Therefore any interpretation by the courts of these provisions will be in a way that is consistent with the charter, and therefore in a way that is consistent with the provisions sought to be provided in clauses 82 and 83.

We think that the charter of compatibility covers off the drafting provisions, but we also think that if the matters are ever tested in court, if any individual has a complaint, then the charter will apply in any event and ensure that the courts interpret the clause in the way

which Ms Pennicuik has suggested by way of her amendment, or at least in a way which is consistent with the charter. We think it is unnecessary, and we will not support it.

Ms PENNICUIK (Southern Metropolitan) — I do not agree with any of Mr Tee's comments. I do not believe the reasonable limitations test applies at all to clauses 82 or 83; as I have previously mentioned, they continue to allow discrimination against certain groups of people in the community, which is completely against the Charter of Human Rights and Responsibilities. I do not think the assertion made by Mr Tee is correct; that is why I have moved the amendment.

Hon. J. M. MADDEN (Minister for Planning) — Basically Mr Tee has made the relevant comments in relation to this amendment. The government does not support this amendment because it basically believes this is an unnecessary addendum to the bill.

Committee divided on new clause:

Ayes, 3

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

Noes, 35

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

New clause negatived.

The DEPUTY PRESIDENT — Order! I ask the minister to come back to the table. In the context of the committee stage, Mr Tee has provided quite a bit of information to the committee. Can I have the minister clarify for the benefit of the committee that the government is happy with those positions?

Hon. J. M. MADDEN (Minister for Planning) — Mr Tee has been integrally involved in terms of the background of this bill and a lot of the work on it, and the comments Mr Tee has made on behalf of the government are appropriate. I would support all of those comments, and they should be interpreted that way by anybody who might need to refer to them at any time in the future.

The DEPUTY PRESIDENT — Order! I thank the minister.

Schedule agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The PRESIDENT — Order! The question is:

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

House divided on question:

Ayes, 21

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

Noes, 17

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

Pairs

Mikakos, Ms	Peulich, Mrs

Question agreed to.

Read third time.

EDUCATION AND TRAINING REFORM FURTHER AMENDMENT BILL

Statement of compatibility

Mr LENDERS (Treasurer) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Education and Training Reform Further Amendment Bill 2010.

In my opinion, the Education and Training Reform Further Amendment Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill makes amendments to the Education and Training Reform Act 2006 (the act) to enlarge the functions of the Victorian Institute of Teaching (the institute) to include developing standards for higher levels of professional practice by teachers; to provide for police record checks to be carried out on prospective teachers; to streamline the qualification requirements for non-practising teachers who wish to return to full registration; to provide for additional particulars relating to sanctions placed on teachers by formal hearing panels to be contained in the register of teachers; to require the institute to notify the director of transport of certain determinations made by formal hearing panels relating to teachers; and to make consequential and other miscellaneous amendments to the act. The bill also has the additional purpose of re-enacting and modernising the Mildura College Lands Act 1916, and will repeal related acts. It also makes a minor amendment to the act regarding authorisations for use of Victorian student numbers.

Human rights issues

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

The right to privacy (section 13 of the charter)

Section 13(a) of the charter provides that individuals have a right not to have their privacy unlawfully or arbitrarily interfered with.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain, and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter.

The register

Clause 11 of the bill amends section 2.6.24(d) of the act to provide that the following particulars in relation to each registered teacher should be included on the register of teachers as the result of a decision made by a formal hearing panel: whether the registration of the teacher is subject to a condition, limitation or restriction or has been suspended or cancelled.

As section 2.6.25 provides that the institute must make an up-to-date copy of the register available for inspection by any person at the institute's offices, the register is consequently able to be viewed by members of the public.

Assuming that the publication on the register of information regarding whether the registration of the teacher is subject to a condition, limitation or restriction or has been suspended or cancelled may interfere with the privacy of such teachers, in my view any such interference will not be unlawful or arbitrary.

The purpose of including these details on the register is to enable members of the public to confirm the fact that a teacher is registered in circumstances where a teacher may be working with children outside of his or her employment as a teacher. For example, a parent wishing to employ a teacher as a private tutor for his or her child will be able to search the register to confirm that the teacher is still, in fact, registered as a teacher. As teachers who are registered do not require a working-with-children check under the Working with Children Act 2005, the register will serve an important function of ensuring that members of the public can ascertain whether or not a teacher is in fact registered, and whether such registration is subject to conditions as the result of an adverse finding against the teacher.

Additionally, no personal information will be contained on the register apart from the name of an individual and the state of his or her registration, including whether or not the registration is subject to a condition (e.g. John Smith — registration cancelled; or Jane Smith — registration currently subject to conditions).

Consequently, to the extent that this clause will cause private information to be publicly available, this will only occur in prescribed circumstances set out in the bill and the information disclosed will be minimal in nature and will relate to professional status rather than matters of a more intimate nature.

I consider that any interference with privacy occasioned by clause 11 will not be arbitrary, as the information contained on the register will be limited in scope and reasonable in order to enable members of the public to confirm that a teacher is registered. Consequently, clause 11 is compatible with right to privacy in section 13 of the charter.

Additionally, I note that this clause promotes the right of children to protection in section 17(2) of the charter.

Police record checks

Clause 6 of the bill amends section 2.6.7 of the act to provide that the application form to apply for registration as a teacher must include authorisation for the institute to conduct a police record check in connection with the consideration of the application and, if registration is granted, from time to time during the period for which the registration remains in force. Clause 6 will insert a new clause 2.6.7(3A) to provide that, in considering an application under this section, the institute may arrange for the conduct of a police record check on the applicant.

Clause 8 amends section 2.6.13 of the act in a similar manner, so that the approved application form for permission to teach must also include authorisation for the institute to conduct a police record check, and to enable the institute to arrange for the conduct of a police record check on the applicant.

Clause 9 will amend section 2.6.18 of the act to provide that the approved application form for renewal of registration must also include authorisation for the institute to conduct a police record check, and to enable the institute to arrange for the conduct of a police record check on the applicant.

Unlike criminal record checks, police record checks would result in the institute being provided with information regarding charges for 'relevant offences' (such as offences relating to children) alleged to have been committed in Victoria, and also information on certain additional offences that could relate to a person's suitability to be registered, such as drug trafficking and manufacturing, armed robbery and firearm offences.

This information will be received through the establishment of an information exchange system with Victoria Police, similar to that which facilitates working-with-children checks. Together, the system of continuous police record checks and systematic national criminal history checks will work together to provide a more comprehensive system of checks on prospective and registered teachers in Victoria.

In my view, any interference with privacy which occurs as a result of the institute obtaining a police record check will not be arbitrary. It is necessary to ensure that comprehensive police and criminal record checks are completed in relation to both current and potential teachers, to ensure the suitability of teachers to teach children.

Clauses 6, 8 and 9 are thus compatible with section 13 of the charter.

Additionally, I note that this clause promotes the right of children to protection in section 17(2) of the charter.

Conclusion

I consider that the bill is compatible with the charter.

John Lenders, MLC

Second reading

Mr LENDERS (Treasurer) — I advise that the Legislative Assembly made a minor amendment to this bill. The amendment deals with the Chaffey land. I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Education and Training Reform Further Amendment Bill 2010 will make a number of amendments to the Education and Training Reform Act 2006 (ETR act) to implement government policy and further improve its operation.

The main purposes of the bill are:

to amend part 2.6 of the Education and Training Reform Act 2006 (ETR act) in relation to certain operations of the Victorian Institute of Teaching (the institute);

to amend the ETR act in relation to certain operations of the Victorian student number (VSN), the Victorian Curriculum and Assessment Authority (VCAA) and for other purposes;

to update the language of the Mildura College Lands Act 1916, make a number of changes to improve its operation, and re-enact the provisions in the Education and Training Reform Act 2006. The 1916 act and two amending acts — the Mildura College Land (Ranfurly) Act 1992 and the Mildura College Lands (Amendment) Act 1995 — will be repealed.

The bill also addresses minor anomalies to improve the operation of the ETR act.

As the provisions of the bill are grouped under these main purposes, the following further details are also given in that same order.

The bill includes several amendments to part 2.6 of the ETR act, which will support reforms to the Victorian Institute of Teaching arising as a result of the review of the institute conducted in late 2007.

The institute was established in 2001 as a professional body for the teaching profession, with responsibility for setting entry level standards of professional practice, assessing qualifications, advising on professional development, undertaking criminal records checks and administering a discipline system to ensure that registered teachers in Victoria meet high standards of professional practice and conduct.

A review of the institute was undertaken in 2007 to consider changes that may be required to its functions, structure and legislative mandate to ensure that it achieves its objectives effectively in the context of the current environment. The review found that there was a role for the institute, but one that has a more streamlined, single focus to avoid potential overlaps with the core roles of other major stakeholders. The majority of changes to part 2.6 of the ETR act that give effect to reforms that will improve the efficiency and effectiveness of the Victorian Institute of Teaching are contained in the Education and Training Reform Amendment Bill 2009. Some further changes to part 2.6 of the ETR act are contained in this bill, which have occurred as a result of further consideration, consultation and discussion arising from the findings and recommendations contained in the review. These changes will have direct benefits for teachers, schools, children and their families.

Changes to the ETR act proposed in this bill to support the reform of the institute include:

the introduction of a power enabling the institute to undertake police records checks on a continuous basis;

the inclusion of adverse outcomes of disciplinary action on the public register;

the enlargement of the functions of the Victorian Institute of Teaching to include developing standards for higher levels of professional practice by teachers;

streamlining the qualification requirements for non-practising teachers who wish to return to full registration; and

requiring the institute to notify the director of public transport of certain determinations made by a formal hearing panel relating to teachers.

The bill will introduce a system of continuous police record checks on registered teachers on a very similar basis that police record checks are carried out on people who hold a working-with-children assessment notice. The institute will receive regular, current information about whether a registered teacher has been charged with, or committed for trial for, or been found guilty of a relevant offence in Victoria. The amendments in this bill introduce a process whereby people who apply to become a registered teacher, and teachers who apply to renew their registration, consent to ongoing continuous Victorian police record checks. In the interim, teachers who are currently registered can be part of the continuous police check process by virtue of existing provisions already contained in the ETR act.

Police record checks will operate in parallel with the national criminal record checks that the institute undertakes for all new teaching applicants, and from time to time while a teacher remains registered. Together, the systems of police and criminal record checks will provide greater protections for students, parents and school communities. In addition, this change will establish consistency between the procedures followed by the institute in relation to police record checks and those that apply under the working with children legislation.

This bill amends the information included in the institute's public register of teachers. The inclusion of adverse outcomes of disciplinary action on the public register will result in greater transparency and improved client service to employers who are employing teachers and to people who employ or otherwise engage registered teachers in a non-teaching context. Now the outcomes of an adverse finding by a hearing panel (or automatic cancellation as the result of being found guilty of a sexual offence) will be published next to a teacher's name on the institute's register of teachers.

For example, annotations to show that registration has been 'cancelled', 'suspended' or 'subject to conditions' would be included on the register if that was the finding of the hearing panel. Any adverse outcomes, other than deregistration, will be automatically removed from the public register at the expiry of the condition, limitation or suspension period. It is anticipated that the length of a condition, limitation or suspension period in most cases will be approximately 12 months.

This change requires the rights of the individual teacher who is the subject of adverse outcomes of disciplinary action to be balanced against the rights of employers and the public. Balancing the public interest and the rights of the individual to privacy is best achieved by limiting information about adverse outcomes on the register to a description of the teacher's registration status. The institute will not publish any details about the circumstances that lead to the adverse outcome on the register.

The amendments in this bill are consistent with the practice of professions covered by the Health Professions Registration Act 2005, including doctors and nurses working in Victoria. The Queensland College of Teachers and the Northern Territory Teacher Registration Board both have legislative power to publish adverse outcomes of disciplinary action on their public registers. This amendment is therefore consistent with open and transparent processes, and is supported by government as a practice that will benefit schools and students.

The institute is currently responsible for developing standards for entry to and continuing membership of the profession. These professional standards enable teachers to demonstrate and maintain effective teaching and learning. The extension of the functions of the institute to include developing standards for higher levels of professional practice by teachers will enable the institute to respond to initiatives occurring at a national level. The Council of Australian Governments (COAG) has agreed to the development and implementation of a national professional teacher standards framework and certification/accreditation process for teachers and school leaders. The institute is a leading partner in this national teacher quality initiative and the proposed legislative change will enable it to undertake further work in relation to standards of professional knowledge, practice and engagement for teachers at different stages of their careers.

Streamlining the qualification requirements for non-practising teachers who wish to return to full registration will enable the institute to provide a more efficient service and reduce the administrative burden for non-practising teachers seeking full registration.

Requiring the institute to notify the director of public transport of certain determinations made by a formal hearing panel relating to teachers will provide added protections for students and school communities. There are cases where a teacher who is subject to adverse outcomes of disciplinary action may be employed as a school bus driver. This amendment will provide a further check in relation to the employment of appropriate people to positions where they will be in contact with school students and is consistent with requirements under the Working With Children Act 2005 and relevant transport legislation requiring people who will be in contact with students to have a police record check.

In 2008, the government introduced a unique student identifier for students in Victoria and the establishment of a Victorian student register. This was in response to the strong case for the allocation of a number which travels with a student from commencing in prep until a student turns 25. The creation of the Victorian student number (VSN) assists the Victorian government's goal of having 90 per cent of young Victorians complete year 12 or its equivalent by helping to identify students at risk of dropping out of the education and training system.

When developed in 2008, the VSN was designed to be progressively 'rolled out' to ensure that it is successfully implemented by a diverse range of education and training providers. The VSN is now being 'rolled out' to students in TAFE institutes, registered training organisations, adult,

community and further education providers and the Catholic school education system.

This bill extends the classes of authorised users of the VSN to those organisations and Victorian government departments that administer those education and training sectors. Skills Victoria, the Adult, Community and Further Education Board, and the Catholic Education Commission of Victoria all require the authority to access and utilise the VSN in order to ensure that the system operates efficiently and effectively.

Importantly, the bill maintains the safeguards that were put in place when the VSN was introduced. The bill does not alter the operation of the VSN or change the way in which authorised bodies can access and use the VSN.

This bill makes minor amendments to clause 4 of schedule 2 of the ETR act. The bill clarifies that the Minister for Education may now appoint a member, including a chairperson, to the board of a statutory authority in the event there is a vacancy in the office of a member or chairperson, or if a member or chairperson is absent or unable to perform the duties of the office.

In addition, this bill removes an anomaly by allowing the Minister for Education to appoint a person to act in the place of a member or chairperson in the event of a vacancy on the board of the Victorian Curriculum and Assessment Authority (VCAA). The ETR act has previously not included the VCAA amongst the list of boards for which the minister could exercise such power.

The office of the chief parliamentary counsel has requested a number of statute law revisions. These are not considered to change existing policies or procedures or remove existing rights.

The next set of amendments relate to the Mildura College Lands Act scheme.

Honourable members may be aware that George and William Chaffey, who established the settlement of Mildura, provided substantial pieces of land to the Victorian government in 1887 to fund an agricultural college in the area.

Construction of the college was never completed, however, the government built the Mildura Agricultural High School on its foundations. The rental income from the land provided by the Chaffey brothers was paid into a trust fund and distributed to the school. The Mildura College Lands Act 1916 vested the land in the minister and formalised this arrangement.

Today, 30 government and non-government schools in the Mildura region receive income from the scheme. The schools use the money for such things as the maintenance of school buildings, grounds and equipment.

The bill will update the language of the Mildura College Lands Act 1916, make a number of changes to improve its operation, and re-enact the provisions in the Education and Training Reform Act 2006. The 1916 act and two amending acts — the Mildura College Land (Ranfurly) Act 1992 and the Mildura College Lands (Amendment) Act 1995 — will be repealed.

The main change provides that the land will be shown in survey plans, instead of being listed in the act, and the Governor in Council will be able to add or remove land when it is bought or sold. Survey plans are a more user-friendly format and can be kept up to date more easily.

Similarly, the list of beneficiary schools will be included in an order made by the Governor in Council. As well as adding a school, the Governor in Council will be able to change the name of a previously declared school and remove a school — for example, if it merges with another school or becomes deregistered — ensuring that the list is always up to date. The bill provides that all current beneficiary schools under the 1916 act will continue to be beneficiary schools under the new provisions.

Any orders changing the land or the beneficiaries must be tabled in Parliament and published in the *Government Gazette* and a newspaper in the Mildura region.

The current act allows leaseholders to apply to VCAT for a review of a rental valuation made by the Valuer-General. Consistent with other legislation, this provision has been updated to impose a 28-day time limit in which applications must be made.

The minister's power to subdivide and consolidate land has been made explicit. Other provisions have been updated to accommodate current practices, such as the provision dealing with the investment of surplus school funds.

The bill does not change the main components of the scheme, such as the formula for the distribution of funds, the way in which sale proceeds can be used, the beneficiary schools or leasing arrangements.

New section 5.7A.1 will be inserted to provide a connection to the 1916 act and continuing legislative recognition of the contribution the Chaffey brothers have made to education in the Mildura region.

