



## **DAVID MORRIS MP**

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### **Values Have No Place in Black Letter Law**

**Legislative Assembly 15<sup>th</sup> April 2010**

**Mr MORRIS** (Mornington) — I rise to speak on the Members of Parliament (Standards) Bill, but I disclose, in accordance with section 3(1)(d) of the Members of Parliament (Register of Interests) Act 1978, that by virtue of my position as a member of Parliament I have what may be considered to be a material interest in relation to this bill.

The bill sets out, as the explanatory memorandum indicates, to promote public trust and confidence in members of Parliament by establishing a statement of values, setting out a code of conduct for members and establishing a register of interests to replace the register established under the Members of Parliament (Register of Interests) Act 1978.

One could say it sets out to do that, but I do not think the bill in its present form goes anywhere near achieving it. I do not propose to go through the bill in any great detail but I certainly will make general comments about some of its provisions.

In many ways the provisions of this legislation, particularly the disclosure provisions even in the present form, are an improvement on the existing act. They provide some clarification and greater consistency in the way in which members report the necessary information. If one looks at the returns that are compiled under the existing legislation one sees that the disparity between members in the way real estate holdings particularly are reported is enormous. I am not suggesting one way is right and another is wrong, but clearly there is some disparity.

There are two parts to the bill that are substantially different to those in the current act. One which is entirely different is part 2 — the statement of values, and the other is part 3 — the code of conduct, which has been expanded to the point where it is almost unrecognisable from the existing legislation.

The member for Prahran made the point that in his view the statement of values was aspirational, and I think that is probably a fair thing to say. Where I differ from him and many others in this place is that I do not think aspirations have any place in the law and they do not have any place in an act of Parliament. Aspirations should be in other places.

That is not to say that any of the values identified in part 2 are inappropriate, but they are basic values that should be held by anyone who seeks public office, whether they are seeking it in the commonwealth Parliament, this state Parliament or even a local council.

They are values that are inherent in the job. I think it is perhaps indicative of the erosion of standards under this government that we now have to enshrine these values in this so-called aspirational legislation.

Values are inherently personal things, and there is no way you can impose personal values by legislation. Any person who aspires to serve the public needs to have these values, and if they do not have them I would suggest that they will not hold that public office for a particularly long time.

In terms of the code of conduct itself, the bill provides for a number of additions to the standard 1970s document. I agree it is very much a 1970s document. Landmark legislation though it was at the time, it is simply not in accord with the expectations of the 21st century.

However, I once again raise my eyebrows at legislating things like upholding democracy. I would have thought that the oath we take, the constitution of this state and the legal framework of the state had already dealt with that. Respecting others regardless of background is certainly a value I have; I imagine it is a value shared by every one of my colleagues in this chamber. But once again I fail to see how you can achieve this sort of outcome by legislation. I express concern about this so-called aspirational legislation. It is a trend: more and more we are enacting legislation that simply cannot be enforced. It is not to undermine the concept, and it certainly is not to speak with disrespect of the values, but I simply do not think it is appropriate to do this with legislation.

I support all the provisions in this bill, as far as they go, but it is an incomplete bill. The member for Box Hill has produced a comprehensive series of amendments which, if accepted, will provide for much greater and much more effective scrutiny of the activities of members than is currently possible and would allow the claimed intent of the bill to be achieved. The bill as it stands simply cannot achieve the purposes set out. I support the amendments.

Much of the rest of the bill, beyond the additional disclosures and so on, is really about what we should be thinking, what values we should hold and which way we should behave. It is a sad state of affairs that it has become necessary to enshrine these sorts of things in black-letter law.

It is clear that this bill sets a series of minimum standards. The problem with minimum standards is that they then become the absolute standard. If you have a form of behaviour occurring that is not below the minimum identified standard, but that would have previously been seen by any reasonable person to be entirely unacceptable, once these so-called minimum standards are put into place that behaviour automatically becomes acceptable. Rather than achieving the objectives of the bill, you get a general decline in standards.

Once again the Premier has refused to introduce an independent broadbased anticorruption commission. With this legislation there is no independent umpire and no independent recourse if the government uses its numbers in this house to rule one way or the other. Whether the government be using the power for good or evil, there is no independent umpire. The processes under this bill are clearly open to political interference and political abuse.

In the couple of minutes remaining I simply say that while I acknowledge the comprehensive body of work done by the Law Reform Committee, there has been no broad public consultation on this bill, contrary to the recommendation of that committee. In fact if one was to look at the events that have occurred in the Parliament this week, one might almost think there had been a deliberate attempt to stifle debate on this bill. We have effectively had about 2 hours to deal with this bill. It was brought in a couple of weeks ago, left to sit over Easter, and then we basically have 2 hours to discuss what is a particularly important piece of legislation, and that is unfortunate to say the least.

The government is paying lip-service to the process. The bill as it stands is patently incomplete, and if it remains unamended — if the member for Box Hill's proposed amendments do not get up — it will finish up as a blatantly political attempt to corrupt the disclosure requirements. Using the disclosure requirements in this way is not in the public interest, and clearly it is the government's intention not to do what is in the public interest but what is in its own political interest.

I urge government members to do the right thing and support the comprehensive suite of amendments proposed by the member for Box Hill. If we get together that package, we will have achieved what is intended in the spirit of the bill — that is, appropriate levels of disclosure.

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