PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

16 October 2001

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By authority of the Victorian Government Printer

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TUESDAY, 16 OCTOBER 2001

Tuesday, 16 October 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.02 p.m. and read the prayer.

DISTINGUISHED VISITORS

The PRESIDENT — I would like to welcome to our gallery today a delegation from the Parliament of Cambodia that has been with us for about 10 days looking at the various aspects of the operation of the Victorian Parliament. The delegation is led by Madame Ang, and I welcome the delegation to our Parliament.

ROYAL ASSENT

Message read advising royal assent to:

Agricultural and Veterinary Chemicals (Control of Use) (Further Amendment) Act
Business Investigations (Repeal) Act
Commonwealth Games Arrangements Act
Crimes (Validation of Orders) Act
Infertility Treatment (Amendment) Act
Trustee (Amendment) Act.

QUESTIONS WITHOUT NOTICE

Electricity: tariffs

Hon. PHILIP DAVIS (Gippsland) — I direct my question to the Minister for Energy and Resources, and I am sure she will be surprised by it. In regard to the gazettal on Friday of Citipower's 16 per cent price increase and the imminent announcements by other distribution businesses of their price increases, the Premier has today acknowledged that the government has 'the final decision'. Further, he says this increase is 'too high'. Will the Minister for Energy and Resources approve or disallow these price increases?

Hon. C. C. BROAD (Minister for Energy and Resources) — I welcome the opportunity provided by the shadow minister to further clarify the information I made available at the end of last week indicating that the Bracks government consumer protection framework ensures retailers must publish in the *Government Gazette* any proposals for price increases for households and small business 60 days, as a minimum, before they take effect. That has now happened with Citipower. While retailers set electricity prices, the Bracks government has acted in the interests of households and small business to ensure it has the powers that can override new prices if they are assessed as being unreasonable.

The Bracks government will also oversight prices using the investigative powers of the Office of the Regulator-General until it is clear that competition is effective. In June the government commissioned a report from the Office of the Regulator-General on the options for oversighting prices. In that report, which I received from the Office of the Regulator-General at the end of September, the office proposed an approach to oversighting the standing offer or safety net prices based on benchmarking.

I have accepted this approach to protecting consumers and small business by preventing the exercise of monopoly powers while, importantly, also ensuring the financial viability of efficient retailing. In line with this approach recommended by the independent Office of the Regulator-General I have delivered a specific reference to the Regulator-General requiring the ORG to review the standing offers proposed for 2002 by all of the electricity retailers. The ORG will assess those proposed prices, including those gazetted to date by Citipower, against its benchmarks and undertake further investigations if the proposed safety net prices are outside the benchmark levels. I retain the power and the option of exercising the price regulation powers under the Electricity Industry Act 2000 if the result of the investigations by the Office of the Regulator-General indicate that any price proposal is not justified.

In addition, looking further down the track I have also requested the Office of the Regulator-General to report to me by 30 September next year on the extent of competition in the market for household electricity services. That report will assist in assessing whether the Office of the Regulator-General needs to continue to adopt a detailed benchmarking role or whether a more general role can be adopted if effective competition is in place by that time.

These actions by the Bracks government will protect consumers and provide certainty for electricity retailers at the same time. These actions stand in stark contrast to the actions of the previous Kennett government, which was much more interested in privatising the state's electricity assets than in providing any protections to consumers or certainty for retailers.

Hon. Philip Davis — My point of order is in relation specifically to the question, which I recite briefly in my submission, Mr President. The specific question I asked was, 'Will the Minister for Energy and Resources approve or disallow the price increases in the context of the Premier's statement of this morning?'.

The minister has so far recited press releases that have been issued over the past few months and the fact that the Office of the Regulator-General report in regard to this matter was tabled in the Parliament last Thursday, but she has not dealt with the substantive issue — that is, that the Premier said this morning that the government has the 'final decision' and that 'the prices are too high'. My question was, given that this has all taken place has the Premier not pre-empted any decision for which the minister retains power?

Hon. C. C. BROAD — On the point of order, Mr President, I am more than happy to reiterate — —

The PRESIDENT — Order! There is no need to repeat what was said; I heard it all.

Hon. C. C. BROAD — The honourable member opposite appears not to have understood my answer. I clearly stated that on receipt of the investigation by the Regulator-General I retain the power to intervene to set prices. I have answered that question.

Honourable members interjecting.

The PRESIDENT — Order! The question was specific and the minister has indicated that a whole range of information is available to her which she is accumulating and in due course the decision will be made in relation to that application by the power supplier. I believe the answer was responsive to the question.

Maritime services: radio network

Hon. T. C. THEOPHANOUS (Jika Jika) — Can the Minister for Ports inform the house of what action the Bracks government has taken to ensure that maritime safety communication is provided to Victoria's commercial and recreational boat users, particularly those operating offshore?

Hon. C. C. BROAD (Minister for Ports) — I thank the honourable member for his question. Effective radio communication is of critical concern to Victoria's offshore boating community, especially the operators of smaller commercial and recreational vessels which currently rely on Telstra's coast radio network. The high-frequency coast radio network covers areas such as central Bass Strait and up to 90 per cent of Victoria's coastline that is outside the short-range, very high frequency service. This service is provided under contract by the Australian Maritime Safety Authority.

The federal coalition government has indicated that it will cease supporting the existing coastal radio network, which provides 24-hour listening watches on emergency frequencies from 1 July 2002 — that is, from 1 July next year, which is not very far away. As honourable members would appreciate, this has the potential to seriously disrupt vessels communicating with emergency services and coordinating search and rescue efforts.

While the states are moving to replace the existing network, the Australian Maritime Group, which is responsible for implementing a replacement system, has confirmed that a new radio — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down. We have a number of questions to get through as yet and it is not helped if we have that chitchat. I ask the minister to conclude her answer.

Hon. C. C. BROAD — As I was saying, while the states are moving to replace the existing network, the Australian Maritime Group, which is responsible for implementing a replacement system, has confirmed that a new radio network that guarantees an equivalent service will not be in place by 1 July next year.

Following representations from the Victorian government and a number of other states, the Australian Transport Council has agreed that the existing service should not be compromised and should be maintained until at least June 2005. I have taken the matter up with the federal transport minister, John Anderson, requesting that he take urgent action through the Australian Maritime Safety Authority and/or Telstra to maintain the network until 2005 to avoid any risks that maritime safety communications will not service Victorian waters. Judging by the minister's lack of response or action on this matter, which I add was also an issue under the previous government, one could believe that he is more concerned with progressing the coalition's agenda on other matters, such as privatising Telstra, than he is about maritime safety.

In contrast, the Bracks government will continue to deliver on key services, including community safety, by ensuring that the Victorian boating community continues to have uninterrupted access to a radio service equivalent to that provided through the Coast Radio Network, while also pursuing a nationally consistent approach.

Tipstar: revenue

Hon. N. B. LUCAS (Eumemmerring) — My question is to the Minister for Sport and Recreation, but first I would like to congratulate him on his 5½ points the other day.

Honourable members interjecting.

The PRESIDENT — Order! I suggest the scoreboard be put to one side and that the honourable member ask his question so that the minister can answer it.

Hon. N. B. LUCAS — Last week the minister indicated to the house on the issue of the returns from the disastrous Tipstar competition that, 'I have not yet received the information'. Given that he made that statement last week and that he has had more than adequate time to obtain advice I ask the minister: if he has received the information will he now release it?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for his question. No doubt the honourable member is aware that the Tipstar competition is the responsibility of the Minister for Gaming in the other place, and no doubt the honourable member would also appreciate that until he releases that information to me I will not know the details. As soon as that information comes through his department no doubt I will have a chance to view it and to relate to the house the figures on the expenditure for sports health and for women in sport, areas to which those funds will be directed.

They will be top-up funds for those areas, which the previous government was not interested in. I reinforce the point that those funds will be top-up funds for areas which were devastated under the previous government and about which it did not care. One cannot help but be sceptical and cynical about the opposition, which has suddenly discovered these issues on which it lost votes at the previous election.

Industrial relations: disputes

Hon. R. F. SMITH (Chelsea) — The Minister for Industrial Relations previously advised the house that there has been a trend of reduced industrial disputation in Victoria. Will the minister advise whether this trend is continuing?

Hon. M. M. GOULD (Minister for Industrial Relations) — When the Bracks government came to office two years ago this state had effectively no industrial relations structures.

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! I do not know about you, Mr Theophanous, but I am anxious to hear what the Leader of the Government has to say in response to the question put by her member. I suggest the honourable member behind the minister desist and allow the minister to answer the question.

Hon. R. M. Hallam — On a point of order, Mr President, I invite you to rule on the framing of the question. The question very clearly called for the minister to express an opinion.

The PRESIDENT — Order! The question referred to the trend of a reduction of industrial disputation and asked whether the trend was continuing. I presume there is empirical evidence to be put to the house.

Hon. M. M. GOULD — The previous government either neglected or destroyed the industrial relations structures. Its only tool to deal with the industrial relations issue was to have the previous Premier indulge in union bashing and to promote conflict. However, in contrast, the Bracks government has consistently adopted and promoted fair, cooperative workplace practices, both in the private and public sectors. I have advised the house on a number of occasions that the Victorian industrial dispute statistics are showing a downward trend. Month after month the statistics for working days lost due to industrial action have been substantially lower.

Honourable members interjecting.

The PRESIDENT — Order! Mr Smith, you asked this question. Keep quiet!

Hon. M. M. GOULD — I know the Honourable Bob Smith is very enthusiastic about the smaller number of industrial disputes that have occurred in this state. As I said, month after month the working days lost due to industrial disputes have been substantially less than last year's figures for the same period.

I am pleased to report that this is again the case in respect of the Australian Bureau of Statistics figures for July 2000, which were released this morning. Compared to the year ended July 2000, there has been a 46 per cent decrease in the number of working days lost per 1000 employees.

This continued trend of reduced industrial disputes indicates that the Bracks government's positive partnership approach and message is now resonating within the community as a positive impact on and improvement in these figures. The statistics indicate that there has been significantly less industrial disputation over the two years of the Bracks government compared with the Kennett government. I am sure there would have been an even greater effect if we did not have to work within the constraints of the

conflict-based Workplace Relations Act. Nevertheless, the Bracks government remains committed to continuing to raise community and business awareness about positive industrial relations practices.

Schools: rural computer tenders

Hon. B. W. BISHOP (North Western) — I refer the Minister for Small Business to the fact that the ministry of education has recently called for tenders to supply additional computers to Victorian schools but has done so in a form that denies regionally based computer sales and service providers any chance of being involved in this major contract. Given the clear ramifications this has for regional small business and therefore regional employment, will the minister urgently intervene to ensure schools are given the choice of provider and that regionally based businesses at least have the chance to continue their long association with our local schools.

Hon. M. R. THOMSON (Minister for Small Business) — This government is committed to giving regionally based businesses and small businesses an opportunity to have access to providing services to government. It has done that in a number of ways.

The Victorian industry participation policy, which was announced by the Minister for State and Regional Development a few months ago, is a mechanism in our private–public partnership arrangements to enable local content in contracts issued for infrastructure projects.

The procurement procedures of government have been put online to enable regional businesses to be part of that process, and the government has not only put that process online but is actually out in regional Victoria explaining the way businesses can be involved in that process.

Hon. P. R. Hall — On a point of order, Mr President, if the minister does not know about the issue we would be happy to provide her with some information; but to date her answer has not been responsive in any respect at all to the question asked, which was a specific question that impacted on country businesses. I submit to you, Sir, that the minister should be required to at least be responsive to the question, and to date she has not been.

The PRESIDENT — Order! I have not detected a response so far; there has been associated discussion. The question was specific as to whether schools would continue to be allowed to go to the marketplace, particularly in their own electorates, to source their computers rather than compete against statewide contracts which would in effect — —

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! It is a matter for this minister to do that. The second part of the question is whether the minister would intervene to correct the situation. I do not believe the minister has responded to that or whether she wants to add anything further. The minister chooses not to respond. I call the Deputy Leader of the Opposition.

Hon. C. A. FURLETTI (Templestowe) — I refer my question to the Minister for Small Business.

Hon. J. M. Madden — On a point of order, Mr President, I am not sure about the order. We went from the Honourable Barry Bishop to the opposition, so I do not believe the government has asked its question.

The PRESIDENT — Order! The minister is quite right. I call the Honourable Kaye Darveniza.

Skate parks: funding

Hon. KAYE DARVENIZA (Melbourne West) — In light of the commitment of the Minister for Sport and Recreation and the Minister for Youth Affairs to youth in this state, will he advise the house what steps he has taken to ensure that youth have access to appropriate recreational opportunities?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Honourable members would be aware that on a number of occasions I have mentioned the government's commitment to the funding of skate parks. I want to clarify that for some members of the opposition. No doubt they get confused when we talk about skating because it is probably not the sort of sport that many of them engage in at their age, but they would appreciate that skate parks are generically parks where young people use skateboards, in-line skates, scooters or BMX bikes.

I am pleased to announce that in the last two years our department has been able to fund 27 skate developments across Victoria through the community facilities funding program. Recently I had the pleasure of opening two developments, one located at Warrandyte in outer Melbourne and the other at Foster in South Gippsland. It was extremely gratifying from the point of view of both portfolios — youth as well as sport and recreation — to see young people using those facilities.

