PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

13 April 2000

(extract from Book 5)

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By authority of the Victorian Government Printer

The Governor

His Excellency the Honourable Sir JAMES AUGUSTINE GOBBO, AC

The Lieutenant-Governor

Professor ADRIENNE E. CLARKE, AO

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Deputy Speaker and Chairman of Committees: The Hon. J. M. MADDIGAN

Temporary Chairmen of Committees: Ms Barker, Ms Davies, Mr Jasper, Mr Kilgour, Mr Loney, Mr Lupton, Mr Nardella, Mrs Peulich, Mr Phillips, Mr Plowman, Mr Richardson, Mr Savage, Mr Seitz

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The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
The Hon. D. V. NAPTHINE

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
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Leader of the Parliamentary National Party:
Mr P. J. RYAN

Deputy Leader of the Parliamentary National Party:
Mr B. E. H. STEGGALL

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Andrianopoulos, Mr Alex	Mill Park	ALP	Lim, Mr Hong Muy	Clayton	ALP
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Jasper, Mr Kenneth Stephen	Murray Valley	NP	Thompson, Mr Murray Hamilton	Sandringham	LP
Kennett, Mr Jeffrey Gibb [1]	Burwood	LP	Thwaites, Mr Johnstone William	Albert Park	ALP
Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Kosky, Ms Lynne Janice	Altona	ALP	Viney, Mr Matthew Shaw	Frankston East	ALP
Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP
Leighton, Mr Michael Andrew	Preston	ALP			

[1] Resigned 3 November 1999
[2] Elected 11 December 1999

CONTENTS

THURSDAY, 13 APRIL 2000

Thursday, 13 April 2000

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.37 a.m. and read the prayer.

RESIGNATION OF MEMBER

The SPEAKER — Order! On Wednesday, 12 April 2000, I received a letter from the honourable member for Benalla, the Honourable P. J. McNamara, MLA, which states:

> Following my earlier advice to the house today, I wish to formally tender my resignation as the member of the Legislative Assembly representing the seat of Benalla effective from today, 12 April 2000.
>
> I have had some wonderful times over the past 18 years in the Parliament and have made some good friends for which I am truly grateful.
>
> Thank you for the support you have given me since your appointment as Speaker. You are doing a terrific job and are to be commended. Congratulations and every best wish to you and members of the Parliament for the future.

Honourable Members — Hear, hear!

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates

Mr LONEY (Geelong North) presented report on reforms for scrutinising budget estimates, together with appendix.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Gascor Holdings No 3 Pty Ltd — Financial Statements for the period 1 July 1998 to 31 March 1999

Melbourne City Link Act 1995:

Melbourne City Link Eleventh Amending Deed

City Link and Extension Projects Integration and Facilitation Agreement Fourth Amending Deed

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule No 23.

GOVERNOR'S SPEECH

Address-in-reply

The SPEAKER — I advise the house that the address-in-reply to the Governor's speech will be presented to His Excellency the Governor at Government House on Thursday, 27 April, at 11.00 a.m. I request that as many honourable members as possible accompany me to Government House. Limited transport will be available from the front steps of Parliament House at 10.25 a.m. on that day. Alternatively, honourable members may drive direct to Government House and wait in Government House Drive until 10.50 a.m. to form a cavalcade.

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Transport) — I move:

> That the house, at its rising, adjourn until Tuesday, 2 May.

Motion agreed to.

MEMBERS STATEMENTS

FOI: opposition access

Ms ASHER (Brighton) — I refer to a document signed by the Attorney-General and entitled 'Freedom of information — a key to open and accountable government', which outlines that FOI laws should now be interpreted by departments and agencies in a manner that reflects a willingness to disclose information. The document is an absolute sham. When the opposition requested information regarding the Access Economics document it was denied access to 26 documents. It was also denied access to 37 briefing papers regarding tax reductions and to over half the documents applied for with respect to the government's mismanagement of the electricity crisis.

Victoria is supposed to have a new open, honest and accountable government, yet page after page of documents are exempted from FOI. Presumably I am charged a photocopying fee for even blank sheets of paper.

Mr Hulls interjected.

Ms ASHER — The Attorney-General says by interjection, 'You will be now'. He writes one thing and

says another. The government's FOI policy is a sham. There is no freedom of information in this state.

Anzac Day

Mr LIM (Clayton) — This Sunday, 16 April, I shall be attending my fifth annual Anzac service at the local Returned and Services League (RSL) club at Clayton. However, this year will be very different from the previous four years because I will be taking a number of local Asian community leaders to the very special function.

I have noted with concern in each of the past four years that I have been the only person of Asian background to attend the service. There was a perception in local Asian communities that the memorial service was reserved for members of the RSL and their families. Following advice from the RSL that Australians of any background are most welcome to attend and lay wreaths at the service, last week I issued a media release to all Asian media outlets urging all migrants, particularly Asian Australians, to attend their local Anzac service, and possibly the dawn service in the city.

I have encouraged especially young members of all ethnic communities to attend the service as a mark of respect to those heroes who have made the ultimate sacrifice for Australia, as well as for those servicemen and servicewomen who served with gallantly and distinction alongside the allied forces overseas.

I believe that by participating in and sharing this solemn and humbling national occasion ethnic Australians can be at the same time both proudly ethnic and fiercely Australian. Furthermore, I believe the participation will go a long way to promoting and consolidating harmonious community relations in this great country.

FYROM

Mr KOTSIRAS (Bulleen) — I condemn the Labor government for manipulating culturally diverse communities and making decisions simply to gain political mileage and win points.

The government has given a false impression that it supports the former Kennett government's policy directive on the 'Macedonian issue' and is awaiting the High Court's decision — the case is expected to be heard on 26 May — before deciding what to do next. Unfortunately it has come to my attention that the Labor government is using various communities as political footballs and is trying to play both sides in what is a complex and emotional dispute.

Honourable members interjecting.

The SPEAKER — Order! I have stopped the clock. Government benches will come to order. The honourable member for Bulleen is entitled to be heard. Restart the clock.

Mr KOTSIRAS — A publication entitled 'The impact of gaming on specific cultural groups' issued by the Victorian Casino and Gaming Authority states:

> Macedonia has casinos that are only accessible to the very rich.

This Labor government has failed to implement the directive that it claims to support. It has even failed to ensure that in this publication the VCGA refers to the country as FYROM, as recommended by the United Nations and agreed to by the Australian government.

However, it does not stop there. In a media release dated 4 April the Minister for Community Services refers to the language spoken by people from FYROM as 'Macedonian'. There is a clear distinction between the approach of the Labor government and that of the opposition: while the opposition takes action to ensure peace and harmony, the Labor government takes action simply to win votes, as was indicated in a letter from the honourable member for Keilor to the Premier. These facts prove that the Labor government has no commitment to and shows no leadership on this issue and that its approach is full of rhetoric and inconsistencies.

Peter Tobin

Ms OVERINGTON (Ballarat West) — I place on the public record the recent death of Peter Damien Tobin, OAM. Peter was a well-known identity in Ballarat who owned a successful funeral business, and who through his business touched the lives of many families, including my own.

Peter was a man of many visions. He was an original supporter of the Sovereign Hill Historical Park, where he served as chair for a number of years. I became better acquainted with Peter when we served together on the Eureka Centre committee, which honourable members would know is a celebration of Eureka in Ballarat. Peter had supported the concept for many years — in fact he was probably the catalyst that brought it all together. I am glad he lived to see it become a reality. He was only 59 years of age when he died, but he had such a passion for Ballarat — and I emphasise the word 'passion', because it was a real, raw passion. He certainly left his stamp on the city.

Peter belonged to many organisations. I suppose one of the unknown areas of Peter's life was that he also had a passion for the Returned and Services League and was part of the working party that went to Gallipoli and brought back to Australia the remains of the unknown soldier. Peter will be well remembered in Ballarat.

Powercor: Wimmera supply

Mr DELAHUNTY (Wimmera) — I refer to the concerns of residents and industries about the reliability of Powercor in the Wimmera district. The shires of Buloke, Hindmarsh, West Wimmera and Yarriambiack held a series of public meetings across the Wimmera during January to get the views of residents on the electricity service levels currently experienced and their expectations for the future. Five key issues were raised by the community: firstly, the reliability of the electricity supply; secondly, contact with Powercor; thirdly, price; fourthly, Powercor's involvement and presence in the community; and fifthly, the capability of the distribution system to enable economic development in the shires.

The overwhelming issue in the community was reliability of the electricity supply. From the community perspective reliability encompasses the frequency and duration of outages as well as the response time to fix a fault. People could not understand that statistically Powercor's performance has been improving over time because the statistics were not consistent with their perceptions or their experience of rural customers at the end of long feeder lines. This week the Office of the Regulator-General held a hearing in Horsham and the Regulator-General agreed that Powercor needs to improve the supply to the Wimmera.

The SPEAKER — Order! The honourable member's time has expired.

Elspeth Chambers

Ms DELAHUNTY (Minister for Education) — I congratulate Elspeth Chambers, a local community activist in the electorate of Northcote, on her recent appointment as coordinator of the Alphington Self Help Exchange. It is an excellent appointment of a person who has given tremendous community support to women and environmental issues in Northcote. The Alphington Self Help Exchange has been running for 20 years and is jointly funded by the cities of Yarra and Darebin. Initially it began as an exercise club for young mothers and has expanded into a whole range of other activities. Elspeth will be perfect to lead the centre. A number of playgroups flourish at the centre including one run exclusively by fathers. More than 200 people use the centre for a variety of activities such as furniture restoration, yoga and family counselling. One-day workshops are held on subjects ranging from worm farming to appreciation of local indigenous plant species. Elspeth Chambers exemplifies the modern citizen who has devoted enormous time and effort to her local community. Her own involvement with the self-help exchange spans more than 16 years. It is people like Elspeth — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

Terang Golf Club

Mr VOGELS (Warrnambool) — I have approached the Minister for Sport and Recreation to ascertain whether the government can assist the Terang Golf Club in its hour of need. The golf club is an integral part of the township. Due to human error it has lost the use of half its greens for over 12 months. About a month ago the club employed a man on work experience through an employment agency. He was supposedly experienced in greenkeeping. However, he managed to poison and destroy 11 greens at the Terang Golf Club. It will cost approximately $5000 to replace each green and the club will be without a golf course for 12 months. This debacle will affect the local community heavily — for example, it will lose scheduled tournaments such as the Corangamite and District Golf Association pennant rounds. It will also affect tourism as the caravan park that is adjacent to the golf club is frequently used by tourists so that they can play at the golf course. The club would appreciate the minister's intervention in providing the assistance required to immediately carry out urgent repairs, either with a grant or some sort of emergency assistance.

Rob Cook

Ms BEATTIE (Tullamarine) — I pay tribute to one of Tullamarine's highly respected principals, Mr Rob Cook, of Gladstone Views Primary School. Rob is retiring after six years at Gladstone Views and 37 years of commitment to the education department and to Victorian children.

Throughout the years Rob has promoted and maintained an extremely high standard of academic achievement among his students and has fostered positive and successful working relationships with both staff and parents. His presence among the school community will be greatly missed, particularly by the

children for whom he has provided a safe and caring educational environment in which they have thrived.

Dissios Markos, the school council president, summed up the school community's feelings when he thanked Rob for his significant contribution to the great feeling and achievements at the school. I wish Rob all the best for the years ahead and may his retirement be as rewarding as his career. Rob is a pilot and shares my passion for flying. I wish Rob blue skies and happy landings.

Queenscliff: dredge maintenance

Mr SPRY (Bellarine) — I refer to Parks Victoria's ludicrous new protocols required of tenderers for maintenance work on the dredge at Queenscliff. The *Cormorant*, as it is known, operates almost continuously on the cut at Queenscliff to prevent silting at the entrance which would render the harbour useless and disrupt the pilot service, ferries and other commercial and recreational users at a huge cost to Victoria. A small, efficient and reputable family business has been performing regular maintenance works on the *Cormorant* for many years.

The new tendering protocols, even for relatively small jobs, require tenderers to provide detailed information that would make even Bruno Grollo pop his cork. It is fair enough to insist on competitive tendering, but what about a bit of commonsense from Parks Victoria — or is there something more sinister here? Does the responsible minister realise this heavy-handed action will inevitably lead to a significant increase in maintenance costs? Or does the government want to get rid of small, competitive, low-overhead businesses and return to the old days of union-dominated public works organisations and their unnecessary burden on taxpayers? I challenge the Premier to instruct the minister to stop this nonsense and give small business and their workers a fair go.

Leslie Norton

Mr SEITZ (Keilor) — I place on record my appreciation for Keilor resident, Dr Leslie Norton. Dr Norton is the owner of Overnewton Castle in Keilor. Overnewton Castle was built by Scotsman William Taylor in 1849. Mr Taylor arrived in Port Phillip in 1840 and had interests in two other runs before buying the Overnewton estate in 1849. The Overnewton Castle property in Keilor contains many historical buildings. Dr Norton, by his own personal expense and financial commitment, is maintaining, restoring and refurbishing Overnewton Castle. He is also a committed supporter of the Keilor Historical Society.

The DEPUTY SPEAKER — Order! The honourable member's time has expired, as has the time for members statements.

PLANNING AND ENVIRONMENT (AMENDMENT) BILL

Second reading

Mr THWAITES (Minister for Planning) — I move:

That this bill be now read a second time.

The planning and building industry in Victoria provides a substantial economic benefit to this state.

The government supports development and encourages a prosperous building industry that engages with the community. The government also sees that planning policies are important to the growth and development of the Victorian economy. Further, it recognises the enormous impact that planning processes and decisions have on the quality of life of all Victorians in their homes, neighbourhoods and communities.

Policy formulation in this area is therefore based on an understanding of the importance of land-use planning and the four general principles that are the pillars of this government's policies — namely, restoring democracy, better services, financial accountability, and growing all of Victoria.

With all this in mind, the government's pre-election policy committed to giving Victorians back their voice and influence over decisions that affect their lifestyles. This will provide greater certainty for individuals, communities and businesses and protect Victoria's standing as one of the most livable environments in the world.

The single most important reform that can be made to land-use planning is for all of the stakeholders to regain confidence and trust in the way that the system works.

On 13 December 1999, the *State Planning Agenda — A Sensible Balance* was launched outlining the direction, action and activities for planning in Victoria for the next year and beyond. It showed that the government was moving immediately to restore a sensible balance to planning in Victoria. This bill takes the next step.

Since coming to office the government has already honoured pre-election commitments by:

setting in place a consultative process to replace the *Good Design Guide* and Viccode 1 with a single new residential code that would apply to all housing;

introducing height controls around the bay;

holding an urban planning summit; and

setting clear limits for the exercise of ministerial powers of intervention by issuing a practice note on ministerial intervention in planning and heritage matters. This practice note will lead to open and accountable decisions on intervention. The planning minister will now publicly release reasons for intervening and provide an annual report to Parliament.

A number of other pre-election commitments, such as the introduction of tougher penalties for illegal demolition and breaches of planning law, require legislative amendment.

Central to the Planning and Environment (Amendment) Bill 2000 are new provisions for:

consistency between planning and building permits;

an improved process for approval of building permits for demolition;

tougher penalties for breaches of planning law; and

amendments of permits to take into account the law of the day — and not the law at the time of the original approval.

In introducing the bill, the government is showing its commitment to continually improving the planning and building systems by enhancing all parts of the process.

The bill amends both the Planning and Environment Act 1987 and the Building Act 1993. The bill also includes several technical amendments to the Residential Tenancies Act 1997 and Subdivision Act 1988.

I would like to turn first to the amendments to the Building Act.

Amendment to Building Act 1993

The bill amends the Building Act to provide:

a requirement for building surveyors to refer applications for a building permit for demolition to responsible authorities for their consent and report if the proposed demolition together with all other demolitions completed or permitted in the previous three years in respect of that building would cumulatively be equivalent to demolition of more than half the volume of the building;

that any required planning permit will have to be obtained before a building or demolition permit is granted;

a requirement for building surveyors to check relevant planning permits and other required planning approvals before issuing a building permit or demolition permit; and

for a building permit to be consistent with any relevant planning permit or other prescribed planning approvals for the site.

Consistency between building and planning permits

In the past there has been a concern that many building permits have been issued that are inconsistent with relevant planning permits. This causes problems for councils and neighbours in knowing which requirement prevails.

This amendment will more closely integrate the operation of building and planning systems by clearly requiring a building surveyor to check that the relevant planning permit or prescribed planning approval is consistent with the proposed building permit.

In determining whether the building work proposed in the application for a building permit is consistent with a planning permit, it is the intention of these amendments that in issuing a building permit a building surveyor should ensure that any building permit issued is consistent with the requirements of any planning permit, including conditions and endorsed plans for that permit in addition to any documents referred to in the planning permit that have a direct bearing on the proposed building permit.

The building surveyor's assessment of consistency between the building permit and the relevant planning permit should include:

the height, area, form and configuration of the proposed building work or any part of the building work;

the location of the proposed building on the land, including setbacks from boundaries;

the location of windows, doors and privacy screens; and

any conditions of the planning permit that have specific construction requirements or that require specification construction details.

Of course the quality of the planning permit conditions and endorsed plans play a significant role in achieving

consistency. All responsible authorities will need to pay careful attention to:

make sure that planning permit conditions are clearly written;

ensure that endorsed plans are adequately dimensioned;

be reasonable in their consideration of minor amendments which may need to be made;

keep planning and building registers up to date and easily accessible.

The cooperation of the development industry is also sought in improving the quality of planning permit applications, ensuring they are properly documented and completed, and that good practices are set and applied.

Process for approval of building permits for demolition

The *State Planning Agenda* delivered on 13 December 1999 announced the government's intention to introduce legislation in this autumn 2000 session of Parliament, to prevent demolition of a building before any relevant planning approval is obtained.

Under the existing legislative arrangements there is no provision to require building surveyors to seek advice of local councils on demolition. The previous minister recognised the need for council input and introduced a practice note suggesting that all applications for a building permit for demolition should be referred to councils as part of the process of deciding on special interest.

The problem with the practice note was that it did not have the force of law behind it. It also left the final decision on whether a building was of special interest as a matter to be determined by the building surveyor, and the views of councils on these matters had no formal status. This bill will clarify procedures for approval of demolition permits and make them effective in the eyes of the law. It will also remove the interpretation ambiguity as to what is of special interest.

The bill amends the Building Act to prevent a building surveyor from issuing a building permit for demolition without the report and consent of the relevant responsible authority, if the proposed demolition together with all other demolitions completed or permitted in the previous three years in respect of that building would cumulatively be equivalent to demolition of more than 50 per cent of the volume of the building.

The building surveyor should determine the volume of demolition proposed and original volume of the building.

It is the intention of this amendment that:

the volume of demolition proposed is to be calculated as an aggregate of demolitions undertaken under building permits issued in the previous three years that provided for the demolition of any part of the building in addition to the current application;

the original volume is to be calculated as the volume of the building at the date of the first building permit to be issued within the previous three years for the demolition of any part of the building.

This report and consent mechanism will enable responsible authorities to consider the proposed demolition within the framework of their planning schemes.

A responsible authority will be able to refuse its consent to an application for a building permit for demolition if a planning permit is required for demolition of the building but has not yet been granted. Responsible authorities will have 15 days to consider the building surveyor's request for report and consent.

Amendments outlined in the bill will strongly support and encourage councils to use heritage overlays as the appropriate mechanism to protect historic and significant buildings within their municipality from demolition without consideration by council.

The onus is on councils and their communities to ensure that buildings they regard as having historic or cultural value are appropriately protected through heritage studies and the planning scheme.

The requirement for the report and consent by responsible authorities will also in part replace an existing mechanism under building regulation 2.2(5). The current practice note will be withdrawn and completely revised.

In addition, section 28(1)(b) of the Building Act, which requires a building surveyor to make a judgment on whether a building is of special interest because of its design, appearance, location, use or environment, will also be repealed. It is considered more appropriate for such deliberations to be made by responsible authorities within the context of their planning schemes.

The bill also provides a safety net to prevent demolition of other important buildings that have, for whatever reason, not yet been provided with such protection, so

that they are not demolished without appropriate consideration of their significance.

Where an application for a building permit for demolition relates to a building that is not on the heritage register or scheduled under a heritage overlay but is nonetheless considered by council to have historic or cultural significance, the bill provides a mechanism to prevent demolition of such buildings until an assessment of their historic or cultural value has been made.

If, within the report and consent period — 15 business days — a planning authority applies to the Minister for Planning for an expedited amendment to the planning scheme under the Planning and Environment Act which would affect the land concerned, the application for a permit for demolition will be suspended.

Suspension of the application will enable the minister to consider whether the building is of such significance that the relevant planning scheme should be amended on an interim basis. The amendment would provide that a planning permit is required for the building's demolition. The minister may also consider whether the building should be protected through state heritage controls.

Such applications to the Minister for Planning for expedited planning scheme amendments will be considered within the context of the planning practice note on ministerial powers of intervention in planning and heritage matters.

The thrust of these amendments is that councils will be better informed on applications for building permits for substantial demolitions within their municipalities.

The amendments clearly recognise the important role of councils in identifying buildings of historic or cultural value, and that the appropriate mechanism for protection of such buildings is through either the heritage register under the Heritage Act or through heritage overlays under the relevant planning scheme.

To support these new procedures, the government will ensure that an education and information package is available to coincide with the proclamation of the amendments to the Building Act. Council, industry and community representatives will be invited to contribute to finalisation of guidelines, practice notes and other documents to accompany these amendments.

The government will be closely monitoring compliance with these new provisions. If needs be further action will be taken to ensure the spirit and intent of these provisions is fully met.

If illegal demolitions occur or these new demolition approval procedures are not complied with, penalties provided for under the relevant acts will apply.

The government seeks the cooperation of councils and the development industry in ensuring good practices are set and met, and the participation of councils and their communities in monitoring new demolition approvals procedures.

Amendment to Planning and Environment Act 1987

Planning penalties

In the *State Planning Agenda* the government committed to the introduction of tougher penalties for illegal demolition and breaches of planning law.

When the Planning and Environment Act was passed, penalties provided under the act were considered sufficient to show the seriousness with which breaches of planning law were viewed. However, over time and with the effect of inflation the deterrent effect has been greatly diminished. This bill is intended to significantly increase penalties under the act to reintroduce that deterrent effect. The increases will show just how seriously the government regards breaches of planning law.

For example, the maximum penalty for contravening a planning scheme, permit or agreement will be increased from $4000 for a first offence and $6000 for a second or subsequent offence to $120 000, with the distinction between first and second or subsequent offences being removed. Penalties remain to be determined by the Magistrates Court.

A further example is the penalty attached to the issue of a planning infringement notice, which is currently $100. The penalty is to be increased to an amount up to $500 for a natural person and $1000 for a body corporate for on-the-spot fines.

The bill will also remove the bar imposed on responsible authorities prosecuting an offence that is currently the subject of an application for an enforcement order, or an enforcement order which has been issued by the Victorian Civil and Administrative Tribunal (VCAT).

Amending planning permits

In the recent case of *Beaufonte v. The City of Yarra and Others* the Supreme Court held that a planning permit for a brothel could be amended without consideration of changes to the law that had taken place since the grant of the permit.

This decision may have wider consequences when a holder of a planning permit wants or needs to proceed in a way which is different to that authorised by the permit.

Depending on the circumstances, a permit-holder currently applies for a fresh permit or applies to amend the existing permit. Either way, the decision ought to be made having regard to any subsequent changes to the law. The bill ensures that the current planning scheme must be considered by responsible authorities and VCAT when deciding either an application for a new planning permit, or a request to amend a planning permit or plans, drawings or other documents approved under a permit.

In addition, the Minister for Consumer Affairs has recently introduced a bill to amend the Prostitution Control Act to close this loophole in relation to brothel permits.

Amendment to other acts

Prostitution Control Act 1994

Penalties are being increased for planning offences in relation to brothel permits under the Prostitution Control Act to bring them into line with penalties for offences under the Planning and Environment Act.

Residential Tenancies Act 1997

Currently the Building Act does not apply to movable dwellings situated in a caravan park. This amendment will apply part 12A of the Building Act to such moveable dwellings.

Subdivision Act 1988

The bill includes a technical amendment to the Subdivision Act to provide a head of power to enable certain matters to be included in regulations under that act. The matters to be included are relevant to the:

provision of services to members of a body corporate and occupiers of lots;

power of a body corporate to require owners to carry out repairs, maintenance and other works on the lot;

power of a body corporate to carry out work if the owner does not; and

disposition and investment on behalf of the body corporate of money held by the body corporate.

Restrictive covenants

Finally, I wish to comment on a pre-election commitment to improve the coordination of decision making for land burdened by restrictive covenants. This commitment was restated in the *State Planning Agenda*, along with a commitment to consult on this proposal prior to legislative change.

The bill before you today does not deal with this issue. Early consultation with stakeholders indicated that there are complex policy and technical issues involved and more time is needed to address them properly. The government aims to prepare a new bill for introduction later in these sittings which deals with this issue. It is then proposed to allow public comment before that bill is finalised in the spring sittings.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Mr THWAITES (Minister for Planning) — I move:

That the debate be adjourned for two weeks.

Mr CLARK (Box Hill) — On the question of time, Madam Deputy Speaker, I am sure the minister would agree that this is a detailed and complex bill. The opposition does not oppose the proposal that the debate be adjourned for two weeks, particularly having in mind the date on which the house is to resume after today. However, given that school holidays and the Easter period fall between today and the resumption of Parliament, it will be even more difficult for opposition members to carry out the necessary consultation on the bill in the intervening period — —

Mr Nardella interjected.

Mr CLARK — I request two things of the minister. Firstly, will he undertake that I and other opposition members interested in the bill will be briefed by officers of his department next week so that, as the honourable member for Melton suggests, we may be able to further consider the bill during part of the holiday period? Secondly, if during the course of our consultations with interested members of the public there proves to be a need to obtain further information on the content of the bill from the department, will the minister make the relevant officers available to respond to the opposition on queries that may arise?

Motion agreed to and debate adjourned until Thursday, 27 April.

ACCIDENT COMPENSATION (COMMON LAW AND BENEFITS) BILL

Second reading

Mr CAMERON (Minister for Workcover) — I move:

That this bill be now read a second time.