The amendments contribute to the government's commitment to simplify the statute book by repealing redundant legislation and consolidating acts. They also move one of the last stand-alone pieces of education legislation into the Education and Training Reform Act 2006.

I thank the chair of the beneficiaries committee, Robert Biggs, and the trustee company for their input into these amendments. I also acknowledge the unique and very substantial gift made by the Chaffey brothers over 120 years ago which continues to benefit the students of Mildura.

Collectively, the amendments contained in the bill will ensure that our legislative framework continues to provide for ongoing innovation and improvement in the education sector in Victoria. They will go a long way to providing all Victorians with the assurance that Victoria maintains high-quality teachers, which is critical to ensuring the wellbeing of our future generations.

I commend the bill to the house.

Debate adjourned on motion of Mr HALL (Eastern Victoria).

Debate adjourned until next day.

ENVIRONMENT PROTECTION AMENDMENT (LANDFILL LEVIES) BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Minister for Environment and Climate Change) on motion of Mr Lenders.

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Environment Protection Amendment (Landfill Levies) Bill 2010.

In my opinion, the Environment Protection Amendment (Landfill Levies) Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill gives effect to a government commitment to increase landfill levies for municipal and industrial waste, in two increments, from 1 July 2010 and then from 1 July 2011.

The purpose of the bill is to increase the municipal and industrial waste landfill levies and therefore encourage a reduction in waste generation, in the amount of waste being sent to landfill and to drive the market for resource recovery technologies and services across Victoria. The increased levy will be allocated to waste avoidance and recovery and other identified environmental initiatives.

Human rights issues

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

The bill does not place any limitations or restrictions on any human right protected under the charter.

Conclusion

I consider the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit or restrict any rights under this charter.

Gavin Jennings, MLC
Minister for Environment and Climate Change

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

I am pleased to present the Environment Protection Amendment (Landfill Levies) Bill to the house today.

This bill delivers on commitments made by the Victorian government to work in partnership with Victorian industry and community to achieve greater efficiency in our resource use and to reduce waste.

This bill resets Victoria's landfill levies to help bring about measured change for better waste management.

This bill sets out a staged approach to achieving the government's vision for a resource-efficient society, a society that understands that unnecessary waste that ends up in our landfills not only presents potential risks to our environment and health, but that it represents wasted energy, wasted water and wasted materials.

A society that values the innovation, ingenuity and creativity required to turn waste into a resource. That is the society we aspire to.

The new levy settings will support jobs, promote technology and business innovation, allow reinvestment in environmental actions and programs to help protect the environment and allow all Victorians to live more sustainably.

Increasing the levies will increase recycling and help Victoria avoid sending unnecessary waste to landfill.

This will make recycling more competitive and provide an incentive for investment in new recycling technologies and facilities.

Victoria already recycles 6 million tonnes of waste each year but with an increase in the landfill levy, an extra 1.2 million tonnes will be diverted away from landfill per year by the 2014–15 financial year. This is equivalent to a 33 per cent reduction.

Over five years it means Victoria will divert a significant 5.6 million tonnes of waste from landfill.

Providing an incentive to avoid sending unnecessary waste to landfill will stimulate the development of recycling business and technology, providing opportunity for new jobs.

Every 10 000 tonnes of recycled material supports more than nine jobs, compared with less than three jobs supported by the same amount of material going to landfill.

The result will be the creation of around 700 jobs over the next five years.

The reinvestment of levy revenue into recycling and environmental programs aims to support households, councils and businesses avoid unnecessary waste and increase their recycling.

Victoria has continued to strengthen its efforts toward waste management. The Department of Sustainability and Environment, local councils, the Metropolitan Waste Management Group, other regional waste management

groups, Sustainability Victoria and the Environment Protection Authority have all been working effectively with stakeholders, building successful partnerships and actions to deliver a more resource efficient Victoria.

Victorian households and businesses have also risen to the recycling challenge and have concentrated their efforts to make a difference by introducing recycling into their daily routines.

Through this collaborative effort, Victoria's recycling rates have improved over the last five years but are now beginning to plateau.

At the same time, metropolitan Melbourne's increasing population and future projections mean that waste generation is likely to increase by an additional third over the next 20 years in comparison with current rates.

Victoria still faces major challenges in waste management and must move forward to take advantage of otherwise missed opportunities.

The Victorian community expects the Victorian government to continue to push for better waste management throughout the state and we are determined to meet this challenge.

For a state with aspirations for resource efficiency as a central driver to future competitiveness, Victoria can do more to reduce waste and recover resources.

The current levy settings do not provide the right framework for Victoria to significantly reduce the volume of waste sent to landfill.

Taking a staged approach across metropolitan and regional Victoria minimises the impact to businesses and households and ensures we get the settings right.

In Victoria, generating waste and disposing of it into landfills is a very minor component of business and household costs, and is cheap compared to other waste management solutions, such as recycling.

As a consequence, the amount of waste generated statewide continues to increase and although recycling and resource recovery is also increasing, this has not sufficiently offset the overall increase in waste in order to reduce the amount of waste to landfill.

Landfill levies serve two purposes.

Firstly, the levies act as an incentive to minimise waste and encourage greater re-use and recycling of resources while promoting investment in alternatives to waste disposal to landfill.

Secondly, landfill levies play an important funding role to provide waste management infrastructure, support programs for industry, education programs and the resourcing of the bodies responsible for waste planning and management in Victoria.

A staged approach to landfill levy increase in Victoria will minimise the impact on businesses and households, look at different environmental needs for different areas of the state and ensure we have the levy settings right for the future.

The new levy will now provide appropriate incentives for waste reduction alternatives, striking a balance between increasing recycling and minimising the burden on households and businesses.

From 1 July 2010 the levy for every tonne of municipal waste (household and council) and commercial waste will increase.

Following two initial increases on 1 July 2010 and 1 July 2011, levies will progressively be increased over the following three years, to 2014–15.

The Victorian government has also committed to a review of waste levies to commence later in 2010 to determine if any further changes to the proposed settings are required.

Most importantly, this review will include views from industry, local government, environmental groups and all other stakeholders so that longer term, levy settings are well informed of the needs and expectations of the Victorian community.

The Victorian government is committed to making sure that waste programs and initiatives have sufficient funding to be successful.

This funding commitment will be directed to local government, industry and those with a clear and key role in reducing Victoria's waste and delivering sustainable resource use.

Revenue will be split and allocated to a range of actions, which together wholly support a better statewide response to waste management.

Funding will:

support businesses to reduce waste levels through the 'industry reinvestment program';

support 'fast movers' in the recycling industry and local government who are willing to invest early in new technologies and facilities;

tackle illegal dumping and clean up contaminated sites;

support local government and waste management groups; and

invest in sustainability and environmental projects and programs through the Victorian government's Sustainability Fund.

Activities undertaken by regional waste management groups, the Metropolitan Waste Management Group, Sustainability Victoria and the EPA assist all sectors of the community, especially industry and local government, to reduce waste and improve resource use efficiency.

The use of landfill levy funds for supporting waste management bodies, particularly local councils, has been fundamental to improvements which have been made to waste collection and infrastructure in Victoria over a number of years.

Funding will also support the expansion of assistance to regional groups and councils to improve infrastructure and promote waste avoidance, re-use and recycling. Levy moneys raised will continue to be committed to achieve these ends.

In conclusion, the bill will bring into effect three key outcomes for Victorian waste policy.

Firstly, the bill encourages action on key Victorian government objectives to reducing waste and increasing resource efficiency, thereby enhancing economic productivity, preserving quality of life, and continuing to protect the environment and the community.

Secondly, it supports the advancement of innovation in environmental technologies and services, particularly in the recycling and resource recovery industry.

Finally, the bill establishes additional landfill levy revenue for provision towards stated government priorities on waste avoidance and resource recovery, and other identified environmental initiatives.

I commend the bill to the house.

Debate adjourned on motion of Mr D. DAVIS (Southern Metropolitan).

Debate adjourned until Thursday, 22 April.

JUSTICE LEGISLATION AMENDMENT (VICTIMS OF CRIME ASSISTANCE AND OTHER MATTERS) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. J. M. MADDEN (Minister for Planning) on motion of Mr Lenders.

Statement of compatibility

For Hon. J. M. MADDEN (Minister for Planning) Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010.

In my opinion, the Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Victim impact statement amendments to the Children, Youth and Families Act 2005 and Sentencing Act 1991

Overview of amendments

The bill's amendments arise from the Victims Support Agency's report: victim's voice — an evaluation of victim impact statements in Victoria (October 2009). Part 2 of the bill amends the Sentencing Act 1991 and Children, Youth and Families Act 2005 to clarify that:

a. victims, or their representative with leave of the court, may read aloud their victim impact statement in court;

b. victim impact statements may include non-written material;

c. victims and witnesses, in relation to victim impact statements, may be given similar protections to those which apply in giving evidence via alternative arrangements under 'Division 4— Procedure on conviction' of part 5.8 of the Criminal Procedure Act 2009;

d. the definition of 'victim' in the Children, Youth and Families Act is to be consistent with the Sentencing Act.

These amendments are made in the context of, and consistent with, existing provisions. Victim impact statements are filed as statutory declarations following a finding of guilt or a conviction, and may be taken into account during sentencing. The statement may contain particulars of the impact of the offence on the victim, including any injury, loss or damage suffered by the victim as a direct result of the offence. The court may rule as inadmissible any parts of the statement and, under the amended provisions, can direct a victim to the parts of the statement that are admissible for the purposes of being read out.

The amendments accord with the principles contained in the Victims Charter Act 1996, which recognises the adverse effects of crime.

Human rights issues

These amendments do not engage or limit any rights in the Charter of Human Rights and Responsibilities.

Amendments to the Victims of Crime Assistance Act 1996

Overview of amendments

The Victims of Crime Assistance Tribunal (VOCAT) provides financial assistance to victims of violent crime. Part 2 of the bill also amends the Victims of Crime Assistance Act (VOCA act) to promote access to timely awards of assistance. The amendments:

a. allow the Chief Magistrate to delegate powers to judicial registrars, expanding the current scheme where limited powers may be delegated to registrars, and include appropriate rights of review drawn from the Magistrates' Court Act 1989;

b. explicitly provide an assistance category of safety-related expenses which facilitates victims' access to interim awards for such expenses.

Human rights issues

These amendments do not engage or limit any rights in the Charter of Human Rights and Responsibilities.

Amendments to the Family Violence Protection Act 2008 and Stalking Intervention Orders Act 2008

Overview of amendments

The Family Violence Protection Act 2008 (FVP act) provides an effective and accessible system of family violence intervention orders and family violence safety notices (notices) and creates offences for contraventions of these orders and notices. The FVP act has now been in operation for over one year. Notices were introduced in December 2008 as a pilot, subject to an evaluation. The notice provisions in part 3 division 2 of the FVP act are subject to a sunset clause with an end date of 8 December 2011 (following amendments to the FVP act by the Crimes Legislation Amendment Act 2009).

Part 3 of the bill makes procedural amendments to the FVP act, to improve the justice system in respect of family violence victims. The proposed amendments are mainly technical in nature and have been developed to address operational issues. The amendments to the Stalking Intervention Orders Act 2008 mirror those for the FVP act to ensure the two schemes remain in procedural alignment. By improving the effectiveness of family violence intervention orders and notices, the bill will:

> maximise safety for persons who have experienced family violence;
>
> reduce and prevent family violence to the greatest extent possible;
>
> promote the accountability of perpetrators of family violence for their actions.

Human rights issues

Overview

Similarly to the introduction of the FVP act itself, the amendments engage various charter rights. In upholding the rights of victims of family violence, family violence protection orders may limit the rights of others, particularly perpetrators of family violence. The charter rights which may be engaged are: right to privacy and reputation (s.13), protection of families and children (s.17), property rights (s.20), the right to a fair hearing (s.24) and rights in criminal proceedings (s.25). The equivalent provisions in the Stalking Intervention Orders Act will also engage these rights.

The original FVP act itself also engages the rights to freedom of movement (s.12), cultural rights (s.19), right to liberty and security of the person (s.21), humane treatment when deprived of liberty (s.22). However, the amendments in this bill are largely procedural and do not relate directly to those rights. The statement of compatibility for the Family Violence Protection Bill 2008 contains a discussion of those limitations.

Section 13: right to privacy

Section 13 confers a number of rights regarding privacy. Specifically, a person has a right not to have their privacy, family or home unlawfully or arbitrarily interfered with or their reputation unlawfully attacked. Privacy comprises bodily, territorial, communications and information privacy.

Seizure of firearms, ammunitions and objects

Clause 17 of the bill inserts a new section 16(2A), which enables a police officer who has found a firearm or an object that may cause injury or damage or may be used to escape, to issue a direction to surrender the firearm under section 158 of the FVP act or seize the object. Existing section 16 of the act enables police officers to search persons and their possessions in certain circumstances. The new section 16(2A) will operate alongside existing seizure powers in section 158 and the rest of the enforcement powers in Part 7. The new section 16(2A) does not itself authorise seizure of firearms, but ties to the existing surrender power in section 158 of the FVP act.

Clause 17 may engage the right to privacy in enabling seizure of personal property. However, the right to privacy in section 13 is only limited where the interferences with privacy are unlawful or arbitrary.

The interference is in accordance with the provisions, aims and objectives of the charter (particularly section 17, which provides for the protection of children and families) and is reasonable in the circumstances (where the intent is to protect a person from further family violence incidents). It also imposes a number of obligations on police officers, including:

> the person searched must have been subject to a direction, detention or apprehension under the FVP act;
>
> the direction, detention and apprehension power can only be used where the police officer intends to make an application for a family violence intervention order, a variation of an order, or a notice, and where the police officer believes on reasonable grounds that exercise of the power is necessary to ensure the safety of a family member of the person or to preserve any property of the family member;
>
> the police officer may only initiate the search if he or she suspects, on reasonable grounds, that the person has in the person's possession any object that may cause injury or damage or be used to escape.

As a safeguard, existing section 16(3) clarifies that a suspicion that the search would provide evidence of an offence is not by itself sufficient grounds for conducting the search.

For these reasons, the potential interference with the right to privacy is neither unlawful nor arbitrary. Therefore the right to privacy is not limited by the amendments in clause 17.

Search with a warrant

The current section 160 of the FVP act and section 37 of the Stalking Intervention Orders Act provide for a warrant to be issued that authorises the entry and search of premises or a vehicle described in the warrant. Clauses 30 and 38 amend those acts (respectively) to clarify, for the avoidance of doubt, that if a police officer obtains a warrant to search premises, this will include the power to search vehicles on that premises and a separate warrant for the vehicle is not required. This is consistent with other commonly used search warrant powers including section 465 of the Crimes Act 1958. Clauses 31, 32, 39 and 40 extend the provisions which apply in relation to entry to premises under warrant to include entry to vehicles in public places under warrant.

These search powers potentially engage the right to privacy because a vehicle may be part of a person's private or domestic environment, particularly if it is privately owned. However, the right to privacy in section 13 is only limited where the interferences with privacy are unlawful or arbitrary.

The interference with privacy in searching a particular vehicle is not unlawful because the issuing of a search warrant provides a legal basis for the search. The court's role in determining a warrant application provides an independent mechanism to assess whether the proposed interference is justified in the circumstances. Furthermore, the rules with respect to search warrants set out by the Magistrates' Court Act 1989 extend and apply to warrants under the FVP act and the Stalking Intervention Orders Act.

The interference with privacy will not be arbitrary, because the search warrant will only allow a search in specific circumstances and in relation to particular vehicles to limit the interference with the right to privacy. In addition, the amendments are circumscribed in scope and are limited to what is required to enforce the acts in question.

Finally, the amendments will only enable a vehicle to be searched for limited purposes (such as gathering evidence of certain offences), and if specified preconditions are met. Other existing safeguards, in addition to the requirement that the police officer intends to apply for a notice or order against a person (or the person is subject to a notice or order), are the requirement that the officer reasonably believes that the person is committing or is about to commit an offence against the FVP act or Stalking Intervention Orders Act, or is in possession of a firearm, a firearms authority, ammunition or a weapon. The magistrate must also be satisfied of these things.

For these reasons, the potential interference with the right to privacy is neither unlawful nor arbitrary. Therefore the right to privacy is not limited by the amendments in clauses 30, 31, 32, 38, 39 and 40.

Section 17: protection of families and children

Section 17 provides that families must be protected by society and the state.

Clause 18 of the bill amends section 53 of the FVP act to clarify the court's existing power, and specify the procedure, in relation to protecting children on its own initiative. The amendments provide that, before making an interim intervention order, the court must consider whether any children that have been subject to family violence also require protection under the same order. If satisfied that an interim order is necessary, the court can include the child on the interim order of the affected family member or make a separate interim order. These extended provisions are modelled on section 77 of the FVP act, which provides for the protection of children in final orders on the court's own initiative.