The encouraging thing about these developments is that it is a great way of empowering young people in the community to understand many of the processes of local government, particularly planning issues such as

the initial lobbying and planning process, including physical planning, the management of those facilities and ultimately the day-to-day operation of those facilities, which is often provided by the young people. This is occurring in both a formal and an informal sense.

The other element worth noting is that many municipal councils are now proactively engaging young people in the planning of these facilities, so they are encouraging young people to get involved in the process and to be part of their local municipalities. Councils recognise the legitimacy of skating as an activity and its role of providing an alternative recreational outlet for young people in their respective communities.

Many local councils have recognised recently that traditionally many of these facilities have been located in the backblocks of their respective townships or communities. They have been hidden away because they are technically a bit difficult to deliver and also the planning process was sometimes a little bit difficult to negotiate for these young people, but they have been empowered.

Now they are located not behind some recreational areas or pavilions somewhere. When I say 'backblocks', I mean they are not in some corner of some recreational reserve and not to be seen. Now they are often located in high-profile, prominent spots in those communities, which means they are allowing them to go ahead with community support through the funding processes. It also means that young people will feel safe and secure in using those facilities because of the prominent position and security issues, which will assist in the development and use of such facilities.

I am pleased to say that it reflects the leadership young people can provide to their own in their respective communities. In a broad sense, it is not limiting sport or recreation to only formalised, organised sport, which has often been the case traditionally and is very much the case through the federal government's position on these issues. When we are able to provide leadership at a local level with these facilities, the federal government has steered clear of providing opportunities for informal recreation and of providing facility funding, which is much needed in regional and rural Victoria and in other states throughout the nation.

Retail tenancies: review

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Small Business to her release last Thursday, 11 October, of the discussion paper on the review of Victoria's retail tenancy laws, which is some 10 weeks overdue. I also refer to the government's commitment to introduce amending retail tenancy legislation in this spring sitting of the Parliament. Will the minister confirm to the house that amending legislation will be introduced in this sitting and indicate when that may occur?

Hon. M. R. THOMSON (Minister for Small Business) — This is important legislation that will clarify for both landlords and tenants what has been very confusing legislation for people in the retail sector. A lot more interest has been shown in the consultation process than we anticipated, with 350 businesses participating in seminars that were held throughout the state and 50-odd written submissions and individual meetings being held with organisations and interested parties on the preparation of the discussion paper.

It is because of the detailed work that was undertaken, and the wish to include as many people as possible in the process, that there was a delay in the timetable being met. We have set a very tight schedule for the next stage, being 9 November for responses to the discussion paper. However, I have indicated that if organisations feel they lack the ability to present a response in that time we may be prepared to look at extending it. It is important that we get the legislation right and that we do not revisit Parliament with legislation.

What people in the industry need more than anything else in dealing with retail tenancy legislation is certainty, which is what we are trying to provide — legislation that is fair, clearly understood and gives certainty.

It is dependent upon whether we need to extend the time for responses from the discussion paper as to whether the legislation will be introduced into Parliament at the end of the sitting. We hope that the deadline may still be met but what is more important is that everyone who wants to play a part in the resolution of some of the issues that have arisen out of the discussion paper should have that opportunity. We want to introduce legislation that works and does not have to be revisited.

Banks: code of practice

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Consumer Affairs update the house about the recent review of the code of banking practice and inform the house how this compares with the Victorian government's position and whether this will deliver fair bank services for all Victorians?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for her question. I have previously raised in the house the Bracks government's concern about bank practices, bank closures and excessive bank fees. On two occasions a paper has been brought to the Ministerial Council on Consumer Affairs proposing a package of procedures which the Bracks government believes banks should mandatorily undertake as part of their licensing procedure, and it supported those papers at both the 2000 and 2001 meetings of MCCA. Unfortunately the federal government was not prepared to support those measures.

The measures included a minimum service standard that offers basic bank accounts with no minimum balance; at least 12 free transactions a month, including at least 4 counter transactions; prescribed maximum account-keeping fees; and the provision of information on the cost of electronic banking transactions at the time of transaction. The measures also dealt with issues of safety, effective servicing of the disadvantaged sections of our community and an appropriate consultative mechanism. The Bracks government was very disappointed that on the two occasions when that paper was presented to MCCA the federal government could not see its way clear to support the proposed measures being introduced in legislation.

However, since those meetings the Viney report on banking practices has come down, and we in the Bracks government welcome that report. We realise a number of things have been offered which will see an improvement in bank services; however, we do not believe the report goes far enough. The report does not address the most basic area of minimum service standards, which we believe needs to be addressed; and although the report does address the question of direct debits and the capacity for an individual customer to cancel a direct debit instruction, which we welcome as we think it is a very important initiative that needs to be implemented very quickly, we do not have a timetable for the implementation of that recommendation.

The Viney report recommends fuller disclosure of the obligations of loan guarantors and credit card fees together with a commitment to help borrowers overcome financial difficulties; this is very desirable — in fact, it is essential — and it is much needed, but it does not demonstrate how the self-regulated code would actually be enforced.

The Australian Banking Association is proposing that the code be monitored through a committee, but the Bracks government is concerned that there will be no actual teeth to this committee and that it will go by the wayside. While the banks have been quick to state they have agreed to the majority of the recommendations in the Viney report, it remains unclear which of those proposals the banks will actually adopt; and while the Viney report proposes an improved code, it just does not go far enough to ensure that the banks meet their community obligations.

Time and again we have seen the banks failing to consider the needs of their smaller customers, particularly those in rural and regional areas. The revised code is a step in the right direction, but what is still required is a comprehensive policy response from government. Australians need a social charter of community obligations for banks; we need affordable banking services for both individuals and small businesses; and we need improved access to services and responsible lending practices. The only party committed to this policy is the federal Labor Party.

Community cabinet: local area research

Hon. D. McL. DAVIS (East Yarra) — I address my question to the Leader of the Government in her capacity as Minister for Industrial Relations, who as a member of community cabinets visiting locations in metropolitan and country Victoria would have had access to local area research undertaken prior to community cabinet visits. Given the government's stated commitment to openness and transparency, does the minister support the release of the taxpayer-funded research specifically relating to industrial relations issues raised at community cabinets she has attended?

Hon. M. M. GOULD (Minister for Industrial Relations) — The honourable member has put these questions on notice. They have been responded to by the Premier. I stand by the response of the Premier.

Hon. Bill Forwood — On a point of order, Mr President, the question was absolutely specific: will the minister release the information related to her portfolio area that was gathered through this process? She cannot just flick it off like that.

The PRESIDENT — Order! The question was generic in relation to that information, but then specific as it was addressed to the minister's portfolio. The minister's response is that the Premier has answered, presumably on behalf of — —

Hon. M. M. Gould — Yes, on behalf of the government. All of them — dozens of questions were asked by the honourable member, and they have been responded to.

The PRESIDENT — Order! And you have nothing further to add?

Hon. M. M. Gould — No.

Hon. D. McL. Davis — On the point of order, Mr President, the questions that I have on notice do not actually relate to the release of industrial relations information gathered through this process. The minister's comment is actually inaccurate. There is no question on notice that relates specifically to industrial relations; there is no comment that relates to the release of this information. It is true that I have raised this point as a matter for the Premier in another sitting, but not in relation to industrial relations. So it is a new piece of information; it is a new question that has not been answered before by the Premier or the minister.

Hon. M. M. Gould — On the point of order, Mr President, the honourable member has asked of the Premier about the community cabinet. The honourable member is asking about that. I have said that the Premier has answered those questions in writing to the honourable member, and I think he received those answers last week. I stand by the Premier's answers.

Hon. Bill Forwood — On the point of order, Mr President, the issue is not whether or not it is about the community cabinet; the issue is about industrial relations information. I submit that while in some sense its background may have been that way, the question asked today by the honourable member is to do with information specifically related to her portfolio area, and the minister should be required to answer the question.

Hon. D. McL. Davis — Further on the point of order, Mr President, the community cabinet questions that I have on notice and have asked, some of which have been answered, do not relate to the release of this information.

The PRESIDENT — Order! It is appropriate that, certainly in the minister's reply, she relied on what she said was the fact that these matters were covered by questions on notice. We have been assured by Mr Davis that that was not the case. The question was specifically on the community cabinet, but then he said it was particularly in relation to industrial relations matters, for which the minister has direct responsibility. The minister has given an interim answer, but when she gave that answer it was based upon her perception that the issues had been covered by questions on notice. We understand that they are not. Does the minister wish to add to that?

Hon. M. M. Gould — Mr President, I have answered the question.

The PRESIDENT — Order! As I have said before from this chair, the rules about questions are that the answer must be responsive to the question. In this case the part of the question was very specific. The minister's response to that is that the Premier has answered for her. The minister has indicated that she does not wish to add anything further and I cannot make her add anything further.

International Squash Festival

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Sport and Recreation advise the house what the government has done to ensure growth in Victoria's dynamic sporting culture so that we continue to attract dynamic sporting events to our state's major facilities?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question. Last Friday I had the pleasure of officially opening the Melbourne 2001 International Squash Festival at the Melbourne Sports and Aquatic Centre. This is a unique event because three world championships plus a major men's event are being held in the one tournament. It is the first time those four major events have been held in a single venue. The World Squash Federation has labelled the event as the most imaginative program ever seen in world squash. The events include the World Women's Open, the World Men's Team, the World Masters Championships and the World Squash Federation World Men's Challenge. In the order of 1500 participants from 35 countries will take part in the program, which is to be held over a three-week period.

Major events like this provide not only an enormous opportunity to support state infrastructure but also a great opportunity for both Melbourne and regional Victoria to raise their tourism profile and enjoy the significant economic benefits that flow on from them. The masters component of the event is of particular note, having attracted some 1000 participants. One of the tremendous attractions of a masters event is that those sorts of people are keen to enjoy themselves over, above and outside the event itself. No doubt they will be involved in visiting the regions and enjoying themselves in Victoria's tourist destinations.

One of the great things about events like these is that they help bring together much of the government's policies on sport, which encourage the development of facilities, drive events and encourage and deliver

participation. Events such as this help to deliver a sense of community connectedness. Sport generally helps deliver and promote vital health benefits — not only physical health but also emotional health — related to those activities. The government is continuing to progress sport in Victoria, building on a tremendous legacy of sport in the state. I anticipate it will continue well into the future.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have answers to the following questions on notice: 1820, 2046, 2048, 2050–51, 2115, 2117 and 2263.

The PRESIDENT — Order! The Honourable David Davis approached me seeking my ruling in relation to answers to questions on notice nos 2127 and 2138 relating to community cabinet meetings. In my opinion question 2127 has been answered by the response provided by the minister in answering question 2126. In relation to 2138, however, I do not believe the information contained in the answer to question 2126 is specific to the community cabinet meeting held in Ararat, and I therefore direct that parts 1 and 2 of question 2138 be reinstated on the notice paper.

PAPERS

Laid on table by Clerk:

Dairy Food Safety — Report, 30 September 2000 to 30 June 2001.

Meat Authority — Report, 2000–2001.

Multicultural Commission — Report, 2000–2001.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Central Goldfields Planning Scheme — Amendment C1.

Macedon Ranges Planning Scheme — Amendment C6.

Whitehorse Planning Scheme — Amendment C3 Part 2.

Statutory Rules under the following Acts of Parliament:

Petroleum (Submerged Lands) Act 1982 — No. 98.

Subordinate Legislation Act 1994 — Nos 99 to 103.

Victorian Relief Committee Act 1958 — No. 104.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 104.

ROMAN CATHOLIC TRUSTS (AMENDMENT) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

That this bill be now read a second time.

The Roman Catholic Trusts Act 1907, which is a private act, provides for the creation of corporate bodies of trustees in which property belonging to the Roman Catholic Church in Victoria may be vested. Such property includes moneys which have been given, contributed or bequeathed to the Church.

The Church provides charitable services mainly in education, health and welfare. Most contributions are made to the Church, to the Archbishop's Charitable Fund or to one of the Church's agencies which are directly involved in providing charitable services to the community.

The Roman Catholic Trusts Corporation regularly receives gifts from the community in the form of donations and bequests. The gifts are applied to a large number of charitable purposes including education, health and welfare. Some of its support also goes to community-based agencies such as the Australian AIDS Fund, the St Vincent de Paul Society and Centacare Catholic Family Services. Some of the local services include the Sacred Heart Mission in St Kilda West, Open Family in South Melbourne and Mercy Hospice Care in the western suburbs.

The Catholic Church has requested a number of amendments to the act to enable it to more efficiently manage Church property and ensure that bequests to the Church maintain their value. This bill deals with those amendments.

Mixing of trusts

At present, each trust estate held by the corporate trustees of the Church must be invested and managed separately. However, individual investments are inefficient, costly and provide inferior returns especially where smaller trusts are concerned. To enable the corporate trustees to manage trusts more efficiently, the bill empowers them to mix funds from different trusts into one common fund of investment.

As a protection, however, the bill provides that where a donor has set out a specific purpose for which they wish their donation to be used, and the moneys have been mixed with funds for other purposes, the Church must see to it that income or losses from those investments go back to the original purpose.

