C O R R E C T E D V E R S I O N

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2011–12

Melbourne — 13 May 2011

Members

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Witnesses

Mr R. Clark, Attorney-General,

Ms P. Armytage, Secretary,

Mr N. Twist, Executive Director, Legal and Equity, and

Ms G. Moody, Executive Director, Strategic Projects and Planning, Department of Justice.

The CHAIR — I declare open the Public Accounts and Estimates Committee hearing on the 2011–12 budget estimates for the portfolios of Attorney-General and finance.

On behalf of the committee I welcome the Honourable Robert Clark, MP, Attorney-General and Minister for Finance; Ms Penny Armytage, Secretary of the Department of Justice; Mr Neil Twist, executive director, legal and equity, Department of Justice; Ms Gail Moody, executive director, strategic projects and planning, Department of Justice; as well as Ms Ann Crouch, manager, planning, performance and projects, Department of Justice, who will be operating the presentation only. Members of Parliament, departmental officers, members of the public and media are also welcome.

All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript to be verified and returned within two working days of this hearing. Unverified transcripts and PowerPoint presentations will be placed on the committee's website immediately following receipt, to be replaced by verified transcripts within 48 hours after the hearing.

Following a presentation by the minister, committee members will ask questions relating to the budget estimates. Generally the procedure followed will be that relating to questions in the Legislative Assembly. I now ask that all mobile telephones be switched off or turned to silent.

Before I call on the minister to give a brief presentation, I have some further remarks to make concerning the media coverage of these hearings. The media are encouraged to participate in reporting of parliamentary committees, as is appropriate, because that is the way in which the majority of Victorians get access to the deliberations of Parliament. However, there are some protocols in relation to reporting Parliament and parliamentary committees which are understood by the media. Accredited journalists are provided with guidelines, and I am surprised that, in any event, journalists who have been reporting Parliament over an extended period are not aware of the practices and procedures of this place without having to resort to the guidelines.

I remind the media that coverage of a public hearing relates only to the proceedings of the hearing itself and that the filming, recording or broadcasting of matters outside the parameters of the hearing — that is, the opening and closing of the hearing — are not permitted. For the benefit of the cameramen who were filming before proceedings started, I advise that that footage should not be broadcast at all.

Further, any coverage of a private conversation outside the formal proceedings of this hearing is totally inappropriate. Last night a television news station broadcast a private conversation between two witnesses after the hearing had concluded yesterday morning. Apart from the breach of privacy, any understanding would lead a journalist behaving responsibly in regard to preparing their story to know that that was totally outside the parameters of broadcast for parliamentary committee proceedings.

I will have more to say on this matter later this day because I am taking further advice, but I can indicate to any journalist who thinks they do not have to observe the rules that the Parliament has laid down in relation to reporting on Parliament and parliamentary committees that they need to think about their accreditation.

Minister, I would be delighted if you would now proceed to give a brief presentation of no more than 10 minutes on the complex financial and performance information that relates to the budget estimates for the portfolio of Attorney-General.

Overheads shown.

Mr CLARK — Thank you, Chairman, and I thank the committee for the opportunity. I have some slides to give an overview of the work being undertaken within the Attorney-General's portfolio. The first of those slides indicates the component of the entire Department of Justice budget that is attributable to my portfolios and to other portfolios. The Attorney-General's portfolio is responsible for 827.66 million on budget figures, which represents about 18.7 per cent of the entire justice budget.

I turn to the next slide. A lot of the work done within the Attorney-General's portfolio and by the officers who support that portfolio is on implementing the government's law reform initiative. We came to office with a wide-ranging program of law reform in relation to both criminal and civil law, so I thought it would be worthwhile outlining to the committee some of the major initiatives to which officers working on the Attorney-General's portfolio within the Department of Justice are applying themselves.

Abolishing suspended sentences is one of the key measures that is being undertaken. Members of the committee will know that initial legislation to abolish suspended sentences has been passed by the Parliament and came into force on 1 May, and that abolishes suspended sentences for a range of offences in the higher courts. That was the first step in the government's commitment to abolish suspended sentences for all offences, and there is further work being done to implement that abolition.

Similarly we have committed to introduce a new community-based sentence, a community correction order, which will replace the current complex range of community-based sentences and give judges and magistrates the scope and flexibility they need to apply community-based sentences that are targeted to the offender and the offence concerned. We believe that will greatly strengthen the role of community-based sentencing and provide judges with a range of options that can send a clear message to offenders, particularly younger and first-time offenders, that their crimes will not be tolerated by the community and will have serious consequences, without, if the judge considers it appropriate, having to resort to a custodial sentence. There is a lot of work being applied by the department to that.