This clarification of process is consistent with the protective policy of the FVP act. Sections 91 and 93 of the FVP act already place a requirement on the court to deny contact with a child (even if not the subject of an application) if it is of the belief that a child's safety may otherwise be jeopardised.

Making an interim intervention order for the protection of a child could engage the protection of the family. However, while family unity is an important charter right, it must be balanced with other rights. Section 17(1) of the charter might be qualified by the special right of children to protection in section 17(2) (for example, when children are removed from a situation of family violence). The amendments are an appropriate balance between the protection of the family unit (section 17(1)), the protection of the rights of family members to life (section 9) and security (section 21) and the entitlement of children to such protection as is in their best interests (section 17(2)). In addition, the respondent retains the right to seek leave to make an application to vary the interim order, and there are not lengthy delays between an ex parte hearing and a mention date.

Section 20: property rights

Section 20 establishes a right not to be deprived of property other than in accordance with law.

Seizure of weapons

As discussed in relation to the right to privacy, clause 17 amends section 16 of the FVP act in relation to seizure powers and firearms, weapons, ammunition or objects which may be used to cause injury or damage or be used to escape.

Any deprivation of property is specifically tied to the possibility of causing injury or damage or allowing escape, and is not arbitrary. It has the legitimate objective of the protection of a protected person as well as other family members. In addition, the existing protections in sections 164 and 165 of the FVP act apply.

Given the seriousness of the context in which the power to seize objects may be used, and the safeguards which provide for the return of the property, any limitation on the property rights is rational and proportionate to its purpose.

Search of vehicles

Property rights may be limited by the amendment which clarifies that the power to search premises includes vehicles on those premises. Clauses 30, 31, 32, 38, 39 and 40 are discussed above in relation to the right to privacy. The existing section 160 of the FVP act and section 37 of the Stalking Intervention Orders Act provide for a warrant to be issued, that authorises the entry and search of particular premises or a vehicle. The amendments clarify, for the avoidance of doubt, that if a police officer obtains a warrant to search premises, this includes the power to search vehicles on the premises and a separate warrant for the vehicle is not required.

The legitimate objective of the provisions is to enable police to protect persons and children of a respondent by removing a respondent's access to possible weapons. Any limitation on property rights caused by these powers is justified because it balances the protected persons' rights to life (section 9), protection from torture and cruel, inhuman or degrading treatment (section 10), and to liberty and security of the person (section 21).

As noted in relation to privacy rights, the search powers are also subject to safeguards in addition to the requirement that the police officer intends to apply for a notice or order against a person (or the person is subject to a notice or order): the requirement of a warrant, the requirement that the police officer reasonably believes that the person is committing or is about to commit an offence under the FVP act or Stalking Intervention Orders Act, or is in possession of a firearm, a firearms authority, ammunition or a weapon and the

requirement for the magistrate to be satisfied of the same matters.

For these reasons, the amendments are in accordance with the law. Therefore the right not to be deprived of property other than in accordance with law is not limited by the amendments in clauses 30, 31, 32, 38, 39 and 40.

Section 24: right to a fair hearing

Section 24 guarantees the right to a fair and public hearing. The right to a fair hearing applies in both civil and criminal proceedings and in courts and tribunals. The requirement to a fair hearing applies to all stages in proceedings and applies in relation to proceedings in any Victorian court or tribunal.

The purpose of the right to a fair hearing is to ensure the proper administration of justice. This right is concerned with procedural fairness (that is, the right of a party to be heard and to respond to any allegations made against them, and the requirement that the court or tribunal be unbiased, independent and impartial) rather than the substantive fairness of a decision or judgement of a court or tribunal (that is, the merits of the decision).

Clause 19 engages the right to fair hearing by extending the proceedings in which certified evidence can be used. The act already provides for the use of certified evidence in proceedings including applications for warrants, and for final orders. This is a robust form of evidence, subject to significant penalty for falsification. However, the act does not allow this evidence in interim proceedings, as section 55 currently requires either oral evidence or affidavit. The amendment provides for the policy intention that a notice, certified by a police officer, can be evidence to support an interim order being made.

This amendment is consistent with the current evidentiary provisions in the act. The court is not bound by rules of evidence in proceedings for a family violence intervention order, in recognition of the unique context of family violence and the difficulties that can exist in formal corroboration. The court may refuse, or limit the use of, any evidence if satisfied that it is just and equitable to admit such evidence, and that the probative value of the evidence is not substantially outweighed by the danger that the evidence might be unfairly prejudicial to a party, or misleading or confusing. If the court's discretion to refuse a certified notice as evidence is enlivened, the amendments require the court to consider whether oral evidence or an affidavit is reasonably practically available.

A person will continue to have the proceeding decided by a competent, independent and impartial court after a fair and public hearing. The order itself is of limited duration, ceasing to have effect as soon as the application is finally determined.

In view of the above, the amendments may engage but do not limit the right to fair hearing.

Including children in interim orders

The protections in section 24 of the charter may also be engaged by clause 18 of the bill, discussed above in relation to section 17 of the charter. The statement of compatibility in respect of the Family Violence Protection Bill 2008 discussed the nature of this limitation in some detail in respect of the similar provision in section 77 of the act. It is not necessary to repeat the detailed analysis contained in that statement of compatibility. This statement focuses on the limitation imposed by clause 18, which clarifies the court's power to protect a child on its own initiative and specifies the procedure for doing so, and the reasons for my opinion that any limitation is reasonable and demonstrably justified in the terms of section 7(2) of the charter:

(a) The importance and purpose of the limitation

The purpose of the provision is to protect an affected child from family violence as swiftly as possible. This is particularly important in the context of family violence. The amendment also promotes the right to life (section 9 of the charter) which arguably imposes a positive obligation on public authorities, including Victoria Police, to protect the lives of children in certain circumstances.

(b) The nature and extent of the limitation

The limitation is confined because the duration of an interim order is limited. The order ceases to have effect as soon as the application is finally determined, which is likely to occur within a short period of time. In addition, the respondent retains the right to seek leave to make an application to vary the interim order, and there are not lengthy delays between an ex parte hearing and a mention date.

Further safeguards are that an application must be served on a respondent as soon as practicable after the application is made (section 48 of the FVP act) so the respondent knows proceedings will be on foot. If the application is made by a notice, the police officer who serves it is required to give an oral explanation of the consequences of not attending court (section 35), and the notice itself contains a written warning as to the consequences of not attending the hearing (including the court's powers to protect children who are not named in the application).

(c) The relationship between the limitation and its purpose

The purpose of the limitation is to ensure that the FVP act operates effectively and protects children from family violence.

(d) Any less restrictive means available

There are no less restrictive means available to achieve the purpose. The limitation only applies where the court is satisfied that an order is necessary to protect a child from family violence.

Given the importance of the context in which such orders are made, and the safeguards referred to above, any limitation on the rights in criminal proceedings is reasonable and proportionate to its purpose.

Amendments to the Children, Youth and Families Act 2005 and the Infringements Act 2006

Overview of amendments

New provisions in the Children, Youth and Families Act reduce the time limit for commencing a proceeding for a summary offence in the Children's Court from 12 months to 6 months, unless the court orders an extension or the parties agree.

Part 4 of the bill amends the Children, Youth and Families Act to allow enforcement agencies to commence proceedings outside the six-month time limit in certain circumstances where an infringement notice has been served on a child.

This amendment overcomes the possibility that enforcement agencies will prosecute a matter in court to meet the shorter time periods, rather than registering unpaid infringements with the children and young persons infringement notice system (known as CAYPINS). It is designed to ensure that the CAYPINS system can continue to operate effectively. The amendment will ensure that enforcement agencies are able to register an infringement notice for a summary offence with CAYPINS and if the matter is not resolved still have sufficient time to commence proceedings in court.

The CAYPINS system involves greater discretion and flexibility than the adult system, taking into account a child's personal and financial circumstances. It also allows young people with outstanding infringements to avoid a finding of guilt. In this way, the system promotes the right in section 25(3) that a child charged with a criminal offence has the right to a procedure that takes account of his or her age and the desirability of promoting the child's rehabilitation.

Part 4 also makes similar amendments to the Infringements Act to include a new section 40AA. This new section provides for an extension of time in respect of summary proceedings being commenced in the Children's Court where a child elects to have the matter heard in the Children's Court or an enforcement agency withdraws an infringement notice for the matter to be dealt with in the Children's Court.

Part 4 of the bill raises the right of an accused child to be brought to trial 'as quickly as possible'. Part 4 does not limit this right because a child can elect to have the matter dealt with in court when they first receive an infringement notice. The purpose of part 4 is to facilitate an alternative process that is tailored to the needs of children whereby a child can avoid being dealt with in court.

The transitional provision for part 4 applies to infringement offences that are summary offences alleged to have been committed on or after 1 January 2010 and not more than six months before the commencement of part 4. Where the enforcement agency or the child elects to proceed to have a matter heard in open court, from 1 January 2010 the six-month time limit to commence proceedings in section 344A of the Children, Youth and Families Act 2005 will apply.

The transitional provision extends the time within which a proceeding may be commenced for an infringement offence, but it does not apply where the offence is alleged to have been committed more than six months before the commencement of part 4. As a result, the bill does not permit an extension of time to commence a proceeding where the time for commencing a proceeding has already expired under section 344A of the Children, Youth and Families Act 2005. Part 4 therefore does not apply retrospectively.

Amendments to the Liquor Control Reform Act 1998 and the Summary Offences Act 1966

Overview of amendments

Amendments to the Summary Offences Act 1966 increase the maximum penalties for the offences of drunk in a public place (section 13), drunk and disorderly in a public place (section 14) and behaving in a disorderly manner (section 17A). Amendments to that act also increase the infringement penalty amounts for those offences and for the offence under section 17(1)(d) of riotous, indecent, offensive or insulting behaviour.

An amendment to the Liquor Control Reform Act 1998 increases the infringement penalty amount for the offence under section 114(2) of a person who is drunk, violent or quarrelsome refusing or failing to leave licensed premises if requested to do so by a licensee, a permittee or a member of the police force. A further amendment to that act increases the maximum period for which a banning notice may operate from a maximum of 24 to a maximum of 72 hours.

Human rights issues

The amendments to the Summary Offences Act 1966 in relation to maximum penalties and infringement penalty amounts for certain offences and the amendment to the Liquor Control Reform Act 1998 to increase the infringement penalty amount for the offence under section 114(2) of that act do not engage or limit any rights in the charter.

Clause 49 amends the Liquor Control Reform Act 1998 to increase the maximum period for which a banning notice may be given; this engages the charter right to freedom of movement.

Section 12: freedom of movement

The issuing of a banning notice by police for a period not exceeding 72 hours imposes limitations upon an individual's right to move freely within Victoria, as protected by section 12 of the charter. However, the limitation is reasonable and justifiable under section 7(2) of the charter.

(a) The nature of the right being limited

The right to move freely within Victoria is one that can be subject to restrictions. The International Covenant on Civil and Political Rights expressly recognises that the right may be subject to restrictions that are necessary to protect public order, public health or morals or the rights and freedoms of others.

(b) The importance of the purpose of the limitation

The purpose of banning notices is to reduce alcohol-related violence and disorder. The notices are aimed at protecting public order and the rights and freedoms of others, including the right to life in section 9, the right to privacy in section 13, the rights in respect of property in section 20 and the right to liberty and security of the person in section 21 of the charter.

(c) The nature and extent of the limitation

Banning notices impose restrictions upon a person entering a designated area or licensed premises within a designated area for a maximum period, not exceeding 72 hours. Clause 49 of the bill amends section 148B of the Liquor Control Reform Act to extend the maximum period for which a banning notice may be made from 24 to 72 hours. There are a number of existing safeguards in part 8A of the Liquor Control Reform Act, governing banning notices and exclusion orders, which remain unaffected by the amendment.

For example, the director of liquor licensing may only declare designated areas if the director believes that alcohol-related violence or disorder has occurred in the immediate vicinity of

licensed premises in the area and that the giving of banning notices is likely to be an effective means of reducing alcohol-related violence or disorder in the area. To date, the director has designated 11 separate and relatively confined areas across Victoria.

A police member can give a banning notice in respect of the entire designated area, or only in respect of licensed premises in the area and the ban must not exceed 72 hours but can certainly be for a period less than the maximum. Further, the member must take a number of factors into account in determining whether to give a notice.

Section 148B(6) of the Liquor Control Reform Act prohibits the giving of a banning notice in respect of the designated area if the police member believes or has reasonable grounds for believing that the person lives or works in the designated area. In those circumstances, a notice can only ban the person from the licensed premises in the designated area. Section 148B(7) of the act ensures that this more limited notice cannot affect the person's ability to work or to live where they choose, by providing that if the person lives or works in licensed premises in the designated area, the banning notice does not prevent him or her from entering those premises.

Section 148E of the act enables variation or revocation of a banning notice by a relevant police member above the rank of sergeant. Additionally, a banning notice may only be given by a 'relevant police member', with the intention such notices will only be given by members who have received training in liquor licensing and who have the appropriate authorisation.

(d) The relationship between the limitation and its purpose

The limitation imposed on freedom of movement is directly and rationally connected with the purpose of the provisions under part 8A of the Liquor Control Reform Act in relation to banning notices.

Banning notices can only be made where:

an area has been designated by the director and, accordingly, where the director believes that alcohol-related violence or disorder has occurred in the immediate vicinity of licensed premises in the area and that the giving of banning notices and/or exclusion orders is likely to be an effective means of reducing alcohol-related violence or disorder in the area;

the police member suspects on reasonable grounds that a person is committing or has committed a specified offence wholly or partly in a designated area;

the police member believes on reasonable grounds that the giving of the notice may be effective in preventing the person from continuing to commit the specified offence or committing a further specified offence;

the police member considers that the offence or further offence may involve or give rise to a risk of violence or disorder in the designated area.

(e) Less restrictive means reasonably available to achieve the purpose

Any less restrictive means would not achieve the purposes of the provisions as effectively. The extension of the maximum duration for which a banning notice may be made, to 72 hours, is reasonable and appropriate as there have been a number of people to whom police have had to give a banning notice on multiple occasions. Police have used the banning notice system effectively since its inception; however, its efficacy can be enhanced through enabling police, in appropriate circumstances, to give notices of a significantly longer duration. The amendment is intended to increase the deterrent effect of banning notices, reduce the incidence of alcohol-related violence and disorder and, consequently, enhance public safety. Given the importance of protecting public order and the rights and freedoms of others, and having regard to the safeguards that are and will continue to be in place as referred to above, any limitation on the right to freedom of movement is reasonable and proportionate to its purpose.

Conclusion

I consider that the bill is compatible with the charter because, to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Justin Madden, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Background

The Justice Legislation Amendment (Victims of Crime Assistance and Other Matters) Bill 2010 gives effect to three main objectives, which are part of the commitments I made in the Justice Statement 2 (2008) to:

review victims' compensation;

improve the processes for making a victim impact statement;

evaluate and build on law reforms and services for victims of sexual assault and family violence.

The bill also provides for certain matters in respect of infringement notices and children, and provisions related to liquor and disorderly conduct.

The bill will improve the operational effectiveness of the Victims of Crime Assistance Tribunal (VOCAT), give victims greater flexibility in presenting their victim impact statement, and make procedural improvements to the family violence protection scheme (with parallel changes to the stalking intervention scheme).

This government has made significant progress in improving the protection and support of victims of crime. In 2006, Victoria became the first state in Australia to enact an

independent victims charter. The government further sought to protect and support victims through the implementation of the Family Violence Protection Act 2008 and the Stalking Intervention Orders Act 2008.

The bill recognises the importance of engaging victims in the justice system, by enhancing and improving court procedures to assist the recovery of victims of crime and facilitate access to awards of assistance.

Additionally, the bill increases maximum penalties and infringement penalties for certain drunkenness and public disorder offences under the Summary Offences Act 1966 and the Liquor Control Reform Act 1998 and increases the maximum period for which a banning notice may be given under the Liquor Control Reform Act.

Victim impact statement amendments

Part 2 of the bill amends the Sentencing Act 1991 and Children, Youth and Families Act 2005 in order to:

clarify that a victim, or their chosen representative with the court's approval, may read their victim impact statement aloud in court;

clarify that a statement may include non-written and other material;

provide court discretion to allow alternative arrangements for reading statements or giving evidence by victims and witnesses in relation to the statements;

update the definition of 'victim' in the Children, Youth and Families Act for consistency with the Sentencing Act.

These amendments arise from the recommendations of the Victims Support Agency's report: victim's voice — an evaluation of victim impact statements in Victoria, which I launched in October 2009. The report highlighted the powerful restorative value for some victims in being able to include non-written material with their victim impact statement, such as pictures, and in being able to read their own statement aloud in court.

These amendments are made in the context of, and consistent with, existing provisions. Victim impact statements are made by statutory declaration, or statutory declaration and sworn evidence, following a finding of guilt or a conviction, and may be taken into account during sentencing. The statement may contain particulars of the impact of the offence on the victim, including any injury, loss or damage suffered by the victim as a direct result of the offence. The court may rule as inadmissible any part of the statement.