Variation of trusts

At present, if the Church finds that the specified purpose to which funds were left cannot be carried out, or is of no community benefit, the Church must make a cy-pres application to the Supreme Court to seek the court's approval to vary the trust.

However, in many cases the amount left to the Church is small and making an application to the Supreme Court could wipe out the gift entirely and detract from the charitable purpose for which moneys may have been left.

To address this issue the bill provides for a less costly process for the Church to follow, where the original purpose of the trust is impossible to carry out or of no community benefit. The bill enables the corporate trustees to vary the trusts so that funds can be used for a purpose as near as possible to the original purpose set out in the bequest. Where this is not possible, the Church can use the trust for the general charitable purposes of the Church, such as those mentioned earlier. However, before a trust can be varied, the bill requires that the corporate trustees of the Church notify the executor of its intention to vary the trust.

This amendment will enable the Church to clear up some of the past trusts which have lain dormant and direct these funds towards charitable purposes for the benefit of the community.

The bill does not affect the Supreme Court's jurisdiction to supervise the distribution of trust funds, and cy-pres applications to the Supreme Court can continue to be made where appropriate.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

QUORUM

Hon. C. A. FURLETTI (Templestowe) — Mr President, I direct your attention to the state of the house.

Quorum formed.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ENFORCEMENT) (AMENDMENT) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

That this bill be now read a second time.

Victoria is party to the 1995 commonwealth/states/territories agreement relating to a revised cooperative legislative scheme for censorship in Australia.

Under this agreement, the commonwealth enacted the Classification (Publications, Films and Computer Games) Act 1995.

As part of this scheme, Victoria has enacted the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995, which provides for the enforcement of classification decisions made by the Commonwealth Classification Board in accordance with guidelines issued under the commonwealth act.

In March 2001 the commonwealth made amendments to the commonwealth act in a number of areas. These amendments will come into operation on 22 March 2002 or when all states and territories have each enacted complementary legislation, whichever happens first.

Amendments to the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

This bill amends the Victorian Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 to reflect the amendments made to the commonwealth act.

This will ensure that Victoria can effectively enforce the classification regime in accordance with the March 2001 commonwealth amendments.

The amendments made by the bill to the Victorian act include:

amendments to definitions to bring them into line with definitions in the commonwealth act;

amendments to exclude the application of the state act to exempt films and exempt computer games so

as to be consistent with the commonwealth act. The commonwealth act will no longer apply to a range of films and computer games (such as business, educational, hobbyist, religious and community or culturally related) that would otherwise be of a G or PG rating;

amendments to allow 14 days for the changing of markings and consumer advice after reclassification by the classification board;

amendments to create new offences of sale or delivery of publications contrary to imposed conditions, selling publications without the display of consumer advice and making a computer game available for playing on a pay-and-play basis without having the determined markings and relevant consumer advice on display;

amendments to give the director of the Office of Film and Literature Classification the power to call in unclassified films for classification;

amendments to give the director a power to call in a publication, film or computer game for reclassification.

New offence

In November 2000, this government increased the penalty for the offence of possession of child pornography from two to five years.

In light of this increased penalty, reconsideration was given to the offences of on-line transmission and publication of objectionable material, especially child pornography contained in the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995.

As a result, this bill inserts a new section 57A into the act.

Under this section, a person who knowingly uses an online information service to publish or transmit, or make available for transmission objectionable material that describes or depicts a person who is, or looks like, a minor under 16 engaging in sexual activity or depicted in an indecent sexual manner or context (that is, child pornography) is guilty of an indictable offence and liable to a term of imprisonment not exceeding 10 years.

The offence will be indictable, although able to be dealt with summarily.

As the use of computers in the distribution of child pornography is a growing problem, and as such transmission can be made in almost limitless quantities, it is appropriate that the penalty (10 years imprisonment) be commensurate with the penalty for the offence of production of child pornography in section 68 of the Crimes Act 1958.

Amendments to the Crimes Act 1958

Section 70 of the Crimes Act 1958 makes it an offence to possess child pornography. Subsection (4) of that section, however, provides that nothing in section 70 makes it an offence for any member or officer of a law enforcement agency to have child pornography in his or her possession in the exercise or performance of a power, function or duty conferred or imposed on him or her by or under this or any other act or at common law.

Due to advances in police investigation and evidence collection techniques in the area of child pornography offences, computer analysts are being increasingly used by police to detect child pornography on suspect computer hard drives. This bill amends section 70, subsection (4) to ensure that appropriately authorised persons assisting the police in their functions and duties are also protected from possible prosecution for offences under section 70.

As current investigation and evidence collection techniques involve the downloading and printing or digitally copying of material from suspect computer hard drives, legitimate concerns have also been raised about whether police and their computer analyst assistants are technically committing an offence under section 68 of the Crimes Act 1958, namely printing or otherwise making or producing child pornography.

This bill amends section 68 of the Crimes Act 1958 to ensure that police and their appropriately authorised assistants commit no offence under that section when they act in the exercise or performance of a power, function or duty conferred or imposed on him or her [sic] under law.

This bill ensures that Victoria can effectively enforce changes to the national classification system for publications, films and computer games.

It also recognises the seriousness of the growing use of on-line information services for the transmission and publication of child pornography.

Finally, it ensures that police are not hindered in their investigation of the serious problem of production, distribution and possession of child pornography.

I commend this bill to the house.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

ESSENTIAL SERVICES COMMISSION BILL

Second reading

Debate resumed from 9 October; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. R. M. HALLAM (Western) — The National Party has formally resolved not to oppose the bill. In my contribution on the second-reading debate I want to not only record that decision and explain the rationale that underpins it but also seek clarification from the government on a range of quite critical practicalities in the administration of the new rule book. I will go through those in sequence a little later. I also want to put the government and the entire Victorian community on notice that the National Party's decision to not oppose the bill should not be taken as some sort of acquiescence in respect of the further major changes foreshadowed in the second-reading speech; I particularly refer to the regulation of the water industry and I will come back to that a little later.

I begin by acknowledging that this is an important bill. After all, the government claims that it is delivering on a key election promise. Indeed, in some documentation the promise is described as a pledge. We in the National Party challenge the extent to which that promise or pledge is delivered, but we acknowledge that this is an important piece of legislation if for no other reason than it constitutes the claimed delivery of an election promise.

In addition, the National Party acknowledges that the bill goes to the regulation of Victoria's essential services and because of that every individual consumer in our community has a primary stake in the outcome of this bill. On those grounds the bill must qualify as important.

We also make the point that the essential services provided in Victoria today have been largely privatised. The fundamental question of how governments manage the undeniable benefits of contestability and then undertake the task of ensuring that those benefits are fairly shared across the community is a critical role. The bill is also important on that score. We recognise that Victoria remains in the vanguard of public sector reform. Whatever other epitaph might be ascribed to the Kennett government, I do not think anybody would challenge the assertion that the public utility reform agenda was grabbed gleefully by the Kennett administration. I do not think anybody would challenge that as a result of that initiative enormous advantage has been captured for Victorian consumers. I know there has been some challenge to the detail of such a claim but one only has to look at the most recent data published by the Office of the Regulator-General to see a quite stunning reduction in tariffs and an improvement in reliability. At another level one should look only at the rate of capital recovery secured through the privatisation of the Victorian power industry and compare that with the recovery across other jurisdictions.

However, for all that we in the National Party acknowledge that there is still no generally accepted rule book in respect of public utility regulation. There is still not a single benchmark and there is still some debate as to what constitutes world best practice.

While there has been a slowdown of that reform agenda under Labor, I do not think anybody would challenge the claim that Victoria remains something of a bellwether and therefore any change in the rules because of that becomes groundbreaking and important.

I want to make an aside in that context because to me it is quite ironic that the introduction of contestability into the provision of essential services was originally championed by the Keating federal government, a Labor government. It was a Labor government that introduced the concept of national competition policy. I submit that that single initiative, the introduction of contestability, has done more than anything else to ensure that the Australian economy weathers the economic downturn suffered by many of our trading partners. I also suggest that that contestability is a primary factor in the Victorian Labor government's inheritance of an economy going gang busters and a budget in substantial surplus. I cannot help but point out the irony in those circumstances because when the Kennett government was pursuing those contestability reforms each of them was in turn opposed by Labor in opposition. I will come back to the policy contortions of the Australian Labor Party.

This bill is also important because it is not only consumers who have a primary interest in it. The privatisation process has attracted enormous interest from the private sector. It has attracted enormous investment from the ranks of the international corporate heavyweight down to the mum and dad investor at a local level. Because of that a whole new stakeholder

class in involved and that stakeholder class has its hard-won money on the line. We now have a slab of the Victorian community with a clear pecuniary interest in the bill before the house and an interest in particular in the question of how the rules of the game might be changed, given that it was at least in part those same rules of the game that may have attracted the original investment. The bill is certainly important on that count.

They are all the practicalities, the hard-nosed dollar signs. I will spend a moment or two talking about the other thing the National Party sees as making this bill important — that is, the political symbolism which the bill conveys. I say that because the position now adopted by Labor in government is dramatically different from that which it held when in opposition. I suggest to the chamber that that turnaround has been quite dramatic, in fact of metamorphic proportions. It says many things. It says there is a fundamental difference between making promises from the comfort of opposition and having to deliver on them when the responsibility of government is taken into account. It also says a great deal about the credibility of those who have been directly involved, because we can clearly demonstrate, without any challenge, that there has been a dramatic change in the official stance of the Australian Labor Party. I do not think that is challenged in any quarters, but it is not acknowledged and that of itself says something about the credibility of those involved, and I will say more on that point at a later stage.

It also gives something of a line as to what we might expect under a Labor administration — for example, it is very clear that the guarantee, or pledge, or whatever it might be titled, which goes to the reliability of the supply of essential services, has been trashed. It is gone. We do not hear any more about there being a guarantee or a pledge. I also note that the specific commitment given by Labor in opposition, almost ad nauseam, that a maximum uniform tariff would be retained to thereby protect Victorian consumers — that pledge or promise or guarantee, whatever it might have been — has gone as well.

It seems painfully obvious to me that despite the mutterings of some on the fringe, the Australian Labor Party in government in this state has apparently changed its stance in respect of privatisation, and we are to presume that the concept of privatisation is no longer opposed in practical terms. We now have the position adopted by Labor that it can claim credit for some of the benefits derived from the privatisation program. That is a metamorphic turnaround — opportunism and expedience knows no bounds in respect of the ALP. I remember that it is the same people who are directly involved, and I particularly recall the role played by the current Treasurer. I remember that he, among others, opposed the concept of privatisation in every context and at every turn.

Hon. W. R. Baxter — Vehemently!

Hon. R. M. HALLAM — And, Mr Baxter, on more than one occasion, deliberately tried to scare off investors. I remember that specifically in respect of the privatisation of the Totalisator Agency Board, and of the power sector. I remember him giving a commitment again and again that Labor in government would wind back the privatisation process. I remember him refuting the benefits and denying the advantages. I remember him, among others, likening this to the selling off of the farm. I remember him refusing to accept that there was a $800 million difference year on year when comparing the opportunity cost of the capital released compared to the dividends previously enjoyed from the power sector — almost $1000 million in budgetary terms added each year, and I remember that being challenged.

Finally, I remember the Treasurer, among others, guaranteeing that consumers would enjoy security of supply under an Essential Services Commission with tough new powers. That is what was said. I compare that with what we now see being delivered in the bill before the chamber. I remark, firstly, that it has taken Labor two years to do anything or deliver anything, other than to stall the final stage of contestability in the electricity sector, thus denying enormous benefits to Victorian households.

We now have the bill in its current form before us, and I acknowledge that it promises everything to everyone. It reminds me of the Demtel ad, because to consumers it offers, to quote directly, ‘more effective regulation, enhanced accountability, certainty and stability in the system’. It offers greater affordability and a more reliable service. It offers greater recognition of environmental and social factors in the rulings of the regulator. It offers greater reliability of supply across the entirety of the essential services sector. Admittedly that is a huge step back from the guarantee we heard offered so grandly from the then opposition. It offers the consumers better protection, and it offers coordination of the role of the various regulators. It says that consumers can expect to benefit from the gains in efficiency. It says that they should expect protection from the abuse of market power. So all those things are offered to the consumer.

What about the offer to the regulated industries? They are not left out. They are offered certainty and stability,

inclusion in the process, equity in the allocation of cost, declining cost of regulation over time, consistency of regulation across state borders and, while all that is taking place, they can expect that as regulated entities they will be entitled to expect an acceptable long-term yield on their investment via the recognition of the true level of operating costs, and — underscore this, Mr Deputy President — an appropriate rate of return on the capital invested. It is not a bad list. As I said, it is a bit like the Demtel ad.

My rhetorical question is, quite simply: is there such a magic pudding? If there is, why are not all the shareholders relaxed at this magic, this paradise that is being offered? Let me suggest there are a few reasons for the stakeholders not being quite as relaxed as one would expect, given that outline. Firstly, what we have thus far is simply the rhetoric; we have not got the reality yet. Based upon Labor's track record, maybe the reality will fall a fair bit short of what was said in advance.

Secondly, they note there are some so-called tough new powers involved in this bill. But even the most casual observer would note that there is one glaring omission in these tough new powers — they very carefully skirt around the issue of industrial relations. If one goes back over the experience under Labor in the past two years one sees a classic reason for disruption to the security of supply, and it happens to highlight the issue of industrial relations.