The purpose of this bill is to implement the Bracks government's election commitment to restore access to common-law damages for seriously injured workers to sue employers and recover damages. The government believes that the right of seriously injured workers to sue negligent employers is a fundamental right that should never have been removed. The government is committed to the restoration of common-law rights for seriously injured workers within the context of a fully funded and financially stable system which maintains competitive premiums. The government promised the restoration of common-law rights to seriously injured workers within its first 100 days of government. However, because of the need for detailed consideration of the best way to restore common-law and detailed actuarial costings this was not possible. This bill restores access to common-law damages from 20 October 1999, the date the Bracks government was sworn in. The bill also makes changes to statutory benefits and makes other changes to the Accident Compensation Act 1985.

In late November 1999 representatives from the various stakeholder groups were invited to form a working party whose role was to contribute to the development and evaluation of options for the restoration of common-law rights, for consideration by the government. During the course of proceedings the working party heard expert opinions on various aspects of the scheme and was provided with comprehensive information on its operations. The entire process was carried out in a transparent and consultative manner. An actuary was engaged to assist the working party assess the financial viability of options for restoring common law.

The report outlines the structure and financial position of the scheme, provides an overview of the common-law experience and comparison with other jurisdictions and details the costed options and recommendations. The actuarial report was published as an accompanying volume to the main report.

Although the working party was unable to agree on a recommended approach for the restoration of common-law access, the report received by the government put forward three central options reflecting the range of views expressed by members.

The entitlement of injured workers to obtain damages at common law was removed by the former government on 12 November 1997 under the Accident Compensation (Miscellaneous Amendment) Act 1997. Only workers injured prior to 12 November 1997 retained the right to seek common-law damages.

The former rights, which were removed, provided access to common law by a requirement that the compensable injury be a serious injury. The test of serious injury was satisfied by a worker having a 30 per cent or greater permanent impairment as a result of compensable injury assessed according to the American Medical Association *Guides to the Evaluation of Permanent Impairment*, second edition — the AMA *Guides*, second edition. On the 30 per cent test being satisfied a worker was deemed to have a serious injury and entitled to bring proceedings for common-law damages. A worker with a whole-person-impairment determination of less than 30 per cent had an entitlement to make an application to the Victorian Workcover Authority that the injury was a serious injury or alternatively make an application to the court seeking leave to bring proceedings on the basis that the injury satisfied the narrative test of serious injury. The narrative test examined the effects and consequences of the injury on the worker. The narrative test for serious injury in section 135A of the Accident Compensation Act 1985 contained a definition of 'serious injury', meaning:

(a) serious long-term impairment or loss of a body function; or

(b) permanent serious disfigurement; or

(c) severe long-term mental or severe long-term behavioural disturbance or disorder; or

(d) loss of a foetus.

The bill seeks to restore common-law rights for seriously injured workers who satisfy the former deeming test of 30 per cent or greater whole-person impairment which will now be assessed in accordance with the AMA *Guides*, fourth edition, and in the alternative, for workers who satisfy the narrative test of serious injury proposed by this bill. The government sees the deeming test to be the main gateway for access to common-law rights.

The previous narrative test for serious injury in section 135A of the Accident Compensation Act 1985 was identical to that which was first introduced in the

Transport Accident Act 1986. The former government had little information on which to base a reliable estimate of the cost and little understanding of what was meant by serious injury when the serious injury test was introduced to the Workcover scheme. The Parliament gave the courts little guidance as to what was meant by the concept of serious injury in 1986 when it was introduced into the Transport Accident Act or when it was introduced into the Accident Compensation Act in 1992. The courts were effectively left to develop the meaning of the narrative test of serious injury. The overall result was a rapid increase in the number of common-law claims over the actuarial estimate and abolition of access to common-law damages by the former government.

The commitment of this government to restore common-law rights to seriously injured workers has an equal commitment to ensure that the costs of the restoration of common-law rights are confined and the number of common-law claims and the cost of those claims can be actuarially measured in a reasonably predictable manner. In order to achieve the objectives of government in relation to the restoration of common-law rights, the former narrative test of serious injury has been altered in a number of respects: firstly, with the intention of defining the meaning of serious injury; and secondly, with the intention of excluding the economic-loss basis on which certain types of applications were successful such as those approved by the Court of Appeal *The State of Victoria v. Glover* (Court of Appeal Supreme Court of Victoria, unreported, 7 October 1998) and *Barlow & Anor v. Hollis* (Court of Appeal Supreme Court of Victoria, unreported, 17 March 2000).

The narrative serious injury test contained in the bill has been codified to broadly reflect the test established by the full court in *Humphries v. Poljak* (Full Court of the Supreme Court of Victoria 1992 2 VR at 129) as well as introducing a new loss of earning capacity consequence with a threshold of 40 per cent. Forty per cent is within the range of loss of earning capacity found by the full court in *Petkovski v. Galletti* (Full Court of the Supreme Court of Victoria 1994 1 VR 436) to be very considerable.

Consistent with *Humphries v. Poljak*, the code prescribes that the narrative test of serious injury will only be satisfied by reference to the consequences to the worker of any impairment or loss of a body function, disfigurement or mental or behavioural disturbance or disorder, as the case may be, with respect to pain and suffering and loss of earning capacity when judged by comparison with other cases in the range of possible impairments or losses of a body function, disfigurements or mental or behavioural disturbances or disorders, respectively. The process undertaken by the courts will be to determine the consequence of a particular impairment to the worker in order to determine whether that consequence is serious to the worker. The test to be applied is subjective in the sense that it is the effect of the injury which must be considered, but the determination must be objectively made by reference to the consequences judged by comparison with other cases in the range of possible impairments or losses of a body function, disfigurements or mental or behavioural disturbances or disorders. The two categories of consequences, pain and suffering and loss of earning capacity, must be considered separately in deciding whether an injury is serious.

In accordance with the test in *Humphries v. Poljak*, the impairment or loss of a body function or a disfigurement shall not be held to be serious unless the court finds the consequence is more than significant or marked and is, at least, very considerable.

The government considers that the adverb ‘very’ should be interpreted consistent with the dicta in the Court of Appeal decision in *Transport Accident Commission v. Dennis* 1998 1 VR 702 at 703:

> The adverb ‘very’ is important, for many disturbances are considerable in the sense that they are important or substantial, without being very considerable. An important or substantial impairment would not satisfy the requirement. To be very considerable an impairment must be more than that.

The definition of serious injury contains a new concept in respect of the qualifying period for a consequence of an impairment or loss of a body function, disfigurement or mental or behavioural disturbance or disorder to be found to be serious. Previously, it was a time period which satisfied the requirement of being long term. In *Humphries v. Poljak*, the majority of the full court did not express a view on the meaning of the phrase ‘long-term’. It said ‘long-term’ was not an expression likely to give rise to difficulty. The absence of guidance as to the meaning of long-term has, however, given rise to ambiguity in applications and this has been compounded by the medical and legal professions having a different approach to the meaning to be given to the term. The expression ‘long-term’ has been removed from the new test and the word ‘permanent’ has been inserted by way of substitution. This is intended to reflect the view of government that a serious consequence is one which is permanent, meaning indefinitely for the foreseeable future.

The test introduces a new concept of a 40 per cent threshold of loss of earning capacity. The provision of

this objective standard is within the range which the full court found in *Petkovski v. Galletti* 1994 1 VR 436 to be very considerable. There the full court considered a fact situation where the reduction in working hours was from about 40 to between 25 and 20. The full court said that such an interference with working capacity may fairly be regarded as a serious consequence. Prior to the decision in *Humphries v. Poljak*, the full court approved the dicta of Marks J. in *Ninkovic v. Pajvancek* 1991 2 VR 427 that 'disablement from work' was a serious consequence. *Petkovski v. Galletti* gave a meaning to the extent to which interference with working capacity was a serious consequence. The government regards the result in *Petkovski v. Galletti* to be the appropriate benchmark for serious injury in respect of loss of earning capacity and accordingly to reflect the commonsense appreciation of a measure of loss of earning capacity which should be determined as being a serious consequence. Since *Petkovski v. Galletti*, there have been two Court of Appeal decisions, *The State of Victoria v. Glover* and *Barlow & Anor v. Hollis*, where the court has upheld findings of a trial judge that a loss of flexibility of options in employment or loss of a career choice has been sufficient to satisfy the requirement of there being a serious economic loss consequence. Those decisions are not consistent with the policy of the government, and in order to ensure the measure of economic loss required to be found as a serious consequence is consistent with that found in *Humphries v. Poljak* and *Petkovski v. Galletti* the bill provides an objective criterion of a loss of earning capacity measured at the date of the hearing of the application as a loss of earning capacity of 40 per cent or more and also continuing to be a permanent loss of earning capacity of that degree.

The loss of earning capacity is to be measured by firstly comparing the worker's income from personal exertion or capacity to earn income on a before-injury and after-injury basis. The focus time period for determining the capacity to earn income on a before-injury basis is limited to three years before the injury and three years after the injury in order to remove open-ended inquiries which may have varying degrees of speculative judgment. The examination is one which is to fairly reflect the worker's earning capacity had the injury not occurred. Consistent with that understanding, in the three-year period prior to the injury, the court may have regard to the vagaries of the worker's pre-injury employment history and the impact of the worker's social, health and other factors on the capacity to work in that period. In respect of the three years after the injury, the earnings and/or capacity for earnings but for the injury will enable the court to have regard to the probable increases or decreases in earnings that may have occurred or the achievement of other employment opportunities within that time had the injury not occurred. The comparison is to be made on an examination of pre and post-injury gross income rather than net income. This will enable the analysis to have a simple basis of calculation and to avoid dispute as to a net income figure.

The three-year pre and post-injury period does not apply in the case of a worker referred to in section 5A(7) of the act or a worker under the age of 26 years at the date of injury. The government recognises that apprentices and workers undergoing training for the purpose of becoming qualified and in general terms workers under the age of 26 years should not be subject to a six-year period of inquiry of earnings or earning capacity. In the case of such workers, a court may have regard to the probable income from personal exertion which the worker would have earned but for the injury over the worker's probable earning life. This means the usual common-law position prevails.

The government recognises there is a tension between a worker's motivation to undertake rehabilitation and retraining and the opportunity to satisfy the economic loss threshold in the serious injury test by a worker not returning to employment or not undertaking rehabilitation and retraining. Accordingly the bill provides the following very important qualification on the loss of earning capacity threshold. The bill provides that a worker will not establish the loss of earning capacity threshold where the worker has or would have after rehabilitation or retraining and taking into account the worker's capacity for suitable employment after the injury, and where applicable, the reasonableness of the worker's attempts to participate in rehabilitation and retraining, a capacity for any employment including alternative or further or additional employment which, if exercised, would result in the worker earning more than 60 per cent of his or her gross pre-injury income. Suitable employment is defined in section 5 of the act and in relation to a worker means employment in work for which the worker is currently suited whether or not that work is available having regard to certain criteria.

As the issues of rehabilitation and retraining and capacity to undertake employment are seen by the government to be of critical importance to the success of being able to confine the costs of the scheme, the bill provides that for the purpose of proving a loss of earning capacity in a serious injury application, the worker bears the onus of proving any inability to be retrained or rehabilitated or to undertake suitable employment or undertake any employment including alternative employment or further or additional

employment. This provision is necessary to remove any ability to apply the decision of the full court in *Woodhead v. Barrow* (unreported, 3 September 1993).

Although the code provides an objective threshold of 40 per cent for loss of earning capacity which is expected to determine that issue in the majority of cases it is appreciated that there may be some cases where that threshold may have an unintended consequence. In order to meet that possibility the code retains the previous common-law requirement that the loss of earning capacity consequences still meet the standard of serious or severe. That test would still apply when a 40 per cent loss did not produce a loss in monetary terms which was serious or otherwise where the working life of a worker remaining after the hearing of the application or application for a certificate would not be long enough to warrant the 40 per cent loss of earning capacity in that case being serious or severe as the case may be.

The definition of serious injury maintains the previous distinction between the requirement of a serious impairment or loss of a body function or serious disfigurement and a severe mental or behavioural disturbance or disorder. The government recognises it is proper to maintain a higher threshold requirement for a mental or behavioural disturbance or disorder due to the degree of subjectivity involved in such a condition. The code does not define the meaning of the word 'severe'. The meaning of that word was considered by the Court of Appeal in *Mobilio v. Balliotis & Ors* 1998 3 VR 833. The Court of Appeal decided that the words 'serious' and 'severe' should not be equated and that the word 'severe' has a stronger meaning than the word 'serious'. The government accepts the correctness of that approach in respect of the determination of the consequences of pain and suffering. In the case of the consequences of the loss of earning capacity it will be sufficient to meet the 40 per cent loss of earning capacity test, subject to the common-law measure of severe or serious still being met.

In terms of what constitutes a mental or behavioural disturbance or disorder, the government considers that what is known as a functional overlay should never be sufficient to satisfy the serious injury test. To the extent there have been arguments put in various cases, the most recent being the Court of Appeal decision in *Abela v. Goodman Fielder Mills and Anor* (unreported, 16 February 2000) suggesting that a functional overlay may satisfy the requirement of a serious injury, the government says that such views are not consistent with the intentions of government in this proposal to restore common-law rights.

The code introduces a number of other modifications to the common law and seeks to remove issues in respect of which there has been ambiguity of interpretation or doubt. The psychological or psychiatric consequences of a physical injury and a physical injury are not to be combined. The former fall under paragraph (c) and the latter under paragraph (a) of the definition. In *Humphries v. Poljak*, the court said it would be anomalous to regard the consequences of mental disturbance or disorder to fall under paragraph (a) when the disturbance or disorder itself fell to be judged by whether they satisfied the criteria of paragraph (c). The government considers this distinction to be proper and should be maintained.

The assessment of serious injury is required to be made at the time the application is considered. In accordance with the assessment of permanent impairment under the AMA *Guides*, fourth edition, stabilisation must have occurred before an impairment determination can be made. This accords with the intention of government that an application for leave to bring proceedings cannot be made until an injury has stabilised. The bill provides that the determination of serious injury shall be made as at the date of the application. This is required to be consistent with the loss of earning capacity measurement being made at that date.

For the purposes of the application, court is defined to mean a court other than a Magistrates Court. The government recognises that the importance of a serious injury finding is one which requires such application should only be heard by a judge.

Section 135A(7) provides thresholds and caps which apply to the common-law claim in the trial of the action after leave to bring proceedings has been granted. In *Cropp v. TAC* 1998 3 VR 357, the Court of Appeal questioned whether the threshold amounts may be criteria of relevance to the determination of an assessment of serious injury. The government has chosen to maintain the previous threshold limits due to a recognition that there may be cases where unfairness would be created if the threshold was increased to a higher level. However, the government considers that by maintaining fairness in not increasing the former monetary thresholds, it is necessary to provide that the monetary threshold shall not be had regard to for the purposes of the serious injury application. The bill further provides that at the trial of an action before a jury, the fact that a worker has been granted a serious injury certificate or deemed to have a serious injury and the existence of the monetary thresholds and caps shall not be made known to the jury. The government considers such a provision to be consistent with the

serious injury thresholds not being an influence in a common-law trial.

The courts will be required to be satisfied that the evidence in support of the serious injury test has been met on the balance of probabilities. This has been included in the code in order to enshrine the standard of proof applied by the full court in *Humphries v. Poljak* and to ensure the lower standard of proof of a strongly arguable case is not introduced.

The bill introduces a new concept in relation to the worker having a limited entitlement to bring proceedings if, on the serious injury application, the court is not satisfied the worker has met both the pain and suffering and loss of earning capacity thresholds. If a worker satisfies the pain and suffering threshold but not the loss of earning capacity threshold, then the worker will be limited to an entitlement to bring common-law proceedings for the recovery of pain and suffering damages only. If, however, the worker satisfies the economic loss threshold, the worker will be entitled to bring proceedings for pain and suffering damages and economic loss damages.

The necessity for a worker to satisfy either the pain and suffering or the economic loss threshold and the importance of the decision itself creates a need for detailed reasons to be given by a court in respect of each category of the application partly to determine if there is a right of appeal. That need, together with the decision of the Court of Appeal in *Barlow & Anor v. Hollis* (unreported, 17 March 2000), has caused the government to consider it is appropriate to include a provision in the bill that the reasons given by the court in deciding an application shall not be summary reasons, but shall be as extensive and complete as the court would give on the trial of an action. The government considers this is an issue of importance due to the need to be able to have the benefit of judgments of the court in relation to issues of fact and opinion.

The bill also amends the appeal process. Following certain dicta of the full court which were subsequently adopted by the Court of Appeal an employer requires leave to appeal before being able to institute an appeal whereas a worker does not require leave. The government considers that this distinction is one which is not sustainable as a matter of fairness as between the parties and particularly because of the importance of the curial role of the Court of Appeal. To introduce a consistent position between the parties, the bill provides that leave to appeal shall not be required for any appeal to the Court of Appeal from a decision granting or refusing leave made on a serious injury application.

Finally, the bill requires the Court of Appeal to decide for itself whether an injury is a serious injury on the evidence and other material before the judge who heard the application. This effectively restores the task to be undertaken by a court of appeal to the principles established by *Humphries v. Poljak*. There the court followed the dicta of the majority as stated by the Full Court of the High Court in *Warren v. Coombes* (1979) 142CLR531 p.552, 'the duty of the appellate court is to decide the case — the facts as well as the law — for itself. In doing so it must recognise the advantages enjoyed by the judge who conducted the trial'.

Those workers who were injured between 12 November 1997 and 19 October 1999 and have serious injuries but are not eligible for common-law damages will be placed in an intensive case review program. Each identified claim will be reviewed to ensure that the previous claims management has:

supported and ensured services provided to claimants meet individual needs;

assessed all aspects of the claim and taken appropriate and timely action in accordance with the Accident Compensation Act 1985 and guidelines issued by the Victorian Workcover Authority;

explored in detail return to work options for claimants with a capacity to work;

facilitated claimant access to all statutory entitlements as offered by the Accident Compensation Act, particularly lump sum impairment benefits; and

considered potential claimant access to other non-Workcover statutory entitlements such as the Sentencing Act 1991, and possible commonwealth social security entitlements and advised the claimant of his or her possible entitlements.

It is intended that those workers assessed as having a whole person impairment of 30 per cent or more using the AMA *Guides*, fourth edition, who have been on weekly benefits for over 104 weeks and are assessed as having no current work capacity indefinitely, are to have the option to apply to the Victorian Workcover Authority for a settlement of their future weekly benefit. The Department of Treasury and Finance and the Victorian Workcover Authority have been asked to look at ways to achieve this outcome.

Consistent with the Common Law Working Party's terms of reference the working party considered and reported on a range of issues relating to statutory benefits. Although there was no unanimous

recommendation to increase statutory benefits there is in the government's view a strong case for increasing statutory lump sum benefits. This will assist those workers with lower levels of whole-person impairment who are potentially unable to access common law.

This bill therefore proposes to improve statutory benefits for those workers potentially unable to access common law. It is proposed to increase statutory lump sum benefits for those workers who have an assessed whole-person impairment of 30 per cent or less from 1 July 2000. The minimum payment will be increased from $5040 to $10 300 at 10 per cent whole-person impairment. The benefits above 10 per cent and up to 30 per cent whole-person impairment will be increased by $2060 per percentage point of impairment. Thereafter, the benefit structure will reflect the existing formula.

It is also proposed to increase weekly benefits to include regular overtime and shift allowances for the first 26 weeks of payments. If benefits are intended to compensate for economic loss caused by the injury, it is reasonable for a limited period of time to include regular overtime and shift allowances. It is intended the new benefit will be introduced from 1 September 2000 and will only apply to new claims on or after that date. This will give the Victorian Workcover Authority time to adjust its information technology systems to monitor and deliver this new benefit.

Also with regard to statutory lump sum benefits it is proposed to adopt the recommendations of the working party and review:

the effect on the level of statutory lump sum benefits paid and scheme cost of the translation from AMA *Guides*, second edition, and the table of maims to AMA *Guides*, fourth edition;

assessment of permanent back injuries and industrial asthma under the AMA *Guides*, fourth edition; and

the 30 per cent whole-person impairment threshold for payment of statutory lump sum benefits for psychiatric illnesses, and the guidelines for assessment of these claims.

These issues were discussed in the working party's report and I would refer members to chapter five of that report.

To provide more flexibility for the operation of the AMA *Guides*, fourth edition, it is proposed that the Accident Compensation Act be amended so that the AMA *Guides*, fourth edition, may be modified by regulation.

The average premium rate is to be increased to 2.18 per cent of wages. This will be sufficient to cover the scheme cost assessed by the actuary — engaged by the Department of Treasury and Finance to assist the working party — and after meeting the estimated unfunded liability and establishing a modest safety margin in the premium in early years. Once the unfunded liability is met, the safety margin, on current projections, will increase to just over 10 per cent. Experience over recent years has demonstrated the necessity for this.

A premium of 2.18 per cent represents a 15 per cent increase for employers. This increase in the first year will be applied equally across all employers and will in later years be subject to the experience rating formula adopted by the Victorian scheme as each employer's experience emerges. This increase must be seen in the context of the cost of compensation schemes around Australia. Victoria's scheme has been a lower cost scheme when compared to the schemes around Australia and these measures are intended to provide improved and equitable benefits for a broad range of injured workers. Even with increasing the average premium rate to 2.18 per cent of wages, the Victorian average premium rate will be at or below the Australian average and remains competitive.

The government is mindful of the impact on small business of premium increases. But the only real way to achieve premium reductions for small business is by reducing the number of workplace accidents. With this in mind the government is committed to providing better incentives to those small businesses which demonstrate a commitment to providing a safe and healthy environment for themselves and their employees.

In a broader context, the Victorian Workcover Authority will undertake a review of the experience-rated premium system which will include an examination of the impact on small businesses committed to safe and healthy workplaces. In addition, the Victorian Workcover Authority will provide improved service delivery and better access to information and training for all businesses but particularly small business.

The bill makes important changes to the process for managing both the assessments of claims for statutory lump sum damages and access to damages for common law. These changes include the timing of the impairment assessment and the role of medical panels in dispute resolution. These changes pick up one of the very important recommendations of the working party that the Victorian Workcover Authority have in place a

strong claims management process for common law. The changes also build on the Masel report, which amongst other recommendations highlighted the importance of appropriate claims management and streamlined assessment processes for both statutory benefit and common-law claims.

The bill requires that in future workers undergo a once-only whole-person impairment assessment to determine their entitlement for both statutory lump sum benefits and access to common law under the whole-person impairment test. The test will be undertaken no earlier that 12 months from the date of injury. Workers will initially be referred to an independent medical practitioner who will assess the level of impairment. If the assessment is not accepted by the worker the assessment will be referred to a medical panel. The decision by the medical panel will be final and binding on the courts.

If the worker wishes to pursue recovery of pain and suffering damages at common law, then his or her right to payment of any statutory non-economic loss compensation is suspended, pending the outcome of the common-law claim. If the worker fails to recover any pain and suffering damages, he or she may then access the statutory non-economic loss compensation. If the worker does receive a settlement offer, or an award, of pain and suffering damages, the worker would have the option of taking either the statutory non-economic loss compensation or the damages, but not both.

The worker's rights to weekly payments compensation and damages for economic loss are unaffected by this proposal.

The common-law pre-litigation process will only commence once the degree of impairment has been assessed and will be modified to dovetail with the new process. An essential aspect of these changes is that a worker will not be able to commence an application under the narrative serious injury test until the worker's level of impairment has been assessed.

Medical panels are currently responsible for providing opinions on a range of medical questions in relation to statutory benefits. It is proposed to extend the role of medical panels to provide opinions on medical questions associated with the narrative serious injury test.

As is currently the case, the decisions of medical panels will be final and binding. The value of the medical panels is that independent experts determine medical questions and the degree of whole-person impairment in a non-adversarial environment. As is currently the case the only appeal permitted will be on the basis that the medical panel has failed to afford procedural fairness or has breached other principles of administrative law.

Concerns have, however, been raised as to the operation of medical panels and whether or not they always afford procedural fairness. There have been a number of appeals on administrative law grounds.

To improve the operation of medical panels and to better enable them to take on their expanded role, the bill makes the following amendments:

the minister's power to issue guidelines will be amended to make it clear that one of the purposes of the guidelines is to ensure that medical panels accord procedural fairness to the persons affected by the opinion;

require the person referring the matter to the medical panels to provide a range of additional information over that which is currently provided — for example, a summary of agreed facts and facts that are in dispute;

while retaining the requirement that the court refers a medical question requested by a party to the court, give the court the right to refer the question in such form as it thinks appropriate;

enable the appointment of a deputy convenor of medical panels; and

provide consultants engaged to give expert advice to the medical panels, the protection from suit and from compulsion to give evidence, afforded to members of medical panels.

Finally, it is proposed to provide the Victorian Workcover Authority and self-insurers with a general power to refer medical questions for the opinion of a medical panel in the course of the claims management process as distinct from dispute resolution. It is proposed that the Victorian Workcover Authority or a self-insurer may make an application to the senior conciliation officer for the referral by a conciliation officer, with the consent of a worker, of a medical question relevant to a claim for compensation by the worker for the opinion of the medical panel.

These provisions dealing with medical panels take up a number of recommendations made by the working party in relation to the operation of medical panels. I should make clear, however, that this is an evolving area and further work is to be undertaken on the

appropriateness of certain questions being referred to medical panels and the method of their referral.

There are five further amendments that are necessary to correct anomalies or difficulties in relation to the run-off of the pre-1992 and pre-1997 common-law claims or are related to the restoration of common law. Each of the amendments implements in either full or part the recommendations of the working party.

The first of these amendments relates to correcting the anomaly as to time limitations that arises from what are known as the Rizza and Walker cases. As part of legislative changes in the spring of 1992, the right to access common law was closed off to all but those with a serious injury which arose either on or after 1 December 1992, or arose before that date but the incapacity arising from the injury did not become known until on or after that date. The inclusion of the latter category was intended principally as a safety net for workers who may fall victim to an insidious disease in the future which had been caused by employment before 1 December 1992.