Victims are also given the important right to nominate another person to read the statement on their behalf, such as a friend or family member, where the victim feels unable to read their statement personally. This right should be respected wherever possible and appropriate. The amendments provide for courts to ensure a fair sentencing hearing, by giving direction to a victim on which parts of a statement are admissible, and having discretion on giving approval for a victim's representative to read out the statement.

The victim or their representative needs to be available during the sentencing hearing to ensure they have the opportunity to read out a statement, as otherwise the court's general discretion on adjournments will apply. The victim support agency is undertaking preparation and discussion with courts and stakeholders to ensure that victims who wish to make or read statements understand the nature of the material that can be included, and how to exercise their rights to participate in this important part of the sentencing process.

The report also noted the importance of affected family members of victims being able to make a victim impact statement. The bill does not explicitly provide for this, as the broad definitions of victim in the Sentencing Act and Children, Youth and Families Act already allow for the intention that appropriate people, including affected family members of the person who suffered the offence, can make a victim impact statement in their own right. This recognises the longstanding position that victim impact statements may include statements from affected family members, particularly those impacted by terrible crimes such as parents of children who have been sexually assaulted or relatives of deceased victims. It is critical that victims such as these can make their statements to the court if they wish to.

The Criminal Procedure Act 2009 provides protections for particular categories of vulnerable victims when giving evidence, for example allowing evidence to be given by closed-circuit television. The bill extends these protections, at the court's discretion, to victims and witnesses in relation to a victim impact statement.

VOCAT amendments

Part 2 of the bill also amends the Victims of Crime Assistance Act 1996 to:

allow the Chief Magistrate to delegate powers to judicial registrars, with an appropriate review mechanism;

create a new assistance award category of safety-related expenses.

The Victims of Crime Assistance Tribunal (VOCAT) sits in the Magistrates Court and applications are determined by magistrates sitting as tribunal members. Last financial year, VOCAT granted financial awards to more than 3500 victims totalling over $38 million.

The VOCA act provides an existing, but limited, delegation power in relation to registrars of VOCAT. The bill's amendments enable the Chief Magistrate to delegate some or any of the powers of VOCAT to judicial registrars, other than the powers of review or delegation. The proven success of judicial registrars in the Magistrates Court in expediting access to justice will now be available to VOCAT. The amendment will help address the growth in demand for VOCAT services, with judicial registrars exercising the powers of VOCAT in matters the Chief Magistrate considers appropriate. This helps victims access the funds they need to facilitate their recovery from the adverse effects of crime. The amendments include appropriate rights of review drawn from the Magistrates' Court Act 1989. An applicant may use the existing review provisions to seek further review of the final determination at the Victorian Civil and Administrative Tribunal.

VOCAT awards assistance under particular categories. There is no safety-related expenses category, and VOCAT currently awards safety-related expenses to victims of crime under the category for other expenses to assist recovery in 'exceptional circumstances'. These expenses assist, for example, a victim

of domestic violence to replace a door lock to prevent an abusive spouse returning to commit further violent acts in future, or assist with the relocation of a victim. However, the 'exceptional circumstances' requirement typically means the safety-related awards are delayed until the final determination is made, rather than be awarded partially or in full as an interim measure when they are most needed.

The amendment inserts a specific award category for reasonable safety-related expenses arising as a direct result of the offence. This will enable victims of violent crime to access assistance for security measures and help prevent further victimisation. It will also facilitate access to urgent assistance through VOCAT's capacity to provide awards on an interim determination.

Improving measures to assist victims of crime with their recovery is another demonstration of this government's commitment to supporting and protecting victims.

Family violence and stalking intervention order amendments

Part 3 of the bill amends the Family Violence Protection Act and Stalking Intervention Orders Act. The Family Violence Protection Act has been in operation for over a year and is working well. The amendments are for the most part technical and operational and will further streamline the functioning of the intervention order scheme. The consequential amendments to the Stalking Intervention Orders Act mirror the changes to Family Violence Protection Act, to maintain procedural parity between the two intervention order systems.

The substantive amendments to the Family Violence Protection Act will:

clarify existing police search powers to include appropriate seizure powers;

enable the court to include a child as a protected person on an interim intervention order on its own initiative, consistent with the court's current powers in respect of final orders;

enable the court to base interim orders on family violence safety notices (notices), which are certified by police officers.

The current provision for interim orders requires oral evidence or an affidavit. This is inconsistent with other important proceedings in the Family Violence Protection Act, which allow for the use of certified evidence, and is undermining protections for victims of family violence. This amendment promotes the effective use of resources, as the notice already serves as a detailed multi-page application for an interim order. The amendment is also consistent with existing provisions which provide that a court can make an interim order where a notice has been issued and the court is satisfied that interim protection should continue. These notices include a significant penalty for any falsification. The bill provides that if the court's existing discretion in relation to refusing evidence, based on equity or probative value, is enlivened in a particular case, the court must consider the reasonable practicality of obtaining oral evidence or affidavit evidence. While notices are sufficient evidence in all but a very small number of cases, this amendment acknowledges that a deficient notice should lead to consideration of whether other evidence is reasonably practically available.

Miscellaneous procedural amendments to the Family Violence Protection Act will clarify processes and procedures in relation to:

the power of the Children's Court to order an assessment of a respondent or family member if the person consents;

the use of interim orders to extend final orders in specified situations;

joint hearings of stalking intervention orders and family violence intervention orders applications where appropriate;

the power of the Children's Court to revoke or vary a family violence intervention order where a child is a party to an intervention order as either a respondent or a protected person;

applications for warrants to search premises including vehicles that are on those premises.

Equivalent amendments are made to the Stalking Intervention Orders Act in relation to warrants for the search of premises and vehicles.

Children and young persons infringement notice system amendments

New provisions in the Children, Youth and Families Act reduce the time limit for commencing a proceeding for a summary offence in the Children's Court from 12 months to 6 months, unless the court orders an extension or the parties agree.

The bill amends the Children, Youth and Families Act to allow enforcement agencies to commence proceedings outside the six-month time limit in certain circumstances where an infringement notice has been served on a child.

In cases where an infringement notice has been served, an enforcement agency can register an unpaid infringement with the children and young persons infringement notice system (known as CAYPINS). CAYPINS provides a process by which the child can resolve or dispute the infringement without proceeding to court.

The amendment will ensure that enforcement agencies are able to register an infringement notice with CAYPINS and if the matter is not resolved still have sufficient time to commence proceedings in court.

Summary Offences Act 1966 and Liquor Control Reform Act 1998 amendments

Finally, the bill makes amendments to the Summary Offences Act 1966 and Liquor Control Reform Act 1998 to double specified maximum and infringement penalties for drunkenness and public disorder offences and increase the maximum possible duration of banning notices from designated areas or licensed premises from 24 hours to 72 hours. The government considers these forms of behaviour in public places to be unacceptable, and is introducing these robust measures to reduce the incidence of the offending and facilitate the ongoing effective use of banning notice powers subject to the existing safeguards. The government is determined to maintain a safe environment for the community

to enjoy Victoria's excellent entertainment precincts and public places.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 22 April.

MEMBERS OF PARLIAMENT (STANDARDS) BILL

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

Mr LENDERS (Treasurer) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (charter), I make this statement of compatibility with respect to the Members of Parliament (Standards) Bill 2010.

In my opinion, the Members of Parliament (Standards) Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the Members of Parliament (Standards) Bill 2010 ('the bill') is to replace the Members of Parliament (Register of Interests) Act 1978 (Vic), and establish standards for members of Parliament (members) that reflect contemporary circumstances and community expectations.

Specifically, the bill proposes to:

(a) promote public trust and confidence in members;

(b) set out a new code of conduct for members;

(c) establish a new register of members' interests for members, requiring them to declare any personal interests which may, or may be perceived to, conflict with their public duties; and

(d) repeal the Members of Parliament (Register of Interests) Act 1978.

Human rights issues

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

The bill engages four of the human rights provided for in the charter.

Section 13(a): privacy

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided that it is permitted by law, is certain, and is appropriately circumscribed. Interference will not be arbitrary provided that the restrictions on privacy are in accordance with the objectives of the charter and are reasonable, given the circumstances.

Three sections in the proposed bill engage the right. In each instance the purpose of the limitation on the right is to prevent the potential for conflicts of interest between members' private interests and their public duties and to promote public trust and confidence in members. In particular:

(a) the proposed section 8(1) engages the right to privacy as it requires that a member must declare any actual and perceived conflicts of interest;

(b) the proposed part 4 — Register of interests engages the right to privacy as it requires that a member submit a return disclosing, in defined circumstances, information about the following: source of any income; any corporation, partnership or other body in which the member holds a beneficial interest or office; beneficial interest in land; personal debt; a trust in which the member holds a beneficial interest; the name of an estate of which the member is appointed as executor and holds a beneficial interest; gifts received, and travel outside Victoria funded by another person. The register also engages the right by requiring a member to disclose information about a member's membership of an organisation, or any interest where a conflict of interest could arise, or reasonably be seen to arise, because of that interest;

(c) the proposed part 5 — General provides that any wilful contravention of the requirements of the bill by any person shall be a contempt of the Parliament and may be dealt with accordingly, including the imposition of a fine not exceeding 35 penalty units.

The interference with privacy in these circumstances is not unlawful or arbitrary. Rather, the requirement to declare any perceived and actual conflict of interest, or private information, is clear and circumscribed. The type of information required to be declared by members is limited to that which is necessary to determine if their interests conflict with their public duties.

In addition, the scope of the information required to be declared by members is narrower in the bill than the current act. Given this, the limitations in the bill are less onerous than those in the current act while still achieving their purpose.

For the reasons stated, I consider that none of the proposed sections provide for the unlawful or arbitrary interference with privacy and there is therefore no limitation on the right to privacy under section 13 of the charter.

Section 15: freedom of expression

Sections 26(3) and 28 engage the right as they regulate what a person can say, write or communicate about information entered in the register of interests. Section 26(3) specifically prohibits the Clerk from making a record of, divulging or communicating information from the register of members' interests. In addition, section 28 creates conditions on a person's freedom to publish information derived from the register.

The right to freedom of expression is also subject to a specific limitation in the charter. Section 15(3) of the charter specifically recognises that there are special duties and responsibilities that attach to the right. Sections 26(3) and 28 impose responsibilities reasonably necessary to preserve the privacy of information disclosed by members. The limitation is provided for by the bill and is therefore lawful.

Section 16: freedom of association

Sections 8(1), 19(e), 19(j), 20(g) and 20(l) of the bill limit the right to freedom of association and are discussed in part 2 of this statement.

Section 18: taking part in public life

Part 3, part 4 and part 5 of the bill limit the right to take part in public life and are discussed in part 2 of this statement.

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

Section 16: freedom of association

Section 16 of the charter provides that every person has the right to freedom of association with others. This right protects the right of all persons voluntarily to group together for a common goal. It applies to all forms of association.

(a) The nature of the right being limited

The right to free association reflects the freedom of a society, and is essential to the exercise of other human rights, such as freedoms of movement, expression, religion and belief. The right is particularly important in a free and democratic society to ensure that a person's eligibility to participate in elections for public office is not restricted unjustifiably on the grounds of their membership of an association.

However, the right is not absolute and can be subject to reasonable limitations in section 7 of the charter.

(b) The importance of the purpose of the limitation

The purpose of the limitations is to prevent actual or perceived conflicts of interest arising between a member's activities outside of Parliament and the fulfilment of their public duties.

(c) The nature and extent of the limitation

Section 10 of the bill provides that members may engage in employment, business and community activities outside of the Parliament but that they must avoid any actual or perceived conflicts of interest that might arise from those activities, including where the activities compromise the member's ability to fulfil his or her public duties. The section also provides that members who are ministers should not partake in outside employment.

Section 10 limits the right to freedom of association in two ways. It prohibits membership of groups and associations in particular circumstances. It also creates a disincentive to assume or continue association with an organisation where it may create a real or perceived conflict of interest.

Sections 19(e), 19(j), 20(g) and 20(l) require that a member who holds office in any company or other organisation must declare details of the organisation and describe the office held by the member. Members must also disclose membership of any other organisation of which they are a member or associated if a conflict of interest could arise or reasonably be seen to arise. These sections limit the right to freedom of association as they require a person to disclose membership of a group or association, creating a potential disincentive to assuming or continuing to associate with the organisation.

(d) The relationship between the limitation and its purpose

The limitations on the right are direct, proportionate and balanced with both the needs of the state and the purpose of promoting public trust and confidence in members of Parliament. The purpose of the limitation is to enhance the integrity of Victoria's system of representative democracy which the charter seeks to protect and promote.

The limitations are reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

(e) Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) any other relevant factors

There are no other relevant factors to be considered.

Section 18: taking part in public life

(a) The nature of the right being limited

The right to take part in public life protects the right to participate in public affairs, the right to vote in genuine, periodic and free elections and the right to have access to the public service and office. In particular, the right to stand for election ensures that eligible voters have a free choice of candidates in an election, fundamental to democratic principles, and that a person is able to fully participate in public life. However, the right to take part in public life is not absolute and may be subject to reasonable limitations.

(b) The importance of the purpose of the limitation

The proposal to require members to observe prescribed behaviours and to register relevant interests recognises that there are standards that are required of people who hold public office, including that they avoid conflicts of interest, and that the community is entitled to be represented by people who will properly perform their duties as members of Parliament.

(c) The nature and extent of the limitation

Part 3 imposes on members an obligation to observe prescribed behaviour when carrying out their public duties and to disclose conflicts of interest.

Part 4 imposes on members an obligation to disclose certain financial information as well as the offices they hold.

Part 5 provides that any wilful contravention of the requirements of the proposed act shall be contempt of the Parliament and may be dealt with accordingly, including the imposition of a fine not exceeding 35 penalty units.

The proposed sections do not affect the eligibility of persons to stand for election to the Victorian Parliament. However, the proposed sections may have the effect of creating a disincentive for seeking membership of Parliament where a person is unwilling, or thinks it disadvantageous, to meet the obligations of the bill. To this extent, the sections limit a person's right to take part in public life.

(d) The relationship between the limitation and its purpose

There is a direct and proportionate relationship between the nature of the limitation and the purpose of promoting public trust and confidence in members. The limitation achieves a balance between preserving the right of persons to take part in public life and promoting public trust and confidence in members of Parliament.

(e) Any less restrictive means reasonably available to achieve its purpose

There are no less restrictive means reasonably available to achieve the intended purposes.

(f) Any other relevant factors

None.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, although it does limit human rights, the limitations are reasonable and proportionate.

John Lenders, MLC
Treasurer

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This government is committed to increasing the accountability and transparency of government and the Parliament. This includes increasing the transparency of the dealings of elected representatives, and upholding the standards rightly expected of us by the public.

The bill before the house, namely, the Members of Parliament (Standards) Bill 2010, will continue this government's strong record of enhancing accountability and democracy in this state. This legislation builds on a raft of reforms that the government has already introduced including:

reforms to the Victorian Parliament including a longer, more effective question time, more sitting days and regular opportunities for matters of public importance;

reforming Victoria's electoral processes to provide a smaller, more effective Parliament, proportional representation and four-year terms for the Legislative Council;

live webcasting of Parliament;

strengthening the role of independent office-holders such as the Ombudsman, Auditor-General and Director of Public Prosecutions and entrenching their independence in the constitution;

establishing a regime to protect whistleblowers who make disclosure about public officials engaging in improper conduct;

creating a framework to ensure good governance and ethical behaviour across the Victorian public sector;

tabling an annual statement of legislative intent;

making the government board appointment process more transparent;

creating the Office of Police Integrity to create a corruption-resistant Victoria Police; and

establishing the Local Government Investigations and Compliance Inspectorate to investigate alleged breaches of the Local Government Act.

The bill will repeal the Members of Parliament (Register of Interests) Act 1978 and introduce a new act, the intention of which is to promote public trust and confidence in members of Parliament. The current act has served Victoria well; however, it is now out of date and in need of reform. The role and responsibilities of parliamentarians have changed substantially since 1978, as has the public's expectations of MPs. In addition, members of Parliament are now subject to greater scrutiny through the media and other institutions. At the same time, there is more concern for the personal privacy and security of public figures and their families. It is therefore an opportune time to review our parliamentary standards, and strengthen them in line with community expectations and the reality of being a modern parliamentarian.

In 2008, the government accepted a recommendation of the Public Accounts and Estimates Committee that the act be reviewed, and in 2009 the Law Reform Committee undertook a comprehensive review of the act. The Law Reform Committee consulted with and sought advice from people inside and outside the Parliament: current and former members of Parliament, parliamentary officials, political scientists, ethicists and community organisations. It also looked at other parliaments in Australia and overseas to learn from their experiences.

The committee tabled its report on 9 December 2009. The committee reported that overall, it believed that the concepts in the current act are still fundamentally sound, but the act is showing its age and has fallen behind best practice in some areas. The committee made 35 recommendations designed to strengthen the act so that it promotes high standards well into the future. The committee's recommendations were intended to build capacity and skills amongst members of Parliament

to deal with ethical challenges, and to ensure that Parliament upholds its standards when issues arise.