In relation to baseline sentencing and statutory minimum sentences for gross violence, the introduction of baseline sentences is a very far-reaching change to the sentencing regime methodology in Victoria because at the moment, as many members will know, the Parliament sets only a maximum sentence for offences. That is the only say the community, through Parliament, has in relation to specifying sentences. Baselines will specify a median non-parole period for various serious crimes, which will give the community far greater say over the profile of sentencing the community, through Parliament, expects to apply in the court. It is a major initiative, and we have asked the Sentencing Advisory Council to advise the government in relation to the best way of implementing that initiative. We will also be conducting consultation with other experts and seeking the views of the community, and my officers are applying themselves to that project. We have also asked the Sentencing Advisory Council to advise in relation to statutory minimum sentences for gross violence offences of intentionally or recklessly causing serious injury. That is another significant law reform measure.

We have also committed to introduce legislation to outlaw criminal bikie and other similar gangs. Without going into detail, we are adopting a somewhat different approach to other jurisdictions such as South Australia and New South Wales where there is a procedure that involves an application to the court. That again is far-reaching and important legislation to take action against a growing problem in the community.

Bail reform is another important component of our law reform agenda to ensure that people respect bail, that those who violate bail conditions recognise the seriousness of the consequences and also to ensure that those imposing bail have access to a range of conditions which can be targeted to the particular instance concerned.

Last but certainly not least in this area is the legislation that we have introduced into Parliament in relation to serious bullying. My office has been involved in preparing that, and they will be involved in the implementation of it, assuming Parliament passes the legislation.

We move to the next slide, another key area of our law reform agenda which officers answering to my portfolio are working on. They are a range of measures to improve the fairness and effectiveness of the legal system. Simplifying civil litigation rules has been an important element of that, and the Parliament has passed that legislation and that is now being implemented in terms of removing the mandatory prelitigation requirements. But that is not the end of the improvement to civil litigation, and I have asked my department, and we are consulting with the courts, in relation to further stages to improve civil litigation rules in relation to discovery, in relation to costs, in relation to expert witnesses and in relation to the early exchange of factual information in the course of trials. It is the next tranche on the program, and my office is applying considerable effort to that.

We have got legislation before the Parliament to restore the independence of the Victoria Law Foundation, and if Parliament approves that legislation, again the department will be implementing it.

We have committed to the introduction of uniform commercial arbitration legislation in Victoria, something that my predecessor did not get around to. Victoria has lost a significant commercial advantage, or was moved to a disadvantage, because New South Wales has adopted uniform commercial arbitration legislation and Victoria has not. Not only are Victorians being disadvantaged but the opportunity for Victoria to deliver legal services and win export income through delivering legal services has been diminished. We are acting on that.

We are also acting on journalist shield laws, and again my officers are applying themselves to that. We are looking to pick up primarily on the legislation that has been passed at a commonwealth level without the amendments that were introduced by the Greens.

We committed before the election to reform double jeopardy law; that is the law that says that a person cannot be retried for the same offence having been acquitted previously. As a generality, that is a good principle but where there are specific instances where there is new and compelling evidence or where there is perjury that needs attention, and we have committed to legislation along those lines.

Similarly we have committed to legislation to strengthen criminal investigation powers for the police within an appropriate framework, particularly in relation to the use of DNA and in relation to the use of warrants.

In relation to strengthening judicial independence, again, we have a wide range of measures there to ensure and strengthen judicial independence. The most far-reaching reform is that of the court's executive service, which is to give to the courts control of their own administrative functions. Many members may not know but at present the administrative staff of the courts in Victoria answer to the Department of Justice, ultimately to the secretary, and at least in principle to the elected level of executive government. That is bad in principle and in practice for reasons I am happy to elaborate on, and we are putting considerable work into that project with the strong support of the judiciary.

Similarly we are moving to establish a judicial appointments advisory panel which will provide expert advice to the Attorney-General of the day on appropriate appointments to judicial office. We are intending to bring back to Parliament legislation to establish a judicial complaints commission, which in some respects will be similar to the legislation that was brought before the previous Parliament but not passed, but with some significant changes which we believe will ensure a more independent process. Again I am happy to elaborate if members would like me to.

We are going to reform the regime for acting judges that is currently in place which has been strongly opposed by the judiciary and the bar and which, as it currently stands, allows persons who have not been judicial officers to be appointed on an acting basis by the government of the day. We think that has serious implications for the independence of the judiciary, and we will be moving to a system that provides for acting judges only amongst the ranks of former serving judicial officers.

We will also be moving to introduce part-time judges, because there are clearly significant opportunities for people to serve in a part-time capacity. That is completely distinct from the notion of acting judges — these would be permanent appointments but serving in a part-time capacity. We believe that will give opportunities both to those who have other commitments in their lives and to those who are perhaps looking to step down in later years while still giving good service, and that will be a great boon to the court. It will not only be good for the judiciary but it will be good for the delivery of justice.

Last but not least amongst the reforms that we are implementing, unlike our predecessors, we will be retaining a separate Judicial College of Victoria.