For those injuries which arose prior to 1 December 1992 — and which did not come within the safety net category — the Accident Compensation Act put in place time limits on proceedings. Following the Supreme Court decision in Robart, the act was amended to impose a further time limit for these cases of 29 June 1994.

In the matters of *Rizza v. Fluor Daniel GTI (Aust.) Pty Ltd* and *Inline Courier Systems v. Walker*, the Court of Appeal ruled that the bar introduced in 1994 applied to common-law proceedings in respect of all injuries which occurred prior to 1 December 1992, including those which would otherwise have come within the safety net referred to above. Thus, unless proceedings in these cases had commenced prior to 29 June 1994, the safety net ceased to have any practical effect. This was not the intended effect of the bar.

This bill therefore amends the Accident Compensation Act to make it clear that the bar against commencing proceedings in respect of injuries occurring before 1 December 1992 does not apply in respect of those injuries which would qualify under the safety net.

The second of these amendments concerns the run-off of the pre-1997 common-law claims.

Workers injured prior to 12 November 1997 have until 31 December 2000 to issue a writ for common-law damages. The government is seeking to ensure that workers do not unfairly miss out on their rights in this context. Accordingly, the bill proposes that instead of requiring court proceedings to be commenced prior to 31 December 2000, subject to the operation of the Limitations of Actions Act, the plaintiff is required to have made his or her serious injury application to the Victorian Workcover Authority or self-insurer before 1 September 2000.

The next three amendments are consequential to the restoration of common law.

It is proposed that the Accident Compensation Act 1985 be amended so as to empower the courts, with the agreement of the plaintiff and the defendant, to order that all or part of an award of damages be paid by way of a structured settlement. Currently, an award of damages may only be made in the form of a lump sum. In certain cases, it may be to the benefit of a plaintiff if all or part of the amount were paid under other payment arrangements, including payments under an annuity purchased out of the amount.

It is proposed that the rules governing actions in respect of work-related injuries and deaths, arising out of transport accidents and other non-transport accident third-party actions, should broadly be the same as those which applied in respect of pre-12 November 1997 cases.

In the case of injuries arising out of a transport accident, while the worker's entitlements to no-fault compensation would continue under the Accident Compensation Act 1985, his or her right to recover common-law damages, and the processes for doing so, would be determined in accordance with the provisions of the Transport Accident Act 1986 and not the Accident Compensation Act 1985.

For other injuries where the worker may have a cause of action against a third party, any proceedings against the third party would be governed by the rules in the Accident Compensation Act 1985 — that is, the worker would be subject to the serious injury test and the thresholds and caps as to quantum. The exception to this are cases where the injury is deemed to be work-related and occurs away from the worker's fixed place of employment and where the employer is not a party to the proceedings. To coincide with the restoration of common law these amendments will be made retrospective to 20 October 1999.

The bill includes provisions which will set the party-party costs of originating motions and trials for common law at the applicable court scale less 20 per cent or such other fees as are determined by an order in council and published in the *Government Gazette*. This amendment is necessary to curtail the costs of the

scheme. In addition, the bill will give the Governor in Council a reserve power to set fees that may be recovered by a legal practitioner acting on behalf of a worker in respect of originating motions, damages trials and the pre-litigation process. The government intends this bill to increase benefits to workers and is concerned to ensure lawyers' costs are reasonable. These latter powers will only be exercised if there is evidence that solicitor-client fees increase unduly. The necessary systems will be put in place to monitor the level of solicitor-client fees.

The opportunity is also being taken to amend what is seen as an anomalous consequence of the former government's changes to the Sentencing Act in 1996.

The Accident Compensation Act 1985 and the Transport Accident Act 1986 are both intended to provide comprehensive schemes for compensating individuals who have suffered either workplace injuries and diseases, or injuries arising out of transport accidents. Within both schemes, the benefits are structured to address the main adverse impacts of such injuries and diseases.

An additional form of compensation currently exists under section 86 of the Sentencing Act 1991. A person who suffers loss of or damage to property or pain and suffering as a result of an offence, may apply to the court for an order that the offender pays compensation. This provision was extended to pain and suffering by the former government as part of that government's changes to crimes compensation in 1996.

In order for these compensation schemes to operate effectively, the government believes it is appropriate that compensation for such injuries is payable under one piece of legislation. Accordingly, this bill amends the Sentencing Act 1991 to exclude a person from entitlement to compensation for pain and suffering under section 86 where that person has or may have an entitlement to compensation under the Accident Compensation Act 1985 or the Transport Accident Act 1986 as the case may be and where the driver or employer is guilty of an offence under the Road Safety Act 1986 in the case of a driver, and the Dangerous Goods Act 1985, the Occupational Health and Safety Act 1985 or the Equipment (Public Safety) Act 1994 in the case of an employer. This amendment will apply from today, the date of the second-reading speech. In all other situations compensation for pain and suffering will still be available under the Sentencing Act.

The Supreme Court recently decided in *Bentley v. Furlan* (1993) VSC 481 that the Transport Accident Commission would not be liable to indemnify a driver for compensation under the Sentencing Act. The bill contains a clause to put beyond doubt that in respect of past cases or future cases where compensation for pain and suffering is awarded under the Sentencing Act, the Transport Accident Commission and the Victorian Workcover Authority are not liable to indemnify the offender for the payment of that compensation. Accordingly this amendment is to be retrospective to the date of the changes to the Sentencing Act.

This bill amends the Accident Compensation Act 1985 to enable the Victorian Workcover Authority the ability to recover from the Transport Accident Commission the full costs of compensation paid or payable under the act in respect of injuries or deaths arising out of a transport accident. It is intended that the Victorian Workcover Authority will appoint the Transport Accident Commission as an authorised agent to administer claims by workers that arise as a result of transport accidents.

This will require some minor consequential amendments to the Transport Accident Act which are included in the bill. In addition, if self-insurers wish to make full recovery under this provision from the Transport Accident Commission for workers injured in transport accidents they will need to appoint the Transport Accident Commission as their claims agent.

There are two further amendments which are not related to the restoration of common law.

The bill rectifies an unintended omission in the death benefits provisions of the act — sections 92A to 92C — introduced as part of the new benefits structure commenced in November 1997. Currently, if a deceased worker does not leave a dependent spouse, but does leave a dependent child — who is not an orphan — that child, and any other dependent children, while eligible to a pension, are not eligible to a share in the lump sum available under section 92A.

To remedy that omission a new provision will be included in section 92A. Where this situation arises, the dependent child or children will be entitled to such share of the overall lump sum provided for a death (currently $176 310) as the County Court considers is reasonable and appropriate.

Finally, it is proposed to amend the Dangerous Goods Act 1985 to allow appropriate officers of the Department of Natural Resources and Environment to, amongst other things, issue licences and to be appointed as inspectors under the Dangerous Goods Act 1985 for the purpose of enforcing the explosives regulations in mines and quarries. These regulations are presently

being rewritten as their sunset approaches. Consequential amendments to section 9 of the Dangerous Goods Act 1985 and section 56 of the Extractive Industries Development Act 1995 will also be necessary to avoid the risk of incompatible laws being passed.

In conclusion I make the following statements under section 85 of the Constitution Act 1975 of the reasons why sections 134AA, 134AB, 134AC, 134AD, 134AE, 134AG, 134A, 135AC and 138B of the Accident Compensation Act 1985, as inserted or amended by this bill, alter or vary section 85 of the Constitution Act 1975.

Clause 18, among other things, inserts new sections 134AA, 134AB, 134AC, 134AD and 134AE into the Accident Compensation Act 1985.

New sections 134AA and 134AB reinstate the right of an injured worker who is or may be entitled to compensation under the Accident Compensation Act 1985 in respect of an injury arising out of or in the course of or due to the nature of employment to recover damages in respect of the injury subject to limitations and conditions imposed by the sections as to date of injury, the application of the Transport Accident Act 1986, whether or not the injury is a serious injury within the meaning of section 134AB, the classes and amounts of damages which may be recovered, the discretion of the court to order costs and procedural requirements, including time limits.

The reason for imposing these limitations and conditions, which have the effect of limiting the jurisdiction of the Supreme Court, is that they are necessary in order to give effect to the government's policy objective of restoring access to damages for work-related injuries occurring on and after 20 October 1999 for seriously injured workers.

New section 134AC has the effect of permitting an appeal as of right to the Court of Appeal from a decision granting or refusing leave made on an application under new section 134AB(16)(b). Without this amendment, an appeal to the Court of Appeal from such a decision could only be made by leave of the Court of Appeal.

New section 134AD requires that, on the hearing of an appeal from a decision on an application under new section 134AB(16)(b), the Court of Appeal shall decide for itself whether the injury is a serious injury on the evidence and other material before the judge who heard the application and on any other evidence which the Court of Appeal may receive under any other act or rules of court.

New section 134AE requires that the reasons given by the court — which could be the Supreme Court — in deciding an application under new section 134AB(16)(b) shall not be summary reasons but shall be detailed reasons which are as extensive and complete as the court would give on the trial of an action.

The reason for these limitations of the jurisdiction of the Supreme Court is to ensure that decisions on applications for leave under section 134AB(16)(b), which are critical to the intended operation of the new common-law provisions, receive the appropriate level of judicial scrutiny.

Clause 19 inserts new section 134AG into the Accident Compensation Act 1985. This new section empowers the Governor in Council to, by order in council, make a legal costs order specifying the legal costs that may be recovered by a legal practitioner acting on behalf of a worker in respect of any claim, application or proceedings under new section 134AB and prescribing or specifying any matter or thing required to give effect to the legal costs order.

New section 134AG and any legal costs order made under that section will have full force and effect notwithstanding anything to the contrary in the Legal Practice Act 1996, the Supreme Court Act 1986 or the County Court Act 1958 or in any regulation, rules, order or other document made under any of those acts.

The reason for this limitation of the jurisdiction of the Supreme Court is that the government wishes to make provision for a more direct mechanism for regulating legal costs recoverable by a practitioner acting on behalf of workers in relation to the operation of the common-law provisions introduced by this bill.

Clause 21 amends section 134A(1) of the Accident Compensation Act 1985 so as to limit the preclusion from recovery of damages imposed by that provision to damages in respect of injuries arising out of or in the course of or due to the nature of employment on or after 12 November 1997 but before 20 October 1999.

This limitation of the jurisdiction of the Supreme Court is necessary to implement the government's decision to reintroduce access to damages for work-related injuries occurring on or after 20 October 1999.

Clause 22 substitutes a new section 135AC into the Accident Compensation Act 1985.

The existing section 135AC imposes certain time limits within which proceedings in accordance with section 135 or 135A of the act must be commenced. The new section imposes a less onerous time limit for those cases coming within paragraph (a) of the section.

The reason for this restriction of the jurisdiction of the Supreme Court is to provide for a well-defined but reasonable time frame for finalising the majority of actions for damages in respect of work-related injuries occurring prior to 12 November 1997.

Clause 26 inserts a new section 138B into the Accident Compensation Act 1985.

This new section operates to prevent a court (including the Supreme Court) from making an order for the payment of compensation for pain and suffering under section 86 of the Sentencing Act 1991 if the pain and suffering arises from an injury or death in respect of which the person concerned has or may have an entitlement to compensation under the Accident Compensation Act 1985 and the relevant offence is against the Dangerous Goods Act 1985, the Occupational Health and Safety Act 1985, the Equipment (Public Safety) Act 1994 or any regulations made under any of those acts.

The reason for this limitation of the jurisdiction of the Supreme Court is to give effect to government policy that, in the cases referred to, compensation for pain and suffering under the Sentencing Act should not be available.

I make the following statement under section 85 of the Constitution Act 1975 of the reason why section 107A of the Transport Accident Act 1986, as inserted by this bill, alters or varies section 85 of the Constitution Act 1975.

This new section operates to prevent a court (including the Supreme Court) from making an order for the payment of compensation for pain and suffering under section 86 of the Sentencing Act 1991 if the pain and suffering arises from an injury or death in respect of which the person concerned has or may have an entitlement to compensation under the Transport Accident Act 1986 and the relevant offence is against the Road Safety Act 1986 or any regulations made under that act.

The reason for this limitation of the jurisdiction of the Supreme Court is to give effect to government policy that, in the cases referred to, compensation for pain and suffering under the Sentencing Act should not be available.

The changes in the bill fulfil a key election commitment of the Bracks government. The changes in the bill are responsible and affordable. Containing the costs of the scheme is fundamental to the ability of the government to maintain the right to common-law action. The bill restores access to common-law rights for seriously injured workers.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Mr CAMERON (Minister for Workcover) — I move:

That the debate be adjourned for two weeks.

Mr CLARK (Box Hill) — Mr Acting Speaker, on the question of time, the minister's second-reading speech lasted for approximately an hour. The speech notes comprise 28 pages and indicate significant changes to the Accident Compensation Act, many of which are complex and detailed. I refer to some briefly to indicate the size and scope of the bill.

The second-reading speech raises the principal policy issue of the reintroduction of so-called common-law legal action. That raises at least two areas on which the public are entitled to extensive deliberation and debate. The first is the broad policy question of whether common-law actions are the best way to provide compensation to injured workers. The public is entitled to a debate that canvases in considerable detail the history and the past positions adopted by both sides of politics on this issue. The public is entitled to explore the reasons for the sudden change of approach of the Labor Party in 1997 and why it now flies in the face of longstanding Labor Party traditions. Those issues have not been canvassed to date and need to be explored before Parliament makes a decision on the legislation.

Many questions of detail arise in relation to common law. The minister has outlined a long and complex list of refinements, adjustments, restrictions and alterations to the rules that are to apply compared with what existed in 1997 in the conduct of so-called common-law legal actions. All injured parties, their representatives, the legal profession, the Trades Hall Council, employer organisations, individual employers and the public generally are entitled to have the complex new provisions explored in detail to see what impact they will have on the rights of all parties concerned — injured workers and employers — and on the way the system will operate.

What impact will the legislative package have on jobs and employment in Victoria? Last night during the

adjournment debate I asked the Minister for Workcover whether the government had conducted an economic assessment of the impact on future employment in the state and whether the proposed changes to Workcover would lead to the loss of jobs, and if so, how many jobs would be lost. The minister did not respond on that issue and gave no indication whether the package would have a significant impact on jobs in Victoria. It is a fundamental issue on which Parliament and the public are entitled to have answers. How can the opposition make responsible decisions on the legislation if key components such as the effect on employment, Victoria's competitive position and so on have not been addressed and there is no adequate information in the public arena.

A further issue raised by the bill is whether it will reopen opportunities or incentives for the making of unmeritorious claims for benefits. All honourable members are aware of the difficulties the previous Workcare scheme encountered in that regard, and the impact of that on premiums and unfunded liabilities. The threat of that re-occurring as a result of the legislation is something in which all Victorians have a great interest. It is a complex matter that will require time to investigate and obtain expert advice on.

The bill also introduces new restrictions on the ability of the legal profession to obtain remuneration under the Accident Compensation Act. That issue became public only when the government announced its package on Tuesday. Again it is something that requires detailed exploration. I am sure legal professionals will want to examine the proposal in detail and make representations to the government and the opposition as to the fairness and equity of the notion. More broadly, everyone connected with the workers compensation scheme will want to know what impact this system of fee regulation will have on the operation of the scheme.

The bill raises issues relating to the manner in which the increase in premiums will be implemented. The minister acknowledged in the second-reading speech that the average annual premium increase will be 15 per cent. There is no information that the opposition is aware of that explains the pattern of the premium increase. Is it to be a uniform, across-the-board increase so that all employer premiums will increase by 15 per cent?

Mr Hulls — On a point of order, Mr Acting Speaker, I am reluctant to interrupt the shadow minister, but this is a debate on the question of time, and the honourable member is now canvassing all aspects of the bill rather than addressing just the question of time. I ask you to bring him back to the question of time.

The ACTING SPEAKER (Mr Richardson) — Order! I do not uphold the point of order. I have been listening carefully to the honourable member for Box Hill. He has not been canvassing the merits or contents of the bill. He has been raising issues in support of the question of time. The honourable member is perfectly in order.

Mr CLARK — The question on which the public and the Parliament are entitled to further information in considering the legislation is what pattern of impact the premium increase will have. Is it to be a uniform increase across the board or are measures being put in place that will lead to differential impacts on different employers? The minister has cited some numerical examples, both in the house yesterday and in the public arena, but there is no comprehensive information that I am aware of that explains this aspect of the package.

The minister referred to the intensive-care review program. What benefits will that program deliver to injured workers who are eligible for the program and how will it be implemented in practice?

For the first time today the minister raised the issue of changing the relationship between the Transport Accident Commission and the Victorian Workcover Authority. There appears to be some potential for a transfer of funding responsibility between the commission and the authority. Again that is something on which the opposition and the public are entitled to full details. What will be the financial impact of what appears to be a potential shift in funding responsibilities between those two bodies?

The bill proposes the cashing out of the statutory benefits of workers who were injured between 12 November 1997 and 20 October 1999. That issue was referred to briefly by the minister in the second-reading speech. I would expect that the trade union movement will want to explore that issue in detail and find out how it will be implemented.

Mr Cameron interjected.

Mr CLARK — The minister says by way of interjection that it is not in the bill. However, the act is part of the package. If it is not in the bill people will want to know how that component of the government's package will implemented.

The second-reading speech raises policy implications regarding retrospectivity. The bill indicates the package will be backdated to 20 October. Should the package be

backdated further or is it appropriate for it to be backdated at all? These are issues that Parliament and many members of the public will want to consider.

The bill contained a large number of section 85 statements. On my count, nine separate sections of the bill in one way or another restrict the jurisdiction of the Supreme Court.

All members of the house will be aware of remarks made by government members when they were in opposition about the need for Parliament and the public to probe in detail the justification for section 85 statements. Certainly that needs to be done in this case because from all appearances a number of the section 85 statements are not what one could call formal or made for safeguarding purposes, but have a considerable substantive impact on the law.

For the first time the minister, in the second-reading speech, announced changes to arrangements for appeals to the Court of Appeal. As I understand his second-reading speech, the proposal is for all appeals against decisions relating to serious injury to be taken to the Court of Appeal as of right. If that is the case, many members of the legal profession and the public generally are entitled to know what impact that will have on the workload of the Court of Appeal and whether it is an appropriate way to deal with such matters.

The final issue I raise refers to proposed alterations to the Sentencing Act and the ability to apply for compensation orders under that act. Those orders will be curtailed and superseded by applications under the Accident Compensation Act, which will have significant impact in that area of the law. I am aware of at least one case concerning the right of an injured person to apply under the Sentencing Act that may be affected by the provision. It is a technical area, but one with serious consequences, and the opposition needs to obtain full details of what is proposed and of the ramifications so that it can consult widely.

For all those reasons the opposition will be faced with a demanding task in first assessing and later debating the bill when it returns to Parliament. The minister has moved the adjournment of debate on the bill for two weeks. Given the house's resolution earlier today about the adjournment of the house at the conclusion of today's proceedings, sittings of Parliament will resume on 2 May. Therefore the adjournment of the debate is in effect somewhat longer than two weeks.

The opposition proposes to apply itself intently to enable it to be in the best possible position to properly debate the bill, but to do so, given the Easter break and the school holidays — which may impact on some of the people with whom the opposition wishes to consult — it will need to start work on the bill quickly and proceed rapidly.

I have asked the minister to provide a briefing on the bill to interested opposition members next week. To be fair, the minister has not said no and has asked me to provide him with a written note, which I have emailed to him and his chief of staff. It would be helpful if the minister could give the house an undertaking that the opposition will be provided with a briefing as early as possible next week.

The opposition is prepared to work hard and be ready to debate the bill after 2 May. I ask the minister to reciprocate by giving the house an undertaking that he will expedite opposition briefings.

Mr COOPER (Mornington) — The honourable member for Box Hill has just told the house of the complexity of the legislation and has sought some assurances from the minister that he will oblige by arranging briefings so debate can resume in line with the adjournment motion moved by the minister.

Having set out all the reasons in detail, the honourable member for Box Hill sat down, presumably expecting that the minister would get to his feet and respond accordingly with a direct no or yes, or at least respond to the case put by the honourable member for Box Hill — —

Mr Cameron — On a point of order, Mr Acting Speaker, I moved the motion for the adjournment of debate. The proposition being put to the house is that I am entitled to speak a second time on my own motion.

The ACTING SPEAKER (Mr Richardson) — Order! There is no point of order. The statement made by the honourable member for Mornington was relevant to the question of time, and if the minister wished to respond he could have done so by leave. I am sure leave would be granted by the opposition for the minister to speak a second time.

Mr COOPER — As I was saying, one would have expected the minister to have sought leave to respond to the honourable member for Box Hill. It is important that all the facts be put before the house and that the opposition be given every opportunity to consult the community to ensure that the second-reading debate covers not only the complexities of the legislation but also its ramifications, as was well detailed by the honourable member for Box Hill.

Earlier the shadow minister sought some assurances from the Minister for Planning, but did not get them. Now it appears the government will not bother to respond with even a yes or a no — —

Mr Hulls — On a point of order, Mr Acting Speaker, I am reluctant to take a point of order, but I understand the current debate is about the question of time. The honourable member for Mornington now seems to be criticising the minister for not giving certain assurances on matters that do not relate to the question of time. I simply ask you to bring the honourable member for Mornington back to the question of time.

The ACTING SPEAKER (Mr Richardson) — Order! I do not uphold the point of order. All the remarks being made by the honourable member for Mornington relate to the question of time and the request by the honourable member for Box Hill of the minister that there be a response on the question of time. The Chair has only an informal indication that the minister may be about to seek leave to respond, so the honourable member for Mornington still has the call.

Mr COOPER — If my remarks prompt the minister to seek leave to make a statement in reply to the argument put by and the requests of the honourable member for Box Hill, I am more than happy to sit down and wait for the minister to seek that leave.

Mr CAMERON (Minister for Workcover) (*By leave*) — The normal arrangements will apply and the shadow minister will be briefed. I am more than happy for that arrangement to occur early next week.

Motion agreed to and debate adjourned until Thursday, 27 April.

EQUAL OPPORTUNITY (GENDER IDENTITY AND SEXUAL ORIENTATION) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Equal Opportunity Act 1995 to prohibit discrimination on the basis of sexual orientation or gender identity.

This bill implements two of the government's pre-election commitments designed to provide equal opportunity for all Victorians. The bill is the first step in a process of reform that will assist all Victorians to live free from unjustified discrimination. Throughout this year the government will review the Equal Opportunity Act to ensure that it allows Victorians to effectively combat unwarranted discrimination and provides for the existence of an equal opportunity commission that is truly independent of government. It is proposed to introduce any amendments that result from the review in the spring 2000 session of Parliament. The government is also reviewing other Victorian legislation to remove provisions that have the effect of discriminating against those in same-sex relationships.

Sexual orientation

The Equal Opportunity Act currently prohibits discrimination on the basis of a person's lawful sexual activity.

When the Equal Opportunity Act was enacted, the second-reading speech made it clear that the attribute of lawful sexual activity was intended to prohibit discrimination against homosexuals and lesbians. However, the use of the term 'lawful sexual activity' has been criticised as it is seen to focus on sexual practices to attract redress under the act. This is offensive to many homosexual, lesbian and bisexual Victorians who believe that it implies that they are more likely to be involved in immoral or unlawful sexual activity.

This bill prohibits discrimination against a person on the basis of his or her sexual orientation. This is defined to mean homosexuality — including lesbianism — bisexuality or heterosexuality.

The amendment is not intended to limit the current operation of the Equal Opportunity Act in any way but rather to ensure that people are fully protected from discrimination on the basis of their sexual orientation.

The attribute of lawful sexual activity will remain in the act. A person's lawful sexual activities, no matter what their sexual orientation is, are a private matter and should not form the basis of discrimination against that person.

Gender identity

This bill introduces the attribute of gender identity into the Equal Opportunity Act and extends the protection against discrimination afforded by the act to people whose gender identity does not match their physical sex at birth.

The umbrella term 'transgender' is commonly used to describe such people. The term 'transgender' describes a range of people such as those who have undergone

gender reassignment surgery, those who have not undergone surgery but seek to live as a member of the other sex and those who temporarily adopt the characteristics of the other sex such as cross-dressers.

The term 'gender identity' is used in the bill, however, because the amendment is designed to protect not only transgender people but also people born of indeterminate sex who seek to live as a member of a particular sex.

The Equal Opportunity Act currently does not prohibit discrimination on the basis of a person's gender identity. This undermines the objective of the act to eliminate, as far as possible, discrimination against people as there is much evidence to suggest that transgender people and people of indeterminate sex are subject to considerable discrimination in their public lives.

An estimated 95 per cent of people who make the transition from one sex to the other lose their job because of that transition. Those who do not lose their job are frequently subject to a decline in the quality of their working life when their employers and work colleagues become aware they are transgender. Many transgender people are also subject to constant negative reactions from service providers, accommodation providers and others as they go about their public life. Transgender people are also the victims of high levels of verbal and physical abuse and violence. This evidence emphasises the need for government to take action so that transgender people may fully participate in the community, free from discrimination.

The bill recognises that each person whose gender identity does not match their physical sex will deal with the issue in their own personal way over a period of time. This may range from a person occasionally dressing in a style usually associated with their non-birth sex to a person undergoing gender reassignment surgery if they are able to.

The bill contains a wide definition of gender identity. It is defined to include all people who identify as members of the sex they were not born by assuming characteristics of that sex whether by means of medical intervention, style of dressing or otherwise or by living or seeking to live as members of that sex. It also includes identification by a person of indeterminate sex as a member of a particular sex.

The bill amends section 66 of the Equal Opportunity Act to provide that it is not unlawful to exclude a person on the basis of their gender identity from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant.

New South Wales, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory already prohibit discrimination against transgender people. The Western Australian Parliament has also recently passed legislation prohibiting this type of discrimination. The protection in the New South Wales legislation extends to people of indeterminate sex. This bill will provide long overdue protection from discrimination to transgender people and people born of indeterminate sex in Victoria. This is consistent with the objective of the Equal Opportunity Act to promote recognition and acceptance of everyone's right to equality of opportunity.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Mr HULLS (Attorney-General) — I move:

That the debate be adjourned for two weeks.

Dr DEAN (Berwick) — On the same bases put forward by the honourable member for Box Hill in relation to the previous bill, I too seek a briefing on the bill some time next week. I trust the Attorney-General will do his best to enable that to happen.