This bill reflects many of the Law Reform Committee's recommendations. On behalf of the government I thank the chair and members of the committee for the valuable contribution they have made to the development of the bill.

The main elements of the bill are a statement of values, a substantially revised and improved code of conduct, and an extended register of interests.

I will deal with each of these areas in turn.

1. The statement of values

The statement of values in the bill provides an aspirational framework. It is designed to build ethical capacity amongst members. Members should demonstrate the following values in carrying out their public duties:

serving the public interest;

upholding democracy;

integrity;

accountability;

respect for diversity of views and backgrounds within the Victorian community;

diligence; and

leadership.

These values are behaviours that members should seek to embody and promote.

2. The code of conduct

The code of conduct provides guidance and rules regarding acceptable and unacceptable conduct, and is a model of best practice values and behaviours. While a code cannot guarantee ethical conduct, it can increase awareness of ethical behaviours and expectations.

The code of conduct also provides the community with information on what it should expect of its elected representatives, and a means by which members can be held to account. Unlike the statement of values, members may be sanctioned for not adhering to the code of conduct. I will refer to these sanctions again later.

The current act contains a code of conduct; however, it is fairly brief and focuses on the potential for conflicts of interest. The new code in the bill provides greater clarity on what constitutes a conflict of interest, as well as addressing broader issues such as the use of public resources and handling personal information. The code also sets out the manner in which a member can demonstrate the values I referred to earlier.

The rules in the bill's code of conduct are broad ranging, and I will just outline a selection today. Under the revised code, members of Parliament will be expected to make the performance of their public duties their prime responsibility. They must exercise reasonable care and diligence in performing their duties and submit themselves to the lawful scrutiny appropriate to their office. Members will be expected to treat all persons with respect and have due regard for their opinions, beliefs, rights and responsibilities. This is a new rule which concords with the importance this government has placed on respect for human rights in the community.

Members must avoid actual and perceived conflicts of interest between their public duties and private interests. A member has a conflict of interest if the member participates or makes a decision as part of their duties which furthers their own private interests or the private interests of their family, a corporation with which they are involved, a creditor or debtor of the member, or someone who has donated a gift to the member. This latter group of associates is defined in the bill as being a 'prescribed person'. Members must declare any actual or perceived conflict of interest when speaking in parliamentary proceedings, including the proceedings of parliamentary committees. Declaring such conflicts of interest is vital to the transparency of parliamentary business, and the bill promotes this as expected and important ethical behaviour.

Members of Parliament must not receive a fee, payment, retainer or reward as a result of their position as a member, other than parliamentary salaries and allowances. While engagement in employment, business and community activities outside the Parliament is not proscribed, members must avoid any real or perceived conflict of interest which may interfere with their primary responsibility to the public. A higher standard is expected of ministers, who must not be employed outside the Parliament, as they are expected to devote their professional capacity entirely to fulfilling their public duties.

Members must exercise their influence as members responsibly and must not use their influence to improperly further their own interests or the interests of a prescribed person. Members must comply with appropriate rules regarding use of parliamentary allowances and facilities. They must use all public funds and resources provided to them as members responsibly and only for legitimate purposes. This is another new provision which reinforces and enshrines the proper and appropriate standards expected of us as parliamentarians.

Under the bill, members are required to act with honesty and integrity in all official dealings and must be fair, objective and courteous in their dealings with the community and colleagues. They must not use confidential information gained in the performance of their public duties for personal gain. This new provision is important to ensure that members respect the privacy of information they receive in the course of their public duties. The public is certainly entitled to expect that their private information is treated with sensitivity and respect.

It is entirely fair and reasonable that the community expects us to demonstrate and adhere to such standards of behaviour. It is a privilege to serve as a member of the Victorian Parliament, and this code will aid current and future members in upholding the dignity and integrity of the office.

3. The register of interests

Registers of interest have now become a standard feature of integrity regimes. They create transparency by requiring members to declare interests which have the potential to conflict with their public duties. Like the code of conduct, the

register of interests in the current act has generally worked well; however, there is room for improvement.

This bill will initiate a series of changes, largely based around the types and extent of information required to be registered. An important consideration in developing such disclosure regimes is the need to balance adequate disclosure with privacy for members and their families. The government believes this bill strikes the right balance between public interests and private rights.

The bill will require members to declare a range of interests in the register. In essence, particular details of the following interests will need to be disclosed:

outside income;

investments;

atypical debts;

gifts and contributions to travel outside of Victoria;

estates;

offices held;

trusts (including family trusts);

memberships considered a potential conflict of interest;

land; and

any other interests where a conflict of interest could arise or could reasonably be seen to arise.

Members will be required to declare outside income, investments, land and debts if they are valued at more than $2000. This threshold will be indexed and rounded to the nearest $500. Gifts and travel contributions over $500 will need to be declared. This threshold will be indexed and rounded to the nearest $100. Gifts and travel contributions provided by family are exempt from disclosure. The Law Reform Committee recommended that such benefits provided by friends in a purely personal capacity should also be exempt from disclosure; however, in the interests of greater openness and transparency, the bill provides that gifts provided by friends must be disclosed if over the threshold amount.

As recommended by the Law Reform Committee, if members receive a number of gifts from the same source which are valued below the disclosure threshold, they will be required to declare them if the aggregate total of the gifts is above the threshold. Members will not be required to register official hospitality, which is hospitality received as part of the regular and expected duties of a member of Parliament. For example, this may include duties undertaken as part of the responsibilities of a local member, a minister or a member of a parliamentary committee.

In relation to memberships and associations, members will only need to disclose that they are a member of or associated with a particular organisation if a conflict of interest could arise, or could reasonably be seen to arise, because of that membership. Members may also list memberships of or associations with organisations they are not required to disclose.

Street addresses of primary or secondary residences will no longer need to be disclosed, which is an example of increased privacy afforded by the bill. The address of land, or if there is no address, the precise description of land, owned by a member which is not used as a primary or secondary place of residence by any person will need to be disclosed. While monetary values of interests will not need to be declared, the number of shares held in investments will. Again, this achieves a balance between appropriate disclosure and privacy.

In line with current practice, members will be required to submit annual returns to the clerks of the Parliament. Members must update their returns if there is a substantial change in their circumstances. Rather than publishing a summary of the returns, the clerks will publish the returns in full.

The Clerk of the Parliament will be empowered to report a member to the relevant Presiding Officer if a member has failed to submit a return in accordance with the act. The Clerk will, however, only exercise this power once they are satisfied the member has been given reasonable opportunity to comply.

These new provisions will ensure the high standards of transparency and accountability that the public rightfully expect of their elected representatives are recognised in legislation.

Finally, I turn to the potential sanctions included in the bill if members do not fulfil their obligations regarding the code of conduct or the register of interests.

The Law Reform Committee made a number of recommendations including the appointment of an ethics adviser to assist members with their obligations under the act, as well as avenues for complaints to be made, safeguards for accused members and sanctions for breaches of the act.

The government considers that the review of Victoria's integrity and anticorruption system, which is being undertaken by the public sector standards commissioner, may consider some of these issues. The sanctions in the current act will therefore be maintained pending the outcome of the review. Any wilful contravention of the act's requirements will be considered a contempt of Parliament and will be dealt with accordingly. The houses may also determine that a fine of up to 35 penalty units (approximately $4000) is warranted, which is double the current fine amount of $2000. This fine will be expressed in penalty units so that the fine remains relevant in real terms.

In summary, this bill makes appropriate and considered reforms to the current Members of Parliament (Register of Interests) Act 1978. The reforms will increase the accountability and transparency of parliamentarians, whilst maintaining an appropriate balance between suitable disclosure and privacy.

I commend the bill to the house.

Debate adjourned for Mr RICH-PHILLIPS (South Eastern Metropolitan) on motion of Ms Lovell.

Debate adjourned until Thursday, 22 April.

THERAPEUTIC GOODS (VICTORIA) BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr JENNINGS (Minister for Environment and Climate Change) on motion of Mr Lenders.

Statement of compatibility

For Mr JENNINGS (Minister for Environment and Climate Change), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Therapeutic Goods (Victoria) Bill 2010.

In my opinion, the Therapeutic Goods (Victoria) Bill 2010, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of the bill is to improve the Victorian legislation that operates as part of the national regulation of therapeutic goods. The bill will replace the Therapeutic Goods (Victoria) Act 1994, which was put in place in 1994 to operate alongside the Therapeutic Goods Act 1989 of the commonwealth ('the TGA').

The TGA is the central legislation regulating the manufacturing, import, export, sale and other handling of therapeutic goods in Australia. It covers all corporations trading in therapeutic goods and all interstate trade. Due to the fact that the therapeutic goods industry is almost entirely composed of large corporate bodies, this means that most of the industry is regulated by the TGA.

However, due to the limitations on commonwealth power contained in the Constitution of Australia, there are potentially some parts of the industry that cannot be regulated by the TGA (for example, if an individual were to commence trading in therapeutic goods within Victoria). Victorian legislation is necessary to address this possibility. In addition there are certain minor issues that Victoria regulates differently to the commonwealth, relating to hawking and vending machines.

The Therapeutic Goods (Victoria) Act 1994 was structured in a way that replicated the necessary parts of the TGA and applied them to the areas that could not be constitutionally addressed by the TGA. However, due to the fact that the coverage of the Victorian legislation was very limited, the resources that have been historically applied to maintaining and updating the Victorian legislation were limited. As amendments were made to the TGA over time, this has resulted in the development of discrepancies between the TGA and the Therapeutic Goods (Victoria) Act 1994 that need to be addressed.

To remove the discrepancies and provide for future changes to the TGA, the bill changes the approach of the therapeutic goods law in Victoria to directly apply the provisions of the TGA, rather than to replicate the provisions in a separate act. This approach allows the Victorian law to automatically adjust in the event of future changes to the TGA, and provides for certain additional minor issues that are not addressed by the TGA.

Human rights issues

This statement examines the human rights issues by analysing the following areas of the bill:

1. publication of list of manufacturers;
2. entry powers;
3. advertising restrictions;
4. seizure and forfeiture of property; and
5. offences imposing an evidential or legal burden on defendant.

1. Publication of list of manufacturers

Bill provisions

In order to be able to manufacture therapeutic goods in Australia, manufacturers must obtain a licence under the TGA. Section 41A of the TGA provides for the publication of a list of the persons licensed as manufacturers at the relevant time along with certain details of each licensee. Section 41A states:

> The secretary may, from time to time and in such manner as the secretary determines, publish a list of the persons who are licensed under this part, the classes of goods to which the licences relate, the steps of manufacture that the licences authorise and the addresses of the manufacturing premises to which the licences relate.

Charter right: privacy and reputation

Section 13(a) of the charter recognises a person's right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. The right to privacy encompasses a right to information privacy. The requirement that any interference with a person's privacy must not be 'unlawful' imports a requirement that the scope of any legislative provision that allows an interference with privacy must specify the precise circumstances in which interference may be permitted. The requirement that an interference with privacy must not be arbitrary requires that any interference with a person's privacy must be reasonable in the circumstances and should be in accordance with the provisions, aims and objectives of the charter.

Application of charter to provisions

The provision relating to the public register of manufacturers strikes an appropriate balance between the rights of manufacturers to information privacy and the need for the public to be able to verify that people manufacturing therapeutic goods are appropriately licensed to do so. The interference with a manufacturer's right to privacy is not unlawful because it is prescribed by law. Nor can it be said

that the interference is arbitrary, as the disclosure is clearly limited to the commercial details of the licensee and the manufacturing activity authorised by the licence. The register does not contain personal details such as residential addresses (unless the residence is also being used as a manufacturing premises for the purpose of the licence) or a person's date of birth.

With the limited disclosure of information restricted to identifying the manufacturer and the manufacturer's actions under its licence, these provisions do not authorise an interference that is unlawful or arbitrary — the interference serves the legitimate purpose of protecting the public and the clauses adequately specify the circumstances in which the interference may occur.

Conclusion

I consider that the publication of manufacturers' details in a public register under section 41A of the TGA bill engages but does not limit the right to privacy because the interference with privacy is not unlawful or arbitrary.

As the right of privacy, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

2. Entry powers

Bill provisions

Part 6-2 of the TGA and part 8 of the bill relate to powers of entry, search and seizure. The provisions allow for certain authorised persons to enter premises relating to therapeutic goods on certain grounds. The grounds on which premises may be searched are:

> for the purpose of finding out whether the therapeutic goods law has been complied with (TGA section 46(1) and 46A(1)); or
>
> if there are reasonable grounds for suspecting that there may have been a breach of the therapeutic goods laws and that it is necessary to exercise the search and seizure powers to avoid an imminent risk of death, serious illness or serious injury (TGA section 46B(1)); or
>
> if there are reasonable grounds for suspecting that there may be evidential material relating to a contravention of the therapeutic goods laws on particular premises (TGA section 47(1); bill clauses 35(1), 37(1)).

Charter right: privacy and reputation

As discussed above, section 13 of the charter protects a person's right to privacy, including territorial privacy and information privacy. The protection given by the charter is from unlawful or arbitrary interference with privacy. Interference with privacy may be 'unlawful or arbitrary' if the limits of the power of interference are not clearly specified or if appropriate checks and balances constraining the power are not in place.

Application of charter to provisions

The power of authorised persons to enter and search certain premises could potentially amount to a breach of the right to privacy if the entry and search is unlawful or arbitrary. In this case, the powers of entry may only be exercised for specific purposes set out above and are subject to a number of constraints. The constraints imposed on authorised persons exercising the entry powers are:

> a requirement to produce identity cards on request and a prohibition on entry if the identity card cannot be produced (TGA sections 46(3), 46A(3), 46B(2), 47(3); bill clause 33);
>
> entry only if the occupier of the premises has consented to the entry or a warrant has been issued by a magistrate under section 49 or 50 of the TGA or clause 37(2) of the bill (TGA sections 46(2) and 47(2); bill clause 37(1)), except in relation to:
>
> > premises for which there is a specified connection to therapeutic goods (TGA section 46A(4)); and
> >
> > searches necessary to avoid an imminent risk of death, serious illness or serious injury (TGA section 46B);
>
> a prohibition under the TGA on entry onto residential premises without a warrant to monitor compliance with the law unless the occupier consents or the premises is also used for commercial therapeutic goods purposes and the premises has a specified connection to therapeutic goods (TGA section 46A);
>
> in relation to searches authorised by warrant, the authorised person must announce themselves and give persons at the premises the opportunity to allow entry (unless immediate entry is required for the safety of a person or to prevent frustration of the warrant execution) (TGA section 48B; bill clause 38);
>
> under the TGA, in relation to searches authorised by warrant, the occupier or his or her representative is entitled to observe the conduct of the search provided he or she does not impede the search (TGA section 48F).

With the safeguards of these constraints, the entry powers provisions do not authorise an interference that is unlawful or arbitrary — the interference serves the legitimate purpose of protecting the public and the clauses adequately specify the circumstances in which the interference may occur and the limitations on the interference.

Conclusion

I consider that the entry and search powers of the bill engage but do not limit the right to privacy because the interference with privacy is not unlawful or arbitrary.

As the right of privacy, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

3. Advertising restrictions

Bill provisions

Part 5-1 of the TGA provides for restrictions on the advertising that may be published or broadcast in relation to therapeutic goods. The TGA references the Therapeutic Goods Advertising Code, which prescribes in detail how therapeutic goods may or may not be represented in advertising material. Financial penalties are imposed for

breaches of the advertising restrictions of 30 to 60 penalty units ($3300 to $6600[1]).

Charter right: freedom of expression (charter section 15)

The charter protects a right to impart information and ideas of all kinds, whether within or outside Victoria and whether orally, in writing, in print, by way of art or in another medium chosen by the person (section 15(2)). Section 15(3) of the charter also provides that special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions reasonably necessary for the protection of matters including public health.

Application of charter to provisions

The restrictions on commercial advertising in part 5-1 are imposed for the purpose of protecting public health. The restrictions relate to the way manufacturers may or may not represent the therapeutic goods and are reasonably necessary for the protection of public health due to the difficulty faced by the public in obtaining detailed and objective information about therapeutic goods with which to make informed decisions regarding purchase and use of such goods. The purpose of this part is to protect the public from acquiring or using therapeutic goods as a result of advertising that is misleading or deceptive or in some other way detrimental to public health. This is considered necessary given the public health risks associated with therapeutic goods.

Conclusion

I consider that the advertising restrictions in the bill engage but do not limit the right to freedom of expression, as the limitations imposed are lawful restrictions reasonably necessary for the protection of public health.

As the right of freedom of expression, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

4. Seizure and forfeiture of property

Bill provisions

Part 6-2 and section 54 of the TGA and clauses 35(8), 37, 40(1)(c), 46(2) and 53(1) of the bill could be considered to engage the right not to be deprived of property other than in accordance with law. This part provides for seizure and forfeiture of property in certain circumstances. The provisions enable an authorised person to seize and secure evidence from premises and provide for seized items to be forfeited in some circumstances.