In conclusion, just to touch on the budget measures that relate specifically to the Attorney-General's portfolio, the key objective with this budget, in very difficult circumstances and with constrained funding availability, was to preserve some key programs that would have lapsed under the funding provided by the previous government. All of these programs were set to expire as of 30 June. There was no ongoing funding for them, and I am very pleased that we have been able to secure that funding because I believe each and every one of them serves an important role as part of the justice system. Again I am happy to elaborate on that if members would like me to.

The CHAIR — We have heard a good deal in the presentations of other ministers, particularly the Treasurer's, on the significance of population growth in relation to forming strategies across portfolios. In relation to the portfolio of the Attorney-General, would you be able to advise the committee how predictions concerning population growth have shaped the budget for 2011–12 and the out years?

Mr CLARK — As you indicated, population growth has significant implications across government. It has some specific implications for the Attorney-General's portfolio. Other things being equal, one would expect that unless government takes effective action to prevent it, population growth will be accompanied by increasing volumes of crime and therefore pressure on the court system. Obviously there would be other pressures as well

in other services delivered by the Attorney-General's portfolio. That in a sense renews the importance of the actions that we are taking to tackle crime and tackle offending and to improve the effectiveness of the justice system and deal with cases, because clearly population growth will just add to the pressure. The justice department and the various justice portfolios have a degree of interrelationship there. So while the Attorney-General's portfolio is directly involved with policing to the extent to which the government is putting additional police on the streets and putting protective services officers at railway stations, and is taking other measures within the policing portfolio to tackle crime, that is counteracting the effects of population growth. To the extent to which crime can be reduced, that will reduce the number of cases being brought before our courts and therefore reduce the pressure on court waiting lists.

At the same time, we are moving within the Attorney-General's portfolio and in conjunction with the courts to help the courts boost their effectiveness, and I think the court's executive service reforms that I mentioned in the presentation are a vital component of that because they enable the courts to have a lot more flexibility as to the initiatives that they introduce to improve the effectiveness of their operations. We have already seen some very good measures from the courts even under the existing regime; for example, to try to improve the way in which the Court of Appeal handles criminal appeals to reduce waiting lists and waiting times through dealing with more of the applications for leave to appear on the papers and dealing with appeals in full more expeditiously. There are a range of other measures that I would be happy to elaborate on within the Attorney-General's portfolio that we are undertaking in order to try to get the courts working more effectively and therefore to counteract the effects of population growth.

I suppose the other component of population growth that is worth mentioning is the regional effects that it has. Just to give one example, with a growing city obviously the city is likely to become more expansive and it is harder for people living at the edges of the city to be able to come to a hearing of any sort in the CBD, and so jurisdictions, particularly VCAT, are looking at the opportunity to hold hearings in suburbs and indeed in regional centres. I think that is an important way of reflecting the fact that as the state gradually gets bigger with rising population growth, we need to look at the geographical deployment of services as well as the aggregate quantum of services.

The final point I would mention about population growth is something that runs across government, and I would be happy to elaborate on it more fully when I address the committee later in another capacity — —

Mr PAKULA — More fully?

Mr CLARK — Population growth does reinforce the importance of long-term planning across the whole of government for infrastructure and service deployment.

Mr PAKULA — Minister, I ask you to turn to page 124 of budget paper 3 under the justice output initiatives the headings 'Election commitment savings' and 'Measures to offset the GST reduction'. Now my maths tells me that that adds up to $266.5 million worth of cuts and savings in the justice portfolio. I am just wondering if you could outline for the committee where those cuts will come from.

Mr CLARK — There is a range of measures that are being introduced across the justice department to deliver on the savings commitments. Some of those relate to Attorney-General's portfolio in the sense that all portfolios are affected by the savings, others relate to other portfolios within the justice department. But as you would no doubt recall from the government's election commitments, they relate to matters of service delivery that extend right across government. For example, sizes of advertising budgets, use of consultants and use of legal services. Those savings have been allocated to the justice department as they have been allocated to other departments. The department has worked extensively with the portfolio ministers to ensure that those savings are implemented effectively and in line with government policy.

Mr PAKULA — Just to follow up then, Minister, your department submitted answers to a questionnaire. I refer to question 6.4 on part B of the questionnaire. Given your answer — and I think $266.5 million is a fair whack to take out of the justice portfolios — why is it that the department's answer to question 6.4 shows that in 2011–12 there will be no reduction in entertainment expenses, no reduction in overseas travel, no reduction in consultants and an insignificant reduction in the use of contractors — some 400 000 out of almost 50 million — but an almost $3 million cut in grants to non-government organisations?

Mr CLARK — I might ask the secretary if she would like to add some response to the detail in that.

Mr SCOTT — You are the finance minister. You know this.

Ms ARMYTAGE — In terms of how we have looked to apportion the savings across the out years, obviously there were previous savings that have been incorporated into our budget planning in terms of the efficiencies we have been able to generate in a reduction of corporate savings. In relation to what you see before you in the response to the expenses that we have already included, we have generated significant savings. We have looked to things like where we can make other savings in contracts and where in terms of our contracts we might introduce some efficiency, particularly in areas like road safety, where we have large contracts —

Mr PAKULA — Doesn't look like it.