Hon. W. R. Baxter — Strikes!

Hon. R. M. HALLAM — Mr Baxter, it is called load shedding! It is a euphemism for strike, and you can trace it back to the rogue unions. I recall that it was the same ministers — the Premier, the Minister for Energy and Resources and the Minister for Industrial Relations — who visited upon this state load shedding — blackouts, the first for 20 years — and we had not just one but two, and they were extensive. So when you wonder why the stakeholders are not as relaxed as they might be, given this magic pudding in front of them, maybe they have worked out what these brand new powers do. They offer all sorts of threats to the regulated sector, but they are strangely quiet when it comes to the question of confronting the rogue unions. Apparently those unions are free to repeat their disruptive tactics.

Thirdly, the stakeholders are less than relaxed because not all the objectives mentioned in the shopping list are mutually exclusive. Many of the targets are subjective, and I pose the question: what is it that constitutes 'appropriate' in respect of the rate of return on capital? I expect that will vary dramatically depending on who you ask.

Let us recall we have already had one quite extensive review requiring a determination by the Office of the Regulator-General which revolved on that particular issue — the question of what in those circumstances constituted an appropriate rate of return on the capital invested. And — no surprise — those who had the opportunity to voice their opinions before that review offered a divergence of views and were quite passionate in that divergence. If you ask an investor and a consumer advocate you are likely to get two different answers. Here is the classic example of beauty lying in the eye of the beholder.

It seems appropriate to make the point that it is because of that divergence of views that we need an independent regulator. Let us not be caught up in fairyland. The regulator does not sit in splendid isolation and then formalise a determination at the point where there is absolute unanimity across those who are submitting. He is called upon to adjudicate. That is a dramatically different concept from that which is presumably anticipated by the bill.

Sure, it is important for the process to be respected by the stakeholders. That is absolutely critical, and that is a given in the understanding of the National Party. We too want a system that is plausible and defendable. But let us not pretend that in operation it is going to be everything to everyone. So while we will not discard the grandiose and all-embracing claims as to the wisdom of the new Essential Services Commission — indeed I put the government on notice that it can expect to see some of those grandiose claims being cited at a future time if the reality does not quite measure up to the rhetoric — we are not bedazzled by them. We are not taken in by them, and neither are the key players across the public sector. Nor should those claims be seen as anything other than laudable but theoretical objectives.

I want to leave the rhetoric and go to the reality. There are two facts which in my view stand alone in respect of this bill. The first is that in reality the new Essential Services Commission will subsume entirely the existing roles and responsibilities of the Office of the Regulator-General. The fact is that the initiative taken by the Kennett administration in the establishment of the Office of the Regulator-General has been retained absolutely intact — fact no. 1. Sure, there are some changes, and an examination of those changes is a really good basis on which to present an analysis of the bill before the chamber, and that is precisely the process the National Party went through. But in respect of those

changes, it is a fact that they are more marginal than they are seminal. I suggest to the chamber that they smell more of the need to rationalise a commitment given about the establishment of the Essential Services Commission from the comfort of opposition than of any fundamental shift in operational philosophy. For example, the bill requires the new regulator to quantify and articulate relevant benefits and cost regulation. It goes on to say 'and wherever possible' — I hesitate at that — 'ensure that costs do not exceed benefits'.

Members of the National Party thought of pursuing an amendment to that clause and wondered whether we should seek to delete the words 'wherever possible' because in our view they are nonsensical. There should be no circumstances where a regulator should even contemplate regulating in a form that would acknowledge that the costs were greater than the benefits captured. That goes to the issue I wanted to highlight — that is, that a regulator should be required to weigh up the costs and benefits and explain them in the ruling. Our view is that that is not a new requirement at all, because that is presumed in the current rule book. I do not think anybody looking at that in isolation would argue that it is other than implicit in the objectives of the Office of the Regulator-General. It is an unstated, fundamental requirement.

So what we are talking about is a tinkering at the edges. I believe many of the changes being cited fall into that category. For instance, the regulator is required to consult with other regulators. The regulator is now required to acknowledge a charter of consultation and regulatory practice and is required to include particular matters in his annual report. Again we would submit that that is simply formalising what is already assumed to be within the existing role and mode of operation of the regulator. That is window-dressing.

I admit there are some changes where whether the new requirements are new initiatives or simply the formalisation of existing requirements is less clear. I look firstly at the charter of consultation and regulatory practice which is now specified as part of the rule book of the new regulator. That says that the Essential Services Commissioner must give an explanation of his or her rulings. I simply make the point that I bet Dr Tamblyn and his team would argue that that has been faithfully done on each occasion that a determination has been issued in the past. I bet that the team would argue that that is required under section 27 of the existing rule book, but I do acknowledge that there are some stakeholders in the power sector in particular who have argued that particular determinations have not addressed particular arguments put forward in their submissions, or at least not addressed them to their satisfaction. Presumably it is that complaint the government seeks to address.

But we in the National Party are not convinced that that complaint is going to be captured by the changes, because there is a fundamental difference between, on the one hand, explaining why a particular determination has been given as opposed to why a particular proposition has not been accommodated. They are two quite fundamentally different concepts. It is the sort of issue where, in our view, commonsense should prevail. I am not sure it is possible to devise a set of rules which would accommodate those differences in every circumstance. I think we are talking about issues at the margin, but in any event I suspect — no more than that — that the current regulator would argue strenuously that this explanation of rulings has been given in the past.

There is another change which is worthy of note. That is that the new Essential Services Commissioner is required to accept responsibility for the education of consumers. That becomes a specific function under clause 10. I know that the Office of the Regulator-General has dedicated enormous resources in time and energy into keeping consumers up to speed. Perhaps the most recent example of that is the press release issued on 9 October, in which the Regulator-General reports on the introduction of a competitive retail market for the supply of electricity to all Victorian households and businesses.

It is explained that the launch coincides with the release by the office of an initial information brochure that will be distributed to every letterbox in this state. More than 2 million of those brochures will be circulated. So I am suggesting that the current regulator would, I think, argue that that responsibility has been met. I do not know that he would say that he sees such a responsibility as being his and his alone; I do not know that he would have thought about that. He just undertook what he saw to be his responsibility.

That question of educating consumers now becomes a primary function, and it raises some interesting issues and even some hackles. But I have enough faith in the professionalism of the officers involved in the regulator's team to discard out of hand any proposition that the new commissioner would be used as a tool to promote a government's achievements. That to me is the end of the story.

There are changes which we acknowledge as representing new initiatives, and with one exception we see them all as practical and supportable. The exception is the requirement that the new commissioner

acknowledge that the protection of the consumer is his primary responsibility or function. That is an important shift, and it is highlighted again and again by government as being an important shift. On that basis I offer these comments to the chamber: I would have been prepared to let that concept go as political grandstanding except that the concept of ranking responsibilities is totally inconsistent with the thesis of regulation as we know it in Victoria, and indeed it is totally inconsistent with the sentiments which are driving this bill.

Let me make it clear that when the Office of the Regulator-General was established the regulator was given a very clear brief. He was told that his primary responsibility was to ensure that the benefits of privatisation were faithfully delivered to Victorian consumers, and it is a matter of record that the regulator assumed that those benefits were dependent upon the long-term investment in infrastructure and thus dependent upon a decent yield on capital. That is all absolutely elementary. Now we are told, if we rely upon the second-reading speech, that the Essential Services Commission:

> … will promote a certain and stable regulatory framework conducive to longer term investment and the financial viability of utility industries.

I hope I am not cynical enough to believe that recognition of a decent yield on investment being in the long-term interests of consumers is some sort of afterthought. I know that this government would like us to believe that it is business friendly but I am not sure even it would be cynical enough to say, 'Yes, but it is more friendly to consumers'. So why is this notion of protecting consumers put at the front of the queue if, as is now acknowledged by government itself, that protection is dependent upon a decent yield by the investor? Why not say that the financial viability of the utilities industry is a primary responsibility? Logic would take it that step further. So my conclusion is that in designating protection of the consumer to be a primary responsibility, what we are really delving into is some pretty raw politics.

Hon. W. R. Baxter — A pretty fair conclusion.

Hon. R. M. HALLAM — Thank you, Mr Baxter. We are also delving into the realisation that there are more votes to be won among the consumers than there are among the ranks of the regulated businesses. But forgive me for my cynicism!

I will go to those particular changes which I at least acknowledge represent an actual extension of the Regulator-General's role or are quite new initiatives. I put on the record that these all have the support of the National Party.

In the first place the bill clarifies the regulator's right to charge each regulated sector with the cost of regulation. That is a new cost to the three metropolitan water authorities and it is a new cost to the grain handling sector. We in the National Party do not oppose that concept. Indeed if one sector is to be levied with the cost of regulation then on the principle of fairness the same should apply to other sectors, and we are heartened to see the government give a specific commitment that the cost of regulation will be reduced over time. In our view that is a significant undertaking.

But when it comes to the actual determination of the cost we are not quite so accommodating because of the circumstances in which the regulator gets to determine those costs. I suggest to the chamber that I regard myself as a good cost accountant, and if you gave me the brief of distributing whatever costs you said were incurred in the regulation industry I think I could come up with a pretty fair distribution formula. I know that the minister who represents the individual components of the regulation sector will have to be involved in the process, but I would argue that the major players should also be involved in those costing assumptions. That is exactly how the world works in respect of the gaming sector, I am pleased to say, because I had something to do with that.

I would seek from government an assurance consistent with the minister's insistence that the administration of this new act will be on an inclusive basis. I would ask that each stakeholder be involved in that costing process to the point where they actually feel to be part of that process. I suggest to the government that that would bring some discipline to the system and, I also submit, would provide a better outcome in the longer term.

Clause 10 of the bill sets out the general functions of the commission which are similar to those in section 8 of the Office of the Regulator-General Act. But there are two critical issues which expand those general functions, and the first of those goes to the question of reliability of supply. That is in my view for the first time specifically listed as a subject of ministerial direction. I rely on clause 10(b) where the functions of the commission include providing advice to the minister on:

> … matters relating to the economic regulation of regulated industries, including —

specifically —

> reliability issues —

and then under clause 10(c):

> when requested by the Minister to do so, to conduct an inquiry into any systemic reliability of supply issues related to a regulated industry or other essential service specified by the Minister in the request.

So here we have a clear and clinical shift in focus, but it is a very important one because we are now specifying the concepts of reliability as being included.

We in the National Party presume that question would be already covered in the existing rule book, but we acknowledge that the terminology employed in the bill before us puts that beyond doubt, and we have no problem with that.

Then we go to clause 10(e), which states that the functions of the commission include:

> to make recommendations to the Minister as to whether an industry which provides an essential service should become a regulated industry or whether a regulated industry should continue to be a regulated industry;

That represents a change in focus which might be at the margin but which has absolutely critical ramifications.

The regulator will still make the recommendations to the minister on the basic question of whether a particular industry should be regulated. The difference is that it used to be the regulator who initiated the review upon which that recommendation was based; now it is the minister who will initiate that review. That is a subtle but important shift in the power base, which means that the minister now assumes the primary responsibility for the basic question of regulation. I suggest as an aside that it makes something of a mockery of the talk about the bill improving the independence of the regulator. This is a clear example, not mentioned in the second-reading speech or spelt out, of the erosion of that same independence.

We in the National Party thought about pursuing an amendment in that context to make it clear that one of the regulator's functions would be to undertake the responsibility for initiating the review on which the advice by the minister was framed on the basis of demonstrated independence of the officer. However, we acknowledge that at the end of the day the process by which an industry becomes regulated is that of an order by the Governor in Council — in other words, it is simply a ruling by the executive government — and therefore all preliminary parts of the process become somewhat hypothetical. It is, at the end of the day, the government's call on the question of whether an industry is regulated or continues to be regulated.

We acknowledge that it would be possible in some circumstances for the government to abuse that new responsibility, but have concluded that the government, or the minister, is answerable to the people via the Parliament. While this is a clear example of trust-me enabling legislation, which in this context at least gives the government unfettered rights in respect of that regulation, we consider that Parliament is the appropriate forum in which to debate that issue, which is the way it should be. We submit that if that authority were used frivolously or maliciously then the opposition of the day would have a field day. We are prepared to let that issue go also. We highlight one particular circumstance — the question of whether it is the regulator or the government that decides — which I shall return to later.

The final changes go to the appeal provisions under clause 56, which the National Party supports, and include the extension of the time lines for an appeal against a determination by the commissioner from 14 days to 30 days and retain an additional 15 working days if required. I know that expansion of the appeal time is in direct response to concerns expressed by some of the regulated businesses. It is not necessarily a panacea; it is a two-edged sword. I remind the government that one of the most important features of any successful appeal process would be the time taken to deal with it, because while the appeal is in process everybody is in limbo. At any event, the National Party is happy to support the expansion of the time available in which to hear an appeal, but we hope it does not lead necessarily to a delay in resolving future appeals.

We are also pleased to support the clarification of the role of the regulator. It is now clear that the regulator is part of the appeal process and gets the chance to defend his determination. The term used in the bill is 'contradictor', a term I have not come across before, but it conveys exactly the role a regulator should enjoy.