Mr HULLS (Attorney-General) (*By leave*) — This is a very important piece of legislation that I hope will have the support of all members of the house. However, without wishing to pre-empt that, I am more than happy to instruct my department to give at the earliest possible opportunity a thorough briefing to the shadow Attorney-General and any other opposition or independent member of the house who requires such a briefing.

Motion agreed to and debate adjourned until Thursday, 27 April.

ENVIRONMENT PROTECTION (ENFORCEMENT AND PENALTIES) BILL

Second reading

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

This bill represents a major step in delivering the government's Greener Cities environmental policy commitments.

The Bracks government is committed to revitalising the Environment Protection Authority. In particular, the government is determined to strengthen the EPA so that it can carry out its fundamental responsibility to the community as an environmental watchdog.

The primary aim of the bill is to strengthen the Environment Protection Act by substantially increasing penalties and enhancing the enforcement capabilities of the EPA.

We have already provided EPA with an extra $4 million in funding which EPA is using to establish a specialist audit task force to improve its ability to investigate and catch environmental offenders in Victoria.

But increased enforcement resources on their own are not enough. The Environment Protection Act must contain adequate deterrents to potential environmental offenders.

Accordingly, this bill will raise the financial penalties for general environmental offences in Victoria by an order of magnitude. This bill will bring environmental penalties in Victoria into line with community values.

In implementing our environmental policy commitments, the Bracks government is taking a number of actions to support and encourage the majority of Victorian businesses which do the right thing. We are strongly committed to encouraging businesses which are striving to develop innovative and efficient ways of acting in an environmentally sustainable manner.

However, we also recognise that a small proportion will still, unfortunately, try to make short-term profits by taking environmental shortcuts. These people will fail to live up to the community's expectations for responsible environmental behaviour unless there is effective enforcement of environmental laws.

The key to ensuring that environmental laws provide effective deterrence is to have appropriately tough environmental penalties and visible and effective enforcement.

Recent comments by several Victorian magistrates have emphasised the fundamental deficiencies in the penalties awarded for significant environmental offences. Victoria's current environmental penalties do little to deter environmental offenders. There has been no increase in Victorian penalties since 1990. Victoria's penalties are now significantly lower than those of other states.

For example, a typical pollution offence in New South Wales attracts a maximum penalty of $250 000. In contrast, the maximum Victorian penalty for an equivalent offence is a mere $20 000. Victoria's penalties are so low that some polluters simply treat them as a standard cost of doing business. This illustrates how the Kennett government allowed Victoria's environmental penalties to fall behind the rest of Australia. This bill will redress these gross disparities in financial penalties.

In addition, the bill will also establish some innovative alternative penalty mechanisms. These alternative, non-financial penalties can also be used effectively as a deterrent mechanism. Similar alternative penalty mechanisms have been successfully adopted, for example, in trade practices regimes in other jurisdictions.

The bill will ensure that Victorian courts, as well as being able to impose much higher financial penalties, will also be able to apply alternative penalty mechanisms. This will include ordering the offender to publicise the offence and its consequences or to undertake a specified environmental project for the public benefit. The changes introduced by this bill will give Victorian courts the flexibility to impose such penalties.

The bill also includes a number of miscellaneous amendments which will further implement the government's environment policy.

The Bracks government is committed to improving waste management in Victoria. The bill will help achieve this in two ways. First, it will help drive waste recycling and reuse by extending the current landfill levy to cover all wastes going to landfill.

Second, the bill will require all regional waste management groups to produce annual business plans.

Regional waste management groups already develop comprehensive long-term regional plans for dealing with all aspects of waste management. The requirement to prepare an annual business plan will assist the groups to translate their long-term waste management frameworks into effective short-term actions.

These business plans will be submitted to me as Minister for Environment and Conservation. Ecorecycle Victoria will provide assistance to the groups in preparing their business plans, especially smaller regional groups. This process will allow the groups adequate time and support to prepare their plans. It will also help to ensure sound funding of the groups and their member councils.

Finally, the bill helps deliver the government's commitment to enable the EPA to operate as an effective environmental watchdog by enhancing the EPA's regulation-making powers.

The existing regulation making powers as set out in the act do not provide the necessary flexibility for the EPA to administer regulations sensibly to protect the environment. The bill will enable the EPA to, for example, develop regulations with flexibility to set tailored controls for hay-carting vehicles in rural Victoria rather than applying inappropriate general requirements for trucks.

The bill will also allow the EPA to develop regulations to meet the government's commitment prohibit the supply of solid fuel (wood) combustion heaters that do not meet Australian standard emission requirements. All Australian jurisdictions have agreed to these regulations to protect air quality and most have already implemented them.

The bill also contains some other miscellaneous amendments which will improve the administration of the Environment Protection Act.

In conclusion, the bill I have outlined for you today represents a clear example of the Bracks government's strong commitment to the environment, to a strong environmental watchdog and to delivering our environmental policy commitments.

The bill represents a critical step in re-establishing Victoria as an environmental leader and in giving legislative effect to some key commitments in our Greener Cities platform.

Once again, Victorians can be confident that polluters will pay in this state.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That the debate be adjourned for two weeks.

Mr PERTON (Doncaster) — Mr Acting Speaker, I would like the minister to provide an undertaking in the same terms as those given by the Attorney-General on the last bill — that is, that opposition members and members of my policy committee are given a full briefing next week. I ask the minister to make an appropriate time.

I have had problems with the minister in that every briefing and discussion with a public servant on every matter in this state, whether it is a backbencher wanting advice from a local water authority on a water or sewerage matter or some other issue, has to be observed by one of the minister's staff. The minister's staff are overstressed.

Ms Davies interjected.

Mr PERTON — I thought you claimed you wanted to improve the standards of Parliament. You are a among the worst.

The ACTING SPEAKER (Mr Phillips) — Order! The honourable member will address his remarks through the Chair.

Mr PERTON — Mr Acting Speaker, I am sorry I allowed myself to be interrupted by the apologist for the Labor Party who represents the seat of Gippsland West.

The minister has been difficult about providing briefings, and I ask her to give an undertaking that we will be able to get a briefing next week. The bill has not been widely circulated. As I understand it, a copy of some instructions on the bill have been circulated among a narrow class of people. The legislation is important to industries, state government agencies and citizens across the state. It amends not only the Environment Protection Act, but also, for example, the Alpine Resorts (Management) Act. The opposition will need to contact a wide range of parties to find out, firstly, whether they have been consulted, and secondly, what their attitudes to the bill are.

As the minister said, it is an important bill and one that requires due time. I find the minister's approach disappointing, given she has indicated the bill's importance and because since 1970 the area of the Environment Protection Act has been a matter of bipartisan policy. It is shocking to see a legal document, the second-reading speech, now turned into a political platform for a minister like this.

I put to the minister that if she wants these sorts of bills to be treated appropriately and if she wants the debate to be appropriately informed, she ought to provide an earlier briefing or suggest a longer adjournment period.

Mr PLOWMAN (Benambra) — I support the honourable member for Doncaster.

Mr Brumby — Mr Acting Speaker, on a point of order, correct me if I am wrong, but my understanding of the processes of the house is that the minister has

read the speech and the honourable member for Doncaster has moved that the debate be adjourned. There is no motion as to time before the house.

The ACTING SPEAKER (Mr Phillips) — Order! The question on time has not yet been put. The shadow minister moved that the debate be adjourned. The minister has moved a period of two weeks. The question from the Chair has not yet been put and carried by the house, so therefore there is an opportunity to debate the question of time.

Mr Brumby — Thank you, Mr Acting Speaker.

Mr PLOWMAN — The first issue I wish to raise briefly is that, as the Minister for State and Regional Development will know, in the Rural City of Wodonga there is an environmental problem with polluting the atmosphere. It is an issue that I would very much like to have the opportunity to discuss in light of the increase to match the equivalent penalty for the offence in New South Wales.

The second issue on which I would like to have a briefing is the change for hay-carting trucks. I would like to know whether that change also applies to grain-carting trucks, and I would therefore like the time requested by the honourable member for Doncaster to enable a briefing to take place.

Ms GARBUTT (Minister for Environment and Conservation) (*By leave*) — I am happy to facilitate a briefing next week for the shadow minister. I am sure the concerns of the honourable member for Benambra can be picked up at that time.

Motion agreed to and debate adjourned until Thursday, 27 April.

NATIONAL TAXATION REFORM (FURTHER CONSEQUENTIAL PROVISIONS) BILL

Second reading

Mr BRUMBY (Minister for Finance) — I move:

That this bill be now read a second time.

This bill is the second of two bills which implement the state's obligations under the Intergovernmental Agreement on the Reform of Commonwealth–State Relations, which was signed by the commonwealth and all states and territories in mid-1999. Like the first bill — the National Taxation Reform (Consequential Provisions) Bill — this bill also deals with some indirect impacts of the goods and services tax (GST) which the Victorian government believes must be addressed by legislative change.

The GST is a major new tax introduced by the Howard government and agreed to by the former Kennett government. While the Bracks government does not support the GST, it is obliged to honour the previous government's commitments under the Intergovernmental Agreement on the Reform of Commonwealth–State Relations. The first bill introduced several legislative changes which were required as a consequence of Victoria's obligations under the intergovernmental agreement, including:

payment of GST equivalents by state entities;

providing scope for increases in fees or charges set by statutory rules;

cessation of the liability for financial institutions duty and stamp duty on quoted marketable securities from 1 July 2001;

adjustments to Victoria's state gambling tax arrangements relating to Tattersalls and Tabcorp to take account of the impact of the GST on those gambling operators;

abolition of stamp duty on bookmakers' statements; and

the cessation of state off-road diesel subsidies.

The first bill also introduced legislative changes considered necessary to deal with indirect effects of the GST, including:

exclusion of the GST from amounts deemed to be wages liable for payroll tax when payable for work under a relevant contract or an employment agency contract;

moving the liability for stamp duty payable, upon the purchase of second-hand cars from registered dealers, from the dealers to the purchasers; and

excluding GST from the amounts upon which stamp duty will be calculated in the cases of rental agreements, cattle sales and pig sales.

The changes in the first bill relating to second-hand cars, rental agreements and cattle and pig sales were necessary to overcome instances of circular taxation. If the changes had not been made, stamp duty would have applied to GST-inclusive prices and GST would have applied to stamp duty-inclusive prices. This so-called circular taxation would have been unworkable.

It is reiterated that there will be no windfall gain to the government arising from the fact that stamp duties will apply to GST-inclusive prices from 1 July 2000 as a result of the abolition of the wholesale tax.

This second bill resulting from national tax reform, which is being read a second time today, introduces legislative changes to meet the following remaining obligations under the intergovernmental agreement:

adjustment to gambling legislation relating to the casino and interactive gaming which reflect the state's obligation to take account of the GST in state taxation arrangements affecting gambling operators; and

increases in a small number of statutory fees and charges which are necessary as a result of the GST.

This second bill also provides for legislative changes which are necessary to deal with indirect effects of the GST and as consequence of some measures taken in the first bill. These particular changes are:

amendments to the Accident Compensation Act 1985 so that any additional premiums, which are in effect penalties, imposed by the Victorian Workcover Authority will not be subject to GST;

exemption of the GST from investment requirements under section 6 of the Funerals (Pre-Paid Money) Act 1993;

adjustments to the Racing Act 1958 which are consequential upon the abolition of the stamp duty on bookmakers' statements and the government's desire for bookmakers to still generate a financial return to the racing industry, with the racing industry responsible for operating bookmaking development funds;

adjustments to lottery agents' commissions so that GST is excluded from the commissions, so as to avoid erosion of the state tax base and the minimum amount of lottery prizes; and

provisions for an adjustment of the Transport Accident Commission's (TAC's) premiums — transport accident charges — in 2000–01 to account for the impact of the GST on the TAC's costs, including benefits payable, and for a downward adjustment of the CPI-related increment in the TAC's transport accident charges in 2001–02 to account for the impact on the CPI of the GST.

I now turn to the particulars of the bill.

Part 1 establishes the purposes and commencement dates pertaining to this bill.

Part 2 is concerned with minor amendments to the Accident Compensation Act 1985**.** Additional premiums can be imposed by the Victorian Workcover Authority in the event of an employer not forwarding a claim for compensation to the authority in the time required under section 108 of that act, or not meeting its obligations to pay compensation under section 127 of that act. The amendments to the Accident Compensation Act 1985 proposed in this part provide for these additional premiums to be collected as penalties which would not be subject to GST.

Part 3 is concerned with amendments to the Funerals (Pre-Paid Money) Act 1993 so that funeral directors will be able to meet their obligation to remit GST in respect of prepaid funeral contracts not later than 21 days after the end of the tax period in which the prepaid funeral contract was entered into. The amendment to the act proposed in this part will preclude the amount of GST payable as being part of the money associated with prepaid funeral contracts which the funeral organiser is required to invest. This amendment will thus avoid a conflict between the funeral director's investment requirements and the funeral director's liability to meet his or her GST remittance from the prepayment.

Debate interrupted.

DISTINGUISHED VISITORS

The ACTING SPEAKER (Mr Phillips) — Order! I interrupt to welcome to the Victorian Parliament a delegation from Jiangsu Province led by the Vice-Governor of Jiangsu Province. I hope they have a pleasant stay.

NATIONAL TAXATION REFORM (FURTHER CONSEQUENTIAL PROVISIONS) BILL

Second reading

Debate resumed.

Mr BRUMBY (Minister for Finance) — Part 4 of the bill is concerned with the obligation that the state has under the intergovernmental agreement to take account of the impact of the GST on gambling operators. As described earlier, the first bill resulting from national tax reform amended tax arrangements for Tattersalls and Tabcorp. This second bill provides for

the introduction of a state tax credit system for the casino, whereby the casino will be given a credit, against its state tax liabilities, which is equivalent to the amount of GST that it has paid. All amendments for gambling operators are revenue neutral for the operators and government.

This part of the bill, in amending the Casino Control Act 1991, provides the assessment of a state tax credit in the case of approved betting competitions operated by the casino — of which there are none at the moment — as equivalent to the amount of GST paid with respect to such competitions. Part 4 of the bill also provides for the insertion in the Casino (Management Agreement) Act 1993 of the sixth deed of variation to the management agreement for the Melbourne Casino project. This deed has been signed by Crown Ltd and the Minister for Gaming, and clause 9 of the bill provides for it to be inserted as Schedule 7 to the Casino (Management Agreement) Act 1993. The deed provides state tax credits to offset the GST on all gambling activities at the casino other than approved betting competitions.

Part 4 of the bill also provides for the amounts paid to accredited representatives or operators — as commission upon the sale of lottery or soccer football pool tickets — to exclude the GST. The part also provides that the amount paid as commission should be as approved by the Treasurer. These measures are to protect the minimum amount of prizes that should be paid and to avoid erosion of the state tax base.

Part 5 of the bill provides for changes to the Racing Act 1958 which flow from the abolition of the stamp duty on bookmakers' statements that was provided for in the first national tax reform bill. These changes are to provide for the continuation of support by bookmakers of the racing industry and, in turn, for the racing industry to establish bookmaking development funds. Thus, steps are being taken to enhance the mutually supportive relationship between bookmaking and the racing industry. This part provides for the controlling bodies — the Victoria Racing Club, the Harness Racing Board and the Greyhound Racing Control Board — to impose a bookmaker's licence levy not exceeding 1 per cent of the bookmaker's betting turnover. The controlling bodies are to direct a proportion of money raised from the levy into the bookmaking development funds which will be used to finance initiatives for advancing the bookmaking profession. It is anticipated that the proportion of levy income distributed to the funds will be 10 per cent of collected levies and that funding decisions will be made in consultation with the profession's representative body — the Victorian Bookmakers Association. The Minister for Racing will be responsible for approving the levy rules and guidelines for the administration of the funds.

Part 6 of the bill relates to amendments of the Transport Accident Act 1986 to provide for the transport accident charge — that is, the TAC premium — to include the GST from 1 July 2000. The TAC premium will not, however, be increased by 10 per cent. In the year 2000–01, the TAC premium will be increased by 5 per cent. This takes into account the net impact on the TAC of the GST and the embedded cost savings which the TAC will obtain from the abolition of wholesale sales tax on 1 July 2000. This increase will be in addition to any indexation of the TAC premium in 2000–01 by the annual change in the CPI, which is already provided for in the Transport Accident Act 1986. Part 6 of the bill also provides for any CPI-related increase in the transport accident charge in 2001–02 to be calculated by excluding the estimated impact of the GST on the CPI in 2000–01, as determined by the Treasurer and notified in the *Government Gazette* before 1 July 2001.

Part 7 of the bill provides for increases in certain statutory fees and charges resulting from national tax reform. There are a few such instances — cemetery fees, the maximum levy payable by legal practitioners to the fidelity fund, the maximum fee which can be prescribed for lodging a dispute with the Legal Profession Tribunal and certain fees and charges provided for in the Trustees Companies Act 1984. This second bill of legislative amendments arising from national taxation reform is necessary to complete Victoria's commitments under the intergovernmental agreement and to make other consequential amendments.

I commend the bill to the house.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until Thursday, 27 April.

PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL

Second reading

Debate resumed from 16 March; motion of Mr HAMILTON (Minister for Agriculture).

Mr STEGGALL (Swan Hill) — It is interesting that as the shadow Minister for Agriculture the first debate to which I shall contribute is on the Prevention of Cruelty to Animals (Amendment) Bill, which is better known as the Dogs in Utes Bill.

I have been involved in the agricultural business for most of my life. When the first bill was introduced, along with other members of the National Party I looked at it in horror. It proposed giving Parliament power over others to impose penalties on people travelling in utes with dogs in the back, which is a common practice in northern and western Victoria.

I have spent my working life on the land with a dog in the back of my ute no matter where I went. Even when I was Mayor of Swan Hill my dog was always in the back of the ute waiting for me to come back. Farmers have expressed concern about the bill because they regard their animals as working dogs. I shall leave the emotional matters to my colleagues.

The bill amends the principal act that was passed some years ago. It has been introduced because the definitions in the principal act did not allow for prevention of cruelty to dogs in utes. The legislation refers to trucks and does not make provision for anything under 4.5 tonnes.

Hence the legislation has returned to Parliament. Importantly, the bill also provides for the Governor in Council to make codes of conduct on the recommendation of the minister and so reduce some of the bureaucratic red tape associated with the making of codes in acts of Parliament. In leading the debate for the opposition I will speak about codes of practice, how they impact on the legislation and the advantage of using them — with the hint that in future legislation the minister might consider their use more frequently than has been the case. This morning a minister introduced regulations in an environment bill for the carting of hay on trucks. A code of practice for the carting of hay might be better than regulations in a bill. The code of practice concept is important.

The Prevention of Cruelty to Animals (Amendment) Bill sets an acceptable code of practice by giving protection to a farmer carrying an untethered dog on the back of a ute. The code of practice provides protection for those who need it. However, the bill would apply to an individual if it was seen that he or she was being cruel to an animal on the back of a trailer, truck or ute.

Travelling to Melbourne along the Tullamarine Freeway this week I noticed a vehicle carrying a bitch and pups untethered, but they were in a cage and protected and could not have jumped out. All the dogs were safe, and regardless of how the code of practice is eventually settled it would not apply.

A ‘code of practice’ is not really defined in legislation. The opposition regards it as a clear statement, sometimes given statutory force, about how an operation should be carried out efficiently, ethically or sustainably. The opposition considered international codes of practice and how other jurisdictions use them. They are used to define ethical and best management practice in a range of industries and occupational groups, including gaming, the health and fitness industry, the portrayal of violence on television, the building and construction industry, the code of forest practices for timber production, fire management on public land, and the police code of practice for sexual assault cases.

In Britain a range of codes are used for good agricultural practice for the protection of water, air, soil, agricultural use of sewage sludge and the safe use of pesticide on farms and holdings. That is how the code of practice concept can be used. Codes are also used to maintain the welfare of animals and provide minimum husbandry standards for the keeping of various animal species or for animals subject to procedures where welfare might be at risk.

In Canada codes are voluntary and intended for use as an educational tool developed for the care and handling of all farm species such as poultry, pigs, veal calves, ranched mink, ranched fox — which we do not use — dairy cattle, beef cattle, sheep, farmed deer, horses and transport of animals.

In Victoria only codes protecting the welfare of experimental animals are given legal status under the Prevention of Cruelty to Animals Act. Animal welfare codes of practice are formulated following a needs analysis, extensive consultation, preparation of a draft and distribution for comment and analysis of public comment.

Animal welfare codes of practice are generated in two ways. A code can be written nationally, receiving endorsement from the Standing Committee on Agriculture and Resource Management (SCARM) for commonwealth and state heads of department, or the Agriculture and Resource Management Council of Australia and New Zealand (ARMCANZ), and adopted in Victoria by the minister with input from his Animal Welfare Advisory Committee; or codes can be initiated in Victoria by the Animal Welfare Advisory Committee or the Department of Natural Resources and Environment following the process outlined in the act.

Under the current act the minister must seek the Governor’s approval to prepare a code. The current amendment will remove that step so the minister can go to the Governor seeking approval for an already approved code. The opposition has no problems with

that. The code, having been prepared, will still lay before both houses of Parliament for 14 days and come under the scrutiny of Parliament through that process.

The Department of Natural Resources and Environment lists 19 codes of practice relating specifically to animal welfare issues — and they are guidelines only. The Animal Welfare Act requires that the codes go through the official process of Governor in Council approval and gazetting.

Some of the codes of practice used in Victoria are codes of accepted farming practice for the welfare of cattle, deer, poultry, sheep, horses, and steel-jawed traps; codes of practice for the welfare of farm animals during transportation, for the tethering of animals, for the operation of wildlife shelters, for the public display and exhibition of animals, for the husbandry of captive emus, for the use of animals from municipal pounds, for the welfare of film animals, for the welfare of animals in hunting, for the management of companion animals in shelters, for the care and use of animals for scientific procedures — the one with the legal bounds, for boarding establishments; and others such as buying an animal from a pet shop, things you should know about dog training establishments, the accepted farming practice for the welfare of pigs, and — an interesting one — the code of practice for the intensive husbandry of rabbits.

Those are the methods by which governments can lay down an acceptable standard for those wanting to farm in those ways. The standard exists and is voluntary. Few of the 19 animal welfare codes are mandatory with one exception, the space required for caged laying hens. The exception has been inserted into a regulation and is therefore mandatory. At present it is under review by SCARM and a decision is expected in August. I hope there will be no silly decisions.

Country residents are nervous when it comes to the dominance of the metropolitan community on issues such as animal welfare associated with the operation and management of primary industry. It can be seen in a range of matters such as intensive agriculture, hunting and duck seasons. Country Victorians have different standards, expectations and concepts from those living in the city.

When country people hear that a review is to be conducted about caged laying hens their advice to all ministers is not to do anything stupid, because when it is followed properly the practice that exists today, is very good. Efforts should be directed towards ensuring that those persons who wish to participate in this industry do so properly, and one means of doing that is by the use of codes of practice.

The code of practice for feedlots incorporates the animal welfare code. While it is mandatory that feedlots must comply to get planning permission the code is not mandatory from an animal welfare point of view. People who want to go into intensive agriculture often run into mandatory planning laws while similar codes of practice applying to animal welfare are not mandatory. At the federal level there are 14 Australian model codes of practice for farmed animals. Those codes act as guidelines in the absence of state codes and are developed by the national animal welfare committee.

The third group of codes of practice are the voluntary codes. They are guidelines that can be used in various ways. The principal act uses the voluntary codes so that a person, for example, who carries a dog in the back of a utility in accordance with such a code will not be subject to claims of cruelty. Another code covers persons who want to carry out scientific procedures on animals. That can be done only if the process is carried out in accordance with the relevant code of practice and anything done outside the code is against the law.

The commonwealth codes cover many interesting subjects, including camels, the transport of pigs, feral livestock animals, sheep, farming of deer, cattle, farmed buffalo, intensive husbandry of rabbits, goats, animals at saleyards, farm cattle handling and the transport of horses. There are national guidelines for beef cattle feedlots and domestic poultry. The guidelines cover anyone who wants to engage in those types of operation.

From an animal welfare perspective the only code of practice with statutory force is the one governing experimental animals. It is a different story from a planning perspective. Codes of practice apart from those focusing on animal welfare cover a broad spectrum. There are mandatory codes that gain their power through being what are known as ‘incorporated documents’ in Victorian planning provisions. Compliance with such codes is essential in obtaining planning approval. Examples include the Code of Forest Practices for timber production, the Victorian code for cattle feedlots, the Code of Practice — Piggeries and the Apiary Code of Practice, which causes headaches from time to time in country areas with respect to parks and state parks. These incorporated documents can from time include local content on a regional base, so they are practical in those areas.

Another group of codes are those that offer best-practice guidelines, incorporating some legal requirements. For example, the code of practice for farm chemical spray application is an interesting code when people are worried about chemicals. There are particular rules in different parts of Victoria. For example, in my area there is a code of practice that provides that anyone spraying a wheat crop within about 10 or 15 kilometres — I am not sure of the distance — of a horticultural operation must do so before 1 August each year to make sure it does not impact on that operation.

A third group of codes offers guidelines for best management practice only and asserts industry standards. An example is the new viticulture code of practice. There is no requirement to comply with such voluntary codes, but once they are published they tend to put a floor under practices and the Environment Protection Authority (EPA) can use them as a reference point, and it does.

Councils should have regard to the fact that while some codes of practice are said to be merely guidelines, in reality they have much more de facto standing. The EPA's recommended buffer distances for industrial air emissions are examples of such guidelines. I am not aware of any operation that has complied with an appropriate code of practice that has lost its case at the Victorian Civil and Administrative Tribunal. The codes are a good guide and are accepted by the community.

However, the situation can get complex. For example, beekeeping is an as-of-right activity, but under the policy of the Department of Infrastructure a person will only obtain and keep an as-of-right permit if he or she follows the Apiary Code of Practice.

I now deal with some of the benefits of codes of practice. They tend to take the heat out of planning issues because they offer an objective standard of measurement against which to assess an individual operation. That is very good. Over time they actually lift the standard of an industry and present it as a good corporate citizen. People in the country have to work to achieve that good corporate citizenship in the same way as companies in the metropolitan area have to work o achieve their reputations.