Charter right: property (charter section 20)

Section 20 of the charter recognises a person's right not to be deprived of his or her property other than in accordance with law. The requirement that a permissible deprivation can only be carried out 'in accordance with law' imports a requirement that the law not be arbitrary. A provision that confers a discretionary power to deprive a person of his or her property will be consistent with the charter if the limits of the power are defined and the criteria that govern the exercise of the discretion are specified and reasonable.

Application of charter to provisions

The provisions in the bill that allow for seizure and forfeiture of items are necessary to prevent items from being hidden or destroyed which may frustrate an investigation into breaches of the therapeutic goods law.

It is noted that items may only be seized if there are reasonable grounds for suspecting that:

the therapeutic goods law has not been complied with;

it is necessary in the interests of public health to exercise the powers in order to avoid an imminent risk of death, serious illness or serious injury; or

evidence is on the premises that should be collected.

Goods may only be forfeited if they relate to a conviction (TGA section 54, bill clause 53).

Under section 48H of the TGA, seized items must be returned when they are no longer relevant as evidence or after 90 days, whichever occurs first, unless the items are forfeited or forfeitable to the commonwealth under section 54 or an extension has been obtained.

Under clause 47 of the bill, items must be returned when the reason for the seizure no longer exists or no later than three months after seizure if no proceedings have commenced, unless the items are forfeited or forfeitable under clause 53 or an extension has been obtained.

The provisions relating to seizure and forfeiture of property are not arbitrary as they are clearly defined and are reasonable in relation to the object of enforcing the therapeutic goods laws.

Conclusion

As the engagement with property rights is neither unlawful nor arbitrary, these provisions do not limit the right protected by section 20 of the charter.

As the right relating to property, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter.

5. Offences imposing an evidential or legal burden on defendant

Bill provisions

The commonwealth TGA contains various offences that are 'applied' in the bill to be operative in Victoria. For many of the offences, specific defences are set out; however, a burden is placed on the defendant to adduce evidence for the particular defence. The offences for which this is the case are:

Offences imposing burden on defendant in respect of specific defences

TGA s8 Power to obtain information with respect to therapeutic goods

TGA s14 Criminal offences for importing, supplying or exporting goods that do not comply with standards

TGA s19B Criminal offences relating to registration or listing et cetera. of imported, exported, manufactured and supplied therapeutic goods

TGA s31 Secretary may require information

[1] Crimes Act 1914 (cth), section 4AA: 1 penalty unit = $110.

TGA s31C Criminal offence for failing to give information or documents sought under section 31A, 31AA or 31B

TGA s31D False or misleading information

TGA s31E False or misleading documents

TGA s41JI False or misleading documents

TGA s41MA Criminal offences for importing, supplying or exporting a medical device that does not comply with essential principles

TGA s41MB Exceptions

TGA s41MF Criminal offences for failing to apply conformity assessment procedures — sponsors

TGA s41MG Exceptions

TGA s41MI Criminal offences for importing, exporting, supplying or manufacturing a medical device not included in the register

TGA s42C Offences relating to publication of advertisements

TGA s42DL Advertising offences

TGA s48 General powers of authorised persons in relation to premises

Under each of these provisions, the burden relating to the claiming of the defence is an evidential burden through the operation of section 13.3(3) of the Criminal Code Act 1995 of the commonwealth. This means that the defendant must adduce or point to evidence that suggests a reasonable possibility that the relevant matter exists or does not exist.[2]

However, in addition to the evidential burden, two of the provisions (sections 19B and 41MI), impose a legal burden, meaning that the defendant must prove the issue on the balance of probabilities. These are:

section 19B: criminal offences for dealings with unlawful therapeutic goods; and

section 41MI: criminal offences for dealings with a medical device not included in the register.

Under these sections, it is an offence to import, export, manufacture and supply unlawful therapeutic goods or medical devices. Different penalties apply depending on the severity of the contravention.[3] It is a defence to a prosecution of this kind if the person was not the 'sponsor' [4] of the goods/device at the time of the dealings. However, the defendant bears a legal burden to establish this defence on the balance of probabilities.[5]

These two different kinds of burden require different consideration under the charter, discussed below.

Charter right: right to be presumed innocent until proven guilty (charter section 25(1))

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

Application of charter to provisions: evidential burden

The requirement for defendants to adduce evidence when claiming a specified defence engages the right to be presumed innocent until proved guilty. However, in relation to an evidential onus, the burden does not extend beyond the raising of sufficient evidence to suggest a reasonable possibility that the defence applies. Once sufficient evidence is raised, the prosecution must prove beyond reasonable doubt that the defence does not apply and that all requisite elements of the offence are present. In this case, the burden placed on the defendant is clearly articulated to be an evidential burden only, not extending to a legal burden. Evidential burdens that do not extend to a legal burden have been held by the courts to be compatible with the presumption of innocence,[6] as a necessary part of preserving the balance of fairness between the defendant and the prosecutor in matters of evidence. As such, the provisions above (in respect of the imposition of an evidential burden) do not limit the right to be presumed innocent.

Application of charter to provisions: legal burden

Sections 19B and 41MI provide that a person wishing to defend a prosecution for dealings with unlawful therapeutic goods or with a medical device not included in the register on the basis that he or she was not the sponsor at the time must prove this on the balance of probabilities. I accept that this constitutes a limitation of the right of presumption of innocence. In my view, however, that limit is reasonable and demonstrably justifiable when considered under section 7(2) of the charter:

(a) The nature of the right being limited

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[2] Criminal Code Act 1995 (cth), section 13.3(3) and (6): '*evidential burden*, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist'.

[3] Penalties range from 12 months imprisonment/1000 penalty units/both for dealings with unlawful therapeutic goods or medical devices that contravene the laws through to five years imprisonment/4000 penalty units/both for dealings with unlawful therapeutic goods or medical devices that contravene the laws and have, will or would result in harm or injury to any person.

[4] Criminal Code Act 1995 (cth), section 3:
sponsor, in relation to therapeutic goods, means:
(a) a person who exports, or arranges the exportation of, the goods from Australia; or
(b) a person who imports, or arranges the importation of, the goods into Australia; or
(c) a person who, in Australia, manufactures the goods, or arranges for another person to manufacture the goods, for supply (whether in Australia or elsewhere);
but does not include a person who:
(d) exports, imports or manufactures the goods; or
(e) arranges the exportation, importation or manufacture of the goods;
on behalf of another person who, at the time of the exportation, importation, manufacture or arrangements, is a resident of, or is carrying on business in, Australia.

[5] Sections 19B(5) and 41M(6) and Criminal Code Act 1995 (cth), section 13.3(5).

[6] R v Director of Public Prosecutions, ex parte Kebilene [2000] 2 AC 326, 379.

The right to be presumed innocent protects defendants in criminal proceedings from conviction, and the potential loss of liberty or imposition of financial penalties, where the prosecutor is unable to prove all elements of the offence beyond reasonable doubt.

(b) The importance and purpose of the limitation

An obligation is placed on 'sponsors' of therapeutic goods to include their goods in the register before they may import these goods into Australia, manufacture or supply the goods in Australia, or export them from Australia. Before therapeutic goods may be included in the register, the goods must satisfy statutory criteria that establish their safety, quality and efficacy for their intended use. Hence, requiring goods to be first entered in the register ensures that an appropriate level of scrutiny in relation to the goods has occurred before they are marketed to the general public. It is therefore an offence (subject to a number of exceptions set out in the act) for a sponsor to supply goods that are not included in the register. Very generally, a 'sponsor' is defined in the act to be a principal manufacturer, importer or exporter.

The requirement for the defendant to prove that he or she was not the 'sponsor' at the relevant time was included in the TGA to address difficulties experienced in initiating prosecutions against 'sponsors' under previous versions of the act. The explanatory memorandum for the amending legislation[7] stated that:

> … in proceedings under this provision, to establish that a person is a sponsor the Crown is required to show, among other things, that there is no agency arrangement. However, it is not possible to establish something that does not exist and a fact that is within the knowledge of the sponsor.

The effect of the introduction of the reverse legal onus was to require a 'sponsor' in such a situation to establish that there was an agency arrangement, and that therefore the person did not act as a principal in unlawfully importing, exporting, supplying or manufacturing therapeutic goods. The purpose of the limitation is important — namely to ensure that responsibility for offences under these provisions is not evaded due to unduly onerous burdens on the prosecution.

(c) The nature and extent of the limitation

The defences provided for in sections 19B(5) and 41MI(6) only become relevant if the prosecution is able to establish beyond reasonable doubt that the person has committed an offence under the section. If the prosecution is unable to do this, the offence will not be 'made out' and the defence will be unnecessary. The limitation on the defendant's right to be presumed innocent extends only to the defendant's status as sponsor. The prosecution must still prove all other elements of the offence beyond reasonable doubt.

(d) The relationship between the limitation and its purpose

Sections 19B and 41MI constitute two of the principal offences under the regulatory scheme. As noted above, the definition of 'sponsor' is technical and the defences only become relevant once the prosecution has established beyond reasonable doubt that the person has imported, exported, manufactured or supplied the unlawful goods/devices in the relevant manner. The limitation on the right of presumption of innocence, requiring the defendant to prove that he or she was not the sponsor if this is claimed by the defendant, is in place to balance fairness between the defendant and the prosecutor in the matter of proving ultimate responsibility in Australia for the exportation, importation or manufacture of the relevant goods/devices.

The explanatory memorandum for the legislation that introduced the reverse onus defence noted:

> The principal/agent relationship, particularly in cases not involving major corporations, can only be ascertained conclusively through confidential commercial arrangements known only to the parties concerned, to which the commonwealth is not privy and often precluded from discovery for the purposes of establishing who committed an offence under [the relevant section]. Until the identity of the sponsor can be established, it is not possible to lay charges under [the relevant section] of the act so as to effectively preclude the exportation, importation, supply and use within Australia of unapproved therapeutic goods, including counterfeit drugs.[8]

The defence is considered to be essential if prosecutions against sponsors are to be pursued.

(e) Any less restrictive means reasonably available to achieve its purpose

There is no less restrictive means that achieves the purpose of allowing persons to defend themselves against prosecutions for dealings with unlawful therapeutic goods/devices on the grounds that they did not have ultimate responsibility in Australia for the goods' importation, exportation or manufacture while also removing the potentially impossible burden on the prosecution of establishing that no other person had such ultimate responsibility.

Conclusion

I consider that the provisions requiring the defendant to produce evidence in relation to defences under the TGA engage but do not limit the right to be presumed innocent until proved guilty because the burden on the defendant does not extend beyond an evidential burden. As the right of presumption of innocence, although engaged by the bill, is not limited by the bill, it is not necessary to consider the application of section 7(2) of the charter in respect of the evidential burden imposed on the defendant.

In respect of the legal burden imposed on the defendant under sections 19B and 41MI of the TGA, while the legal burden component of the defences in these sections constitutes a limitation of the right of presumption of innocence, the limitation is reasonable and demonstrably justifiable when considered under section 7(2) of the charter.

Conclusion

Based on the considerations set out above, I consider that the bill is compatible with the charter.

[7] Therapeutic Goods Amendment Bill 1996

[8] Therapeutic Goods Amendment Bill 1996, Explanatory Memorandum.

Gavin Jennings, MLC
Minister for Environment and Climate Change
Minister for Innovation

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill repeals the Therapeutic Goods (Victoria) Act 1994 and replaces it with legislation which applies the commonwealth Therapeutic Goods Act 1989 as a law of Victoria. It will continue the controls over aspects of the supply of therapeutic goods not covered by the commonwealth act, namely, the supply of therapeutic goods by hawking and through vending machines.

The object of the commonwealth Therapeutic Goods Act 1989 was to provide for the establishment and maintenance of a national system of controls over therapeutic goods. These controls relate to the quality, safety, efficacy and timely availability of therapeutic goods to Australian consumers.

When the commonwealth enacted the Therapeutic Goods Act 1989 the commonwealth relied upon its constitutional powers to regulate trading corporations, interstate trade, customs and quarantine.

The commonwealth's powers to regulate did not extend to natural persons trading intrastate. This left the states and territories to either enact 'mirror' legislation or adopt the commonwealth act by reference to regulate these entities.

When Victoria enacted the Therapeutic Goods (Victoria) Act 1994 it 'mirrored' the commonwealth Therapeutic Goods Act. Since then there have been at least 30 changes to the commonwealth Therapeutic Goods Act. This has resulted in the Victorian act no longer reflecting the provisions of the commonwealth Therapeutic Goods Act in significant respects. It has also become clear that it is very rare for natural persons or corporations trading intrastate to participate in this sector. For Victoria to continue to regulate by 'mirror' legislation would cause significant administrative inefficiency without a corresponding benefit.

In replacing the Therapeutic Goods (Victoria) Act 1994 the same approach is being taken as other participating jurisdictions such as New South Wales and Tasmania. The bill applies the commonwealth act as amended from time to time as a law of Victoria.

Now I turn to the specifics of the bill, starting with the applied provisions. The applied provisions apply the commonwealth laws as a law of Victoria.

The commonwealth act sets out the legal requirements for the import, export, manufacture and supply of medicines. It details the requirements for listing or registering all medicines on the Australian Register of Therapeutic Goods.

Other aspects of the commonwealth act include regulating advertising, labelling, and product appearance. The commonwealth act is supported by the regulations, and various orders and determinations.

The Therapeutic Goods Administration commonly known as the TGA is part of the Australian government Department of Health and Ageing and has responsibility for administering the commonwealth act.

The TGA carries out a range of assessment and monitoring activities to ensure that all therapeutic goods are of an acceptable standard. At the same time, the TGA ensures that the Australian community has access, within a reasonable time, to therapeutic advances.

TGA control of medicines is exercised through various processes including pre-market evaluation and registering of approved products, and the licensing of manufacturers and subsequent monitoring of them in accordance with international standards of good manufacturing practice. It also includes post-market monitoring of products and adverse event reporting.

The bill deals with functions and powers under the applied provisions. The commonwealth has the same functions and powers under the applied provisions as it has under the commonwealth therapeutic goods laws. Commonwealth administrative law will apply to any matter arising in relation to the applied provisions and offences will be prosecuted as commonwealth offences.

Provisions specific to Victoria

The provisions specific to Victoria mean that hawking or the sale of therapeutic goods by vending machine without written permission of the Victorian Secretary of the Department of Health, as in the existing act, continue to be prohibited. Also the minister has power to exempt persons or goods from these provisions by order published in the *Government Gazette*.

Under the bill the Victorian secretary retains the power to make or adopt codes of practice and the procedure for making or adopting a code of practice is specified. An example of such a code of practice could relate to the supply of therapeutic goods.

The bill next deals with the enforcement of the Victorian provisions. The bill includes updated Victorian standard provisions for authorised persons, the enforcement powers of authorised persons and evidential and legal proceeding matters.

The final parts of the bill deal with general matters, such as the provision for making regulations and transitional provisions from the existing 1994 act.

In conclusion the bill will result in a reduction in administrative and compliance costs for potential Victorian manufacturers. Manufacturers of therapeutic goods will find the requirements for the manufacture and sale of the therapeutic goods in one piece of legislation which is always up to date.

I commend the bill to the house.

Debate adjourned on motion of Mr D. DAVIS (Southern Metropolitan).

Debate adjourned until Thursday, 22 April.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Treasurer) — I move:

That the Council, at its rising, adjourn until Wednesday, 5 May 2010.

Motion agreed to.

STANDING ORDERS COMMITTEE

Reporting date

Mr DALLA-RIVA (Eastern Metropolitan) — By leave, I move:

That the resolution of the Council of 10 September 2008, as amended on 13 November 2008, 31 March 2009, 30 July 2009, 13 October 2009, 27 November 2009 and 11 March 2010, requiring the Standing Orders Committee to inquire into and report by 15 April 2010 on the establishment of new standing committees for the Legislative Council, be further amended so as to now require the committee to present its report by 5 May 2010.

Motion agreed to.

ADJOURNMENT

Mr LENDERS (Treasurer) — I move:

That the house do now adjourn.

Bendigo: bus depot

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the attention of the Minister for Public Transport and concerns Bendigo's troubled Mitchell Street, which has been clogged with buses since April 2008 when the Brumby Labor government redirected every city-bound bus down Mitchell Street.

The action I seek from the minister is for him to meet with the Bendigo Traders Association and the City of Greater Bendigo to discuss the progress of plans to alleviate pressure on Mitchell Street, and for the minister to scrap the deadline of June 2010 on government funds for the project.

As I mentioned, the issue involving Bendigo's Mitchell Street buses is of Labor's making and has caused myriad problems for the street's traders over the past two years. These include major footpath congestion outside some businesses, antisocial behaviour, littering and shoplifting. Some stores have even experienced a drop in business.

The council has been working to develop strategies to alleviate pressure on Mitchell Street and last year developed concept plans for works. The government committed $900 000 to the project, although it is predicted that works will cost millions of dollars to complete. At this stage the City of Greater Bendigo contribution is expected to be around $2.1 million.