We note that the panel will be increased from 12 persons to 24 persons, but the big change is the way the panel will be chosen. In the past it was the responsibility of the minister to determine the make-up of the panel. That responsibility is now to be exercised by the registrar. I am told that as a result of negotiations we should expect that when the regulations are completed it is the registrar of the Victorian Civil and Administrative Tribunal who will undertake that role. We are prepared to support that, because it goes some way towards underscoring the independence of the appeal process and it might pave some way to the notion that justice should not only be done but be seen to be done. I hasten to add that there is no criticism of the former appointments or actions taken by previous

ministers — one of which in particular I can speak of personally.

We note that there are changes in penalties, which we do not see as a huge issue, but we think there is room to argue either way on the merits of increased fines and the reduction in the reliance on custodial sentences.

Finally, we note the commitment given by the government that the operation of the Essential Services Commission will be fundamentally reviewed after five years, which we support. We note in particular that five years is a long time in political fortunes, and we confidently predict that it will be a conservative government that will undertake that responsibility, about which we are relaxed.

That is the bill as far as it goes, which we do not oppose, but three major issues canvassed in the second-reading speech are not actually accommodated in the bill, and we see each of those as being important in their own right, and I shall talk to each of those in turn. The first is the ramifications for the water industry. I mentioned in my opening remarks that the National Party had concerns in that context. The second-reading speech states:

> On its establishment on 1 January 2002, the commission will initially take over the ORGs limited water regulation functions, before assuming full responsibility for economic regulation —

I underscore 'economic' —

> of the water sector from 1 January 2003. Before this can occur there needs to be a significant overhaul of the current regulatory arrangements for the water sector, which will need to be underpinned by new legislation.

Further in the second-reading speech, lest there be any confusion, the term 'sewerage' is included in the stable of what constitutes the water industry. I know that that is a debate for another day, particularly given that the Treasurer has acknowledged that there will be a need for additional legislation, but I serve notice that the National Party will take some convincing that the entire water sector should be included in the Essential Services Commission stable. Our starting point is that we should consider this issue as one of first principles. As I mentioned before, the Office of the Regulator-General had as its guiding light the notion that the regulator should protect the rights of consumers on the process of privatisation.

Going to first principles and relating them to the water sector, we note again and again that there is a clear commitment that the sector will not be privatised. Indeed, we see commitment after commitment, from both sides of politics I might add, that the water industry will not be privatised.

I can give the chamber plenty of evidence of those commitments given by government itself. So if the industry is not to be privatised, we in the National Party would pose the question 'Why include it in a regulation regime designed specifically to accommodate the privatised sectors?'.

Secondly, the National Party points to the fact that the water sector has achieved enormous reform across its structure, and that applies particularly to regional and rural water authorities. The mode of operation and the efficiency of those organisations has been shifted several generations. They are nothing like the creatures that were there when the Kennett government came to power, and they are working extremely well. They are responsive to consumer and community needs, but more importantly the user groups that have sprung up within their structures have become a critical key to achieving resolution of some very sensitive and contentious issues — in other words, the major problems we all acknowledge to be there in the massive reform agenda have been driven from the ground up, so the current model is working extremely well. On that basis, if on no other, we ask that government refer to the maxim, 'If it ain't broke, don't fix it'.

In addition, we in the National Party are not attracted by the prospect of swapping a matrix of hardworking expert local authorities for a remote bureaucracy, which is what is implicit in the Treasurer's comments. However, we acknowledge that our attitude or opinion will be determined largely by what turns out to be encompassed by the term 'economic regulation'. We want to see what that actually covers. If it includes tariffs only then we would see less reason to be concerned because that would effectively mean there will be a simple shift in responsibility. The ultimate sanction on the question of tariffs will be shifted from the minister, where it currently resides, across to the Essential Services Commission.

Maybe that is not such a big deal, but — and it is a very big but — imagine if the term 'economic regulation' included such issues as quality standards, or more significantly still, reliability of supply, given that government is very keen to talk about that concept and has included it in the bill before us! Would that mean the minister could also handball the responsibilities for quality standards and reliability of supply across to the new commission?

I, for one, am not attracted by the concept of having a remote, metropolitan-based regulator ultimately

responsible for, say, environmental flows, infrastructure investment or the building of dams and so on, while at the same time giving the minister the ability to shift the blame and the responsibility. I invite those in the chamber who know irrigators to imagine our irrigators blithely agreeing to the quite critical issues of security of supply — their lifeblood — being ultimately determined by a remote regulator.

We in the National Party reserve our judgment and put not just government but the entire community on notice that our decision to not oppose this bill is in no way to be taken as acquiescence to the inclusion of the water industry in the Essential Services Commission stable. I put on record that we will take some convincing and that government should stand ready for a knock-down, drag-out fight if we are not convinced. It is appropriate to note that down the centuries wars have been fought over the question of access to water. I say to the government that it should not assume that because it has actually mentioned this issue as an aside in the second-reading speech that means we in the National Party have actually agreed to it. It will take a lot more than that.

The second major issue I want to go to, which is canvassed in the second-reading speech but not actually accommodated in the bill, goes to the question of the regulation of our export grain handling facilities. In the second-reading speech we are told:

> A further issue raised in the proposal paper concerned the commission's role in the regulation of export grain handling facilities built after 1995.

The date is crucial.

> The government considers that it is appropriate for this issue to be assessed by the ESC as part of a fundamental review of the regulation of grain handling facilities, to commence in 2002.

That direct quote from the second-reading speech acknowledges that the sector has changed dramatically since the sale of the Grain Elevators Board in 1995, and it has changed as a direct result of the subsequent entry of major competition.

This is very clearly a hot issue across the grain industry, with claim and counterclaim running rampant, but what it does more than anything else is highlight the illogicality of having some players in the industry regulated and others not regulated. The opinion of National Party members happens to be that the move to totally deregulate the industry is the logical long-term solution, and indeed we would point to the fact that the decision to continue regulation at the time of the GEB's privatisation was seen as an interim measure only. However, it is the timing of the final step in deregulation and what constitutes the best interests of the growers — most of whom remain largely captive in this circumstance — which become the major debating points.

There are two fundamental points we wish to make. The first point is that to which I alluded earlier — that is, that the bill transfers the responsibility for deciding the question of whether regulation should be continued from the regulator to the minister. In our view that overcomes at least one perceived concern across the industry — namely, that of any presumption in respect of territory. The second point relates to the question of timing. A time line is provided in which the regulator is to conduct the review of the sector and thus to consider the basic question of continuing regulation. The second-reading speech undertakes that the review will 'commence in 2002', but the bill specifies only that it be completed by 30 June 2003.

Given all the claims and complications, the review seems to be the best means of resolving the matter. However, given the intensity of the debate across the industry, the National Party believes it important that the review be completed as soon as possible. It was on those grounds that I wrote to the Regulator-General outlining my concerns. I seek the indulgence of the chamber in quoting from my letter to the Regulator-General, because it goes to the issue implicit in the bill before the chamber. I referred to recent discussions with Mr Andrew Chow of the Regulator-General's office, and the letter says:

> You will be only too well aware that the grain handling sector has changed dramatically since the privatisation of the GEB, and that the subsequent entry of non-regulated major competition into the sector has led to claim and counterclaim of comparative (and unfair) advantage. This has become a very hot issue throughout the grain industry generally and even more so throughout the ranks of growers where the question of what constitutes their ultimate best interest is spiced by the extent to which they are largely captive in the existing arrangements.

I went on to explain that the bill before us was listed for debate in the Parliament and that that had prompted even greater interest throughout the industry, particularly given the provision in the bill that the minister is to assume the responsibility for the primary question of whether to continue with regulation. In addition I attested that the new provision allowing the regulator to impose a fee to cover the cost of regulation had not gone unnoticed across the industry.

I said to the regulator that in all of this there are some pretty basic arguments being advanced, the most common of which runs along the lines that we now

have competition in the industry and therefore we should be totally deregulated, and that therefore the National Party should oppose the bill. I said that was how the logic was put to us but that it sounded much easier than turned out to be the case. I said to the regulator that:

> Given the many factors which should be carefully considered in determining the best interests of the main players, and the growers in particular … it is acknowledged that the review you intend to undertake is the most appropriate forum in which to resolve these issues.

I also told him that I had put that view strongly to the industry and urged the involvement of all, particularly given that the product of the review would become a direct recommendation to government.

I then talked about the stumbling block in all of this being the question of time taken to complete the review. I noted the difference between the commitment in the second-reading speech, which requires only that the Regulator-General commence the review in 2002, and the bill requiring only that it be completed by 30 June 2003. I pointed out that I had been reminded by one of my colleagues that a third world war would be well under way if we did not have a solution well before 30 June 2003, and that:

> What I am looking for is some commitment in respect of the review that can be cited in the currency of the parliamentary debate, particularly in respect of timing, which would assist in reducing the 'temperature' throughout the industry.

Three days later I got a response from the Regulator-General, which addressed all of those issues. In particular it says, and I quote directly from Dr John Tamblyn's letter of 24 September:

> However, in light of the competitive and industry developments described above, the office is of a strong view to bring forward the three-year review of regulation of the grain handling industry by 12 months. Under this timing, the office would commence its inquiry early in 2002 (i.e. February 2002) with a view to its completion by 30 June 2002. This inquiry will primarily examine whether or not regulation should continue for the prescribed grain handling and storage services provided at the ports of Geelong and Portland. In the event that the inquiry recommends the removal of regulation of these services, the office will address implementation issues including early implementation of the recommendations of the inquiry and dispensing with the need for determining default charges under the existing regulatory arrangements.

I suggest to the chamber that the commitments given by the Regulator-General represent a very good outcome in the circumstances. What I am looking for from the government is some sort of undertaking that when the recommendations are framed by the Regulator-General, it will also act speedily in respect of the implementation of those recommendations. I will come to that a little later and raise it in the committee stage.

The third issue which was canvassed in the second-reading speech but which is not accommodated in the bill goes to the Consumer Utilities Advocacy Centre. Again I acknowledge that that may be a debate for another day, when we are told that the Minister for Consumer Affairs will provide further details. But given her performance at question time today, I will not hold my breath.

We are told in the second-reading speech that we can expect:

> a world-class centre of excellence in customer advocacy research and information dissemination —

and that it:

> will provide an interface between consumers and the commission …

We are also consoled that:

> … the centre will ensure the voice of consumers and their advocates is heard loudly and clearly.

I am not sure about the grammar, but I leave that to one side. A number of questions arise directly from those comments, which will also be canvassed in the committee stage. They go to the question of why we need another bureaucracy to protect consumers.

I thought that this is what the bill was all about. I thought the role of the Regulator-General and of the new Essential Services Commission was precisely to protect the rights of consumers. We are told in the second-reading speech that the protection of consumers is to be the primary function of the Essential Services Commission. So we will be looking for some explanation that would convince us that this centre is not just another expensive white elephant, and that this is not somehow a vote of no confidence in the new Essential Services Commission or the newly announced Ombudsman. We would like to know the costs of the operation of this centre, we would like to know how it is to be funded, and we would like to know the relevance of the $500 000 mentioned by the Treasurer when the bill was debated in another place. What does that $500 000 cover, where is it to come from, and so on? I put the government on inquiry that we will be pursuing a number of issues in respect of the new organisation, the Consumer Utilities Advocacy Centre.

Finally, I go to the concerns of two particular stakeholders in this bill. In the first instance I refer to the electricity industry, which is represented — and I say very professionally represented — by the

Electricity Supply Association of Australia (ESAA). That organisation has argued long and hard for the inclusion of a full merit-based appeal provision. I know that that issue was canvassed in the consultation process which pre-empted this bill, and I acknowledge that that concept was formally dismissed by government on the grounds of cost and time. But I also want the government to know that the National Party has come to the view that there are no real daggers in a merit-based appeal system. It is, after all, very important that the stakeholders respect the process. We now have a number of examples where merit-based appeals are part of the scenery. We can also conclude from that experience that the simple inclusion of that merit-based appeal provision does not necessarily entice frivolous appeals.

There is plenty of evidence to suggest that it is the existence of that merit-based appeal provision rather than its employment which becomes the key to this issue. It is a bit like the Legislative Council. This chamber has the ability to refuse supply. It is there as part of the armoury, but the notion that it could be used frivolously is refuted by a simple look at the history of this place.

Before a government member says to me, 'Hang on, why didn't you allow a merit-based appeal process when you had control of the rule book?', I will make the comment that at the time the Regulator-General's rule book was drawn up we were literally at the maker's edge. It was the Victorian government which was creating the bow wave on which other jurisdictions were framing their model — and the world has moved on since our early experiences. We now have some hard data on which to go back and have another look.

However, we will not be pursuing an amendment. When we talked this issue through with the ESAA it was made clear to us that that organisation believed it had gained some major ground in the consultation process which underpinned the bill. My first question to that organisation was whether it wanted us to pursue the amendments at the peril of the bill, even if we could get our friends in the Liberal Party to support us, and I had not even canvassed that issue with them. The response from the electricity industry was no, while it had argued fervently for the inclusion of the merit-based appeal provision, in those circumstances it would live to fight another day. It did not want that concept to put the bill at risk.

For what it is worth, I suggested to the industry that it should take up that fight in a quite different arena. Because it seems to me that we as legislators have some really fundamental questions to address right here — today, now. The first of those is whether we should be persisting with the model of a state-based regulation.