Codes of practice are a reference point for the EPA to use in assessing complaints against industry by the public as they draw clear lines between good and bad practice. They offer the agricultural community the opportunity to accept the challenge of defining and implementing better farm practices rather than having better practices imposed by government because of public pressure. The codes may also offer an objective basis on which to assert the right to farm and will serve to handle food safety issues for farmers.

As Australia faces up to world marketplace food safety issues — the marketplace is a little nervous at the moment — the quality assurance programs operating in farming industries are providing the necessary food safety base. Food safety is the biggest issue concerning the world food exports. Australia is a food exporting nation and food safety plays a vital role. It could be said that if it were deemed necessary codes of practice could be used to ensure food safety on farms instead of having local councils or an independent authority acting as a policeman on the issue. A national debate is taking place on food safety and I am sure this Parliament will have more to say about that in the months ahead. I point out to government members that food safety is a key issue for the future of export operations and therefore for country areas. I ask them to consider the use and operation of codes of practice when considering that matter.

The drawbacks of codes of practice are that they may restrict innovation and stifle invention because they can lock farmers into prescribed patterns beyond which they do not look. The cost of compliance with codes can also create a financial burden for farmers. As an example, Farm Pride Foods put in a code of practice for the transport of eggs that unfortunately changed the way small farmers were able to transport eggs for the company. In looking at food safety requirements the company introduced a code of practice that was against the interests of small farmers, who were unable to gear up to meet the code. Those problems can be overcome if those involved sit down and work them out.

Another drawback of codes of practice is that agriculture is moving very quickly and it may be difficult to keep codes up to date. However, it is the responsibility of the government to make sure that happens. They can also spawn bureaucracies to check for compliance and update the codes. I am sure the Minister for Agriculture is aware of how bureaucracies can be spawned, particularly in his department. The enforcement of mandatory codes can create the perception among farmers that they are being overgoverned and over-regulated. A balance must be struck.

I have mentioned the right-to-farm issue. The establishment of a right-to-farm set of legislative proposals for Victoria was an issue I tried to progress through the last government — and I am pleased the minister has continued that progression. As we enter a more urban-dominated society, the encroachment of the

urban dweller into farming districts is creating an enormous headache in certain areas. Society needs to say yes, there is a right to farm in certain zoned areas and the right to farm needs to be protected. People moving to country Victoria to live will have to acknowledge that farming activity from time to time has some downsides. Perhaps that will stop some of the arguments in country Victoria about pumps working at night or at weekends, for example.

Mr Hamilton interjected.

Mr STEGGALL — Chook sheds are an interesting issue. The minister's example is a hard one. A range of right-to-farm issues exist that are not protected by any legislative base. I am sure codes of practice will make them acceptable. The broiler industry is a difficult one that has caused many pressures on the Mornington Peninsula and in areas close to Melbourne. Codes for the broiler industry need to be established.

I suggest if the minister looks closely at the codes of practice — particularly now that preparing a code will be far simpler — he will find there are ways through the three different types of codes. An outcomes-based code of practice should be implemented by working with the EPA and using commonsense, because the measurement that is being proposed by documents now before the minister is about process. The right messages need to be given about the broiler industry and the right standards need to be forced on people who wish to participate in the industry. There are ways and means of doing that.

I am not confident that society will solve that problem but I believe a result can be achieved with goodwill from the minister, the EPA and the Premier. During the term of the Kennett government the former Premier brought together the whole-of-government approach — for example, Food Victoria was successful because we used the whole-of-government approach which helped various ministers overcome pressures that were placed on them.

The right to farm is a vital issue to be determined in the future. I hope the government will make a series of amendments to the legislation during this calendar year. I know the minister is working towards that and the opposition is only too pleased to assist because agriculture needs the right-to-farm issue determined. Not all honourable members understand that enormous investment is being made in country areas. Agriculture is one of the fastest growing areas of our export industry. In certain areas the pressure on the right to farm gets to the nonsensical stage. Codes of practice are a way through the problem, and I hope it will soon be achieved. The bill will ensure that codes of practice will be more practical in their application.

The opposition does not oppose the legislation. The concepts that will be introduced are virtually the same as those proposed when the legislation was last before Parliament — except for the codes of practice provided in the bill. The previous legislation contained a definition of trucks that could not be upheld in the courts. I hope people will understand it is not illegal to have a dog on the back of a ute, but it can be against the law if a person travels in such a manner that an animal is treated in a cruel way. If the code of practice is not used as a protection for such activity, a person may be subject to action being taken against him or her for cruelty. I stress that not abiding by the code of practice is not in itself against the law. However, it exposes one to risk.

Codes of practice cover safety in a whole range of areas, such as food safety plans. The former government was trying to do the same thing. I hope the Bracks government is still trying. If a food safety plan is adhered to it will protect a small business or a restaurant. In the same way a person who is transporting a dog on the back of a ute within the rules set out in the codes of practice cannot be touched under the bill.

I trust the legislation will be passed so that a review of the uses of codes of practice in agriculture can occur and we can achieve some of the goals being sought by the industry. The amendments will help progress that process at a faster rate. The opposition does not oppose the bill and wishes it well.

Mr HOWARD (Ballarat East) — I am pleased to speak on the Prevention of Cruelty to Animals (Amendment) Bill because the amendments proposed by the bill reflect the government's objective of ensuring that animal welfare is fully supported by legislative controls. The bill attempts to address two of the shortcomings identified in the act. The first relates to the means by which codes of practice can be gazetted. The honourable member for Swan Hill outlined in great detail a number of issues about codes of practice, including the way they will be applied by the bill and through other legislation.

The gazetting of codes of practice under the act has been a longer than necessary process. The minister, after being presented with an appropriate concept for a code of practice, seeks the approval of the Governor in Council. The minister prepares the code of practice but needs to go back to the Governor in Council for a second approval before the code can be gazetted after

being agreed to by Parliament. Under the new legislation the second Governor in Council approval will no longer be required. That will mean codes of practice can be gazetted much more speedily.

The codes of practice that are part of the act provide a high standard of animal care and husbandry. As the previous speaker said, the codes should ensure that they can be understood by the community, that they can be implemented in a practical manner, and that they can be enforced if people act recklessly and pose a threat to the welfare of animals.

It should be stressed that before codes of practice go to the Governor in Council and come before the Parliament they are subjected to a thorough consultative process. A welfare committee consisting of representatives of the Royal Society for the Prevention of Cruelty to Animals (RSPCA), the Australian and New Zealand Federation of Animal Societies, the Australian Veterinary Association, the Cat Protection Society, the Lost Dogs' Home, the Victorian Farmers Federation, the Municipal Association of Victoria, the Victoria Police Force and the Australian Veterinary Association provides advice to the minister on animal welfare issues.

The bill also provides for the safe restraint of dogs travelling on moving vehicles. The amendments to the principal act in 1995 appear to have been misworded. The intent of the code of practice was not reflected in the resultant legislation which provides that dogs travelling on the back of a truck, a standard utility with raised sides, a trailer or other form of moving vehicle, must be restrained by a leash or a cage. However, no similar requirement was specified for dogs travelling in flat-trayed utes of less than 4.5 tonnes. Clause 5 corrects that anomaly to ensure that dogs travelling on any vehicles are protected by the code of practice.

The honourable member for Rodney especially promoted several codes of practice because institutions such as the Australian Veterinary Association and the RSPCA identified a high incidence of injuries caused to dogs unsecured while travelling on moving vehicles. The code of practice enacted in 1995 addresses the problem. The bill attempts to clarify the issue and provide for the intent of the code to be brought into play.

The amendment is sensible and I am pleased that it has bipartisan support. I am also pleased that the minister has moved swiftly to identify problems in the act and moved to improve it.

Most honourable members would know that dogs regularly travel in or on vehicles, particularly in rural but also in urban areas. The dogs give the impression that they enjoy travelling. Many of them love to stick their noses out of the window or put their noses into the wind to feel the wind against their muzzles. The bill is not an attempt to stop that practice. It simply aims to ensure that animals travelling in a vehicle moving on the open road are restrained.

Dogs are not the only animals that travel on the road. From my own experience I know that goats love to travel. When I was an agriculture teacher in Kaniva I was responsible for the care of several goats. In school holidays I took them from Kaniva to my parents' property in Geelong. I had no trailer but I found that the goats enjoyed travelling on the back seat of my car. It was necessary to restrain them; otherwise they would chew my hair and create a safety problem! They were happy to be restrained and they could stand up when the car stopped at traffic lights and look about them.

Mr Richardson — What were their names?

Mr HOWARD — It was a long time ago, so I cannot remember. I am sure that honourable members, particularly those who represent rural electorates, know that dogs are useful in grazing pursuits. Recently I was pleased to attend the newly developed RSPCA facility at Ballarat. It was great to see that the society had upgraded its facilities for impounded dogs and cats. As part of the entertainment sheepdog trials were conducted. I am pleased to advise honourable members that none of the dogs was found guilty; they were all proven innocent! The interesting thing about the trials was that all who watched them found that well-trained dogs working with sheep could be inspiring. They understand and respond to messages from their owners and muster sheep or cattle as required.

During my years as an agriculture student and teacher of agriculture, and more recently as a small-time grazier, I have had numerous opportunities to watch dogs working with sheep and cattle. Many years ago I worked for a couple of months as a rouseabout on an attractive property in New Zealand. Its many steep hills made it impractical to use a vehicle for mustering sheep. Therefore, horses accompanied by dogs were used. It was a great experience to watch the dogs bringing the sheep down the hills and mustering them in their pens.

Rather than riding horses, many graziers now use the standard utility for mustering their stock. My property is some 35 hectares. Unfortunately, I do not own a ute nor do I have a dog because I am unable to live

regularly at the property. I do my own mustering by bicycle, which is a source of amusement to the surrounding farmers. My cattle do not respond as well to a bicycle bell as they would to a dog, but feeding hay at strategic times helps save me mustering the cattle.

My surrounding neighbours own larger properties and work with utes. It is inspiring to watch the dogs jumping off the utes and responding to the whistles of their owners and the calls, which in New Zealand were 'Get'n b'nd'!

The codes of practice do not restrict those activities. The legislation reflects an understanding of how farmers operate. It merely serves to remind them that if when travelling on the road at high speed while mustering sheep or cattle their animals must be restrained and if they are not farmers may be caught by the police and fined.

The amendment is sensible and I commend the bill to the house. I look forward to the codes of practice being formalised in the act and to the addition in the years to come of more codes as they are identified as appropriate.

Mr MAUGHAN (Rodney) — It is with a great deal of pleasure that I contribute to debate on the Prevention of Cruelty to Animals (Amendment) Bill. I do so for a range of reasons. I will spend a few minutes acquainting the house with the background to the bill and my longstanding interest in animal welfare.

Like many honourable members who have spoken previously, both here and in the other house, for most of my working life I have been involved in livestock production. I have been actively involved with the Victorian Farmers Federation, particularly with its pig producers group, of which I was chairman for some time, and at a national level with the Australian Pork Producers Federation and the Pig Research Council.

Honourable members have heard comments today about the Animal Welfare Advisory Committee (AWAC). I take a great deal of pride in having been a member of the predecessor to that committee — that is, the Minister for Agriculture's Animal Welfare Advisory Committee. As the honourable member for Ballarat East said, AWAC now represents a large group of people who are involved in animal welfare activities. I had the pleasure of representing on that original committee all Victorian livestock producers. Its work ultimately led to the establishment of codes of practice. I will speak more on that later.

Animal welfare matters exercise the minds of many people in our society. While the issue creates debate around the world, it is largely the countries with higher standards of living rather than some of the Third World countries that are concerned about animal welfare matters. The animal welfare debate is alive and well in countries like Canada, the United States of America, the United Kingdom, Australia and New Zealand.

It is interesting to note that the Royal Society for the Prevention of Cruelty to Animals (RSPCA) was formed in the United Kingdom to prevent cruelty to animals some time before a society was formed to prevent cruelty to children. That makes a commentary about the priorities people had in the United Kingdom at that time.

The RSPCA has played a constructive role on this issue. I pay tribute to the contributions of Dr Hugh Wirth, state and federal president of the RSPCA, and Mr Peter Barber, also of the Victorian RSPCA.

Dr Hugh Wirth and Professor Peter Singer were, with me and others, members of the original Animal Welfare Advisory Committee. The reason for what has been a constructive debate on animal welfare in Australia is that AWAC and its predecessor committee represented all the various animal welfare and production interests. The committee engaged in constructive dialogue, as opposed to what is happening in other parts of the world where there is confrontation, stand-off and conflict between some of the animal welfare interests on the one hand and the farming community on the other.

My interest in animal welfare was heightened when, in 1986, I happened to be at the right place at the right time and was awarded a Churchill Fellowship that enabled me to study animal welfare matters in the United Kingdom, Canada and the United States. It was an important award that enabled me to meet with many of the leading proponents on both sides of the debate in those countries. I learnt a great deal from that experience. I have been able to put information from some of the lessons I learnt and the meetings I attended back into the Australian context.

Another reason I am particularly interested in the bill is that in 1993 the then Minister for Agriculture, the Honourable Bill McGrath, invited me because of my background to review the Protection of Cruelty to Animals Act. I enjoyed that experience. The terms of reference of the review were widely advertised.

I received a large number of submissions — I have a number of them with me today — from organisations such as the RSPCA and the Australian and New Zealand Federation of Animal Societies (ANZFAS),

which is an umbrella group representing some 50 animal welfare organisations. Submissions were received from Professor Adrian Egan from Melbourne University; Tony St Clair of the Victorian Farmers Federation pastoral group; the Australian Professional Rodeo Association; the school of veterinary science at Melbourne University; the Victorian Quarter Horse Association; a range of veterinary surgeons; the faculty of science at Melbourne University; Animal Liberation and others.

Many strong submissions were made to that one-man committee because I was required to examine matters including the use of steel-jawed traps; whether fish and crustaceans should be included in the legislation, as they ultimately were; the use of horses in steeplechasing; increased penalties for cruelty to animals; the powers of inspectors; animal experimentation, and allowing dogs to ride on utes. The legislation dealing with that final reference, as my good friend and colleague the honourable member for Swan Hill pointed out, has become known at least in our part of the world as the Dogs on Utes Bill — —

Mr Hamilton interjected.

Mr MAUGHAN — It has wider connotations, I agree. But it is an important piece of legislation and it is a step in the right direction.

I pay tribute to Dr Peter Penson, who was then the director of the bureau of animal welfare within the Department of Agriculture. Dr Penson and his staff played an important role in that review, which lasted for some 18 months before the amending legislation was introduced in 1995.

The committee recommendations received widespread support because I had consulted widely, spoken with all the interest groups and spent a great deal of time on the review. The committee was able to achieve consensus on its recommendations, although some people at the extreme end of the animal welfare movement were not entirely happy with the recommendations while at the other end of the scale some people in the farming community also were not happy. However, on the whole, the recommendations were strongly supported by the RSPCA, the VFF and ANZFAS. The legislation was passed by the house in 1995.

The honourable member for Swan Hill touched on the fact that the legislation reaffirmed the importance of codes of practice. Again, I take some pride in the fact that many years earlier I was involved in the formulation of some of the first codes of practice for animal welfare in Victoria in the pig industry. The broiler industry may have beaten us to the post, both in Victoria and nationally. That occurred in the 1970s and 1980s, when codes of practice were introduced.

Mr Hamilton interjected.

Mr MAUGHAN — The codes of practice are most important because they do away with prescriptive things that are locked tight in legislation. Codes of practice are moving, living, dynamic documents that evolve and allow for innovation and flexibility and are more concerned about outcomes than about the way people achieve them. I am a passionate supporter of codes of practice because they can be changed. Most of the original codes have been modified and changed as knowledge and practices have changed. The codes of practice have an important educational role. I am pleased to see that the codes are being revised and changed.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

ALP: election commitments

Dr NAPTHINE (Leader of the Opposition) — Will the Premier confirm his election commitment that the operating surplus on the state budget will be used exclusively for the funding of infrastructure, retirement of state debt and reduction of public sector unfunded liabilities?

Mr BRACKS (Premier) — The Labor government stands by all its election policies and platforms.

Opposition members interjecting.

Mr BRACKS — Just keep still. We won't mention Benalla to you today!

The Leader of the Opposition like all members of Parliament will have to wait, but I am looking forward to the government's first budget on 2 May to make sure it delivers on the things it said it would do. It will be an exciting budget for Victoria.

Former Premier: book contract

Mr NARDELLA (Melton) — I refer the Minister for Finance to the government's audit review of government purchasing and contracts. Is he aware of any serious questionable contractual arrangements entered into by the previous government, and if so, what are the details of any such contracts?

Mr BRUMBY (Minister for Finance) — It is with regret that I have to advise the house that I have been informed of a seriously questionable contractual arrangement entered into by the former government. I can only describe the arrangement as bizarre and one which on the face of it represents a scandalous misuse of public funds.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster shall cease interjecting.

Mr BRUMBY — In 1997 the former Premier personally commissioned and then signed a contract at taxpayer's expense with one Dr Malcolm J. Kennedy to write a book about the Kennett years.

Honourable members interjecting.

Mr BRUMBY — It is good — wait.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order.

Mr BRUMBY — The contract provided for a fixed project fee, which was payable in equal monthly instalments. It was kept secret from departmental and public scrutiny. Among other things the contract contained the extraordinary requirement that there be an editorial steering committee, consisting of the former Premier's chief of staff, Anna Cronin, Professor Geoffrey Blainey and retired minister Mr Don Hayward, who had direct editorial control over the content of the manuscript.

I am pleased to say, and I am sure the house will be interested to know, that the Bracks government has received from the author, Dr Malcolm J. Kennedy, a copy of the manuscript. As the public has paid for the manuscript, it was thought the public ought to have a right to know about its content. I will read briefly from that taxpayer-funded manuscript. I quote a passage on the former Premier:

> Premier Kennett was an outstanding leader. Full of ideas and energy, he drove his ministers but also inspired them to achieve all their policy objectives. The electrifying enthusiasm of the blitzkrieg parliamentary session generated a huge energy …

Former minister Don Hayward is referred to in the manuscript as Dapper Don.

Mr Holding interjected.

The SPEAKER — Order! The honourable member for Springvale!

Mr BRUMBY — On Don Hayward the manuscript states:

> His high-domed head suggests intelligence.

Honourable members interjecting.

Mr BRUMBY — There is more.

Honourable members interjecting.

The SPEAKER — Order! I ask the government benches to come to order to allow the minister to conclude his answer. I ask the minister to be succinct in the provision of his answer.

Mr BRUMBY — The former Treasurer, Alan Stockdale, gets a mention as follows:

> Alan Stockdale radiated energy — —

Mrs Peulich — On a point of order — —

Honourable members interjecting.

The SPEAKER — Order! The Minister for Community Services!

Mrs Peulich — The minister has certainly answered the question. Rather than providing ongoing comic relief, I suggest he put the text on the Net so we can all enjoy it.

The SPEAKER — Order! There is no point of order. The honourable minister, concluding his answer.

Mr BRUMBY — Just a couple of quotes. I know the house wants to hear them:

> Alan Stockdale radiated energy and relieves his serious demeanour with impish flashes of humour.

The SPEAKER — Order! The Chair has been lenient in allowing the minister to quote from a document to the extent he has. I ask him now to conclude his answer as he has been speaking for 7 minutes.

Honourable members interjecting.

The SPEAKER — Order! The Chair has just asked the minister to conclude his answer. He has been unable to do so, however, as a result of the constant interjections, particularly from the honourable member for Bentleigh. I ask her to cease interjecting.

Mr BRUMBY — This is a serious matter. In a moment I will inform the house of the costs of that little propaganda exercise to the taxpayers of Victoria. First, though, one serious conclusion from the text, if I may. This one is about the media:

> A primary objective was the use of mechanisms which forced the media — —

Mr Perton — On a point of order, Mr Speaker, the minister is clearly violating your last ruling. You instructed him clearly to stop quoting from the document. If he wants to do it as a ministerial statement, the opposition will gladly accommodate him. You should sit him down now.

The SPEAKER — Order! There is no point of order. The Chair has asked the minister to conclude his answer, but he has not yet been afforded an opportunity by the house to complete one sentence, let alone deliver his answer.

Opposition members interjecting.

The SPEAKER — Order! The honourable member for Doncaster will cease interjecting to allow for the conclusion of the answer.

Mr BRUMBY — It is a serious point: on the question of the media, the text, paid for by the taxpayers, states:

> A primary objective was the use of mechanisms which forced the media to behave within their own professional rules, and where this was not the case information would be restricted or denied.

The book is sloppy, sycophantic drivel, paid for by taxpayers. The question is, how much has the taxpayer paid?

Mr Bracks — Ten dollars!

Mr BRUMBY — Do I have $10?

Mr Thwaites — One hundred dollars!

Mr BRUMBY — One hundred dollars? Any more?

The SPEAKER — Order! As I indicated earlier, the minister is not being succinct. If he continues to answer the question in that manner I will sit him down. He is not being succinct but is posing rhetorical questions to the house.

Mr BRUMBY — Mr Speaker, I will tell the house what the taxpayers of Victoria paid for the piece of propaganda: they paid Dr Kennedy $100 000! Like any good piece of fiction — and that is what it is — there is a twist at the end. The contract also provides that, in addition to paying $100 000 of taxpayers' money, if the manuscript is not published by the government of Victoria a penalty payment must be made to Dr Kennedy of a further $20 000.

Honourable members interjecting.

Mr BRUMBY — The whole sordid episode has cost taxpayers $100 000. There has never been budgetary approval for the $100 000 — it has never appeared in the statements of the Department of Premier and Cabinet, and it has never appeared as a line item in the budget. It has been part of the secret state keeping it secret from the people of Victoria. The last point the house deserves to know — —

Honourable members interjecting.

The SPEAKER — Order! The house will come to order.

Mr BRUMBY — The final payment — —

Honourable members interjecting.

The SPEAKER — Order! I once again ask the house to come to order. I ask the minister to conclude his answer forthwith; otherwise I will sit him down.

Mr BRUMBY — I will conclude by saying this. The last payment in the whole sordid exercise was made by the Premier's office last year in October on guess what day? 19 October — the day before the new government was sworn in and when the former Premier knew he was no longer the Premier of Victoria.

It is a disgrace, it is a scandalous misuse of taxpayers' money, and the government will have further to say on the matter and the involvement of other members with it.

Premier: staff contracts

Ms ASHER (Brighton) — In view of the fact that after six months in office ministerial staff have still not signed employment contracts, will the Premier place in the parliamentary library the details of the staffing, pay and conditions of his staff and ministerial staff when he finally gets around to formalising the arrangements?

Mr BRACKS (Premier) — The shadow Treasurer is wrong, as she often is in this house; those contracts have been signed.

Ms Asher interjected.

Mr BRACKS — Oh, come on. These contracts have been signed. They are — —

Honourable members interjecting.

Mr BRACKS — They are ridiculous comments. They are contracts between employees of ministerial offices — —

Dr Napthine interjected.

Mr BRACKS — You are unbelievable. I will say it again: Benalla, Benalla, Benalla.

The SPEAKER — Order! I ask the Premier to cease inviting interjections and I ask the Leader of the Opposition to cease providing them.

Mr BRACKS — The contracts have been signed. They are between the ministerial staff and the ministers. They are in the same — —

Dr Napthine interjected.

Mr BRACKS — You are an idiot. You are unbelievable.

The good news is that I understand the Leader of the Opposition is staying, and I am very pleased about that.

Former Premier: book contract

Ms DUNCAN (Gisborne) — I refer to the previous answer of the Minister for Finance and ask him to advise the house what action the government has taken in relation to the clause of the contract that compels the Victorian government to publish the manuscript at taxpayers' expense.

The SPEAKER — Order! Before calling the Minister for Finance I ask him to be succinct in his answer otherwise I will cease listening to him halfway through his answer. By succinctness the Chair means 4 to 6 minutes.

Mr BRUMBY (Minister for Finance) — As I have already advised the house, $100 000 has been paid by the taxpayers of Victoria for that manuscript. Under the penalty clause in the contract $20 000 must be paid if the manuscript is not published within a number of years.

The government has examined the most cost-effective means of bringing the contract to completion. I have it on good advice that a payment of $100 000 for the publication of a manuscript is quite an extraordinary figure — a figure that is normally reserved for an award-winning novelist or a writer with a substantial reputation as a successful international author.

A search of *Who's Who in Australia*, *Who's Who in Business* and the parliamentary library records has failed to find any reference to major works by Dr Kennedy. Dr Kennedy's work is rarely published. Most of his published articles appear in one journal, *Defender*, which is the national journal of the Australia Defence Association. In one of his contributions to *Defender* entitled 'The Vatican and the arms trade' Dr Kennedy attacks the Catholic Church for campaigning for arms reduction. He states:

> Even with the destruction of all — —

Mr McArthur — On a point of order, Mr Speaker, you have already cautioned the minister a number of times about two issues: the length of his replies and their relevance. I direct your attention, Mr Speaker, to the issue of relevance. The question in no way related to either the expertise or the work or publications of Dr Kennedy. It concerned what action the government would take to meet the terms of the contract. The minister should take that action — publish it and be damned!

Government members interjecting.

The SPEAKER — Order! I do not uphold the point of order. However, I ask the minister to come back to answering the question. As relevant as the information he was referring to is, and as desirable as he might find it for the house to hear it, he must refrain from quoting extensively from the publication.

Mr BRUMBY — The question of the worth of the work and the value for money for taxpayers is a key issue. As I have said, $100 000 would normally be paid to an award-winning international author, but — —

An honourable member interjected.

Mr BRUMBY — That is the question I have been asked. Would $100 000 be paid to someone who is essentially a nobody — someone whose one major challenge in life has been to write a piece of propaganda about the Kennett government?

In the article in the *Defender*, in which the author attacks the Catholic Church for its campaign for disarmament, he says that even with the destruction of all manufactured military or sporting weapons millions would be killed with basic agricultural implements.