Ms ARMYTAGE — and through our renegotiated contracts we will be able to do that.

Mr PAKULA — That is 400 000.

Ms HENNESSY — It is 400K, and there are millions taken away from non-government organisations.

The CHAIR — Just let the secretary conclude.

Ms ARMYTAGE — In relation to grants to non-government agencies — in terms of the fact that they are obviously in our portfolio — there are 60 statutory bodies that make up the justice portfolio, and we have said that they would have a proportionate share in terms of the total savings that are aggregated across the portfolio.

Mr PAKULA — It seems like they got a disproportionate share.

Ms ARMYTAGE — We can give you the full details of what we have done to both incorporate the savings from the previous government as well as the new initiative savings as part of the election commitments and the GST changes, and we have a full document that would indicate how we have done that.

Mr PAKULA — That would be good, secretary.

The CHAIR — We will take that on notice.

Mr MORRIS — Minister, if we can turn to the output statements at page 248 of budget paper 3 and in particular the section headed 'Dispensing justice', are there any policy initiatives within the Attorney-General's portfolio that are likely to impact on these matters?

Mr CLARK — Yes, there are a number. I think the one that is worth highlighting, which relates particularly to the court matters and dispute resolution component, is the reforms that I mentioned in the presentation about the court executive service, because that has the potential not only to strengthen the independence of the judiciary but to give the judiciary enormous scope to improve the manner in which courts operate and in particular to capture system-wide reform benefits. Part of the dilemma at the moment is that in many parts of the court system what happens in one jurisdiction has flow-on effects through to another jurisdiction — committals through to County Court trials through to potentially the Court of Appeal — so the extent to which the system allows the courts to adopt a system-wide perspective to what they are doing means the flow-on effects from one to the other need to be taken into account.

More generally there are problems both in principle and in practice in relation to the way the system operates when the courts do not have control of their own administrative staff. In principle, as I alluded to in my presentation, that means that ultimately the administrative staff of the courts are answering to the Secretary of the Department of Justice. I must say upon coming to government it became clear that there are many officers in the Department of Justice who are giving very devoted service to trying to support the courts in the best possible way. This is not an issue of personalities, but just simply as a matter of structure it creates concerns about independence. Also of course if one has to seek the involvement of others and seek approval from the courts and tribunals unit of the department to undertake various reforms, then that just tends to impede and slow things down.

The reform we are making is very far reaching indeed. What we will be doing is giving the courts control over their entire administrative structure. Close to 200 officers who are currently working in the courts and tribunals unit of the department will come under the control of the courts. We will be establishing an overarching body,

the courts executive service, which will include a board with the heads of each of the jurisdictions and a chief executive officer under the board, and that will deliver a large number of the administrative support services that the courts need, including IT, staff, human resources, payroll and many of those other process. They will be under the control of the judiciary, and I think that is a huge boon.

I have said that I believe the appropriate starting point for the Victorian reforms is what currently applies in South Australia. We visited South Australia and had very constructive discussions with members of the judiciary and courts administration in South Australia. However that is not necessarily going to be the concluding point for the Victorian model, because clearly we are a larger state and have more levels of jurisdiction. We will also potentially draw on elements of the federal regime.

This is something the courts have been seeking for a long. They were not able to get it in past years. Justice Smith, as he then was, of the Supreme Court, wrote a very telling paper back in 2006 which just spoke about the practical difficulties that the courts face as an administrative unit of the Department of Justice — at least in appearance. There has been great enthusiasm with the judiciary for this reform. There is a lot of work being devoted to it by the heads of jurisdiction, and indeed by officers of my department, and we are proceeding apace to get the final elements of that reform resolved and then to bring legislation to Parliament.

Ms HENNESSY — Attorney, in reference to your presentation, I was particularly interested in the 'Strengthening judicial independence' slide. In reference to your government's plan to establish an anticorruption commission your election policy made it clear that the IBAC would have jurisdiction over the judiciary, so will the new anticorruption commission be able to tap the phones of judges as a matter of course?

Mr CLARK — In part that question goes outside my portfolio because, as you know, there is a minister for the establishment of the anticorruption commission. We have made clear that the anticorruption commission will have jurisdiction over everybody within the public sector, and that includes members of the judiciary, but it is important to emphasise that the anticorruption commission is directed to corruption and to serious misconduct. We are really fortunate here in Victoria that instances or even allegations of that sort of corruption or misconduct by members of the judiciary are very few and far between.

The far more important reform as far as the judiciary is concerned is the judicial complaints commission. That is directed to performance-related complaints — lateness, alleged inappropriate conduct by a judge in court et cetera. That will be the vast bulk, we expect, of matters that people want to raise about the judiciary. The interrelationship between the two will be that if there is a complaint raised with the judicial complaints commission that has implications of corruption or serious misconduct, that is something that will come within the scope of the anticorruption commission, and that could be taken up by them.

