

Australia: Victorian government forces young teacher to quit

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21 April 2005

As part of a series of measures aimed at intimidating public school teachers, the Labor government in the Australian state of Victoria has forced a young teacher to resign. Andrew Phillips, who taught at Orbost Secondary College in rural Victoria, discovered in the pages of the press in January that he had been suspended from teaching for an offence he committed over a decade ago.

Legislation introduced in November 2003—the *Education Legislation (Miscellaneous Amendments) Act 2003*—means that any person convicted of a sexual offence against a child is, irrespective of the date of conviction, ineligible for employment in the teaching service. The Act, which eliminates discretionary powers that previously existed to deal with such cases, amounts to mandatory retrospective punishment for past conduct.

Just before the start of the school year, Premier Steve Bracks' government completed police checks on 10,000 teachers who had not previously been scrutinised. The police found that in 1992, prior to beginning his teaching career, Phillips, then aged 20, had a consensual relationship with a girl who was 15. He was charged with a sexual offence, but no conviction was recorded and he was released on a good behaviour bond.

In February, Phillips resigned from the Education Department rather than face being sacked. The details of his plight only came to light after the principal at Orbost Secondary, John Brazier, wrote to the media protesting his treatment and insisting that the government reinstate the young teacher. According to Brazier, Phillips, now aged 33, had an unblemished record and was a model teacher.

Phillips' sister, Kym Webster, wrote an impassioned letter to the Melbourne-based *Age* newspaper on March 16 defending her brother's record. "This suggestion that the incident has only just been detected is extremely misleading and false, as there have been at least two other police checks completed during his six-year teaching career, as well as checks performed while studying education. These checks had all detected this incident, and he has always freely acknowledged the matter.

"As the court records will substantiate, the crime that my brother pleaded guilty to was sexual assault of a minor. What this actually involved was my 20-year-old brother consensually touching a 15-years-and-10-months-old girl's breasts. No sexual intercourse took place. This was subsequently reported to the police by a third party unrelated to the girl. The police then charged him with an offence against a child.

"Thus, the Education Department has known about it for his entire teaching life, and considered him as acceptable to teach children. Now under the new law, it and the minister have all of a sudden decided that he is unfit to teach.

"Under recommendations from his solicitor, my brother pleaded guilty to the charge before the court. No conviction was recorded, due to the court's view of the incident being of minor severity. The court then advised him that this matter would in no way interfere with any future job prospects".

She concluded: "As a registered teacher, I know what a great job he has done as a teacher. He does not pose a danger to children of any age, and the Education Department can ill afford to lose teachers of his calibre. I would also warn any young people to think carefully before embarking on a career in which the Government can change the rules at will."

Once the details of the case were publicised, students at Orbost, teachers and wider sections of the public expressed sympathy with Phillips and outrage at the government's arbitrary actions. But the government and the opposition Liberal Party only hardened their stance, reiterating that "the law is the law" and attempting to whip up an hysterical atmosphere about the dangers of "paedophiles" in the schools.

Although no conviction was recorded against Phillips, Bracks declared: "He pleaded guilty and there was a conviction". Education minister Lynne Kosky stated: "This is our children we're talking about and we want the children to be safe as well as well-educated". Opposition education spokesman Victor Perton said: "If you've got a conviction

for a sex offence, you are not going to teach our children”.

Both Liberal and Labor have claimed that their law and order campaign represents broader community views. Yet support for Phillips is widespread in Orbost and among teachers statewide. Ian McIntosh, a teacher at Orbost Secondary College, told the media that Phillips had “unanimous support”. “He’s an exceptional teacher who has been inspirational for many of the kids, especially with engaging the underachievers. Today some of the students have been moved to write letters of support for him, too”.

The school’s Australian Education Union (AEU) branch unanimously passed a resolution on March 16, condemning Phillips’ removal and calling for his reinstatement. The motion said: “We have lost a most valued colleague and the students have lost an excellent teacher. We call on Minister for Education and Training Lynne Kosky to immediately amend the legislation to provide for discretion to be able to be exercised. The current legislation is unjust and its retrospective nature unfair.”

Reflecting the sentiment among teachers, Victorian Independent Teachers Union (VIEU) leader Tony Keenan said: “This legislation affects all teachers both public and private. It is a bad law and we are urging the government to review and change it.” The VIEU voted to “express full support to Andrew Phillips and his colleagues in any action they take”.

However, the AEU has offered only token support. Instead of organising a statewide campaign, including industrial action, the union’s joint Primary and Secondary Council has proposed a meaningless protest exercise, in which union branches vote in support of Phillips and forward copies of resolutions to local MPs.

According to a March 20 *Age* article, the AEU advised Phillips “it was in his best long-term employment interests to quietly accept the decision, take a low profile and look for a new career”. The AEU mooted a job for Phillips in the public service, but it has not been forthcoming.

The union’s record on government victimisation of state school teachers is a particularly bad one. During the 1990s, under the Kennett Liberal government, dozens of teachers were removed under repressive provisions such as Teaching Service Order 140, which prohibited them from making statements critical of government policy.

In every case, the union advised its members to abide by TSO 140’s anti-democratic procedures and clauses. One by one, teachers were isolated, allowing a climate of fear and resignation to develop. This then became a crucial element in the government’s ability to drive thousands of teachers out of the education system and shut down 350 schools.

With the support of the Socialist Equality Party, one victimised teacher, Geraldine Rawson, challenged TSO 140

and ultimately won a case in the Victorian Supreme Court, invalidating a key clause. But the remainder of TSO 140 was upheld. Since coming to office in 1999, the Bracks Labor government has reneged on its promises to amend the confidentiality clause.

In neighbouring New South Wales, since the Carr government’s establishment of the Child Protection Investigation Unit in 1996, over 1,000 allegations of child abuse have been investigated. Any physical contact between teachers and students may be the basis of charges, and any allegation, no matter how unfounded or malicious, can destroy a career. In one instance a principal was demoted for “not properly managing an alleged incident between a teacher and a student” six years earlier. (See “Students, teachers and residents protest against suspension of high school principal”)

The legislation used against Phillips may only affect the small number of teachers who have had past brushes with the law. But that is not its main purpose. The government is using parental concerns over child abuse to fashion a climate of suspicion and intimidation. It is seeking to undermine solidarity between parents and teachers and condition teachers into accepting a new round of attacks on public education.

The *Miscellaneous Amendments Act 2003* is only one of the legislative changes that have been introduced. Last November’s *Teaching Service (Conduct and Performance) Act* was devised to speed up and broaden the targeting of “underperformance” by both teachers and principals. It prevents those teachers who face charges of incompetence from taking stress leave and applying for WorkCover.

Ominously, education minister Kosky said the Education Department and previous state governments had been “a little too relaxed” in dealing with “underperforming” teachers. This is despite the fact that the Kennett Liberal government reduced the teaching workforce by 20 percent, driving out 9,500 teachers.



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