Dr Dean — On a point of order, Mr Speaker, the house understands the minister's preoccupation with

the previous Premier and the minister's desire to grandstand, but you, Sir, have ruled that he must not continue to quote from the publication. Not only is the minister continuing to quote extracts about the background of the author, but he is not speaking to the question, which relates to the legal implications of the contract or the publication of the book. The minister is straying into new issues and is giving a long dissertation about the nature of the author and the contents of the book. Those issues are completely irrelevant to the question. It is time now that you, Mr Speaker, brought the minister back to the question.

The SPEAKER — Order! The honourable member for Gisborne asked a question relating to the action the government will take regarding the cost of the publication. The honourable member for Berwick has raised a point of order on the question of relevance. I ask the minister in providing his reply to demonstrate to the house the relevance of going down the track of quoting extensively from the publication. I ask the minister to answer the question regarding the cost of the publication.

Mr BRUMBY — The government has examined a number of options that will enable it to complete the contract in the most cost-effective way for Victorian taxpayers. It will attempt to sell the copyright of the manuscript to recoup some of the costs for Victorian taxpayers.

Mr Thwaites — Who would want to buy it?

Mr BRUMBY — Well, who would want to buy it! I am interested in the comments of members of the opposition. As a once-only opportunity the government will offer the manuscript for sale to the Liberal Party for $100 000. It is a once-only offer that will be open for 72 hours. If members of the Liberal Party believe it is money well spent they can put their money where their mouth is. Rather than abuse taxpayers' money they can cough up the $100 000 for the manuscript. You have 72 hours!

MAS: royal commission

Mr DOYLE (Malvern) — I direct my question to the Minister for Health. Given that independent legal advice from the chairman of the Metropolitan Ambulance Service confirming that the MAS should be legally represented at the royal commission arrived at the minister's office on 9 February, does the minister stand by his statement in the house on 1 March that he was not aware of that advice.

Mr THWAITES (Minister for Health) — I thank the member for his question, and I stand by my statement. The material he received included a letter from the department to the ambulance service informing it that all the documents that were sent were sent to the responsible minister, the Premier, who made the decision.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order, particularly the honourable member for Monbulk!

Rail: Ararat crash

Mr HELPER (Ripon) — I refer the Minister for Transport to the serious train incident in Ararat last year and I ask: will the minister inform the house of details of the investigation into this incident?

Mr BATCHELOR (Minister for Transport) — On 26 November last year a collision occurred in the Ararat freight yard when an Adelaide–Melbourne freight train ran into a stationary ballast train. The collision resulted in the driver and another crew member on the interstate freight train being seriously injured. As a result of the collision I directed my department to instigate an independent inquiry to determine all the facts surrounding the accident and what improvements may be necessary to make the system safe in Victoria.

This was the first time an independent inquiry had been undertaken, and it represents a new way forward for investigating rail incidents. The investigation was conducted by the Australian Transport Safety Bureau, and has now been completed. The report indicates that the accident was triggered by the unsafe and unauthorised actions of a Freight Australia employee, but it also indicates that the accident had its origins in a number of organisational and system deficiencies.

The Bracks government recognises the extreme importance of ensuring safety as a top priority within the state's transport system. I have therefore directed the department to prepare an action plan detailing how the government will implement each of the report's recommendations.

The report reveals that when the Victorian rail system was privatised by the Kennett government, no comprehensive documented guidelines on operational policies for rail safety existed. That was an extraordinarily negligent oversight by the previous government, and I will be demanding that all those issues be addressed by the department as a matter of urgency.

Action being examined includes: ensuring that all rail companies operating in Victoria undertake a structured review to identify safety risks and measures for their management of those risks; improved training procedures and logs for monitoring staff with access to safe working equipment; the standardisation of safe working procedures for rail operators both in Victoria and other states; and ensuring all rail operators provide safety awareness programs to their staff.

I will make a copy of this significant report available in the parliamentary library for members who are interested, and copies will be made available to the public through my office.

I reiterate that that is the first occasion on which an independent inquiry into a rail incident has been carried out under the new privatised arrangements. The inquiry complements and follows one carried out by the private operators themselves.

The report will address all the systemic issues that need to be addressed. The government will work through an action plan to ensure that the recommendations contained in the report are followed through and that the operation of the rail system in Victoria provides a sense of safety and security to all those who use it.

Aged care: nurse training

Mr BAILLIEU (Hawthorn) — Did the Minister for Post Compulsory Education, Training and Employment when in opposition personally assist in the drafting of a submission by Lavin Australia, a submission which she later, as minister, rejected — yes or no?

Ms KOSKY (Minister for Post Compulsory Education, Training and Employment) — I note with interest that the honourable member for Hawthorn has had enormous difficulty getting an opportunity to ask a question during questions without notice. I have worked out that the opposition has thus far had roughly 70 opportunities to ask questions in this sessional period, and the honourable member for Hawthorn has until now asked none. Given the question he has just asked, is it any wonder? He did take roughly six months to get into his office, so one would expect him to take a while to get a question up.

Mr Thwaites interjected.

Ms KOSKY — I think so — he has a key now! The honourable member for Hawthorn has taken the wrong approach to this issue because he has actually believed all the information that Lavin has provided him with. The honourable member for Warrandyte knew not to do that; unfortunately, the honourable member for Hawthorn has not taken that advice. The answer is no.

Docklands: Batmans Hill

Mr LEIGHTON (Preston) — I refer the Minister for Major Projects and Tourism to the Docklands development and ask him to inform the house of the level of business interest in the Batmans Hill precinct.

Mr PANDAZOPOULOS (Minister for Major Projects and Tourism) — I thank the honourable member for his ongoing interest in the economic development of the state — unlike the opposition, which wants to talk down the state at every opportunity.

On coming to office the government was concerned about the community's perceptions of the Docklands and wanted to correct them. The government thinks the development of the Docklands is a great opportunity for Victoria. The project will double the size of Melbourne's central business district and provide a world-standard waterfront. The state is lucky to have the project, and the government wants to make sure that it goes ahead.

The Docklands Authority was formed in 1991 under the previous Labor government to oversee the development of a long-term project over 15 to 20 years, similar to the way the south bank of the Yarra River was developed over a long period. Parcels of land are still being developed on the Southbank site, of which Victoria is very proud.

The Docklands site also provides immense opportunity for Victoria. I am pleased to announce that the Docklands has been given a big boost in confidence by the expressions of interest in both the Batmans Hill and Victoria Harbour precincts that have been received from developers. Forty-one expressions of interest have been received for the two sites — an unprecedented level of interest!

I am pleased to announce that of the 19 bidders for the Batmans Hill precinct the Docklands Authority has announced a short list of 13 consortiums. That indicates that there is a high level of confidence in Victoria's future, and it is certainly a confidence boost to know that developers are looking to their next major projects.

Honourable members interjecting.

Mr PANDAZOPOULOS — We are still getting interjections.

The SPEAKER — Order! The minister should ignore interjections.

Mr PANDAZOPOULOS — Thank you, Mr Speaker, but the interjections are relevant to the question and relate to the industry having confidence in Victoria's future. The industry and the government are planning for the future. All we hear in the house is opposition members criticising the Docklands project. All they know is that the future is bad for them — but it is good for Docklands.

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order!

Mr PANDAZOPOULOS — The short-listed bidders will be given 10 weeks in which to develop a detailed proposal for either the whole or parts of the Batmans Hill precinct. The Docklands Authority will recommend to me the preferred bidders for developing the site. The project provides immense opportunities for Victorians.

The government is keen to work with the development industry to create something for the future in Victoria, and the only thing we need to give a boost to the project while the industry is looking to finance the development of this site is for the opposition to stop talking it down. We need the opposition to get behind the project and to provide the sort of bipartisan support we provided for Docklands when we were in opposition. This is one of Melbourne's — in fact Australia's — best sites for development for the future.

I congratulate the Docklands Authority on the unprecedented support from the development industry.

MAS: tender documents

Mr DOYLE (Malvern) — Is the Minister for Health now or has he ever been in possession of tender documents that he knew were stolen or illegally obtained from the Metropolitan Ambulance Service, a statutory authority under his responsibility as Minister for Health?

Mr THWAITES (Minister for Health) — Mr Speaker, the honourable member for Malvern is clearly scraping the bottom of the barrel because he knows the royal commission is beginning to get close to the Kennett government and beginning to get close to his activities.

The honourable member for Malvern is the person who told the house there would be a proper investigation into the allegations about phantom calls to Intergraph. What happened to that investigation? We now learn from the Auditor-General — —

Honourable members interjecting.

Mr THWAITES — Opposition members are now saying the matter is sub judice. You asked the question, and now you do not want to hear the answer! The former parliamentary secretary said there would be a proper investigation.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order. The Chair is having difficulty hearing the Minister for Health. The Chair recently made a statement to the house on sub judice matters, but it cannot make a judgment on what the minister is saying if it cannot hear what he is saying. I ask honourable members to quieten down.

Mr THWAITES — The Auditor-General indicated in his recent report to the house that far from there being any proper investigation the terms of reference did not even cover the allegations that were made. That is directly contrary to the misleading statement the honourable member made to the house. I say to the honourable member for Malvern that what he ought to do is have a good look at what is going on down there in the royal commission. The fact that has already come out — —

Mr Doyle — On a point of order, Mr Speaker, under standing order 99 and previous rulings on relevance, the matter is indeed serious. If the answer to the question is no, let the minister say so rather than waffling on about unrelated matters. I ask you, Sir, to direct him on relevance in what should be a very simple answer. If the answer is no, let him say so.

The SPEAKER — Order! I have repeatedly ruled, as have previous Speakers, that the Chair is not in a position to direct a minister to answer in a particular way. As long as the statements of the minister are relevant to the question asked, I will continue to hear him.

Mr THWAITES — It seems that the honourable member is prepared to raise a question about the royal commission but he does not want to hear the answer. The reason is that he is implicated as the former parliamentary secretary responsible for the area!

I am very proud that I worked over some years to raise concerns about Intergraph in the public area. I am proud that now Labor is in government it has called a royal commission to investigate the matters.

It seems that the person who is now designing the questions for the honourable member about the issue —

because the honourable member is quoting — is none other than Jack Firman.

Honourable members interjecting.

Mr THWAITES — The honourable member is now the house mouthpiece for Jack Firman. If the honourable member wants to use Jack Firman as the person who writes his questions to ask in this place, he is not worthy of being here.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mordialloc! The house will come to order, particularly the honourable member for Cranbourne, who has been persistently interjecting. I will not warn him again.

Parenting support services

Mr LIM (Clayton) — I ask the Minister for Community Services to advise the house about the government's commitment to the provision of parenting services.

Ms CAMPBELL (Minister for Community Services) — I am happy to announce today that the Bracks government will approve a new range of parenting support services. The government recognises the vital role parents play in providing safe and nurturing environments for children.

Parent support services form a crucial part of community services. The Labor government is committed to strengthening the platform of generalist early intervention and prevention services. It has therefore committed an additional $10 million over the next four years to the Victorian Maternal and Child Health Service to improve its capacity to respond to early parenting difficulties.

Parent support is required for the range of challenges children present to parents from birth to age 18 — and beyond, we could say, for those with children over 18.

The maternal and child health after-care advisory service provides help to parents of children in the 0-to-6 age group. Currently it operates only from 6.00 p.m. to midnight Monday to Friday and from midday to midnight on Saturdays, Sundays and public holidays. Those of us who are parents are fully aware that crises and support needs can arise at all times of the day and night.

Many parents would endorse the sentiments expressed by Karen Collier in an article on page 11 of today's *Herald Sun* headed, 'Mothers suffer the most stress', in which she made the point that being a full-time mother has been branded the world's most stressful job and that coping with children at home was rated harder than climbing the corporate ladder in a high-powered career.

Today the government is delighted to announce that mothers and fathers will no longer have to worry if there are family crises with their babies at times other than between 6.00 p.m. and midnight. There will now be a 24-hours-a-day, seven-days-a-week maternal and child health service, which is a wonderful initiative for families.

The second announcement is that Parentline, a telephone service for families with children 0 to 18 years of age, in future will be operated entirely by the Department of Human Services. It will be recurrently funded and will provide advice and counselling.

Honourable members may wonder why I make the point that Parentline will provide advice and counselling. In the past Parentline has been encouraged to refer families or post them a so-called tip sheet, but not provide advice and counselling. When parents telephone Parentline they should have the opportunity of receiving advice and counselling, and not have to wait for the postman to turn up with the relevant tip sheet. It takes some courage to ask for advice.

I will ensure that a recurrent budget line item will be maintained by the Department of Human Services to ensure that parents receive advice and counselling as required.

It is with pleasure that I announce both the services that will be co-located, with the advantage that at the point of contact the parent will be asked the relevant age of the child and instead of being referred from line to line a dedicated service will provide advice and counselling to parents as required regardless of the age of the child.

DISTINGUISHED VISITOR

The SPEAKER — Order! The Chair recognises a distinguished visitor to the gallery, Ms Annabel Young, a member of the New Zealand House of Representatives. I hope she found question time informative.

PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL

Second reading

Debate resumed.

Mr MAUGHAN (Rodney) — Before the suspension of the sitting I was telling the house about my pride in being involved with the review of the Prevention of Cruelty to Animals Act which resulted in the 1995 amendments to that act. The amendments currently being debated are set out in the bill, one of the purposes of which is to:

> … make further provision for the offence in relation to the carrying of dogs, while unrestrained, on certain vehicles on highways …

In essence it revolves around tightening up the definition of a ute. One aim of the bill was to include farm vehicles — the one-tonners with a flat top tray used by most farmers these days — which are not covered by the definition in the current legislation. The first part of the bill will amend and tighten the definition of ute; the second part will amend the method of making codes of practice.

Before the suspension of the sitting I was speaking about the evolution of codes of practice. The proposed changes are clearly set out in the minister's second-reading speech. Under the current legislation there is a four-step process to get a code of practice adopted: the first step is approval of the Governor in Council; the second is formulation of the code by the minister; the third involves the minister again seeking the approval of the Governor in Council; and the fourth is the tabling of the code in Parliament for the statutory period of 14 days. The amendments will simplify the process so the minister has to obtain permission from the Governor in Council, prepare the codes, and display them for the statutory 14 days. It shortens the process from the four-step bureaucratic process to two steps.

It is important to remind the house why the legislation was introduced. I have taken some ribbing about it and many people do not understand the reasons behind the introduction of the legislation. Before the 1995 amendments, more than 800 dogs were killed or injured each year falling from the backs of utilities and one-tonners. A survey by the Animal Welfare Advisory Council of 46 veterinary surgeons found that 46 rural veterinary practices treated about 600 dogs annually for injuries sustained from falling off utes and trucks. Forty-six veterinary surgeons treated 600 injured dogs. The survey found veterinarians in Horsham, Swan Hill, Wangaratta and Benalla each treated 40 to 50 dogs after falling off utes — a dog a week. Most of the injuries were caused by those one-tonners cornering too quickly and throwing dogs off the back of the vehicles. In many cases the injuries involved broken legs, broken thighs and head injuries. In some cases dogs had to be destroyed.

Another more comprehensive survey conducted by the Australian Veterinary Association surveyed 156 veterinary practitioners. The survey indicated that about 800 dogs had been treated following falls from trucks or trailers over the 12 months of the survey. Of those, an estimated 566 falls occurred in areas covered by rural practitioners. That says it all — 156 veterinarians treating more than 800 dogs. Clearly those figures do not cover all the dogs killed or injured after being thrown off the farm utes.

I refer to comments made by a colleague in the other place, the Honourable Jeanette Powell, who consulted her local veterinarian Dr Cathy Grant from the Shepparton Veterinary Clinic. The current figures indicate that injuries are fewer than before 1995 when the amendments were introduced. When working at Swan Hill Dr Grant treated 26 dogs a year — a dog a fortnight — injured by being thrown off the back of a ute or a truck. Many had broken legs, broken thighs, head injuries and in the worst cases had to be destroyed.

I read with a great deal of interest the comments of my very good friend and colleague in another place, the Honourable Barry Bishop. He delivered a lengthy and entertaining discourse on farm dogs. He talked about their skill, loyalty and close relationship with their owners, particularly in the farm environment. He talked about bonding and how invaluable a dog is to a farmer — part of the team. It was a very interesting speech, and I strongly suggest that honourable members who have not read it should do so.

I can relate to that. I often tell the story of how, when meeting a neighbour for the first time, he introduced himself as Bob and said, 'When you get to know me better, you will find that I'll deal in and buy and sell anything, with the exception of my wife and my dog'.

Ms Beattie — In that order?

Mr MAUGHAN — Yes, it was in that order. The point he was making was that the dog was something he would not part with. That was also the point being made by the Honourable Barry Bishop in his contribution in another place.

I too have owned working dogs. Barry Bishop talked about dogs by the name of Lass and Bob. The best dog I have ever owned was called Biddy. We were dairy

farming at the time and as soon we started getting the dairy ready — getting the cans and cleaning the vat — Biddy would be off to get the cows. I can remember one occasion when we must have been going out somewhere in the evening so we started to make early preparations by getting the dairy ready, cleaning the cans and so on — Biddy was off to get the cows at 2 o'clock in the afternoon. That example reinforces what Barry Bishop said — that dogs are intelligent and an important part of the team on a farm.

Mr Richardson — Was it an old Biddy?

Mr MAUGHAN — It was an old Biddy, but a good Biddy. Don't get me started on my old dog at the moment — it is actually my wife's dog — whose name is Murdoch. I no longer have a farm utility, but we do have an old Honda, which Murdoch regards as his car. He is very possessive about it. I, too, relate to and love dogs.

I am passionate about this legislation. There is a false impression that it applies to working dogs on farms or working cattle and sheep on the road. Comments have been made about that false impression, both privately and in the house. I want to clarify that dogs working on farms or dogs working sheep or cattle on roads are not covered by the legislation.

Section 15A(3) of the Prevention of Cruelty of Animals Act states:

> Sub-section 2 does not apply to a dog which is being used to assist in the movement of livestock.

Subsection 2 makes it an offence to have an unrestrained dog on the back of a utility or truck. So long as a dog is moving livestock on the farm or droving cattle or sheep along roads it is not subject to the provisions of the legislation.

The final matter I want to deal with is the notion that because farmers care for and love their dogs, as do other dog owners, they will not do anything to injure them, so the legislation is not necessary. I strongly disagree with that notion. I would compare that to the situation where although we all care for our family and friends we sometimes do stupid things on the road that kill and injure them. The road toll was not reduced until legislation was introduced to deal with seatbelts, drink-driving, speeding, and the like. The road toll was reduced from an horrific 1000-plus to 300 or 400. This legislation is necessary for the very same reasons — to make sure that we do look after our dogs.

An indicator of a civilised society is the way it treats its elderly, its disabled and its animals. As members of a civilised society we care for our animals. The amendments in the bill are a further step in the direction of better animal care. I welcome the bill and will not be opposing it.

Ms BEATTIE (Tullamarine) — It is with great enthusiasm that I join the debate on the Protection of Cruelty to Animals (Amendment) Bill. The contribution by the honourable member for Forest Hill, when he interjected about an old Biddy, was welcome. I, too, agree that you should have an old dog for a hard road.

I confess that I have not always been an expert on subjects addressed in bills which have come before the house and on which I have spoken. It is with delight that I join the debate as an expert. Modesty almost prevents me from claiming to be one of the pre-eminent experts on dogs in this house. As an owner-breeder and exhibitor of prize winning Irish Setters and Cavalier King Charles Spaniels I have some 20 years experience in studying animals and their behaviour patterns. I will now share some of my valuable knowledge with honourable members.

A recent survey of local councils indicated there are some 400 000 registered dogs in the metropolitan area. However, the actual number is much higher because many animals are unregistered. That illustrates the importance of dogs in society. The pet care industry — it is an industry — estimates that Australia has a population of more than 4 million dogs, and more than 40 per cent of Victorian households own at least one dog. The relationship between humans and canines is mutually advantageous: dogs depend on humans to provide food, water, shelter and love and in return humans are given unquestioned love, loyalty, support and companionship. It sounds better than some marital relationships! It is incumbent on society to treat animals in a humane way and to respect and care for them.

My preamble will lead directly to the bill. The characteristics that make up a dog — often referred to as breed characteristics — are a combination of both breeding and environment. When purchasing a dog one should insist on viewing at least the sire and dam, although one should endeavour to look at as many other relations of the puppy as possible. It is also wise to inspect dogs housed in the same kennel facility. A simple inspection will reveal whether the sire and dam are nervous or skittish animals.

Of course, if a dog is being purchased for show purposes it will need to fit the breed standard as nearly as possible. I see the honourable member for Gisborne is nodding. She, too, has a great interest in dogs, as do

the honourable members for Warrnambool and Polwarth. Anyone purchasing a dog for a particular purpose, such as hunting or working, will need to ensure it has come from stock that has fulfilled that purpose in the past.

As I said, my preamble in addressing the bill is necessary to show that a working dog needs to be treated differently from perhaps a chihuahua from Springvale. When transporting a chihuahua a small basket on the floor of the car may suffice, but a dog owner transporting an energetic working dog that is keen to do its owner's bidding must ensure it is securely tied in the moving vehicle.

When a dog is not in the cabin of a vehicle but on the tray of a ute or truck with sides it is important that it is tied securely because a sudden stop could put the dog onto the road or through the back window of the vehicle. If not securely tied the dog could fall sideways off the truck and strangle itself with its lead or be dragged along the road. Not only must the dog be secured, but it must be secured by a chain or rope of the correct length.

The type of dog that travels on the back of a truck is usually a fairly large working dog, muscly, keen and eager to work — not the sort of dog that would fit the lifestyle of a politician! One can imagine what accidents could occur if such a dog came off the back of a truck. Horrific accidents could occur from cars crashing into each other, perhaps the poor dog being run over, the driver of the car looking back to see what has happened — all sorts of things could occur.

I have not come into the house empty-handed for my contribution to the debate. I have consulted widely. Many things have been published about the treatment of dogs. Councils are now issuing excellent material to encourage responsible dog ownership. Hume City Council has issued guidelines on the registration of dangerous dogs, and dogs in public places. You can now take your dog to a park, exercise it off lead, and bags are provided for dog droppings. There is no need to transport dogs in a hapless and carefree way where they could come off the back of a truck.

As I said, I have come prepared. Apart from discussing the matter with the honourable member for Gisborne, I have consulted other experts. I have spoken to Mr Greg Browne, a friend of mine who is also a dog judge of some notoriety. He owns the world famous Eireannmada Kennels which has bred many working dogs such as Irish setters, English setters, Gordon setters, labradors, and Cavalier King Charles spaniels — although they are not great working dogs, they love sitting on couches. Mr Browne has also bred cats so he has a deep knowledge of animal behaviour and the requirements for transporting animals. He has a large kennel and often takes dogs to and from the airport, so he knows what is required when transporting dogs.

Mr Browne, who is also on the committee of the Victorian Canine Association, told me about the need to contain the dog and not let it run wild. His view is that the animal would be better in a crate or a cage securely fixed to the back of the utility or tray. I have also spoken to some farmers in my electorate. Although opposition members may think there are no farms in Tullamarine, there are farms at Bulla and Sunbury. I have consulted the farmers about their preferred methods of transporting their dogs. They told me that the best way of transporting would be in a cage securely tied to the back of the utility, and not tethering.

Responsible pet ownership and responsible transporting of dogs around Victoria should be encouraged. Victoria has taken a leading role in responsible pet ownership and the responsible transportation of animals. I will relate a story about a dog that was not transported properly. A friend of mine bought a prize-winning Irish setter from America. The dog spent 18 months in quarantine. When my friend was transporting it to a show the dog was not transported properly and was in — —

The ACTING SPEAKER (Mrs Peulich) — Order! The honourable member for Sunshine has breached the standing orders of the house on two occasions by walking in a line between the Chair and the member on his or her feet. I ask him to be mindful of those protocols and ensure he does not offend again.

Ms BEATTIE — The story I am relating is sadly a true story. The Irish setter was not used to the hot Australian conditions and was being transported around in an enclosed cage with no air circulating, and it died. Not only did she lose the ability to contribute to the future of Irish setters in Australia, she was also about $18 000 down the drain, as it is expensive to import dogs.

The bill is important. At first glance it is not a big bill and it seems that it should be rushed through the house. We should have a free and open debate on the bill, as has already occurred. The culture of responsible ownership of pets and farm animals should be encouraged. We should care, nurture and respect our animals. Their lives are in our hands and we should take care that their transportation is looked after. I have contributed to this debate using the expert advice of dog

people who are world-renowned experts. I commend the bill to the house and wish it a speedy passage. Finally, all pet owners and owners of working dogs should look after their dogs and treat them with the respect they deserve. I am sure they will support the bill.

Mr PLOWMAN (Benambra) — I support the comments of the honourable member for Tullamarine. It is incumbent on all dog owners, whether they have pets or working dogs, to maintain a level of support for those dogs and introduce a level of safety in the handling of dogs. I like some of the dog sayings that are relevant to politics such as, 'It's a dog's life'. It certainly is! Another is, 'It could have been won by the drover's dog'. We have heard that one before.

Mr Mulder interjected.

Mr PLOWMAN — There is that one, and the one referred to before, 'It's an old dog for a hard road'. I looked at the colour of my hair and thought that was appropriate. 'It's a bit like a dog's breakfast' refers to the current government, and 'the tail wagging the dog' represents the Independents in control of the government. If a dog is man's best friend you certainly would not want him in here, would you? There are many more dog expressions and anecdotes, which is the reason we love our dogs.

Mr Hamilton — They tell me there are no dogs in Benalla.

Mr PLOWMAN — After spending 38 years in Benalla and having bred dogs all my life, I would be surprised if there are not a few dogs in Benalla. It is the old dogs of the Labor Party, such as the Minister for Agriculture, who are inclined to distort — —

The ACTING SPEAKER (Mrs Peulich) — Order! Reflections on honourable members are disorderly.

Mr PLOWMAN — It was going to be a kindly mention, but I will leave it be.

I have owned working dogs all my life so I know that nothing can give one greater joy than getting up in the morning and letting the dog off the chain. Even the affection shown by a wife has nothing on the sheer adoration, tail wagging and jumping after the dog has been let off the chain. The dog is adoring because it can't wait to jump on the back of the ute. Working dogs have a real affinity with utes — it could be said that one was made for the other.