Conversely if complaints are made to the anticorruption commission that do not appear to trigger its jurisdiction but may raise performance-related matters, then that anticorruption commission will be able to refer that matter back to the judicial complaints commission.

In relation to your specific question regarding phone-tapping powers of the IBAC, that is not something that comes within my portfolio, so it is not something that I can offer a further answer on.

Ms HENNESSY — On the issue of the interrelationship of matters that are within your portfolio, in respect of the journalist shield laws that you also referred to in the course of your presentation, in the course of doing that work is it also your intention to ensure that a journalist's right to protect their source trumps any investigatory powers that the proposed anticorruption commission might have, or would, for example, a journalist have to give up a source in the course of an anticorruption commission investigation?

Mr CLARK — The commitment that we have made has been to introduce legislation along the lines of the New Zealand model, and that relates primarily to court proceedings. You asked about what would apply in relation to an anticorruption commission, and that is not a matter that has been settled by government.

Mr ANGUS — Minister, I refer you to budget paper 3, pages 239 and 240, entitled 'Public safety and crime reduction'. Can you please advise the committee on any policy initiatives within your portfolio that are likely to impact on these matters?

Mr CLARK — This output, although it is primarily an output relating to policing, is a classic example of the interrelationship between my portfolio and the policing portfolio, and the role that my portfolio can play in crime reduction and public safety, because while the police are obviously responsible for apprehending alleged offenders and bringing them before the courts, a key component of ensuring public safety is to ensure that there is adequate sentencing. As I touched on in my presentation, a number of key reforms that are being made within the Attorney-General's portfolio go to sentencing, and they are expected to have a significant effect in sending the message that crime does not pay and that serious crime will have serious consequences.

The two measures that I highlight in particular are the reforms to introduce baseline sentencing and a statutory minimum sentence for gross violence and of course the abolition of suspended sentences. What we are trying to do across the board is reinforce respect for the law, ensure that the public can have confidence in the sentences that are handed down by the courts and that would-be offenders realise that their actions will have consequences. That is a key component of ensuring community safety and crime reduction.

The baseline sentences that I mentioned in my presentation are a concept that will give the community, through Parliament, a far greater say in the level of sentences that are applicable. At the moment the Parliament sets a maximum sentence, but as we know the actual sentences handed down in the courts are often only a fraction of the maximum set by Parliament, and the community, through Parliament, has got no way of having a greater say in it. What we intend to do is to provide for serious crimes for which the Parliament will specify what the median non-parole period ought to be for that crime. That means that this should be both the starting point for judges in determining the non-parole period that should apply for that crime but should also be the benchmark against which, for example, the Court of Appeal would assess the adequacy of a sentence.

At the moment the problem is that in part what often arises is that the adequacy of any particular sentence is judged against current sentencing practice, so the extent to which sentencing may have got out of line with community expectations of what Parliament would expect is reinforced and continued, because the adequacy of any sentence is judged against the practice, whereas if there is a baseline non-parole period that has been set, then the adequacy of the sentence would be judged against that baseline.

What we expect is that would be the starting point for a judge in setting a non-parole period where a baseline has been set. The judge will then apply aggravating or mitigating factors, but we expect that in effect this will be the median sentence so that over time sentences where there has been aggravation would be equal in number to sentences where there has been mitigation from the baseline. Again, the Court of Appeal will be able to continue the practice that it has adopted in recent years, and I think very sensibly, by having a look at sentencing statistics to see whether or not the median non-parole periods that are being handed down in those offences are in accordance with what has been set by Parliament.

It is a very significant reform to sentencing practice, and as I said, we are proceeding with the advice of the Sentencing Advisory Council but also other experts, and we seek the views of the community. The Sentencing Advisory Council has been given terms of reference for their work on that.

The other matter that I mentioned was — —

Mr PAKULA — Chair, we do only have 45 minutes.

The CHAIR — The minister is concluding his answer.

Mr CLARK — I am happy to elaborate on another occasion, but similarly the statutory minimum sentence for gross violence is another way that we believe that community safety will be significantly enhanced.

Mr PAKULA — Minister, on page 249 of budget paper 3 there is a whole range of performance measures for public prosecutions — there are at least five that I can see — and a total output of almost $70 million. Minister, according to all reports you have been in possession of His Honour Frank Vincent's report into the OPP for somewhere between six and eight weeks now. You have not said anything about it, and it has not been released or acted on. There is no doubt in my mind that the uncertainty that that approach is taking cannot be helping the administration of justice, and it cannot be helping the OPP achieve these performance measures. My question is actually simple, Minister: why have you not released the report and when will you? No way, Chair!

The CHAIR — I am just thinking. Be patient. Minister?

Mr CLARK — Yes, it has. Thank you, Chair. I, perhaps like you, am not sure whether the member is relating that question to the estimates.