Now we have an electricity supply grid which has literally — and thankfully — developed beyond the previous restrictions of state borders. We have overcome all the partisanship and parochialism that dominated the agenda in the past and have had a major breakthrough. I remember the childish debates with our neighbours about electrical overheads going across the state border.

Hon. B. W. Bishop — Powerlines.

Hon. R. M. HALLAM — Powerlines going across the state border, thank you, Mr Bishop.

I was embarrassed at the way those issues were addressed, but now we have genuine linkages from Victoria to New South Wales, South Australia, the Australian Capital Territory and even Queensland, and we contemplate that we will have one with Tasmania in the not-too-far-distant future. Those linkages are bringing enormous advantages to consumers across those states, particularly in security of supply.

There is room to argue the case from both sides. I have heard them all before and am well versed in the arguments. They revolve around the question of whether it is better to have a national structure with its economies of scale and standardisation or whether we should be pursuing some competitive state structures with their claimed advantages of discipline and efficiency brought about by jurisdictional competition.

There are plenty of examples on which we can rely. It is true that I opposed and even campaigned against the concept of a national workers compensation scheme, notwithstanding that I, perhaps better than most, appreciated the terror of the true national employer having to deal with eight or nine different workers compensation regimes and the prospect of forum shopping and cherry picking. My firm view then was that we needed discipline in the process and that, on balance, interstate competition was crucial to get us to the level where we would not allow our international trading penetration to be affected. We also had the example then of a federal system on which to assess our choice. It was called Comcare, and it was an absolute disaster.

The previous government saw advantage in the state's differentiating in the product mix of workers compensation to get the best of both worlds by retaining competition while standardising some of the terms and concepts and publishing the comparative

data — which it did with some interesting outcomes and undeniable benefits.

Alternatively, my colleagues and I from the previous government actively campaigned to have the states cede their industrial relations power to the commonwealth, and Victoria did so. To this day I maintain that this was not just a brave but a very appropriate decision, because it brought enormous advantages for national employers, particularly those with headquarters located in Victoria. There were enormous cost savings to be achieved via the deletion of unnecessary duplication across the industrial relations system.

I have argued that electricity and gas are similar in application to the industrial relations system and that it makes good sense to recognise that we have now gone beyond state borders and it would be more appropriate to regulate at the national level. The critical factor which I invite the government to think through is that a unit of electricity or gas is identical wherever it is located or consumed. Indeed by definition it cannot be changed. There is no way the product can be tinkered with. It is okay for the state to compete with respect to tariffs, and we would not want to change that, but apart from the costs incurred in production and transport there are no market costs to be incurred and weighed up. Hence my view that both electricity and gas should be regarded as an essential service at a national level and therefore regulated at a national level. It makes good sense, and I have suggested to the Electricity Supply Association of Australia that it should take up that cudgel in that arena.

It so happens that the National Competition Council employs a structure of regulation which recognises a merit-based appeal. I offer that to the electricity industry as a sweetener. I also add that in terms of logic the National Competition Council also accepts responsibility for the regulation of the other major players in the power sector. Our generators, our grid operators and the National Electricity Market Management Company are subject to national regulation. Why would we not acknowledge the logic of having the final component simply shifted across to the same system? Today we should be mature enough to look beyond state borders and take off the parochial glasses. I see the danger of the Bracks government achieving the worst of both worlds, of having state-based regulators responding to the need for some standardisation and cooperation. I hear those terms bandied around at almost every meeting. And then comes the next logical step in the sequence. If we want standardisation and cooperation, why not introduce an intermediate tier of bureaucracy to make interstate variances less pronounced and less silly? Those are the questions I pose to the chamber. Why not bite the bullet now and prevent a repetition of the railway gauge stuff-up of more than 100 years ago and move to a national regulation system now? I make the point that I am expressing a personal opinion, not one I can offer as a National Party policy position.

Finally, I want to record the concerns expressed to the National Party by Freight Australia, the company which acquired a 45-year lease over the rail network. It is a matter of public record that the company paid more than $160 million by way of purchase price and assumed nearly $30 million by way of liabilities. So it had a stake in that grid worth almost $200 million at the point of acquisition. We can understand that it has every reason to be interested in the bill before the chamber.

My point is that at the time that deal was done, by public tender, everybody understood that Freight Australia would be required to allow competitors access to the rail grid. That was a given, and today it is not challenged by Freight Australia — indeed, it was anticipated by Freight Australia as an additional source of operational revenue. However, the facts are that a dispute has arisen as to what can be included in the costings in the setting of access charges, particularly whether those access charges can include part of those sunk costs of the system. Freight Australia says that it was dudded — that is the claim — and that organisation is now in full frontal disagreement with government in respect of the terms of the pricing order, which has since been issued under the Rail Corporations Act, and more particularly in respect of the rules which go to the way in which access charges are to be levied on other users.

Freight Australia has said to the National Party that it desperately wants its sector brought under the operation of the Essential Services Commission (ESC). The National Party thinks that is something of a solution. It is fair enough to ask of Freight Australia in those circumstances, which we most surely have, ‘Well, if you have signed up to the deal and the t’s and i’s are so important, how come you signed before you crossed and dotted?’. We have also asked Freight Australia, ‘If the operation were now to be brought within the ambit of the ESC and, as would be the case under your argument, you get some advantage from that, why would that not be regarded as a windfall gain by the unsuccessful tenderers?’. That is certainly the view put to us by the other tenderers. Freight Australia has come up with what I regard as a plausible explanation. It said that because of the circumstances and the magnitude of the undertaking in assuming responsibility for an

extensive rail network it had to take the government on trust, at least to some degree. Further, it says, it would not have been quite so bad, but there is clear evidence that the rules were changed after the event.

In any event, without taking sides, the facts are that that organisation is now in violent disagreement with the government and has now sought the intervention of the National Competition Council claiming that the pricing order it has been subjected to is incompatible with the concept of national competition policy principles.

As an aside, here is another circumstance in which a case could be made for the transfer of responsibility for regulation across to a national system, because by definition the organisation we are talking about, Freight Australia, provides services across state lines. We see in stark reality the inappropriateness of the decision taken so many years ago by the states to adopt different gauges, and here we have the makings of another disaster. I have argued the appropriateness of the stakeholder pursuing regulation at a national level, and again I make the point that that is a personal opinion rather than the position taken by the National Party.

Freight Australia asks that the National Party pursue a number of amendments which would have it brought under the ESC umbrella. Members of the National Party were quite happy to consider those amendments on their merits. However, at the end of the day we were not persuaded by the argument, because if the amendments provided the relief the company was looking for then it was painfully obvious that the government would have the opportunity to wind back any advantage won through the process of an amendment to the bill before the chamber. And we were not persuaded by the notion that if we were able to get the amendments up — again leaving aside the question of whether we could convince our colleagues in the Liberal Party — Freight Australia said that in those circumstances it would be less likely to pursue its claim before the National Competition Council. In other words, we were being offered as a sweetener the notion that the sovereignty of the Victorian Parliament would not be undermined to the extent that might be said to be the case if the National Competition Council got involved. As I have explained, we think it would be appropriate for the regulation to shift across to the national level — I certainly think so — and so we were not persuaded by Freight Australia's argument.

The reason that argument has relevance in the context of the bill is that if there is no agreement between Freight Australia and an applicant seeking access to the rail grid over which Freight Australia has control, then that question goes off to the Office of the Regulator-General, and under the terms of the bill before the chamber that responsibility will become part of the role of the Essential Services Commission.

In those circumstances the regulator will be called on to adjudicate. To do so he obviously needs access to some very sensitive commercial information held by Freight Australia. Freight Australia told the National Party that everybody else providing essential services gets the advantage of a regulator whose rule book requires him to act commercially and to specifically take heed of an appropriate yield on the investment. That applies to everybody else in the public utility sector apart from Freight Australia. The National Party suggests that that is not a bad point.

Freight Australia's point is its rule book requires that it get the same adjudicator should a dispute arise but he must adjudicate on pricing orders issued in such circumstances that there is no commercial test. Freight Australia says that is not fair and on that basis it asked the National Party to pursue amendments to have the pricing order taken to the regulator in the first place. The argument was Freight Australia would then get a fair shake as a commercial test would be involved and it was prepared to take its chances in those circumstances given that that would be consistent with all other providers in the public utility sector.

National Party members are not convinced that that is the best form of a solution even if, as I said, we could persuade our colleagues in the Liberal Party, because there needs to be up-front agreement with the government and they both have to work together in the future. Then there is the reality that Freight Australia controls a very important public asset. There must be some goodwill at the table and an acknowledged common purpose. In our view it would not be appropriate for us, even if we were able to, to force the government to back down via the form of legislative amendments because the government would then have the opportunity to extract payment for that in some other form.

Hon. B. W. Bishop — And it is an asset which needs investment.

Hon. R. M. HALLAM — I will come to that because there are some critical issues to be taken on board in this imbroglio. The first is that Freight Australia has controlled the network for 45 years so this issue must be resolved. The current impasse is in no-one's interest at all. As the Honourable Barry Bishop said, Freight Australia is unlikely to undertake infrastructure investment if it cannot cost that into the access charge. Earlier today we learnt that sleeper

cutters in our electorates are being laid off because of the flow-on effect in respect of that investment.

Hon. E. J. Powell — More jobs lost in country Victoria.

Hon. R. M. HALLAM — Thank you, Mrs Powell. There is another absolutely fundamental issue involved in this matter. The government has announced its intention to spend $550 million of public funds on exactly the same infrastructure — it is tied up in this fast train commitment. It seems that Freight Australia is in an incredibly powerful bargaining position because government needs access to the network. The question which must arise at the head of the agenda is whether that access is to be by way of cooperation or the reverse and whether the schedules are to be disrupted and whether there is a question of compensation.

I suggest to government that that one particular issue has the prospect of becoming very ugly indeed. My plea to the government and particularly to the Minister for Transport is that the minister sit down and resolve those issues and do so urgently. We all have an interest in the network working smoothly and efficiently. I suggest to the Minister for Energy and Resources that it is in the best interests of the entire community that Freight Australia be happily accommodating competition on the rail network. Now is a very good time to resolve that issue rather than rely on the intervention of the National Competition Council in whatever form that takes.

That is the National Party's view of the bill and why it resolved to not oppose it. There is the National Party's position on the regulation of water and its insistence that its position on the bill is not to be taken as a decision regarding the future regulation of the water industry; National Party members need to be persuaded in that context.

Here is the list of issues on which the National Party will be seeking clarification in the committee stage. They all go to administrative issues. First of all I refer to page 14 of the second-reading speech of the Minister for Energy and Resources where the words 'wherever possible' appear. I ask the government to spell out in what possible circumstances a regulator should issue a determination acknowledging that costs exceeded benefits in that instance. It seems to National Party members to be an absolute nonsense, but maybe we have missed a chapter somewhere. I invite the government to respond to the question of why the words 'whatever possible' were included.

I want to know whether the Essential Services Commission's newly prescribed need to provide an explanation for any ruling will necessarily address all points of any submission from a petitioner — one of the issues which we presume has prompted the government to pursue a change in the rule book. If that is to be the case, how will that be accommodated and expressed?

The National Party would like to know whether the Essential Services Commissioner will have unfettered rights in respect of the internal allocation of funding — that is, in respect of the setting of an office budget and the establishment of an allocation for the education of consumers. I want to know whether the government is prepared to commit to the involvement of the regulated stakeholder sectors in determining the quantum and distribution of the costs of regulation. To me it seems to be a quite basic issue, one which the government could take the running on. I want to know whether the registrar mentioned in the second-reading speech is to be the registrar of the Victorian Civil and Administrative Tribunal. I want to know how the review offered under clause 66 is to be conducted — whether the stakeholders will be involved and so on.

The National Party would like to know what commitment the government is prepared to make in respect of the review of export grain handling facilities, particularly in relation to the time taken to action any recommendations coming directly from the Office of the Regulator-General. We are looking for recognition that this is a very hot issue and that the timing of the remedy becomes quite critical.

We would like to have some breakdown of operational costs. We are told in the second-reading speech that the costs of operation will be co-funded by government and industry on an equitable and transparent basis; we want to know what that means. We would like to know how that fits in with the $5.2 million mentioned in the second-reading speech. We would like to know how that fits in with the recoveries ascribed to the Regulator-General of $4.1 million last year and an expected $13.7 million this year. We would like to know where the Consumer Utilities Advocacy Centre fits into that, where the $500 000 mentioned by the Treasurer comes from and what it is meant to cover.

Finally the National Party would like to know why the government decided not to include a provision to allow merit-based appeals and, more particularly, what assurance the government can offer to those promoting such appeal grounds that their concerns will be met.

I conclude on that point. This is a very important bill not so much because it replaces the current Office of

the Regulator-General by rolling it into a rebadged Essential Services Commission but because it deals with our essential services. It comes at a critical time given the privatisation of a large part of our essential services and it comes when Labor itself is at the crossroads: it can either put the past behind it, recognise the enormous advantages of contestability and set about maximising those and grabbing the best outcome for the people of Victoria, or it can drop back into its old ways of regarding big business as the natural enemy and thereby choke off the investment so critical to the long-term best interests of the consumer and the community. We have heard all the rhetoric; we now stand ready to judge the reality. The National Party shall not oppose the bill.