I was amused to read: 'Utes without dogs look distinctly odd. Splitting them up just does not sit right — they go together like real estate agents and Porsches, John Elliott and cigarettes, Carmen Lawrence and memory lapses'. I thought, 'That's a dog of an act' — so I won't mention it! Dogs have a special place in our lives. As I said, I have had great joy from owning working dogs.

Returning to the bill, the first part of the amendment addresses the unintended anomaly in the principal act, which does not include flat-tray utilities of less than 4.5 tonnes. The second part deals with the gazetting of the codes of practice. The current process is complicated and the amendment redresses that. The changes are sensible and I fully support them.

The honourable member for Swan Hill described how the codes of practice could apply to dogs on utes. He touched on the Environment Protection (Enforcement and Penalties) Bill which was second read today and concerns hay-carting trucks. His comments were about matters that are a far cry from what is commonly referred to as the dogs-on-utes legislation, but both bills are in part about the value of codes of practice.

Codes of practice are important for addressing all sorts of situations so that the best end result is achieved, as opposed to relying on legislation which invariably includes things that are not needed or excludes things that should be included. A code of practice reflects what people want done in a means that is acceptable to the community.

I confess my ignorance in still having difficulty in determining which code of practice or law takes precedence — whether it is the state or federal code or an overruling state or federal act. The honourable member for Swan Hill said that not one code of practice tested in the Victorian Civil and Administrative Tribunal has been overruled. Those decisions show that rather than specific legislation on an issue, the code of practice is a good way to install and apply a system that is acceptable to the community. I commend the freeing up of the method of establishing codes of practice.

I turn now to the issue of dogs falling off the backs of utes. I have had two experiences of having a dog falling off the back of a ute and suffering injury — in both cases it was a dislocated hip. On both occasions the dog was on the back of a ute while I was working sheep. In that situation the vehicle is being manoeuvred quickly and turned suddenly and the dog can fall off because it is not ready for the action. Unfortunately, that sort of thing will continue to happen because the legislation

will have no impact on how people treat their dogs when they are working sheep. The dog must be free.

In both the cases I have referred to the dog's hip was repaired. The dogs were out of action for a while but the injury was not life threatening. One dog had lost a leg in an earlier accident — he was a bit accident prone.

Mr Steggall — Three legs on the back of a ute with a crook driver!

Mr PLOWMAN — As the honourable member for Swan Hill interjects, three legs on the back of a ute with a crook driver! That doesn't give him a hell of a chance! People develop a great affection for and affinity with their dogs. That dog was a wonderful working dog and a great favourite of mine. I took him to the Veterinary Research Institute at Werribee, where they treated him for three weeks, got him back on to his three legs and he lived with me for another 11 years.

Mr Hamilton — It should have got a medal!

Mr PLOWMAN — I would have given that dog any number of medals for what it put up with. That story is an example of what can happen and will continue to happen even with the best intent. The beauty of the bill is that it tightens up the current legislation to cover all the vehicles that people are likely to travel in.

Although the two dogs I have referred to suffered dislocated hips, their injuries could be repaired. The main problems occur when a dog comes off a vehicle travelling at such a speed that the result is either the death of the dog or a serious injury that means the dog needs to be put down. As it addresses those circumstances, the bill is a sensible measure.

The legislation will not only reduce the number of cases where dogs come off utes but it is an educational tool. People recognise that the bill has been introduced for a good reason. It was suggested that each year between 600 and 800 dogs are treated by veterinarians for accident damage. A high percentage of them are not working dogs but big pets.

I have had labrador dogs for most of my life. If a labrador comes off the back of a ute travelling at speed the injury is usually serious. Pets are more likely to have problems than working dogs, which, by nature, have a fighting chance if they come off the back of a ute.

Dogs are a subject on which I could speak about indefinitely but I will not. I fully support the intent of the bill and am delighted to see it in the house.

Ms DUNCAN (Gisborne) — I have pleasure in speaking on the Prevention of Cruelty to Animals (Amendment) Bill, the purpose of which is to clarify the intention of the principal act and to prevent dogs on utes travelling unrestrained. The bill also changes the way codes of practice are made.

As honourable members know, a dog is also a woman's best friend. I own three dogs — Jock, Max and Dizzie — and a horse as well, but given that horses are too big to fit on the back of a ute they do not need to be restrained!

I am wondering if a dog must be a minimum size before it must be restrained when travelling on the back of a ute. My Max is very small and if she were not tethered she would simply blow away! She is much more an inside dog — a front-seat dog — and would not tolerate riding on the back. However, I do not have a ute so I need not worry — neither need my dogs!

The bill makes several improvements to the principal act. It inserts a new definition of tray, taking into account and recognising that it was intended that utes would be included in the coverage by the principal act.

Opinions sought by the Royal Society for the Prevention of Cruelty to Animals (RSPCA) from independent lawyers in 1996 concluded that under the Road Safety Act a utility is not a motor vehicle and it was likely that the current act could be challenged successfully in court — hence the need for the bill as the intention of the principal act was to include utes in its coverage.

In order to achieve that end, the bill inserts a new definition of 'tray' into section 15A(1). Clause 4 amends the principal act to simplify procedures prescribed in section 7 for making codes of practice; it allows the Governor in Council, on the minister's recommendation, to establish a code of practice which would be presented to Parliament for the statutory 14-day exposure period. It has been suggested that the amendment empowering the Governor in Council instead of the minister to establish a code of practice may minimise the opportunity for stakeholder consultation. The change is administrative and, under the principal act, the development of a code of practice must involve consultation with a wide range of stakeholders, anyway.

The animal welfare advisory committee prepares codes; as the peak animal welfare body in Victoria, its members represent the stakeholders, who include the RSPCA, the Victorian Farmers Federation, the

Australian Veterinary Association, the Lost Dogs Home and Cat Shelter, and similar organisations.

I am confident the new process will lead to a continuation of the broad consultation with those in the best position to know what they are talking about in the area of animal welfare. There is no doubt that the bill is important for those of us who love dogs dearly.

In 1994 the Australian Veterinary Association Victorian Division surveyed city and rural veterinarians about the prevalence of injuries to dogs falling from the backs of utes, trailers or trucks. The association received responses from 156 practitioners, including 65 from regional Victoria. The survey indicated that in the previous 12 months, 800 dogs — 566 of them in rural areas — had been treated for injuries arising from falls. I have no doubt the problem is more pronounced in but not exclusive to country areas.

I have seen posters in veterinary surgeries in regional Victoria — I have not noticed any in city surgeries — that depict blue heelers standing on the backs of utes. Why? I have not known anyone to use a blue heeler as a sheepdog.

Mr Steggall — It's a cattle dog.

Ms DUNCAN — Yes, I would have thought so. The problem is quite common in the city. People who travel around the city would have seen plenty of dogs on the backs of utes and working vehicles, surrounded by spare tyres, builders' boxes of tools and all manner of things. A dog can be injured not only because it has either not been tethered or not tethered properly but also because it may have been shoved onto the back of a ute with a load of other equipment.

I am reminded of a friend's dog that, sadly, passed away. Dear old Jake may still have been alive had this piece of legislation been in place 10 years ago — actually, that is not so because he would now have been 24 years of age if he were alive! Jake jumped off the back of a Toyota Hilux after spotting a cat — he hated cats. He showed good taste, I thought, in that regard! The bill, with its proposed enforcement provisions, will ensure dogs like Jake will no longer be able to jump off the backs of utes and chase cats or people. I commend the bill to the house.

Mr MULDER (Polwarth) — I will not touch on the technicalities of the Prevention of Cruelty to Animals (Amendment) Bill because honourable members who have spoken earlier have done a good job in that regard. I support the legislative amendment that protects one of man's best friends and addresses the importance of tethering a dog while it is being transported on the back of a ute. The principal act covers the use of a truck but its technicalities did not address the use of a utility, which is a major means of transport for many people.

There is no doubt about the importance of caring for animals on farms. People spend a lot of time with and invest money in animals or pets. Their tethering and protection while they are being transported is important. A good example is the effort taken by people who transport cattle and horses in floats. Some greyhound owners go to a good deal of trouble as they cart their dogs around the country in the most luxurious floats. It is important that through legislation the community protects working dogs that are the backbone of the working lives of most farmers who own cattle and sheep.

Having an untethered dog on the back of a ute is not only dangerous for the dog but also it becomes a hazard for motorists. For example, a motorist travelling behind a ute could cause a serious accident if the dog were to jump from the back of the ute into the motorist's path. In such an instance people talk about the cost of the dog's loss, but a dog wandering on a rural road can be dangerous to traffic, particularly at night. If the dog were lost, there would be ongoing costs to the farmer.

Years ago I used to wonder about newspaper advertisements that were worded, for example, 'Lost: one black and white collie somewhere between Colac and Gellibrand River; piece missing from one ear; hair missing from hindquarter; slightly lame; answers to Lucky'. Those sorts of advertisements appeared regularly. Earlier I heard honourable members talk about injuries to animals and statistics from country vets. I am pleased that the government has come on board through the bill to make sure working dogs are protected as they should be.

The practice of transporting untethered dogs on the backs of utes is common practice around farms, but is dangerous on open roads. Although the bill deals with the tethering of dogs on the backs of utes, it will not impact greatly on what happens on a farm on a day-to-day basis. A farmer has a tendency to crawl around his paddocks with his dog whose territory is the back of the ute while the dog jumps on and off the back of the ute to carry out his farm jobs.

It is incredible to see a working dog. In my early years — I think I was aged 12 — I started working on a sheep farm at Birregurra. The lady I worked for did not have a dog. I used to look at the neighbouring property to see the farmer working his dog. I thought then how great it would be if I had a dog. One day a dog turned up. Within three weeks I was hoping it would run away

because I thought it would take my job! Fortunately, the owner turned up, the dog disappeared with him and I got to stay on for quite some time.

I have read about the impact of dogs and cats on households and people's health. It has been reported that a person who has a dog or cat usually has a healthier lifestyle. It is interesting to walk through a nursing home and discover that even though you may be in a registered health facility, a dog may be wandering around. It adds a tremendous atmosphere for the residents because many would have left dogs in their homes when they moved into the nursing homes. The pets make great companions, particularly for the elderly in those situations.

I do not think anyone could possibly put a value on a good working dog. I have seen it happen in the past when a property in my electorate has been sold; the auctioneer may say, 'She's $3000 an acre, $700 a head for the cattle, the tractor's worth $10 000, the hay's worth this, something else is worth that, but hang on a minute — the dog's not included'. You wonder then whether the sale will fall through!

It is possible for a dog to replace two people on a farm. On a big farm a farmer would pay $30 000 a year for each labourer hired. A dog would not attract any Workcover premiums, superannuation, holiday pay or sick leave entitlements. It would never complain, and it is cheap and easy to maintain. It is hard to replace that type of value-added source of farming income.

It was good to hear the honourable member for Benambra talk about the feelings of going out with a dog and letting it off the chain, as it heads off on its daily work, as keen as mustard and as friendly as ever. No matter how long the day lasts, the dog keeps smiling.

I love to watch farm dogs — mainly kelpies, collies and blue heelers — at work. I have seen a blue heeler at work at Darryl Cannon's stables in Colac. It worked across the back of a horse float as young horses were being loaded; the dog was watching not only the horses but also their handlers. A dog can load a horse onto a float without injuring the handler, and that is its purpose. I think that fella would sell everything before he sold the dog.

I pay tribute to the Mulders' dogs, Milly and Penny. As fast as we breed them to make money, my wife gives them away to her patients as she travels around the district. I would like to think that I could make a quid out of them but I never will!

The bill protects some of our best friends, and I commend it to the house.

Mr MAXFIELD (Narracan) — Dogs are a part of rural life, not just as pets and companions but as working dogs on our farms and many dogs, especially in rural Victoria, travel on the back of utes. Not only do we have dogs as pets and working on farms, but many businesspeople in country areas, such as small traders and builders, often head off to work with their dog to keep them company. People enjoy spending time with their dogs — they are faithful companions and should be cherished in rural life. I endorse the bill.

Dogs, particularly working dogs, travel in the backs of utes, tray trucks, trailers and various cages. It is important to recognise the various uses to which dogs are put in their working life, including working on farms picking up cattle. Working dogs routinely round up sheep and cattle and in my area dogs are often used to bring in the dairy cattle at daily milking times. Dogs need to be able to jump in and out of utes as farmers head off to collect their sheep and round up their cattle and farmers do not need to restrain their dogs while they are doing that work. It is important that the bill reflects those needs and I am proud to say that it does.

The vast majority of farmers and other dog owners would never put their dogs at risk and they do the right thing to ensure the protection of their animals. Sadly, a few owners do not do the right thing. A 1994 survey of 150 veterinarians across Victoria — including 65 from rural Victoria — showed that 800 owners had to take their dogs to a vet following falls from trucks, utes and trailers. Of the 800 injuries, 556 occurred in rural areas. That figure is far too high and the bill is before house today to protect those animals.

Working dogs are an incredibly valuable resource. Many farmers will tell you that a dog can do the work of more than one man. If a dog is injured, the financial viability of the farm can be affected by the loss of that well-trained animal, so the avoidance of injury is critical. As I said, most farmers will do the right thing.

The bill provides that when dogs are working on farms they will not have to be restrained, but when a farmer goes into town the dog needs to be restrained — and most farmers already do that.

The other issue is the design of utes. Some people say that the high sides on most utes mean that dogs will not fall off but that it is important to restrain dogs travelling on utes with flat trays. The reality is that dogs can fall out of all sorts of vehicles, even utes with high sides. If the driver accelerates, brakes quickly or swerves to

avoid an animal or anything else on the road, the dog can unfortunately be thrown out, with very tragic consequences.

The bill requires local police and by-laws officers to implement the law in a sensible manner. I know that the police in rural areas will do that. The bill represents a good balance between protecting dogs and allowing farmers and working dogs to work on their farms.

Mr KILGOUR (Shepparton) — I am pleased to contribute to the Prevention of Cruelty to Animals (Amendment) Bill which is particularly important for country people. It gives a definition of a utility, unlike the legislation introduced by the previous government, which did not do that and therefore would not stand up in court. It is important to people in country areas that their dogs are looked after properly when travelling in the backs of utilities. The bill defines the difference between a truck and a utility in a way that will stand up in court.

Most farmers fully understand the value of their dogs. As I grew up in the Victorian country town of Katamatite I was privileged to see the famous Australian champion sheepdogs that belonged to a local stud. Mr Brendan — better known as Curley — O'Kane ran the Yarramine border collie sheepdog stud at Katamatite. Curley O'Kane's dogs included champions such as Lance and Lass and Whisky. Then came the dog with the best name in Katamatite — Yarramine Collingwood. Was it any wonder that Collingwood was an Australian champion sheepdog?

Curley O'Kane's dogs were good at their work. I remember being on his irrigation property, which was about 6 kilometres from his dry property. We would take the sheep, set them on the road and then go into Katamatite for lunch. When we went to the dry property after lunch the sheepdogs would have the sheep at the gate ready to be put into the paddock! There would be Yarramine Collingwood, who had beautiful Collingwood black and white fur, sitting in the middle of the road with his tongue hanging out, and virtually saying, 'There we are — put them into the paddock'.

Curley O'Kane fully understood the value of his dogs, and although he had a Zephyr utility with sides on it, he always had a cage for his dogs to make sure they were not tampered with and could not fall out as he was driving along the road. People like him have a full understanding of the value of dogs and they ensure that the government brings in legislation so that dogs are looked after. I commend the bill to the house.

Mr LANGUILLER (Sunshine) — I am pleased to put on record my views about this important measure, the Prevention of Cruelty to Animals (Amendment) Bill. I am particularly happy to hear members speaking warmly about dogs and about how much we care for them. I am sure that our feelings stretch to our parliamentary colleagues, friends and relatives.

The main intent of the bill is to ensure that there is no misunderstanding about what might constitute a utility, a car or a truck. The bill sends the clear message that whether one drives a ute, a tray truck or a trailer, any dogs travelling on the back must be properly and adequately restrained.

There are quite a number of dogs in my electorate of Sunshine, including bull terriers, German shepherds and blue heelers — and I have a blue heeler. In the main they are well looked after and well behaved. However, dogs must be restrained and honourable members must remind their constituents that if they do not restrain their dogs the legislation provides for fines to be imposed. I am confident that the law will be implemented to ensure that we protect our animals as well as we protect people.

It is estimated that across Australia in the past year about 5000 dogs have been injured due to falls from utilities, trucks and trailers, and that in the past five years up to 15 800 dogs have been injured in falls. That is a significant number of injuries and unfortunately many of the injured dogs have had to be put down.

Ultimately, the duty of care lies with dog owners, whose responsibility it is to ensure that animals are well looked after; but it is important that animals have freedoms and that their entitlements are met. Whether the dogs are female or male, they come high on the list of friends; they are our second-best friends.

Dogs must have freedom from hunger and thirst. They must have access to fresh water and a proper diet to maintain their good health and vigour. They must be free from discomfort. An appropriate environment, including shelter, must be provided. Dogs must have freedom from pain and injury. It is up to us to ensure we do everything we can to prevent injuries, to rapidly diagnose potential illnesses or conditions and to ensure treatment is available to dogs when required.

Dogs must also have freedom to engage in their normal behaviour. That is an important point. They have to be able to develop in themselves. They need to have sufficient space, proper facilities and the company of animals of their own kind. They must also have freedom from fear and distress.

In conclusion, I encourage all honourable members to read an interesting report on research conducted by Monash University and Melbourne University which clearly suggests it is good and positive to have relationships with animals and that both animals and human beings can benefit from that. I put on record that worthwhile recommendation and commend the bill to the house.

The ACTING SPEAKER (Mrs Peulich) — Order! In view of the opening comments of the honourable member for Sunshine, it is appropriate that the honourable member for Wimmera should be the next speaker.

Mr DELAHUNTY (Wimmera) — It is with a great deal of interest that I contribute to debate on the Prevention of Cruelty to Animals (Amendment) Bill, better known as the Dogs in Utes Bill or the Noel Maughan Bill. I am worried about the word 'in' because we are talking about dogs travelling on the outside of vehicles, not on the inside.

Many other speakers have spoken about the relevant technical data. I want to contribute to the debate something from my background. Farmers, builders and many other people in the Wimmera community are concerned about the welfare of their dogs. As a farmer's son and a former farmer, I will relate my comments to my experience.

On a farm a good dog is worth its weight in gold. My father is a great proponent of dogs being looked after properly. Watching a good dog working is a real treat. Honourable members should make a point of attending a sheepdog trial to see a good dog in action. Also, dogs-in-utes competitions are held in Warrnambool and other places.

An honourable member interjected.

Mr DELAHUNTY — A dogs-in-utes competition was held in St Arnaud. I wonder whether the Minister for Agriculture might have a little money in his discretionary account to sponsor some of those dogs-in-utes competitions.

Going back to my experience, over a long period my father was a great proponent of the welfare of dogs. He was protective of his dogs and keen to ensure when he was travelling along a road that a dog in his vehicle be tethered. He had a great love of red and black kelpies. His favourites were Rusty, Nigger, Jock and — his no. 1 dog — Jacko.

Mr Hamilton — He didn't play for Geelong, did he?

Mr DELAHUNTY — No, he did not. He was a good dog but he couldn't kick goals. My father still loves driving around the farm with his dogs and his family. That created a bit of a problem when one of his sons-in-law was in the ute, too. When his dog Jock was in the back my father would scream out, 'Jock, get away back there!'. His son-in-law was not sure whether my father was talking to him or to his dog. It was a bit of a problem because we were not sure — —

Ms Delahunty — On a point of order, Madam Acting Speaker, the rules of this place require that no member should cast aspersions on any other members or their spouses. I ask you to draw the honourable member for Wimmera back to the bill and to ask him not to cast aspersions on family connections, however entertaining they might be.

The ACTING SPEAKER (Mrs Peulich) — Order! There is no point of order, particularly as the Acting Speaker was distracted by the Clerks. I will not embark on resolving a family dispute!

Mr DELAHUNTY — That created some problems, as the dog Jock was around at about the same time as the future son-in-law was on the scene. My father and mother and the rest of the family were very sure of the dog called Jock — we knew he was faithful and obedient — but we were not sure of the new brother-in-law.

In conclusion, the welfare of dogs is important to our family and to all farmers and rural people. Members of our family often had to come home early from a function to feed or water the dog. We had to ensure it had had a run and had good housing for the night. My father was sometimes more fastidious about the dog than about his children, but my mother picked up in that area.

I was talking to my father this morning. He reminded me about an expensive sheepdog that was travelling in the back of a ute while tethered with a lead that was far too long. A person from Murtoa had bought the dog in Donald and, because the lead was too long, lost the dog. The honourable member for Rodney mentioned that over 800 dogs a year are killed in falls from the backs of utes. The bill is important in clarifying the minor problems that exist. I have no worries about supporting the bill.

Mr SMITH (Glen Waverley) — As a city member I have a great deal of pleasure in speaking on any bill that will stop cruelty to animals. All honourable members are in the business of preventing cruelty to animals, but this is the sort of bill that those in the Thought Police on

the other side of the house could have a great deal of fun enforcing. I only hope the Labor Party enforcement arm decides it will take the bill in the spirit in which it was meant to be taken — as an amendment to define a truck. That is the important provision of the bill.

As many members representing country electorates have said, a person with an overzealous clerk mentality would not want to be employed in implementing this measure, as has been seen on the other side from time to time — an area members opposite excel in. I caution the minister not to go overboard in the administration of the bill. The light-hearted spirit of debate this afternoon reflects the way in which the lead speaker for the opposition, the honourable member for Swan Hill, enunciated the opposition's attitude to the bill. Anything that will stop cruelty to animals and particularly to dogs I fully endorse, being a dog owner and, like other members, having had a great deal of fun with dogs.

Mr Richardson — What's the dog's name?

Mr SMITH — For the benefit of the honourable member for Forest Hill, the dog's name is Skip, an intelligent, good dog that is able to give us great pleasure. I ask the Minister for Agriculture to ensure the bill is implemented in an even-handed and fair manner.

The SPEAKER — Order! The minister has 35 seconds.

Mr HAMILTON (Minister for Agriculture) — It will take me longer than that to read out the names of the members who contributed to debate on the bill! I thank all honourable members for their contributions and the spirit in which their contributions were made. I wish this important bill a speedy passage.

Debate interrupted pursuant to sessional orders.

The SPEAKER — Order! The time appointed under sessional orders for me to interrupt the business of the house has arrived. I am required by the sessional orders to put the relevant questions.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

FLORA AND FAUNA GUARANTEE (AMENDMENT) BILL

Second reading

Debate resumed from 21 March; motion of Ms GARBUTT (Minister for Environment and Conservation).

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion Mr HAMILTON (Minister for Agriculture).

ADJOURNMENT

Mr HAMILTON (Minister for Agriculture) — I move:

That the house do now adjourn.

Planning: Nillumbik scheme

Mr PHILLIPS (Eltham) — I direct to the attention of the Minister for Planning the new-format Nillumbik Planning Scheme. Can the minister assure the house that he will maintain the commitments given by the previous minister to a number of residents in the expectation that the independent panel would recommend certain actions?

I raise in particular the matter of Mr and Mrs Wozniak, who, like the hundreds of people who made submissions to an independent panel appointed last year for subdivisions or rezoning, seek to create a two-lot subdivision at 250 Christian Road, Cottles Bridge.

The panel made a number of recommendations to the Nillumbik Shire Council on amendments to its new planning scheme, one of which was that a two-lot subdivision be approved at 250 Christian Road, Cottles Bridge. The property is about 10 hectares in area and the intention of the applicants is to subdivide it into two lots of 4 hectares and 6½ hectares respectively, as the panel recommended. Four hectares is about 10 acres, so 6 hectares would be about 15 acres.

I ask the minister to continue with commitments given to Mr and Mrs Wozniak by the former Minister for Planning and Local Government, the Honourable Rob Maclellan, and supported by Nillumbik council officers and the independent panel. I ask also that when the

minister makes his final recommendations concerning the planning scheme he will ensure that the new scheme will enable Mr and Mrs Wozniak to continue their building project and keep commitments they have made to others.

I am aware that the panel recommended certain environmental conditions under section 173 of the Planning and Environment Act to do with cleaning up the creek and the land.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member's time has expired.

Police: Bacchus Marsh station

Ms DUNCAN (Gisborne) — I raise for the attention of the Minister for Police and Emergency Services a matter concerning the police station at Bacchus Marsh. Will the minister take action to meet the Bracks government's commitment to building a new police station in the town of Bacchus Marsh? Because of population increases the current station has become inadequate. The facility is no longer appropriate and the number of police officers stationed there is not sufficient to provide full police coverage to the town. The matter is of great concern to the community.

The number of break-ins and attempted break-ins that have occurred in the area during the past few months has again raised the issue of community safety in the minds of the community. The reduction in police numbers over the past few years has raised great concerns among people in communities such as Bacchus Marsh who, like residents of many other smaller towns, worry that if no police are available at their local stations they must rely on police from nearby towns.

At Bacchus Marsh, if there are no police at the local station police must come from Melton — although with the community policing changes they may need to come from even further away. That is unsatisfactory for a town such as Bacchus Marsh, which in the past 10 or so years has grown considerably.

No other towns with 24-hour police stations are situated between Melton and Ballarat. By way of example, I compare Bacchus Marsh with Kyneton, a town which is also in my electorate. Although Kyneton has a population of only 5000 people it has a 24-hour police station; Bacchus Marsh has a population of more than twice that, but does not have a 24-hour station.

A 24-hour police station in Bacchus Marsh would not be just a facility void of people; it would actually have staff in it. To staff the 24-hour police station 6 sergeants and 24 other officers would be required. Such a facility would be an excellent addition to the town, and I ask the Minister for Police and Emergency Services what action he is taking to meet his commitment to the people of Bacchus Marsh.

Regional Infrastructure Development Fund

Mr DIXON (Dromana) — I ask the Premier to clarify whether the Mornington Peninsula Shire Council will be eligible to receive funds from the Regional Infrastructure Development Fund. I raise the matter because it seems a contradiction has arisen between what has been said by the Premier and the statement that has been issued by the Minister for State and Regional Development about the Mornington Peninsula shire's eligibility for the fund.