Ms HENNESSY — Confidence in the OPP?

Mr PAKULA — There are five performance measures on the office in the budget

Mr CLARK — But nonetheless I am happy to respond to the question. As you say, it is the effective operation of public prosecution officers is a very important issue. It is an issue that the incoming government has been prepared to act upon, where the previous government was not prepared to act on it. My predecessor had these issues drawn to his attention and comprehensively failed to respond to them.

Mr PAKULA — That is not right.

Mr CLARK — I said when in opposition at a media conference I gave at Federation Square, as it happened, that my view was that what ought to occur was that a retired judicial officer or person of similar standing should be appointed to inquire into what was happening at the public prosecution offices in a similar manner to the manner in which Mr Frank Vincent had inquired into the Jama DNA contamination case, and on coming to government that is exactly what the government has done. Mr Vincent has been appointed to conduct that inquiry. He has done his usual diligent and capable job, and as you say, the report has been delivered to government — it was delivered to government in late March. These are very sensitive and important issues, and the report is currently being considered by government. We are obtaining further advice in relation to some aspects of the report. While the report is under consideration by government it would not be appropriate for me to comment further on it.

Mr PAKULA — Just to make the point, the minister still has not said when it will be released. I would have thought that if the report gives the DPP a clean bill health, he is entitled to know that, as is the community. If it finds some wrongdoing by him — —

Mr O'BRIEN — On a point of order — —

Mr PAKULA — Hang on! I have not even got to my question yet, David.

Mr O'BRIEN — That is the point. You are not asking a question; you are making a speech about what you would do. You are not in government.

Mr PAKULA — No, I am going to — —

The CHAIR — Thank you, Deputy; thank you, Mr O'Brien. Could you just ask the question.

Mr PAKULA — I think I am entitled to a brief preamble, Chair. I was just going to say that if it gives them a clean bill of health — —

The CHAIR — Providing it is directly related to the estimates question and to the minister's answer.

Mr PAKULA — It is. I would have thought if it gives them a clean bill of health, everyone is entitled to know that. If it finds wrongdoing, the minister should have acted on it by now. I suppose what I am asking the Minister is: how is it that in either circumstance sitting on the report for nearly two months can be the right course of action?

Mr CLARK — Chair, as I have indicated, I do not think it is appropriate for me to comment further on the report while it is under consideration by government. These are very important, very sensitive matters. They are being carefully and thoroughly considered by government, and as I say, I do not think it is appropriate for me to comment further while the report is being considered.

Mr PAKULA — And the when?

Mr O'BRIEN — There is no suggestion he is sitting on it.

The CHAIR — Mr O'Brien, just ask your question.

Mr O'BRIEN — I will ask a question about the budget estimates. I take the attorney to budget paper 3, chapter 3, page 243 and particularly in relation to the section 'Protecting community rights'. I am wondering if the attorney could advise the committee on any policy initiatives within the attorney's portfolio that are likely to impact upon those matters?

Mr CLARK — Mr O'Brien does touch on a very important area and one that has in a number of respects raised considerable controversy. One particular initiative which I think is worth highlighting in this context is the issue of the Charter of Human Rights and Responsibilities Act 2006. That is a piece of legislation which many members will know has now been in force for some years, and the legislation itself provides that there should be a review undertaken of the act by October this year. I gave careful consideration as to the best way to ensure that that review occurred, and my conclusion was that the most appropriate way was through the Governor in Council asking the Scrutiny of Acts and Regulations Committee of the Parliament to conduct that review.

There is a wide range of issues that need to be considered. There is a range of issues that are laid down in the act itself. More generally the review should, in my view, provide an opportunity for the widest possible consideration of the framework that we have in Victoria for the protection and upholding of rights and the recognition and provision of responsibilities. I was very keen that the review have broad terms of reference and that it be conducted in a very open manner, which gave an opportunity for all sections of the community to have their say.

The role of government in relation to the review will be in particular to ensure that the widest possible range of factual information about how the charter act has operated is placed before the committee so that the committee and therefore the community are as fully informed as possible about how the legislation has operated.

There has been some criticism from some quarters of the manner in which the review is being conducted, but it seems to me that to have the review conducted by SARC is in many respects similar to the review of the exemptions and exceptions under the Equal Opportunity Act that was conducted under the previous government, whereby members of the committee, regardless of their political views, applied themselves to the issues at hand and came up with a report that considered a wide range of difficult issues and made considered and constructive recommendations. I am certainly hopeful and indeed expect that members of SARC will apply themselves very diligently and openly to the conduct of the review. I think it is far better that the review be conducted that way than by some of the alternative options that were available.

I am pleased to see that the review has been welcomed by many who have an interest in rights and liberties in Victoria, and I am certainly very much looking forward to the deliberations and recommendations of the committee, because the Attorney-General's portfolio does have a strong responsibility to ensure a just and fair Victoria. This review will play a significant role in contributing to that.