Hon. D. McL. DAVIS (East Yarra) — In joining the debate I compliment the Honourable Roger Hallam on the detailed way he has dealt with the provisions of the bill and outlined a number of reservations many honourable members have about it while pointing out a number of the conundrums it contains. Many points were made and many concerns have been raised about the bill by the Honourable Phil Davis in this house and the honourable member for Box Hill in the other place, in particular.

Although on one level the bill, to pick up the words of the Honourable Roger Hallam, simply rebadges the Office of the Regulator-General and much of the legislation picks up whole sections of the Office of the Regulator-General Act, the bill makes some significant changes. It will change various aspects of regulation in Victoria and will do so in the long term. I will come back to that phrase 'the long term' in some detail later in my contribution, but in putting the point that the bill essentially replicates large parts of the Office of the Regulator-General Act, I also point out that it makes a number of changes by bringing in new areas of regulation. I do not think I need to re-encapsulate all of those areas because contributions in the house have covered those areas, and I really wanted to add to the debate rather than to repeat things that have already been said.

It is important to pick up the overall context in which the bill comes to the house and to concede in the first instance that it does flow out of the government's commitment before the last election to introduce an Essential Services Commissioner and an Essential Services Commission. In that respect the opposition does not oppose the bill. We are aware that the government made a number of statements before the last election, and we believe it has the right to take a number of steps in this area. However, I will express a number of concerns about aspects of the bill, and I will mirror concerns others have raised.

I turn to one point raised by the Honourable Roger Hallam, and that is the importance of a competition policy view of the world. I pick up the points he made about the championing of competition policy by Paul Keating, a Labor Prime Minister, in conjunction with the states in the early 1990s and the importance that had for successfully bringing forward a series of bills in this Parliament and in many others around the country that have reformed the operation of utility markets and large sections of the economy to the benefit of the Australian community. It is true that in certain respects competition policy can create concerns as it is implemented, and I think it always needs to be implemented in a sensitive and thoughtful way. However, the economic benefits to Australia, and in particular to Victoria, over the past almost a decade have been absolutely immense.

In the areas regulated by this bill, in particular electricity, a deregulatory approach and an approach of changed regulation, as well as the series of privatisations undertaken by the past government in the mid-1990s, have delivered enormous benefits to Victorians. They have delivered both greater reliability of supply of electricity and decreased prices. I need not repeat the figures that have been put before the house by the Honourables Phil Davis and Roger Hallam to indicate the enormous benefits to retail consumers and, importantly, to businesses as well. People have increased choice, and with full retail competition in due course, whenever that may occur — the target seems to move with some regularity — there will be greater benefits to households and smaller consumers as well. Benefits to the state include not only the debt reduction that flowed from the privatisations but also the increase in competitiveness.

At the time when the privatisations were occurring people would ask Liberal members of Parliament and others connected with that process what the benefits were. People often thought in terms of debt reduction, not realising that the greatest argument in favour of the privatisations and the changes in regulation at the time was the competitiveness that would be introduced into Victorian businesses and the advantages that gave the state. I think the increase in growth we saw across Victoria in the latter part of the 1990s, and still flowing through today, has come through in massive amounts from those deregulatory changes and the privatisations that have introduced enormous competitive advantages for Victorian businesses.

On the issue of retail competition and the matter of the recent price increases, the government appears to be in something of a dither. It really will need to get its act together. It is interesting to realise that this is perhaps one of the areas where the government finds it most difficult to regulate, because many members of the government still have a fundamental ideological problem with how essential services ought to be regulated, how the private sector ought to be involved and how essential services, particularly electricity and so forth, ought to be managed in Victoria to ensure the best possible outcomes.

It is very hard to argue in the face of the enormous evidence of the last half decade or so — I do not intend to review it here because others in this chamber have put it before the house — that there are better ways to regulate than versions of what we have in Victoria at the moment. It is true that the model that was set up by a number of state governments in the 1990s, the Nemmco model, and the national electricity market still have a way to go. It is true to say that in New South Wales and Queensland we still have less than satisfactory arrangements in terms of competition, and it is true to say that that sends a number of distorted signals into the market. I think in the longer haul we need to consider — I am picking up a later point in Mr Hallam's contribution — whether we have a national system of regulation in this area or not. I am somewhat less convinced than Mr Hallam. However, I do recognise that there are problems in the way the electricity market is operating, in particular in Queensland and New South Wales, and that has an impact on Victoria.

The government's difficulties in knowing how to step in this area, notwithstanding its election commitments, are very instructive. It has difficulties not only in this area but also in general in taking decisive steps that move Victoria forward in a clear and guided way. An enormous number of reviews — more than 500 — have been commissioned since the government came to power. There is a propensity to review things and then step back and seek some easy solution rather than implementing what is often the right solution and the solution focused on the public good, even if there may be some political cost and political difficulty associated with it. It is a head-in-the-sand view, or to quote the *Age* on Saturday, a stuck-in-sand view. That important opinion piece laid out the position of the government at this point and drew attention to the number of reviews and the government's propensity to examine things and to poll, and so forth, in a way that is quite unprecedented and generates regulation costs.

The bill is no different, in the sense that there are enormous costs in this transition from the Office of the Regulator-General to the Essential Services Commission. As Mr Hallam pointed out just a moment ago, more than $5 million has been spent on the publicity surrounding the commission and its establishment. However, the costs are in fact far greater than that because of the uncertainty that has been created and the difficulties that have been created for industry, including the new industries that are to be brought into the ambit of this regulatory regime. The cost of the uncertainty created for those industries is much greater than that, and it is very hard to capture that cost in a way that can be easily examined.

I want to make a number of points later about water and the Consumer Utilities Advocacy Centre. In particular, I will comment on the objectives of this bill. I will point to these in a clear way in that I believe the objectives are not only of great significance to the bill itself but are symptomatic of the government's view of things.

Whilst under the Office of the Regulator-General and the regime surrounding it there was a clear objective of delivering effective, efficient and reliable supplies to consumers of all types, there is in these objectives a significant weakening with regard to business and efficiency. I know a number of significant players in this industry have made this point to the government and to the Treasurer in particular, who had carriage of this bill through this Parliament, although the bill is later to be handled, as honourable members will be aware, by the Minister for Finance. It is interesting to note there was at least one change in the objectives from the exposure draft that honourable members saw in the middle of the year. That was the insertion of the words 'long term'. I will come back to the concept of long term later in my contribution.

The key change in these objectives is the splitting of the objective into two parts — a primary objective and a secondary set of objectives. Clause 8 provides:

> In performing its functions and exercising its powers, the primary objective of the Commission is to protect the long term interests of Victorian consumers with regard to price, quality and reliability of essential services.

The secondary objective provides:

> In seeking to achieve its primary objective, the Commission must have regard to the following facilitating objectives —

I intend to quote these and then make some comment about a number of them —

> (a) to facilitate efficiency in regulated industries and the incentive for efficient long-term investment;

(b) to facilitate the financial viability of regulated industries;

(c) to ensure that the misuse of monopoly or non-transitory market powers is prevented;

(d) to facilitate effective competition and promote competitive market conduct;

(e) to ensure that regulatory decision making has regard to the relevant health, safety, environmental and social legislation applying to the regulated industry;

(f) to ensure that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency; and

(g) to promote consistency in regulation between the States and on a national basis.

What is important about this is the introduction of a whole series of other concepts into this core objective section of the act. This was not in the previous act under which the Office of the Regulator-General approached regulated electricity in particular, and it seems to me this opens the door to a whole series of influences which lead to a very mixed set of messages and conclusions in terms of how the industry will eventually operate.

The issue of long-term interests of Victorian consumers is a crucial one and I will make comments later about that in an international context. I asked this question at the briefing — and I thank the minister and his staff for the briefing they provided the opposition on this bill, which was a long process, as I think everyone would agree, but a productive one in the sense that the opposition gained a greater understanding of what the government was trying to achieve with this bill. When I asked at that briefing about the issue of 'long term' I was told, 'Beyond the five-year pricing period'. I have to say that response greatly concerned me. It seems to me that the long-term interests of consumers, customers and businesses in the electricity markets are much longer haul and much longer term than beyond the five-year pricing period. With electricity markets in particular — and I intend to talk at great length about electricity markets in this contribution — in terms of their time cycles, investment planning, and so forth, 5 years, 10 years or even 15 years is a relatively short period of time.

In these large, regulated investments, investors need to have great security and certainty of regulatory environment. They need to be able to plan and to make their investments with considerable security and certainty. There is always risk in every investment, and investors will seek to minimise that risk in these regulated industries where in some cases returns can be quite low compared to other industries. We need to ensure there is commensurate security in terms of the arrangements and the regulatory environment. The regulatory environment, in my view, ought to be tampered with and changed very rarely and in only minor ways. I am not sure that these changes in the objectives are minor. If I was a lawyer in certain areas, I have no doubt I could drive a large Mack truck through a lot of these objectives and could actually change the structure of the industry. I think any clever lawyer appearing on behalf of certain groups within society could use these objectives as a powerful lever to strike at these regulated industries that have been such important investors in Victoria.

My concern with these changes — and these changes in objectives in particular — is that it is essentially a matter of sovereign risk. Investors need to see that the regulatory environment is not going to be changed; they need to be able to invest with security and certainty; and they need not to have the ground rules changed by governments in a capricious manner as this government in fact does, especially in this case where in my view there is very little demonstrated positive outcome. Governments can justify taking quite capricious steps on certain occasions where there is an overriding or vast community interest involved.

In this case the outcomes in terms of community benefit to consumers, businesses and households are simply undemonstrated in my view. No evidence has been presented by the government — none whatsoever — that we will have better outcomes in terms of price, reliability, fairness and quality of supply. It is unclear to me that either industry or individuals at the household level will benefit from this legislation.

Given the contributions made by honourable members in other debates, I do not think I need to go back over the history of privatisation in Victoria and the benefits it has delivered, but these large investors need to be protected. It needs to be understood that they ought to be treated fairly and in a way that ensures that other investors outside the state feel they can invest here with security, certainty and transparency, and that capricious steps by governments will not occur unless there is some enormous and overriding public interest. There is no overriding public interest in this bill, nor does it demonstrate any benefit for Victorians. In that context I ask: why introduce a bill that presents risk and uncertainty and demonstrates no benefit?

I refer in particular to the 'long-term interests of Victorian consumers' mentioned in the first objective and in the briefing. I was surprised to hear that we could be given no explanation of what 'long-term interests to Victorian consumers' in these objectives

meant. The briefing gave no explanation of what has occurred elsewhere in the world in that context; it gave no explanation of how courts were likely to interpret 'long-term interests' in the context of other Australian jurisdictions. I am not familiar with a case — I am happy to be educated on this — where those words have been used in that context, so we are introducing new legal concepts that are completely untested. I am happy to hear the minister provide me with an explanation as to where they might have been tested in the context of a large utility supplier and what that means. Does 'long-term interests' in that sense mean the 50-year cycle? Does it mean beyond the five-year pricing period that has been put to us in the briefing?

Clause 8(2) (e) in the secondary objectives refers to regulatory decision making having regard to health, safety, environmental and social legislation applying to the regulated industry. It is a form of duplicated regulation, if there is some social legislation, some health legislation, some safety legislation or environmental legislation already in position, or new legislation that regulates the whole of society. Industrial regulation of some kind around work safety is a good example because it exists now and may be modified from time to time but will apply to the industries regulated under the bill in the same way as it applies to any other industry.

The introduction of that provision here means that not only must this industry and the industries regulated by this bill comply with the regulation as it exists in the community now and as it will in the future, but they must also comply with it in terms of its basic compliance with the regulatory environment of that industry, which enables the Essential Services Commissioner to introduce an additional layer of regulation to second-guess other authorities and other acts. It seems to me that this indicates quite a difficulty for this industry. For example, what does 'social legislation' mean? It seems to me to be a very broad description. It could mean work safety or it could mean a whole range of community service obligations, and I would certainly be seeking advice on that from the minister when we move into the committee stage.

Does it mean that community service obligations can be additionally imposed through this secondary objective of social legislation? Does it mean that the Essential Services Commissioner can introduce an additional layer of regulation without the bill coming back to Parliament? Does it give him the authority to introduce that sort of regulation? Does 'environmental legislation' mean that if Australia signs an international protocol that binds indirectly the state governments — and despite the state governments being sovereign we know that section 51, and I stand to be corrected on that, of the Australian constitution provides for international treaty powers — then treaty arrangements that might affect environmental legislation will thereby be incorporated into the operation of these secondary provisions of the bill? I think that migratory birds or Ramsar conventions may come under it, and I am not opposed to those things because they are perfectly legitimate instruments and things that we as a community ought have regard to. But regard ought to be had to them in their own context and not through some backhanded step of this secondary level of legislation.

Does it apply to native title legislation, which both this Parliament and the federal Parliament have passed? On a simple examination that would fall into the category of social legislation. Are these regulated industries therefore to be subject to the impact of such different legislation through the back door, not up front but through the Essential Services Commissioner having the power to say, 'Victoria has a piece of legislation that quite properly deals with native title but I am going to use that legislation — a piece of social legislation in the meaning of this secondary objective — to impose an additional obligation on the generators or the distributors or some other section of the industry'? Will that happen? Is that a prospect under this act? I have not seen a set of objectives like this in other pieces of legislation. I stand to be reassured on that and I am not a lawyer — I make that clear — but I am aware of enough to understand that 'social legislation' as laid out in the bill is a very broad category, as are the other provisions of the bill — for example, 'relevant health'.