The schedule to the recently enacted Regional Infrastructure Development Fund Act did not list Mornington Peninsula shire as one of the eligible shires. However, when the Premier visited my electorate about six weeks ago — —

Mr McArthur — How did he get there, incidentally?

Mr DIXON — By helicopter. He said publicly that he thought the Mornington Peninsula shire should be included in the fund and waxed lyrical about the great benefits it would bring to the shire. There were many witnesses to his comments, which are on the public record.

The contradiction was entrenched when the Regional Infrastructure Development Fund guidelines were finally issued a couple of weeks ago. The Mornington Peninsula shire is missing from the list of eligible shires contained in those guidelines. Just this week a local Labor Party identity in the area said the Premier should ensure that the guidelines are reprinted to include the Mornington Peninsula shire. I gave the Premier that opportunity six weeks ago when I wrote to him asking him to clarify the situation. I have received no answer from the Premier — not even an acknowledgment.

There is enormous interest in the fund as a result of my building up interest in it, as the Premier asked me publicly to do. I again ask the Premier to either reconfirm what he said publicly about the Mornington Peninsula shire's eligibility for the fund or acknowledge that he has made a mistake and has totally contradicted the Minister for State and Regional Development.

Operation DEFY

Ms ALLAN (Bendigo East) — I raise for the attention of the Minister for Transport a serious and important matter concerning my electorate of Bendigo East, and I ask him to investigate a commitment given by the former Premier to Operation DEFY — which stands for driver education for youth — during the last state election campaign.

Operation DEFY was formed last year as a direct result of a fatal motor vehicle accident in which four young Bendigo people lost their lives. The parents and friends of those young people formed an alliance with an existing organisation in Bendigo called CARDEC. Their aim was to establish a driving education centre to give young learner and probationary drivers skills to assist them when they become licensed drivers on our roads. Those skills may save the lives of young people on the roads like the four young people who tragically lost their lives last January.

Operation DEFY has received overwhelming support from the Bendigo community. Our community is close-knit, and the tragic loss of those four young people was felt deeply by many people in Bendigo. The City of Greater Bendigo has donated $500 000 for Operation DEFY to commence running programs, local motor car dealers have donated five cars and the Shell service station has donated fuel. Tens of thousands of dollars has been raised by the Bendigo community through collection tins and raffles.

The Minister for Transport is aware that I have written to him about the matter. Members of Operation DEFY approached the former government for funding. The former Premier, Jeff Kennett, flew into Bendigo two days before the state election and announced funding of $50 000 for Operation Defy. Unfortunately, that commitment was not funded by the former government, and I condemn the former Premier for using Operation DEFY as a political football and raising the hopes of that group only to leave them hanging when he was defeated. Representatives of the group came to see me because they were deeply concerned that they would not receive the $50 000 as promised and widely publicised through the media and because they believed they had been used.

I am pleased, as the member for Bendigo East, to be supporting the push for Operation DEFY to receive funding. I strongly believe it is a valuable program for young people in Bendigo and central Victoria and will go towards saving the lives of young motorists. I am sure many members of the house also believe that.

I ask the Minister for Transport to investigate the commitment given by the former Premier and to provide advice to me and the representatives of Operation DEFY about what funding the Bracks government may be able to provide for the group. Such a commitment would be funded, unlike that of the former Premier, who chose to blow in and blow out of Bendigo two days before the state election and used the issue as a political football.

Winchelsea: wool sports championships

Mr MULDER (Polwarth) — I refer the Minister for State and Regional Development to a matter concerning the wool industry in Victoria and I call for it to be supported. The wool industry in Victoria is undergoing a long-awaited rise in optimism about its outlook for the future. In particular, fine wool prices are at their best for many years.

The township of Winchelsea, which is in my electorate, has a can-do attitude. That small community continually astounds surrounding regions by its ability to support community services and functions. Wherever one looks around the township one sees a community handprint, especially in the area of aged care. Winchelsea is surrounded by woolgrowers, and the entrepreneurial township wishes to recognise the importance of and support the wool industry in Victoria.

The Eastern Reserve Development Committee, chaired by Daryl Leak, is seeking state government support for the development of the Australian wool sports championships. The unique team events at the championships will revolve around the five disciplines of the wool industry: shearing, wool classing, wool pressing, rouseabouting and sheepdog trials.

The Surf Coast Shire is supporting the Winchelsea community in the establishment of that major event. It is purchasing land adjacent to the existing oval to cater for the event and to centralise all Winchelsea's sporting activities.

The Winchelsea community believes the establishment of the Australian wool sports championships will provide ongoing financial support for the Eastern Reserve and will use the money raised for capital works and to maintain and improve the reserve as the need arises.

Winchelsea's sporting bodies have embraced the Australian wool sports championships and are prepared to unite and work voluntarily to make the event an annual drawcard for Winchelsea. From what I know of

Winchelsea the event will succeed, but it will need state government support.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Polwarth has 1 minute to ask the minister to do something.

Mr MULDER — I ask the minister to support the Winchelsea community and the Eastern Reserve by providing funds to assist them in getting that worthwhile project up and running. I urge the minister to make a grant to the Winchelsea community of $40 000 for the event.

Prior to the last election the Labor Party pledged to support communities throughout regional and rural Victoria. The Winchelsea community is anxious for the government to assist it on this occasion. This is an opportunity for the government to put its money where its mouth is. The people in my electorate believe this is the first test of the government's support for regional and rural Victoria, particularly small towns like Winchelsea. Winchelsea is part of the Surf Coast Shire, but the shire is committed to infrastructure works on the Great Ocean Road and townships like Winchelsea require additional assistance.

Road safety: Easter campaign

Mr SEITZ (Keilor) — I direct the attention of the Minister for Police and Emergency Services to a matter of great concern to the people of my electorate, especially as it is located between the Western and Calder highways. The school holidays have commenced and the Easter long weekend is approaching. Easter is a time when Victorians must take special care on the roads. The emergency services in my area are very stressed during the Easter break because of the number of road accidents that occur, often involving fatalities. I ask the minister what plans he has to educate the community about the dangers of driving during the coming period to ensure there are fewer road accidents and fatalities.

The main roads leading out of Melbourne will have increased traffic volumes during the Easter period and many people become impatient. It is likely there will be road rage incidents during the period. An education program is particularly important and effective prior to and during the Easter period. During the Royal Children's Hospital appeal on Good Friday child victims of road accidents are often shown on television and it touches our hearts.

I ask the minister to take action to promote the dangers of driving, especially during the Easter period, by advertising on television, on radio and in the print media, including in country areas. All honourable members know of the problems experienced when younger drivers go out raging on the long weekend. It is important to do everything possible to minimise the number of road fatalities, particularly in country areas. Many accidents involve young drivers who often assume that they are the only ones using the road and take the dangers that exist for granted.

Many drivers who live in metropolitan Melbourne are not familiar with narrow country roads. An accident often occurs when a driver swerves to avoid an oncoming vehicle and his or her car perhaps leaves the road and hits a tree. I implore everyone — the minister, the government and the opposition — to do everything they can during the Easter period to ensure there are fewer road accidents and fatalities.

Schools: Heany Park and Lysterfield

Mr LUPTON (Knox) — I raise for the attention of the Minister for Education the need for an additional school to assist children who attend the Rowville cluster of schools in my electorate. In 1998 the Heany Park Primary School approached me about its growing school population and its belief that it will be deprived of additional development opportunities. The development will be needed because of the number of vacant lots available in the area.

Bovis McLachlan Pty Ltd has produced a report on potential long-term school requirements in the area. The school council of Heany Park Primary School believes the report is offensive. The affected area has 3430 undeveloped lots. The primary school currently has 665 enrolments, with 94 in year 6 and a prep enrolment of 90 at the Liberty Avenue preschool. Lysterfield Primary School has a school population of 568, with 52 in year 6 and a prep enrolment of 78 at Murrindal preschool. The primary schools and preschools are close by each other.

Both schools are concerned that the sites on which they are built are below the size required for their respective school populations and that there is not sufficient room for them to erect additional buildings to satisfy expected increases in enrolments. In 2004 Lysterfield Primary School is expected to have a peak enrolment of 1018 students, yet the school has been told it was designed for no more than 450 children.

The Bovis report states:

> As all schools currently have an enrolment in excess of the proposed long-term enrolment, the existing five sites can readily accommodate students irrespective of topography and existing adjacent land uses. As all schools sites are

> recommended to be retained a detailed study of adjacent land use and topography is not considered necessary.

Somehow or other this mob — Bovis — has come up with the magical figure of 450. That will be the long-term enrolment, but nobody will define what long-term is.

The school communities are asking for a decision to be made on whether another school can be built in the area. The report was first requested during the time of the previous government, and it would appear that the figures provided and used by Bovis are old and out of date and that the conclusions reached are totally out of whack.

Two primary schools — Heany Park and Lysterfield — do not have enough land to accommodate the additional necessary but temporary classrooms.

Fox FM promotion

Mr NARDELLA (Melton) — I ask the Minister for Transport to take action to have Vicroads talk to radio station Fox FM about its special offers to motorists, which lead to traffic jams, especially at peak times.

Earlier in the week I received a number of complaints about a traffic jam that occurred last Friday during peak hour on the Western Highway at Deer Park. Fox FM ran a promotion at the Ampol service station at the corner of Robinsons Road and Western Highway which involved selling petrol at 15 cents a litre. While I welcome the station's special offer, I point out that the traffic jam caused by queuing cars was most unfortunate for the motorists, truck drivers and business people who were trying to carry out their ordinary business or just trying to get home.

The promotion caused severe congestion and disruption to traffic flows. The congestion blocked the highway in both directions — that is, towards Ballarat and towards Melbourne — and two police officers were forced to direct the traffic outside the service station. The police officers faced a losing battle. Cars travelling towards Ballarat were doing U-turns and driving back to the Ampol station, thereby causing dangerous situations. It was an absolute mess. Once cars were in this traffic jam they could not get out and could not use alternative routes. The confusion could have led to accidents or an emergency.

One constituent of mine, Mrs Marion Martin, eventually turned right from Station Road onto the Western Highway to get to her home, which was about 300 metres down the road, but to move that short distance took her one and a half hours. The traffic blocked not only Station Road and the Western Highway but would have affected the Western Ring Road as well. Had emergency services been required to attend an emergency in the region, they would have had difficulty getting through the massive traffic blockage.

Organisations such as Fox FM should notify Vicroads and the police of any planned promotions so community safety and traffic flows can be maintained. There is also a responsibility on the part of the radio station to ensure that similar massive disruptions do not occur during peak times as they may affect people in the community who are not interested in the station's advertising promotion.

Albury–Wodonga oncology centres

Mr PLOWMAN (Benambra) — I refer to the Minister for Health, and in his absence the Minister for Community Services, a matter concerning an oncology centre proposed to be built in the New South Wales city of Wagga Wagga. I am concerned because recently an oncology centre was established in Albury–Wodonga to meet radiotherapy needs in the catchment area of north-eastern Victoria and southern New South Wales, which includes Wagga Wagga.

In a letter dated 7 August 1998 the federal health minister, Dr Michael Wooldridge, advised the federal member for Indi of the outcome of an independent panel decision to grant funding to Wodonga for the building of the centre. The letter clearly states that the facility is for the Wagga Wagga and Albury–Wodonga region.

A further letter dated 6 August 1998 to Dr Jim Matar, the oncologist running the Wodonga centre, states that the centre would:

> … provide radiotherapy services to all patients in the Wagga Wagga and Albury–Wodonga areas.

I have referred to that correspondence to make it quite clear that when the radiotherapy centre was proposed for and built in Wodonga at great cost, both state and federal governments agreed that it should be for the total area and that another facility in Wagga Wagga would be inappropriate. The letter from Dr Wooldridge also states:

> I am writing to advise you of the outcome of applications for health program grant funding to assist in the establishment of a radiotherapy facility in the Wagga Wagga, Albury–Wodonga region.
>
> …
>
> … the department sought advice from a range of sources including state health authorities and the Royal Australasian College of Radiologists.

> Taking the above information into account, I am pleased to inform you that I have approved the application from East Melbourne radiation oncology centre (EMROC) for health program grant funding for the establishment of a radiotherapy facility in Wodonga, to be established at the Clyde Cameron Memorial Hospital.
>
> …
>
> The establishment of this radiotherapy facility in Wodonga will meet the patients' needs for access to this service in this fast-growing region of rural Australia.

I ask the minister to approach his New South Wales counterpart and point out not only that it is a waste of money to build two radiotherapy centres but also that if both centres are built neither will be viable. The East Melbourne radiation oncology centre provided about $5 million to build the centre in Wodonga — —

The ACTING SPEAKER (Ms Davies) — Order! The honourable member's time has expired.

Parenting support services

Mr MAXFIELD (Narracan) — I raise with the Minister for Community Services — and a fine minister she is too — the issue of parenting support services, particularly in the Gippsland region. I am concerned about funding for regional parenting resource services, and I ask the minister whether she can act on the issue of ensuring funding to secure the future of parenting services across the state as well as in Gippsland.

That issue is close to my heart and to the hearts of many families and parents across the state. Parents need ongoing support. These days families are made up in many different ways and are under increasing strain from heavier workloads and longer working hours. The government needs to support families in as many ways as are humanly possible. Counselling is required in many family situations where people are under stress. Stress in a family can be caused by a family tragedy, by working through the difficulties of childhood, or by problem gambling resulting from the explosion of poker machines in many regions, which is having an enormous impact on Victorian families.

Unfortunately the Kennett government regarded families as economic units to be defined under economic rationalism — as if we could define our families in dollar terms. Our families are the foundation of our entire society. We work for and live through our families. The time has come to show increased support for families in the community. The government must ensure that families are backed and supported in every way possible.

I am keen to hear from the minister not only her views on the issue but also what she is going to do about it. It is comforting to know that Victoria has such an experienced and capable minister in charge of community services.

I will give some background to the issue. Many parenting support services currently operate in the state, including the Victorian Parenting Centre, regional parenting resource services, the Positive Parenting program, which includes family intervention services, and Parentline.

Those sorts of services are critical to providing support and backup for families. When I was elected to Parliament I personally pledged to support families in every way possible, because they are the backbone of communities and Victorian society. I look forward to continuing support of families and communities by the Bracks government.

Schools: Bentleigh

Mrs PEULICH (Bentleigh) — In the absence of the Minister for Education I raise for the attention of the Attorney-General a matter regarding outstanding physical resources management system (PRMS) funding for schools in the Bentleigh electorate.

Most of the schools with outstanding PRMS funding needs are in category 2 and fully expected that those needs would be met in the forthcoming budget. It is hoped the budget will be delivered as it has been over preceding years — that is, fairly and impartially, irrespective of in which electorate a school is located and with the sort of allocation to education that has been experienced in the past. I call on the minister to ensure that those two things are delivered, even though she did not make it onto the budgetary economic review committee.

Responses

Ms CAMPBELL (Minister for Community Services) — An amazing array of issues has been raised this evening, but the issue I will address first is the issue raised by the honourable member for Narracan. In question time today I announced that two wonderful services are to be expanded and delivered by the Department of Human Services on a recurrent basis.

The Parentline service will be available to parents throughout Victoria for counselling, advice and support at any hour of the day or night. Maternal and child health services will also now be available throughout Victoria 24 hours a day, seven days a week, because it

is important that parents receive help when they require it.

There is another component to the government's exciting parenting services initiative. Currently in Victoria there are nine regional parenting support services, one of which was referred to by the honourable member for Narracan. Gippsland Regional Parenting Resource Services operates in the Gippsland region and requires ongoing support and funding. I have received strong representations from the honourable members for Narracan and Morwell on this valuable service.

I am pleased to announce that funding for not only that service but other regional services will be extended until the end of the year, by which time a paper on the future direction of parenting services will be available for consideration.

The other wonderful initiative to assist parents is the continued support for the Victorian Parenting Centre. The service currently receives $400 000 annually to cover its core functions of research and evaluation, the training of professionals who work with parents and the coordination of parenting services. The nine regional parenting services, one of which is Gippsland regional parenting resource services, receive $1.62 million annually and provide an invaluable service. The current funding for the Victorian Parenting Centre was due to cease in September 2000 but will now continue through to June 2001.

I turn to the issues raised by other honourable members. I will pass on the matters raised to the relevant ministers. The honourable member for Eltham raised a planning issue regarding a Cottles Bridge site. He sought an assurance that commitments given by the previous minister will be supported by the present minister, and he asked that a two-lot subdivision in line with the independent panel recommendations — —

Mrs Peulich — On a point of order, Madam Acting Speaker, the convention of the house has been that most ministers are in attendance during the adjournment debate. Occasionally an individual minister may be away from the house because of other obligations, but it is appalling that only one minister is present to answer the concerns of so many opposition members who have made representations on behalf of their constituencies. It is absolutely shameful. The Labor government is shutting down democracy in Victoria.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Bentleigh has made her point. I suggest she cease interjecting in that tone of voice.

Ms CAMPBELL — On the point of order, Madam Acting Speaker, no standing order that refers to ministers being obliged to be in the house is available to any member. The honourable member made the point that it is a convention of the house, and wherever possible ministers will be in the house. There is no point of order.

Ms Asher — Further on the point of order, Madam Acting Speaker, it is a convention that ministers be present.

Ms CAMPBELL — It is not a standing order.

Ms Asher — It is a convention. I am happy to indicate to the house that for three and a half years I attended every single adjournment debate.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order. The fact that the convention exists is irrelevant in this situation.

Ms CAMPBELL — The point raised by the honourable member for Dromana was referred to the Premier. It related to the Regional Infrastructure Development Fund and the eligibility guidelines, which in the honourable member's view should have included the Mornington shire. I note that the honourable member is not in the house to hear this reply. However, I will pass the question on to the Premier. The honourable member said he had enormous interest in both the issue and the fund. It is a shame he is not still in the house!

The honourable member for Bendigo East raised a matter for the Minister for Transport relating to a commitment by the previous Premier. The story is one we have heard on many occasions, and it is absolutely shameful. The previous Premier went around Victoria making commitments to fund this or that organisation or pet project, but there was never a line item in the budget to fund it. I note it was said at question time that the Premier was able to fund one of his own pet projects to the tune of $120 000. However, he did not bother to allocate funds to Operation Defy, which has been organised by parents and friends of those deeply affected by the deaths of four young people in Bendigo. I will pass on the honourable member's concern to the Minister for Transport.

In raising a matter for the attention of the Minister for State and Regional Development the honourable member for Polwarth mentioned Winchelsea and its can-do attitude. Having met with the people of the

Winchelsea neighbourhood house, I can testify to the very can-do attitude of all those involved in it. I will pass on to the minister that the member for Polwarth is keen for state government funding to be allocated to support the Australian wool sports championships.

The honourable member for Benambra raised a matter for the attention of the Minister for Health about approaching the New South Wales government because, in his view, an oncology centre to be built in Wagga Wagga will make the Albury–Wodonga centre unviable. I shall pass on the matter to the minister.

Ms DELAHUNTY (Minister for Education) — The honourable member for Knox raised concerns about the Heany Park and Lysterfield primary schools and the school provision report which, as he would know, was initiated under the previous minister and government to assess the long-term requirements of a new primary school in the Rowville area.

A consultant report concluded there was sufficient capacity within the existing schools in that area to accommodate both medium and long-term enrolments as projected. I am advised that the long-term enrolments reflect the assessment of potential government primary school children when the area is fully developed and mature. Medium-term enrolments in the area will be a little higher than the longer term enrolments because the area has still not achieved that full development.

The consultant indicated there is sufficient capacity in the existing schools to accommodate all students. If any particular school, however, is under pressure or feels that it might be under pressure from the others, I shall recommend that the principal and the regional officer immediately convey that information to the department to develop a management plan so that the provision for all schools is catered for.

The honourable member for Bentleigh, in her usual vitriolic way, sadly lowered the tone of this place. It was not necessary.

Mr Leigh interjected.

Ms DELAHUNTY — That is a good point from the honourable member for Mordialloc. It is true that empty vessels make the most noise, and Geoff Leigh is certainly very noisy.

The honourable member's question related to the physical resources management system (PRMS) allocations. As the honourable member would know — I know she is watching the education portfolio closely and is delighted with the view of school communities about the change of government, the additional teachers and funds, and the valuing of public education — the government recently announced a program of $20 million in PRMS allocations so that schools identified through the PRMS audit will have the money they require to carry out maintenance.

I have asked the department to re-audit the maintenance requirements of every school in the state. It was about five years ago that a PRMS audit was conducted under the last government. The coalition did it once and left it because it was not a priority: it simply identified and forgot.

Mrs Peulich — On a point of order, Madam Acting Speaker, I am sure the minister would not inadvertently wish to mislead the house.

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member to specifically make her point of order.

Mrs Peulich — The minister should not mislead the house. She knows full well that PRMS was established only a few years ago.

The ACTING SPEAKER (Ms Davies) — Order! Will the honourable member for Bentleigh take her seat. I remind her that it is the custom and practice of the house that when the Chair rises the honourable member should take her seat.

The honourable member for Bentleigh should raise her point of order; otherwise, I will ask her to sit down and remain seated.

Mrs Peulich — I have raised my point of order. I said the minister is either inadvertently or deliberately misleading the house about the establishment of the PRMS program.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order.

Ms DELAHUNTY — What an astonishing performance! On every adjournment debate there is wild, vitriolic fire aimed in no particular direction.

Honourable members interjecting.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Mordialloc will cease interjecting across the table.

Ms DELAHUNTY — I came into the chamber because it is my responsibility to answer questions from honourable members about their schools. All my ministerial colleagues and I take the responsibility

seriously. I remind the house that during the adjournment debate under the Kennett government, the opposition asked questions of empty government benches — the seats were absolutely empty. One minister would reluctantly sit at the table and glare at opposition members for having the temerity to ask questions related to their electorates.

The response was never as detailed as that provided by the Minister for Community Services. Former government ministers simply dismissed the rights and responsibilities of opposition members to ask relevant questions. Let's be fair and not revise history. The fact is ministers are here, available and anxious to answer questions. I expect members on the other side of the chamber to ask questions and leave aside the abuse.

In conclusion, I have asked the department to re-audit the maintenance requirements of every single school in the state, and it will be completed by the end of the year. The next maintenance program to be announced early next year through the Department of Education, Employment and Training will be based on the new audit data. The government has allocated more than $30 million over three years for maintenance, which I am confident will begin to redress the problems the honourable member for Bentleigh has raised.

The ACTING SPEAKER (Ms Davies) — Order! The honourable members for Gisborne and Keilor raised issues for the attention of the Minister for Police and Emergency Services. I ask the minister to also respond to the issue raised by the honourable member for Melton about traffic jams on the Western Highway. It was raised for the attention of the Minister for Transport, and the Minister for Community Services forgot to refer to it in her response.

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Gisborne raised the issue of the Bacchus Marsh police station — an issue dear to her heart. She has been passionate, committed and persistent in pursuing the issue.

Bacchus Marsh police station was built for a small rural town on the outskirts of Melbourne. The township has since become a vast and sprawling satellite city — part of the greater Melbourne area. It has grown way beyond the size of the community the Bacchus Marsh police station was originally designed to serve. For that reason, on the urging of the then Labor candidate for Gisborne, the Labor Party committed to providing a new 24-hour police station to service the needs of the rapidly growing community of Bacchus Marsh. The commitment was made for the first term of the government.

The honourable member has indicated the need for a 24-hour police station is becoming desperate and the new facility should be built sooner rather than later. My assessment is that her comments are accurate. Labor has committed itself to a number of police stations repeatedly overlooked by the previous government. All of those commitments will be honoured during the government's four-year term.

At what stage they will be delivered during this four-year term of government is a matter of budgetary priority. I will take the honourable member's comments to the Treasurer and try to live up to her request to have the provision of the police station brought forward as a matter of urgency. The station will be built during this term, and unlike what happened under the previous government it will have police in it. The government builds police stations and puts police in them. It is not in the business of having pubs with no beer, like the previous government.

The current government will build over 20 new police stations during the course of this Parliament, and will also engage an additional 800 police officers — that is, over and above the number that previously existed. The previous government cut police numbers from over 10 300 to below 9500. The government will ensure that the police force is restored to full strength and that police stations have police in them. Building a police station without putting police in it is a little like building a church without a congregation. All honourable members remember the previous Minister for Police and Emergency Services proudly opening a number of country police stations and then locking their doors because there was nobody to inhabit them.

I assure the honourable member for Gisborne that the government will make a 24-hour police station in Bacchus Marsh a serious priority — it will be built. The government will also ensure that adequate numbers of police will be provided to ensure the growing and sprawling community will be looked after.

The honourable member for Keilor raised a road safety issue in his electorate. He has always taken a very strong interest in road safety issues. His electorate sits between the Western Highway and the Calder Highway — two highways which become extremely dangerous and which are heavily used during holiday periods. I can understand his concern. I assure the honourable member that this year the police will be mounting probably their biggest ever road safety effort. In a comprehensive crackdown speed cameras, radar

and patrols will focus on drink-driving and speeding, which are always problems during Easter.

The government would prefer that people heeded the drink-driving and don't speed messages because they concern the safety of not only individual drivers but also others in the community. Unfortunately, there are always people who think they are indestructible, carry on like hoons and drive in a dangerous manner. The police will be out with all of their resources to ensure that such people are prosecuted to the full extent of the law if they are caught speeding or drink-driving.

The State Emergency Service will again conduct Operation Coffee Break over the Easter break. I place on record my appreciation and commendation of the work done by the wonderful volunteers of the SES. They provide this community service at Easter and Christmas to offer respite to people who are driving for long periods. Easter and Christmas are times when people go on long trips and often do not take the appropriate rest breaks. A growing causes of serious road accidents is people falling asleep at the wheel. The SES will encourage drivers who are taking a coffee break to also take a power nap — take a 10 minute break — to refresh themselves so that they can continue their journey safely.

The SES volunteers will be out in force. I place on record my appreciation for the work done by SES volunteers over the Easter period. They are not paid for the job they do and the Victorian community owes them a debt of gratitude.

The honourable member for Melton raised a matter for the attention of the Minister for Transport. I will ensure that matter is passed on to the minister and is responded to promptly.

Motion agreed to.

House adjourned 4.56 p.m. until Tuesday, 2 May.