The Bendigo Business Council recently expressed concern that the government's funding commitment is inadequate and has asked for sufficient funding to be made available for the project. The Bendigo Traders Association is very keen for the project to be well thought out and planned and is concerned the Brumby government has given the council an ultimatum to accept the offer of $900 000 — a figure that is inadequate — by 30 June or risk losing government funding altogether. This would result in the city council being left to carry the weight of the project by itself — a project that would not have been necessary had the government consulted appropriately in the first place and not redirected every bus down Mitchell Street without proper planning.

Currently Bendigo has a population of around 102 000, and there are predictions it will grow to 139 000 by 2031. The city's road and transport infrastructure must be able to cope with a growing population and increasing demand for public transport services.

The Bendigo transportation strategy is now being completed, and public transport routes should be considered as part of that strategy. It does not make sense to rush into changes in Mitchell Street if the strategy suddenly finds the changes would severely restrict traffic flow in the city.

The Labor member for Bendigo West in the Assembly, Bob Cameron, and the former Minister for Public Transport, Lynne Kosky, refused to listen to the concerns and ideas the Bendigo traders had for the future of Mitchell Street, and the government has come up short with an inadequate offer that will not pay for works to fix a problem that Labor created.

Mitchell Street is in the electorate of Bendigo West, and members of Bendigo Traders Association have been trying to get a meeting to discuss concerns with the local member, Bob Cameron, for well over two years, but Bob Cameron has failed to meet them. In a recent meeting with members of Bendigo Traders Association I was informed that the latest nonsense put forward by Labor to alleviate the problems created by the bus stops

is to move them by approximately 50 metres. This will not solve anything; all it will do is move the problem 50 metres down the street, so the congestion and problems currently experienced at the Toyworld bus stop will be moved to the front of Burdines.

The action I seek is for the minister to meet with the Bendigo Traders Association and the City of Greater Bendigo to discuss the progress of plans to alleviate pressure on Mitchell Street.

Mowbray College: access road

Mr KOCH (Western Victoria) — My issue is for the Minister for Education and relates to a local municipality inappropriately attempting to pass on to private institutions infrastructure costs that benefit the whole community. Melton Shire Council has unfairly attempted to force a private school to pay for community infrastructure that will benefit many groups and individuals in the area.

Private schools such as Mowbray College in Melton provide an important and excellent education option for students that does not burden the public sector. Parents of students, the majority of whom are Melton ratepayers, accept the cost of educating their children privately but seek support where community infrastructure, including roads, is necessary. The road that provides access to the college, which is frequented by a constant stream of buses and cars, remains unsealed and poses a serious safety risk to all students on their way to and from school.

In addition to the inappropriate surface, the road is so narrow that buses must mount the kerb to negotiate one corner, making it unsafe for students as they approach school. After rainfall this road obviously becomes more difficult to negotiate, a situation that will be further exacerbated as winter sets in.

Safety has become a concern to the school and bus drivers. Bacchus Marsh Coaches, which services Mowbray College's transport needs, has thrown its weight behind the concerns of teachers, students and parents and has asked council to correct the road issue, but these concerns have fallen on deaf ears.

Instead of agreeing to carry the cost of the road, Melton shire is attempting to charge Mowbray College a large portion of the total sealing cost. Eight years ago the shire sealed most of the road in front of the government school next door free of charge. Obviously there appear to be double standards involved. The road in question remains not only unsealed but also unnamed. This road also provides access to the sports reserve, an important venue for the wider community involved in hockey, cricket, soccer and tennis.

Concerned residents have attempted to meet the mayor, Cr Justin Mammarella, to discuss both the necessity of improving road facilities and the inequity in asking the college to foot the bill. For reasons unknown, the mayor has not responded to numerous requests. Despite the safety concerns associated with this inappropriate access to the college, the shire does not seem to regard this safety issue as a high priority.

My request is for the Minister for Education to support Melton shire in applying for state government special purpose funding to assist with the capital works expenditure necessary to ensure the safer passage of students to Melton's Mowbray College.

Arbuthnot Sawmills: red gum supply

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Environment and Climate Change, Gavin Jennings. It concerns the thinning of sawlogs. As the minister would be aware, the Arbuthnot Sawmills company at Koondrook has won a contract with the Shire of Campaspe to provide red gum logs for the restoration of the Echuca wharf.

This is one of many projects which Arbuthnot Sawmills needs red gum logs to service. I appreciate that the minister has made himself available to look into this issue, and I have contacted him previously through the adjournment debate to highlight the difficulty that Arbuthnot is experiencing in sourcing the logs. I have recently been made aware that a trial thinning project is under way through the Department of Sustainability and Environment, which is cutting down trees that are up to 80 centimetres in diameter. Rather than let Arbuthnot collect these sawlog-quality trees, they are being left to simply rot on the forest floor.

At a time when the government is being criticised from all quarters for not being able to conduct enough fuel reduction burns, we have another government project which is creating more fuel on the forest floor than is necessary. This is also occurring at a time when we are denying a local company, which has been operating in these parts for more than 130 years, the opportunity to source the logs it needs to supply an iconic project such as the restoration of the Echuca wharf. It should also be noted that the wharf project is being partly funded by the government.

As I say, if this trial thinning project is left to go ahead and all the thinnings timber is left lying on the floor, the government — and by the government I mean in effect

the minister — will be guilty of a deliberate and unnecessary build-up of timber and fuel on the forest floor, while at the same time denying this company the resources it needs to complete the restoration of this iconic wharf.

The action I ask of the minister is that he issue a directive to the Department of Sustainability and Environment in northern Victoria allowing Arbuthnot Sawmills access to these downed sawlogs which range from 40 centimetres to 80 centimetres in diameter; and also that he direct DSE to take up full dialogue with Arbuthnot so that they can work out a way forward. Projects such as these thinnings will remain the lifeblood for sawlogging companies now that the Victorian Environmental Assessment Council inquiry is done and dusted. Because many of the forests have been turned into national parks, the ability of these companies to access sawlogs has been greatly diminished. I am hoping that the minister can continue to direct DSE to assist Arbuthnot Sawmills and that that dialogue can take place in the next week or two.

Liquor licensing: fees

Mr P. DAVIS (Eastern Victoria) — I raise an issue for the attention of the Minister for Consumer Affairs in his responsibility for liquor licensing, and particularly the unintended consequence where wineries have become unwitting victims in Labor's new draconian licence fee structure. Complaints I am receiving from the wine industry, especially the smaller wineries around Gippsland and East Gippsland, point to the new fee regime as a deterrent to their marketing and promotion. These small wineries undertake a large part of their promotion through attending community and farmers markets and other local events. The fee increase has come at a time when the wine industry as a whole is under extreme financial pressure and the smaller operators are suffering from a downturn.

Winery operators in Gippsland advise me that they have heard the new increases of around 400 per cent for temporary licences will be modified for farmers markets, allowing wineries to access 12 markets for the fee instead of 3, as was provided initially. This has the result of keeping that fee effectively unchanged unless the winery attends only occasional markets, for which the one-off fee is $90.50 compared with the former fee of $27.60. Fees for other events, such as Feast on East and Harvest of Gippsland, are either $90.50 or $116, depending on whether the Department of Justice deems it to be a major event, and there is no consistency in the way the department designates major events. While a major event is said to be over 5000 attendees, inquiries by various members of the Wines of Eastern Gippsland organisation have been given conflicting answers in the case of the Festival'e held in Sale in late February. The organisation says that this is just one instance in which the department has set out conflicting positions.

Even more troubling are the bureaucratic changes which mean temporary licences for events away from the home winery can no longer be obtained online. For events such as a farmers market a site plan showing the exact location of a winery's booth and the area in which alcohol is to be consumed must be forwarded eight weeks in advance — an impossibility in the case of farmers markets. Police approval for each event must also be obtained. Consequently most wineries in East Gippsland have signalled their intention to withdraw from all of these events, which will be to the detriment of tourism in the region. I therefore ask the minister to act to amend the new regime to provide a more realistic fee structure with less bureaucratic process for wineries participating in community events.

Rail: Maryborough line

Mr VOGELS (Western Victoria) — I raise a matter for the attention of the Minister for Public Transport, Mr Pakula, regarding the desire of communities in the Ripon electorate for the proposed Ballarat to Maryborough train service to stop at Talbot and Clunes. In 1999 Labor promised to restore passenger rail services to Maryborough if it won the election, only to dump this promise after it was elected. In 2002 Labor again promised to restore passenger rail to Maryborough if re-elected, and once again it failed to deliver. In 2006, once again, Labor promised to restore passenger rail services if re-elected, and last month — 11 years after the first promise — I saw on WIN TV the Minister for Public Transport driving a spike into the ground with a sledgehammer to commence this project. Although 10 years late, late is better than never.

It now appears that the proposed train service will run straight through the Clunes and Talbot stations without stopping, leaving people in these two communities high and dry with no access to the passenger service going past their front doors. Active community groups have been established in Clunes and Talbot to lobby for the train to stop in each town. The Talbot Passenger Train Group has been particularly active, holding public meetings in support of the trains stopping in their town. The group has even opened a shopfront in town to promote the passenger rail option and market Talbot's tourist attractions. I have been informed the government has so far rejected requests to allow the train service, when it does commence operations, to stop at either Talbot or Clunes. My request is for the minister to outline exactly what the specific costs are

for stopping the train service at these two stations. It sounds like a very reasonable proposition that trains going from Ballarat to Maryborough and back should be able to stop and pick up willing, fare-paying passengers.

Technical and further education: student management system

Mr HALL (Eastern Victoria) — I raise a matter for the attention of the Minister for Education. The matter concerns the development of a student management system for Victorian TAFE institutes. I understand there has been a budgetary allocation of $92.6 million to develop and implement a new student management system for Victorian TAFE institutes. It has also been brought to my attention that the Northern Melbourne Institute of TAFE and Chisholm Institute of TAFE have chosen an alternative which costs each of them less than $1.5 million. They claim that this system would be suitable for other TAFE institutes and would result in savings to Victorian taxpayers of at least $50 million.

I am also aware that a number of regional institutes are collaborating in looking at introducing their own student management system. Some in the TAFE system are now claiming that this $92.6 million is a bit of a white elephant that is standing along things like the myki public transport ticketing system and the failed HealthSMART system in public hospitals. It is a serious issue. The action I seek from the minister is, firstly, an explanation of expenditure to date and planned expenditure of that $92.6 million student management system project, and secondly, for the minister to meet with Northern Melbourne Institute of TAFE and Chisholm Institute of TAFE and regional TAFE institutes to discuss their systems and their suitability as statewide systems and in so doing potentially save the state up to $50 million.

The DEPUTY PRESIDENT — Order! I understand that the minister responsible for this matter is the Minister for Skills and Workforce Participation.

Mr HALL — Yes, but I understand the Minister for Education is also the Minister for Skills and Workforce Participation. Perhaps I should have addressed this to the Minister for Skills and Workforce Participation, who is one and the same person.

Parks: entry fees

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Environment and Climate Change, Gavin Jennings, and it is to do with the parks charge. I will give some background on Parks Victoria.

Mr Lenders interjected.

Mrs COOTE — As members know, I was on the inaugural board of Parks Victoria. Prior to the mid-1990s parks management in this state was divided into two: we had the National Parks Service, which looked after the major national parks — Wilsons Promontory, the Grampians et cetera — and we had Melbourne Parks and Waterways, which looked after the metropolitan parks and also the waterways that were around the place. In the mid-1990s, under the great guidance of Marie Tehan, a Kennett government minister, the National Parks Service and Melbourne Parks and Waterways were amalgamated.

Mr Lenders interjected.

Mrs COOTE — I had been on the Melbourne Parks and Waterways board, and I was very honoured to be part of the inaugural Parks Victoria board. The concern at the time was in fact that Melbourne Parks and Waterways was going to be overtaken by the National Parks Service.

Mr Lenders interjected.

The DEPUTY PRESIDENT — Order! The Treasurer is not being helpful to the adjournment process by constantly commentating. I ask him to desist.

Mrs COOTE — I thank the Treasurer for his interjection. There was a senior member of the executive of Parks Victoria who had come from the National Parks Service, and there was a great deal of concern that Melbourne Parks and Waterways would be lost in the amalgamation.

We know that under the current leadership the national parks are full of noxious weeds and feral animals. That is appalling and a fact that should have been addressed.

It is all very well for Minister Jennings to come in and say we are going to get rid of the parks charge, but on everybody's water bill there is a $50-plus charge — the Treasurer might be able to tell us how much it is these days; I think it is in the vicinity of $50 — and everybody in metropolitan Melbourne pays this charge that is hypothecated to metropolitan parks.

My adjournment matter this evening is to ask the minister, now that he has been able to lift the former national parks charge, to lift as a matter of urgency the $50-plus hypothecated parks charge that is attached to

metropolitan residents' water bills, which is effectively a metropolitan parks charge paid for by the residents of metropolitan Melbourne.

Employment: Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — I raise a matter this evening for the Treasurer. The Treasurer spoke at length during question time today about the new hardware store in Pakenham, which I have visited and been a customer of on numerous occasions. I was disappointed that the Treasurer did not mention Hardy's Mitre 10, which is a longstanding institution in Pakenham that also employs many people and has in recent years reinvested significantly in the Pakenham community.

As the Treasurer knows, the opposition is focused on jobs, jobs, jobs. To pick up the comments made by the Treasurer today about jobs in Pakenham, the Treasurer may be aware that the number of unemployed in Pakenham has gone from 821 in December 2008 to 1164 as at December 2009 — an increase in the unemployment rate from 5 per cent to 7 per cent. The Treasurer may also be aware that in Berwick the number of unemployed has gone from 1581 as at December 2008 to 2328 as at December 2009 — an increase in the unemployment rate from 3 per cent to 4.3 per cent.

The Treasurer may also be aware that in the shire of Yarra Ranges the number of unemployed has generally increased and the percentage rate has also increased. For example, in the central section of the shire of Yarra Ranges the number of unemployed people has risen from 492 as at December 2008 to 638 as at December 2009; this is an increase from 6.4 per cent to 8.3 per cent.

The Treasurer would be aware of the concerns I have raised with the Minister for Planning with regard to the matter of Mr Steve Wales, who is facing the prospect of making 20 people unemployed as a result of bureaucratic red tape from the Shire of Yarra Ranges and the Brumby Labor government.

I am very concerned about the rise in unemployment in parts of Eastern Victoria Region. The action I seek from the Treasurer is that he review the parts of Eastern Victoria Region which have seen unemployment levels rise and develop a strategy to encourage jobs growth and a reduction in both the number of unemployed and the percentage of people in the workforce who are unemployed, so that these areas can see jobs growth into the future.

Port Phillip Bay: channel deepening

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change, and it concerns sea level rises in Port Phillip Bay.

The channel deepening project supplementary environment effects statement (SEES) stated that:

> Dredging will have a very small impact, less than 0.01 m on tidal water levels in Port Phillip Bay.

It also stated:

> Sea level change, including astronomical tide and storm surge due to dredging will be small with low water being about 10 mm lower and 6 mm higher at high water.

During and subsequent to dredging at the entrance the National Tidal Centre reported on tidal data from around Port Phillip Bay and at Lorne. The final report in September 2009 asserted:

> Generally the high tides and low tides within Port Phillip Bay were 1 cm higher and 1 cm lower respectively than those prior to dredging.

The National Tidal Centre report also stated:

> Extreme tides occur infrequently. Twelve months of observations limit the ability to accurately calculate the changes extreme tide height. Therefore the uncertainty associated with quantifying these changes are larger by an order of magnitude than the actual predicted changes in the SEES. The actual change in extreme high tide heights will emerge when the uncertainty decreases over a number of years.

There have been growing reports of excessively high tides around the south of Port Phillip Bay over the last 12 months. I have raised them in here previously, and I noticed that tidal increases at Portsea have been raised in the other place.

To address this uncertainty and to provide the level of knowledge that is essential to inform strategies to manage the unprecedented erosion of coastal cliffs and dunes that has occurred around Port Phillip Bay since dredging 5 extra metres of depth at the entrance, I request the minister to commit to additional quarterly reporting and public disclosure for at least the next two years to guarantee that comprehensive, accurate and reliable tidal data can be collected and analysed.

Bushfires: small business support

Mrs PETROVICH (Northern Victoria) — My matter today is for the Minister for Small Business, Joe Helper, and the Parliamentary Secretary for Community Development and Bushfire Reconstruction.

It concerns the recovery of our bushfire-affected areas from the Black Saturday fires.

I visited the area on Wednesday, 7 April with Fran Bailey, federal member for McEwen, and met with Tony Abbott, the federal Leader of the Opposition, to discuss with residents their current situation.

The communities affected by the bushfires have worked very hard to rebuild, and I much admire the hard work done by all of those people in those communities. However, I have concerns, and among them are the following. My first concern is that which has been expressed to me by so many people affected by the fires regarding the hold-up in permits for everything from building to septic systems. The second is the opportunities for business. We are not facilitating the rebuilding of businesses in the towns because they provide income and employment. We can do this by providing support for a whole range of things, including trade.