Ms HENNESSY — Just on the review of the human rights charter, the appropriation for the Parliament contains no additional money for parliamentary committees generally. Have you provided an appropriation in the justice portfolio to allow the Scrutiny of Acts and Regulations Committee to properly and thoroughly conduct its review of the charter, given that you, yourself, just gave evidence that a wide range of issues need to be considered?

Mr CLARK — Clearly this is an important review that is being conducted by the committee, and I agree with the analogy of the other important review that has been undertaken in recent times by SARC, the review of the exemptions and exceptions under the Equal Opportunity Act. My understanding is that that review was undertaken by the committee within the resources of the Parliament, and to date I am not aware of SARC making any requests to government in relation to additional resourcing.

My view is that the government should support the committee by making as wide a range as possible of factual information available to the committee based on the information that is available to government and the government's capacity to marshal that information. If there were to be some concern raised by the committee, and as I say I am not aware of that concern being raised, and if that were to reach government, then obviously I would be looking at that on its merits at the time.

Ms HENNESSY — Minister, how can a government-dominated committee properly review the charter, given that you opposed its creation — as did the Premier and as did the Deputy Premier — and given that the

Chair of the committee reviewing the charter has expressed his opposition to it on numerous occasions? Isn't it the case that this is just your way to try to knock it off?

The CHAIR — Minister, if you wish to respond.

Mr CLARK — I strongly disagree with that proposition — indeed, quite to the contrary. I cite no stronger example than the one I just referred to by way of precedent, SARC's review —

Ms HENNESSY — The difference, Attorney, was that the —

The CHAIR — Ms Hennessy!

Ms HENNESSY — exemptions and exceptions did not have people who had said —

The CHAIR — Ms Hennessy, jabbering away will not help.

Ms HENNESSY — 'Let's it knock off before we even start the review attempt'.

Mr O'BRIEN — You have asked a question; now allow the Attorney-General to answer.

The CHAIR — Allow the Attorney-General to respond.

Mr CLARK — As I was saying, I believe that the review commissioned by the previous government to be undertaken by SARC in the previous Parliament of the exemptions and exceptions under the Equal Opportunity Act is a very striking precedent, and in fact I am surprised —

Ms HENNESSY — It did not start with a closed mind.

Mr CLARK — that some members have been raising concern about the conduct of the inquiry —

Mr PAKULA — That would be me.

Mr CLARK — into the charter act by SARC, given that precedent. I do not recall him — and Mr Pakula volunteers his name — raising objections to the review of the Equal Opportunity Act exemptions and exceptions being given to SARC. The Chair at that time, Mr Carli, had expressed very strong views on matters relating to the Equal Opportunity Act in the past, yet no-one took exception to him chairing that inquiry.

I think, with respect to Ms Hennessy, that the question misunderstands the dynamics of a parliamentary committee, where a lot of the value of the work is the interaction between the various members on it. Members who have served for some time on parliamentary committees will know that the practice is that, on a well-working committee, all members of the committee, regardless of their political views, try to work together to get their minds around the evidence and issues before them and to reach agreement where they can. If they ultimately cannot, of course there is scope for minority reports, but the calibre of a parliamentary committee report depends on the quality of the report, the extent to which it is based on sound findings, the quality of the submissions and the evidence that it receives. The extent to which there ends up being disagreement between a majority and a minority relates to the effectiveness with which both sides present their points of view in the ultimate report.

I think having it conducted by a parliamentary committee is a far more open and accountable manner of conducting a review than the available alternatives, and I have very great confidence and expectations that the members of the committee from all sides of politics will do a good job and come up with a report that adds real value to the issues.

The CHAIR — Thank you very much. Attorney-General, I refer to budget paper 3, chapter 2, pages 124, 126 and 127. I ask you to advise the committee: how does the budget contribute to improving the justice system?

Mr CLARK — Thank you, Chair. Repeat those page references please?

The CHAIR — Pages 124, 126 and 127.

Mr CLARK — These, Chair, are matters that relate to some of the initiatives within the budget, and they were the three initiatives that were on the final slide of my presentation. They cover three areas: they cover community legal centres; they cover the Court Integrated Services Program; and they cover the homeless persons legal service, liaison service. These, as I indicated in my presentation, are three measures that were due to lapse under the previous government — which I found quite astounding, I must say, on coming to office because these were measures which as far as the community was concerned were supported on an ongoing basis. They were, particularly in relation to the community legal centres and the Courts Integrated Services Program, important ongoing components of the work within the Attorney-General's portfolio. They were by no means pilot projects and yet the funding for them was set to lapse, and it would have had a very significant consequence for the legal system if that had occurred. So I was determined to do my utmost to ensure that they could continue to be funded, and I am pleased to say that that is the case.