Members of these communities have established an online business directory and we need to facilitate this by providing whatever trade we can. These people are not asking for charity. They just need to have a start to get their businesses going again.

The number of unemployed people in Nillumbik rose from 120 in December 2008 to 689 in September 2009, which is significant in those fire-affected communities. To tell the people of Nillumbik, where employment is well above the state average, that they are just numbers and not real people is very disappointing. These people are trying to work out how to pay their bills, their mortgages or rent and to put food on the table while struggling with being fire affected.

The third concern I have is the plight of people who owned second residences which served as bed and breakfast accommodation facilities and were an integral part of the tourism industry. They are required to restore these businesses as tourism is a major industry in the area.

My fourth concern is one raised by Freedom Relief of Wallan, which is now without a building to work from. It has been providing food and other basic needs and practical assistance in helping with some of the basics in those areas, including food banks. It tells us that the Victorian Bushfire Reconstruction and Recovery Authority warehouse in Clayton has been closed and the last of the material sent to St Vincent de Paul and the Salvation Army. That is a shame because there are still plenty of people coming back to those areas who are just starting to get their houses in order and who need help. These once-thriving communities need help to rebuild.

I ask that the minister take action to assist small businesses, and therefore improve employment, in those fire-affected areas, to give real assistance and provide rebuilding opportunities.

Parks Victoria: Point Cook Homestead

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Environment and Climate Change. It concerns Point Cook Homestead, a much-loved landmark in the western suburbs of Melbourne. I am sure members of the house who have visited the homestead will agree with me that it is truly a delight.

For some time the homestead has been under the stewardship of Emma Sutcliffe, but due to, I suppose, family pressures and a need to spend a bit more time with her husband and children she has decided that on 30 June this year she will give up the role she has had at the Point Cook Homestead for quite some time.

A public tender process has taken place. Emma, who, as I said, has done a great job, has been supporting a particular bidder, but recently Parks Victoria told this bidder that they had not been successful. After five months and five stages of the process the bidder was told they had not been successful and that their bid was unsatisfactory. However, they were also told that they could renegotiate with Parks Victoria. The trouble is they were not told what was wrong with their bid, which I would have thought leaves them at somewhat of a disadvantage.

The main concern at this stage is that, should negotiations fall through with all the parties that are currently involved in talks, I am informed that the fallback position would be for the Point Cook Coastal Park rangers to open the property as a walk-through attraction without the cafe or bed and breakfast businesses operating. Should that happen, and with no-one on site at night, there is considerable concern that the property would very quickly fall into disrepair and be vandalised. That is a totally unsatisfactory situation. This property is one of the gems of the west. It is something that has to be seen to be believed, and for it to fall into the sort of disrepair that people are speculating about would be a tragedy for the western suburbs of Melbourne.

I ask the minister to take whatever action is necessary to ensure that the Point Cook Homestead remains in its current form — that is, a gem of the west, open to all on

a regular basis. I ask him to ensure that the homestead remains something people from the western suburbs and indeed from the rest of Melbourne and Victoria can enjoy for many years to come.

Employment: Eastern Metropolitan Region

Mr DALLA-RIVA (Eastern Metropolitan) — My adjournment matter tonight is for the Treasurer. It relates to issues that are of great concern to people in Eastern Metropolitan Region, which I represent. As we know, over a period of time the government has spoken about jobs, jobs, jobs, as my colleague Mr O'Donohue mentioned earlier. I refer to the statement by the government in relation to the creation or holding of 35 000 Victorian jobs, something the Treasurer and I hold very dear to our hearts, given our roles in an exchange during the Public Accounts and Estimates Committee estimates hearings last year.

What we have looked at are the actual figures in parts of Eastern Metropolitan Region and the concerns that I have as a result. These figures come from a report by the federal Department of Education, Employment and Workplace Relations entitled *Small Area Labour Markets Australia — December Quarter 2009*, prepared by the economic strategy group of the department.

Parts of Eastern Metropolitan Region cover the Whitehorse municipality. The report shows quite clearly that in the period of December 2008 in the Whitehorse area, which covers Box Hill, Nunawading east and Nunawading west, there were 3568 people unemployed. Despite what the government says about it holding onto and increasing jobs, we know that at the last report in December 2009 there were in fact 4765 people unemployed. In Box Hill that is an increase of 312 people, 372 in Nunawading east, and an additional 413 residents in the Nunawading west part of the Whitehorse region.

The city of Knox is in a similar situation. Back in December 2008 there were 2708 people unemployed there. In the most recent quarter of December 2009 there were 3795 people unemployed, an increase of over 1000. Those figures demonstrate the reality as against the rhetoric that we hear from the government.

I am asking the Treasurer to make a real effort and to undertake a review into unemployment in Eastern Metropolitan Region, to come up with a strategy to deal with the effects of unemployment, the real figures as I have reported, and to report back to Parliament, to me or to the people in Eastern Metropolitan Region about how he is really dealing with the issue, not just providing the spin that we read about every day.

Employment: Southern Metropolitan Region

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter tonight is also for the attention of the Treasurer and concerns a similar set of statistics to those Mr Dalla-Riva shared, which are from a report by the federal Department of Education, Employment and Workplace Relations entitled *Small Area Labour Markets Australia — December Quarter 2009*, which provides the most recent data for these important small areas. Part of my electorate and the Treasurer's electorate of Southern Metropolitan Region covers the city of Monash. There is some data from this series of statistics that looks at the shift from December 2008 to December 2009, the most recent set of figures.

For example, in the Monash — south-west local area, the number of residents reporting as unemployed has increased from 1432 to 1944, an increase of 512 people or 8.3 per cent. In Monash — Waverley east there has been an increase from 1112 to 1609, a significant increase of 497 residents. These are real people, people and families who are impacted significantly. In Monash — Waverley west there has been an increase from 1245 to 1703, another significant increase of 458 residents.

I know the government says that things are improving broadly, but what is clear from these local statistics is that there are significant pockets that are suffering. These are families, these are people who are being impacted, and these figures are very significant to those people and their small communities.

We know that the city of Monash has also seen an increase in violence of around 50 per cent over the recent period, that there are very few additional police, and that there has been significant rioting there recently. We need to ensure that there is an adequate police presence in the area.

What I am specifically seeking today is for the Treasurer to pay some attention to these local areas and to ensure that if he needs to talk to his colleague the Minister for Skills and Workforce Participation, he does that, and that he act to develop a plan for these local areas to ensure that there are no future job losses and that the issues in those areas that impact on families and businesses are dealt with. These are real people, these are real impacts and they are very significant in local areas.

Employment: Northern Metropolitan Region

Mr GUY (Northern Metropolitan) — Like Mr Davis and Mr Dalla-Riva, I seek action from the Treasurer because of the employment figures in my electorate and specifically in the southern part of the city of Whittlesea, which is part of my electorate. It is an extremely important area and one that in my view has been neglected by this government for the last decade.

It has been neglected to the extent that the last labour force data from the *Small Area Labour Markets Australia — December Quarter 2009* report shows that there was an 18 per cent rise in unemployment in this area over the past 12 months. An 18 per cent rise in the unemployment rate takes the figure close to 8 percentage points, well above Victoria's average.

While the government appears very happy to collect data subjectively about its economic performance over the last few years, I, like my colleagues on this side of the house, am more and more concerned about Labor's determination to forget people in its traditional heartland areas in Northern Metropolitan Region and particularly in Lalor, Thomastown and Keon Park. These unemployment statistics from the federal government's 'small area labour markets Australia report' shows it is more and more the case that the government is ignoring employment in the northern part of Melbourne. Of greater concern are the government's claims that it is supposedly pumping billions of dollars into job creation, which appear to be to no avail.

In a press release issued by the Treasurer some days ago he gloated about having a state unemployment rate significantly lower than those of Victoria's major trading partners. He decided to compare our state's unemployment rate to those of our major trading partners, notably that of Indonesia. I know Labor is good at spin. I think we would have to argue that it is probably its best attribute in a short list of achievements, but to run around comparing our unemployment rate, that of a First World developed economy, with that of a developing nation like Indonesia is not like comparing apples with apples. I would argue it is like comparing apples with Holden Commodores.

Interestingly the unemployment rate in Indonesia, according to the Treasurer, is 8.1 per cent, and in the southern part of the city of Whittlesea it is about 8 per cent, so I would say it is hardly worth gloating about.

I ask the Treasurer to report back to the people of Northern Metropolitan Region and particularly to the Whittlesea City Council on how that $11.5 billion of job creation from the government is supposedly benefiting the people of the city of Whittlesea, given that the unemployment rate in the southern part of the shire is now comparable to that of Indonesia.

Responses

Mr LENDERS (Treasurer) — There were four adjournment matters addressed to me as Treasurer, and I will deal with those en bloc.

Mrs Coote raised an issue for the Minister for Environment and Climate Change, suggesting that the metropolitan parks charge should be abolished. I will certainly pass that on to the environment minister, but I think he would be interested in which $50 million to $100 million of programs Mrs Coote is proposing he cut if she wishes him to do that. That is something for her and him.

The other matters I will pass directly on to the ministers.

Four members raised with me issues essentially about unemployment in their areas, and I welcome the interest of these members in finding solutions to address unemployment in local areas. The challenge to me from all four was that I come forward with plans that I could report to the local community on how we will address unemployment in those areas. If the four members come across, we have a plan called the growth areas infrastructure charge (GAIC) that will pump $185 million in capital works into those very areas that Mr Guy and Mr O'Donohue referred to.

An honourable member interjected.

Mr LENDERS — Pakenham, actually.

Mr Guy — On a point of order, Deputy President, by way of clarification I seek not to have the Treasurer inadvertently mislead the house, but Lalor is not in a growth area.

Mr LENDERS — Mr O'Donohue and Mr Guy are very selective. Mr O'Donohue says Yarra Ranges is not, but he knows that Cardinia is. Mr Guy, who selectively says Lalor is not, knows full well that the southern part of the city of Whittlesea is. So if he wants to know where GAIC funding goes, there are two municipalities it goes to.

But above and beyond GAIC funding, if the four gentlemen came across to this side of the house there

would be 23 votes in favour of the GAIC legislation and there would be $185 million in capital works money released on the outer fringes of Melbourne. So if those gentlemen actually wish to put something in their press releases about my response, I say to them that it is in their own hands to actually free up $185 million in capital works in the neighbourhoods that they have partially touched on, which will actually assist those local families not just in getting infrastructure — —

Honourable members interjecting.

Mr LENDERS — But in Cardinia, Mr O'Donohue, if you choose to listen. Mr O'Donohue started off with the town of Pakenham, which is well and truly in the growth area — —

Mr O'Donohue interjected.

The DEPUTY PRESIDENT — Order! I think each member of the opposition raised regions that were fairly extensive. In Mr David Davis's case and in Mr Dalla-Riva's case, the areas were more urban. Clearly this part of the minister's answer does not necessarily refer to them, but he has not suggested it should. Both Mr O'Donohue and Mr Guy mentioned areas that were far wider than what they are trying to narrow now by a point of order that I disagree with. Mr Guy did say the southern part of Whittlesea.

Mr Guy — Keon Park. I mentioned the suburbs.

The DEPUTY PRESIDENT — Order! Yes, the question is: where do you draw that line in geography? The minister is within his rights to answer it the way he has, and I advise Mr O'Donohue that by interjection is not a satisfactory way to try to tidy up his question and elicit a different response from the minister.

Mr LENDERS — Beyond discussing a $185 million capital works package from GAIC that would address unemployment in a number of areas raised by the four members, the members also asked for a plan to address unemployment. Firstly, I will address Mr Guy's comments about using statistics. He may well wish in a press release to talk about Indonesia, comparing it to parts of his electorate, but what I would say to him is this: he would find in the European Union within Spain, the kingdom of Spain, that unemployment — —

Mr D. Davis — The kingdom of Spain!

Mr LENDERS — The kingdom of Spain. Yes, Mr Davis, that is its correct title, if you wish to know.

Mr D. Davis — I do know that. In 1975 — —

Mr LENDERS — Then I suggest you do not query it. It has been a kingdom since the fall of Franco.

What I would say also to those opposite is if they wish to go further than just the European Union, they can go to Britain, they can go to Germany, they can go to Italy, they can go to France or they can also cross the Atlantic and go to the United States, where unemployment is in the order of 10 per cent. If they are not proud that their state has a lower unemployment rate than all those countries, then that is their issue.

But what I would say about our plan is, as I said in response to a question today, that our plan is to build confidence to create local jobs. If those opposition members are asking me, as they have, to come up with a plan that they can say to their constituents will create jobs — Mr David Davis particularly mentioned a series of services — I also suggest they be a bit less critical of the Minister for Planning when he actually calls in some of these projects to create jobs. It is in their hands.

I would also suggest that in relation to issues like social housing and Building the Education Revolution which actually involve construction in the exact neighbourhoods we are discussing, they should actually support the commonwealth and state governments to get some of this construction going because it will create hundreds of jobs in all these areas where they rightly point out local individual citizens are looking for more work.

Mr O'Donohue — Consultancy fees go back to Collins Street. Twenty-one per cent of consultancy fees go back to Collins Street.

Mr LENDERS — If Mr O'Donohue does not support carpenters, electricians, plumbers and others getting jobs in Pakenham, and in the shire of Yarra Ranges, he should say so. He has asked me in the adjournment to come back to him with a plan that will deliver jobs to these locations. I am saying to him that if he is more supportive of the BER money, if he is more supportive of the social housing money that will deliver the services that David Davis is talking about, but also — —

Mr O'Donohue interjected.

The DEPUTY PRESIDENT — Order! I think we are aware of the percentage. We have heard Mr O'Donohue say it several times. Enough!

Mr LENDERS — If the members opposite are asking for a plan, we have the GAIC at $185 million; we have the Building the Education Revolution programs which are being hindered in all four areas by

opposition, which is often encouraged by the members; we have the social housing issue where every single — —

Mr D. Davis — On a point of order, Deputy President, the minister has made an assertion about the opposition. He knows full well that that is completely and utterly untrue. He should do it via a substantive motion, if that is what he believes.

Mr LENDERS — On the point of order, Deputy President, my comment was 'often hindered by the members'. It is a question of fact, and if Mr Davis wants clarification, I will go through and list the individual projects all four members have opposed.

The DEPUTY PRESIDENT — Order! My view is that the minister did not trespass in the answer that he gave. This has been a fairly robust week and a lot of things have been said and some motions debated that have been of some interest to the house. I do not think that the minister's answer is out of court on this one.

Mr LENDERS — I will give a specific example and then will conclude generally with a plan for jobs in the area. I remind Mr Guy of the wholesale markets on which this government has made a decision, and I might say — particularly with Philip Davis in the chamber, although he has not been on his feet calling for this today — despite some grief we received from those opposite during the last Parliament about our decision to move the wholesale markets from the inner city to the southern part of the city of Whittlesea, that, if I recall correctly, will create well over 1000 if not 2000 or 3000 direct and indirect jobs, but I stand to be corrected on that.

Mr Guy interjected.

Mr LENDERS — What I would say to Mr Guy is that this project would have been a lot easier in creating jobs in the northern suburbs if there had not been quite the vigorous opposition from some of those opposite, including one gentleman sitting in the chamber.

I must also mention the channel deepening, which by the analysis of the Victorian Employers Chamber of Commerce and Industry (VECCI), the analysis of the Australian Industry Group (AIG) and the analysis of the Victorian Farmers Federation (VFF) is a job creator for Victoria. Let me say, without wishing to name the four gentlemen, because I cannot find instances for all four of them, the Leader of the Opposition in the Assembly was very much in the business of slowing down that process.

The final thing I will say about a plan for jobs, which is what the four members asked for, is that what we, as a government, have invested in this state as a conscious policy of creating jobs is making a more competitive economy by reducing red tape and by reducing taxation on a number of occasions. Those champions of creating jobs — VECCI, AIG and the VFF — have all welcomed those two initiatives as job creators.

We have certainly gone forward with building on skills with the investment in the skills package of a year and a half ago, with 172 000 more people being trained through the skills system and a $300 million investment. It was one that again, I might say, was slowed down by those opposite on a number of occasions; certainly it was slowed down while a number of members I can mention were currying favour with the Australian Education Union.

The final thing I will say is on the infrastructure program. What is the plan? I have mentioned the wholesale markets. I have mentioned $11.5 billion of infrastructure spend between commonwealth and state, and state instrumentalities as announced through the last state budget. I have announced that 35 000 jobs were sought to be secured by that package. Since the last election 106 000 jobs net have been created in Victoria. We wish there were more; with a bit more support we might get some more; with a bit more boost to the economy we might get some more.

There is a plan. It is a plan that is working, and it could work more successfully in the areas raised by the four members. If they were a bit more collaborative and supportive of some of these initiatives, there would be more jobs.

I also have written responses to five adjournment matters from previous days.

The DEPUTY PRESIDENT — Order! I ask that our thanks are conveyed to Hansard for the extra period we have been sitting tonight. I also thank the attendants and staff. The house now stands adjourned.

House adjourned 7.55 p.m. until Wednesday, 5 May.