The funding for the community legal centres will continue funding for two main areas. The first is to provide funding for community legal centres operating in regional Victoria, and the second is to provide funding in relation to family violence services. I expect I do not need to persuade members of the committee that the community legal centres are a critical part of the legal framework. They provide free advice to people who otherwise would not have access to legal advice. They run generally on shoestring budgets with a lot of volunteer support, particularly at a board level. They were funded in particular to provide services in relation to family violence matters. Needless to say, when there is a family violence matter arising, that involves two parties — an alleged perpetrator and the victim of whatever violence has occurred — and when an application for an order comes before a court it is obviously important that both sides can be represented. Clearly Victoria Legal Aid can provide representation to one party, but there is a risk that if they provide aid to one party and the other party is not in a position to secure their own legal advice, then they will be left unrepresented. This funding supported community legal centres to provide a service to give legal advice to the other party that was not funded by Victoria Legal Aid. Clearly had that program ended, it would have had very serious consequences indeed.

The second program, the Court Integrated Services Program, is one that seeks to give courts the resources they need to help offenders who have very serious difficulties in their lives get their lives back on track — for example, people with mental illness or other cognitive problems. It was probably the single service provided to the Magistrates Court that the courts valued, and it would have been a disaster if that had fallen over. That also has been funded, as has the homeless persons liaison service being operated out of the Magistrates Court. I think those make significant contributions to the proper and just running of the justice system.

The CHAIR — Thank you very much, Attorney-General. I think we have time for a final question.

Mr PAKULA — Minister, I take you to pages 243 and 244 of budget paper 3, protecting community rights. It is an output measure that relates to the Victorian Equal Opportunity and Human Rights Commission. I note on page 244 that the total output cost shows a $400 000 reduction in target funding for 2011-12, and on the previous page you have a target of 6000 to 6500 for inquiries made to the commission. Minister, since you have flagged the changes to the act, which have recently been introduced, I know that my office has received a lot of calls, particularly from gay men and women concerned about the impact of this legislation on them. You have put out media that suggests that this bill is primarily about ladies bowls clubs. But is it not a fact that gay Victorians have every reason to be concerned and that you have severely underestimated the number of calls the commission is likely to receive and severely underfunded the commission, given the amount of concern that is now rising in the community?

Mr CLARK — Let me deal with the aspects of that question that relate to what you refer to as calls on the commission. Effectively the legislation that is now before the Parliament preserves the status quo in relation to the operation of specific exemptions and exceptions, particularly in relation to faith-based schools and other organisations. So you are suggesting there is going to be a dramatic change in the workload of the commission as a result of the legislation — —

Mr PAKULA — Judging by the traffic through my office.

Mr CLARK — As a result of the legislation before the Parliament. To me, that is a non sequitur. As I say, effectively the legislation before the Parliament continues the position as it stands — indeed, it narrows the range of attributes, but effectively it continues the position as it stands under the 1995 legislation, so I — —

Mr PAKULA — But not under the 2010 legislation.

Mr CLARK — I do not believe that there is substance to the point that you are making.

The CHAIR — Do you really want a follow-up?

Mr PAKULA — Yes, I really want to follow up because you talk about the 1995 legislation but not the 2010 legislation. Minister, I would ask whether you agree with me in terms of the funding cut and the amount of traffic that is going to go through the commission, particularly since the member for Frankston's comments about comparing homosexuality with child molestation.

The CHAIR — We have been extremely liberal in terms of the interpretation of the question, which is an examination of the Attorney-General in relation to the legislation before the Parliament. My view about the follow-up question is that it does not relate to the principal issue about performance measures.

Mr PAKULA — I will relate it to the performance measures.

The CHAIR — I am suggesting to you that it is not appropriate to be referring to what is said by a member of the back bench in another place.

Mr PAKULA — I will relate it to the performance measures. In terms of the workload of the commission and the funding for the commission, Minister, let us be clear: will the bill make it harder or will it make it easier for a faith-based church or a faith-based school to refuse to employ someone on the basis that they are gay or a single mother?

Mr CLARK — Compared with the law that is currently in force in Victoria, to the extent to which the attributes are narrowed, it will make it, at least in principle, harder for a faith-based organisation to come under the exception. The point I should add to what I said previously — the only point that I think needs adding, and I thought you would have been aware of it; you may well be aware of it, but let us make it clear — the 2010 act has not yet come into force in those respects.

Mr PAKULA — But it would

Mr CLARK — The current law applicable in Victoria is the 1995 act. As I said in answer to your previous question, the amendments that are currently before the Parliament effectively preserve the status quo as it currently is under the 1995 act and indeed in a manner very similar to the provisions that apply under the commonwealth's Fair Work Act legislation, for example.

The CHAIR — Thank you, Attorney-General, for your very fulsome in the responses to questions from the committee. I have two remarks to make. One is to thank Ms Armytage, Mr Twist and Ms Moody for their attendance; and further, as we conclude this part of the hearing, I remind all those responsible for broadcasting to cease all transmission and all recording of proceedings until the hearing formally resumes. Thank you.

Witnesses withdrew.