Victoria quite properly has a series of air cleanliness acts, and one wonders what the impact of those will be. Generators in that industry need to comply with those, but by so doing those industries give the Essential Services Commissioner an additional piece of leverage over them. I am not necessarily arguing that that may always be inappropriate, but I do not believe the government has been up front with the fact that this set of secondary objectives can allow the exercise of enormous leverage and power over those regulated industries. I was also concerned to read in clause (2)(g):

> to promote consistency in regulation between the States and on a national basis.

There is an erudite debate to be had, and Mr Hallam and I may well have this at a future time, as to whether a national regulatory model is a good one or a bad one, and there are arguments in a number of directions. However, if one state, say Queensland — and I am not singling it out but just picking it as an example —

decides to fix prices, does that enable the Essential Services Commissioner to use clause 8(2) (g) to fix prices in Victoria in the name of promoting consistency in regulations between states and on a national basis? This provides an example of backhanded price fixing beyond what the Essential Services Commissioner and his team might wish to achieve. One company might use this section of the act to deal with competitors, and I wonder if that provision has been thought through in that context. I can only read it in the way it is put, and it does concern me.

There are many problems in the national electricity market, and although I strongly support the work of Nemmco and I support the national electricity market in general, it is conceded that there are still problems in Queensland and in New South Wales. I wonder how this objective might be used by one industry in Victoria to cause all sorts of mischief in tandem. Does this allow interstate interests that may supply the Victorian market, for example, to use that objective in some way? I am not certain of that and I think that we are in very unchartered territory here, which is why this new set of objectives concerns me in particular. They introduce a great level of uncertainty, and in my view people, including many in the industry, have not sufficiently focused on that.

During the briefing session I asked about clause 8(2)(c) which is listed as a secondary objective:

> to ensure that the misuse of monopoly or non-transitory market power is prevented.

Do we need to insert such a secondary objective and ask the Essential Services Commissioner to undertake that? We have a level of competition regulation undertaken in the first instance by the Australian Competition and Consumer Commission, a body that by and large does a good job. Should such a secondary objective be in the form as outlined in the bill? It is not clear to me precisely what the government is attempting to achieve with clause 8(2)(c) in the secondary objectives. It states:

> to facilitate the financial viability of regulated industries.

Does 'industries' mean in the broad? I shall ask questions about that during the committee stage, and look forward to responses.

Returning to the primary objective and the insertion of the words 'long term', I am pleased that the government has introduced those words because the original exposure draft, which flagged a little more of the government's true intent than perhaps it would have liked, was quickly seized on by industry as a point of great concern to it, but 'long term' is the way the industry should be viewed in the broader sense.

If one looks at the electricity markets around the world — I have had an opportunity over the period that I have reviewed the bill to do that — one finds there are not many that work in a particularly smooth way. We have seen the problems that have occurred in California, but it is now widely understood in the industry that those problems are not related to the deregulatory steps but to the regulations that were imposed on that industry and the long-term attempt to fiddle with pricing, which led to mixed, confused and inaccurate pricing signals in that supply of electricity. The intervention of the state government in California has not been a model for other governments around the world to emulate.

I read with interest an article in *Fortune* of 19 March which reviewed the electricity market in Pennsylvania, New Jersey and Maryland, the so-called PJM market, a model much in the way Victoria is in terms of trying to set long-term pricing rather than future Victorian markets. There is some uncertainty in the market in the longer haul. Most Australians have the view that California is a bad model, which is true, but in other parts of the United States of America the deregulatory mode — not the privatisation mode because most of it has been private for time immemorial — with the introduction of proper and robust competition into markets and an attempt to get price signals to lead to satisfactory investment levels and to regulate contracts in a way that has generated good outcomes for communities, is a good example that can be pointed to. Pennsylvania, New Jersey and Maryland is an example of a market about which the *Fortune* article states:

> The mid-Atlantic is a well-organised, well-thought-out marketplace, with the implication that prices therefore don't go crazy …

It is in contradistinction with California and other places. The article states that consumers have saved $3 billion in the Pennsylvania market over the last three years since the utilities were deregulated.

Enormous savings are involved. The cost of electricity in those markets has been reduced considerably, again in parallel with what has happened in Victoria — one of the other good international examples — and reliability of supply has increased. Suppliers into markets have an interest in ensuring that supply continues. We must ensure that those incentives are in place.

I spent some time looking at a paper from the Haas School of Business at the University of California,

Berkeley, entitled 'Manifesto on the California electricity crisis', signed by a number of academics from the university and of other universities around America. It makes a number of useful points about the key aspects of what is required to restore market credibility and stability. It makes the point about a long-running focus and a need to not intervene where price signals are beginning to work. Victoria must be careful over the next period to avoid unnecessary and gratuitous or capricious interventions that might distort long-term price signals. I am giving the minister some gratuitous advice, but markets must be allowed to work, and to allow price signals and changes from time to time to flow through.

Although the government of the day has an ultimate ability to intervene, it should be an override that is exercised with caution and responsibility. The example of a focus on the long running is important. The article goes so far as to say:

> … California should not abandon its goal of fostering retail competition. New competitors need the ample, stable and reliable electricity supplies that a reformed market system will promote. Retail competition can help bring new types of contracts and metering systems, and better awareness of environmental effects as entrants introduce 'green' packages, and demand-side innovations. This is another reason why consumers must pay the real cost of electricity —

I am not sure that is an absolute principle, but it is a good starting point —

> as retail competition cannot thrive in an environment in which supply companies lack retail pricing freedom. As a consequence, companies involved in retail supply, including the California utilities, should be allowed to pass through their energy costs in competitive environment.

The role is to protect consumers, both households and businesses. That is the role of the new Essential Services Commission, and has been the role of the Office of the Regulator-General, one that he and his office have performed with great skill, judgment and credibility. One aspect of concern with the bill is that we have a model that is working, one that is the exemplar, in many respects, around the world, yet we are beginning to tamper with it. We will play some unnecessary and gratuitous games with regulation of this important area that has such a key effect on the competitiveness of Victorian business.

The enormous success and advantages that privatisation gave Victorian business in the late 1990s were in no small part of that enormous growth spurt that Victoria experienced in that period. We tamper with these things at our peril. Given the signals that come out of this bill, it would not surprise me if the government or the new authority were to be heavy handed in their approach. As I pointed out, if the objectives I have discussed are unhelpfully implemented, we may well see further unfortunate signals.

Investment in Victoria has suffered in the past two years — I do not need to read out for the house's benefit the long list of major firms and headquarters that have moved from this state or the long list of major opportunities that have been passed up — and part of the reason for that is the do-nothing Bracks government, part of it is the review process and part of it is the sending out of signals that Victoria is not fundamentally focused on providing the right environment. The increases in business costs flowing through from things like Workcover have been instrumental in frightening some businesses away. The uncertainty the state government has generated by its dithering has also been a significant factor, and it could be said that re-regulating in these sorts of industries sends out a signal that adds to that concern about sovereign risk.

The Honourable Roger Hallam has talked about rail, and I do not need to add anything to that, but I do want to say something about water. I am bemused by the need to bring water into the orbit of this legislation and regulations. What is the government really trying to achieve with that inclusion? It is not fully clear to me what actual benefit will come from that. I am open to being convinced; I am not implacably opposed to this, I am simply mystified by it. What will the government actually achieve?

Hon. R. M. Hallam — Weren't you persuaded by the rhetoric, Mr Davis?

Hon. D. McL. DAVIS — No, I was not persuaded by the rhetoric. I would be quite happy to hear the rhetoric if I could find something practical underlying it. Let me pose a couple of questions about bringing water into the ambit of the bill. Scrutiny, accountability and access are all perfectly legitimate issues, and when something is private, contestable and competitive much of that is taken care of. The water industry is partly corporatised and partly made up of statutory authorities. These boards are not private sector bodies floating around out there ready to be rapacious to consumers or some such thing. How will this bill operate when tariffs are being set by these government-appointed water boards? Why do we need this model of regulation? It is not clear to me what the government is seeking to achieve.

These authorities already pay a dividend calculated by the government. Tariffs are set, but now the ESC will have a role in that. How much more scrutiny do some

of these boards need? Some are simply government appointments that have a clear role, and it seems to me they are directly accountable to Parliament and the community anyway. It is not clear to me why an additional layer of regulation is needed. As I see it, we have a water board here and an authority there; they are appointed by the minister; they go about their business; they have objectives under their acts; and now we will need memorandums of understanding between them and the Essential Services Commission. I see this only as a duplication and an unnecessary layer, although I am very happy to be persuaded that benefits will flow to the community. By and large the water authorities in country Victoria try to do their best. They do not always get it right, but they try. It is not clear to me how all this will operate.

As I said, I do not need to say much about rail, as that has been well covered by other speakers. However, I want to say something about the consumer advocacy centre or whatever precise title it will finally end up with. This is wacky. That is the only word I can think of to describe it. We will have the Essential Services Commissioner over here with a whole series of roles and responsibilities, and we are setting up an additional body over there, which, as I understand it, is a private company. I will be seeking from the minister an assurance that this body will have an annual report tabled in Parliament. We were given no comfort on that issue at the briefing session.

We hear that public money will be going into that body to set up an advocacy centre for all sorts of unclear purposes and obscure reasons, with almost no accountability, no responsibility and no mechanism for reporting to Parliament. It seems to me to be a plaything of the minister and an opportunity to appoint a series of Labor mates to the body. The opposition will be scrutinising those appointments very closely. I am curious to see who will get the job there.

Hon. N. B. Lucas — It will be mates!

Hon. D. McL. DAVIS — It will be mates; I have no doubt about that, Mr Lucas.

This body has the potential to become a real thorn in the side of the industry, an unjustified thorn that is government funded and has the ability to simply wind up campaigns against parts of the industry in an unhelpful way.

Hon. R. M. Hallam — A ginger group!

Hon. D. McL. DAVIS — A ginger group might be one description.

Again, it is not clear to me why this has been set up in a way that is not transparent, in a way that is not open and in a way that is not fully accountable to Parliament. It is something that concerns me greatly. The government may want to provide some reassurance on that issue, and I look forward to that. I will certainly be prepared to ask the minister a number of specific questions about how that body will operate; what direction it will operate under; what specific powers the minister will have in relation to that, because it is unclear to me how he will exercise those powers; and what role the Parliament will have not only in proper reporting but in being able to examine that body. Will the Parliament be able to get in and audit the books of that body, for example? I am not sure about that, and I will seek a satisfactory answer to that question.

I hope the apparent lack of transparency, accountability and integrity in the set-up of this body is some sort of oversight by the government and that proper reassurances will be provided that it is not sinister in the way that a politically savvy person might view it when examining it and imagining how it might be used by this government, or indeed a future government. Even if this government were given the benefit of the best motives and intentions in the world, a future government might misuse the ministerial appointment power that I understand exists with this body and the ability to hide what might be overtly political activity from full public scrutiny.

Victoria has a proud history in utility regulation, and the past 5, 6 or 7 years in particular have seen Victoria at the forefront of electricity reform which has delivered enormous benefits to the Victorian community. This bill, while on the surface replicating much of the regulations and the act covering the Office of the Regulator-General (ORG) and its processes, injects unnecessary risk into the regulatory environment in a way that has no apparent or transparent benefit.

The government claims that this body will be tougher, harsher, more consumer focused and so forth; I am not certain that is true. The ORG has done a good job in this area, and I am not sure that the overriding and long-term interests of consumers will be advantaged by this body. It seems to me that the key things consumers want are the ones I outlined at the start: fair prices; low prices; good reliability; an electricity supply that is certain; and an electricity supply that feeds low costs into businesses so that security of employment and competitiveness in Victoria are advantaged.

They are the broad interests of consumers, as well as the appropriate, fair adjustments introduced for householders and small businesses. At the end of the

day they are the interests of consumers. It is not clear to me that the introduction of a broad range of secondary objectives and a dilution of the clarity of objectives that existed in the Office of the Regulator-General Act is helpful in delivering those objectives in the long haul. It is certainly not helpful in offering the right incentives to investors in Victoria or in positioning this state as the favoured location for significant investments.

I can only say that, while the opposition does not oppose this bill, I personally have some significant concerns about it. Those concerns extend beyond the major area I have concentrated on, the electricity area, and into some of the other areas, such as water, where I think the government's thinking about what it is really and appropriately trying to achieve is woolly — to describe it in a polite way. I do not think this bill will achieve its objectives. Notwithstanding the transfer of personnel between the current body and the new Essential Services Commission, I think we will see a deterioration in the long-term quality of the regulation of utilities in Victoria. I think that is a quiet tragedy that will have considerable economic impacts and, in the long run, social impacts on Victoria counter to the objectives, both primary and secondary, that have been set in this bill.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak in favour of the Essential Services Commission Bill. The bill, which is very lengthy, will make changes that need to be made to improve the standard for consumers in the years to come from 1 January 2002. Under this legislation consumers will get improved benefits, and members on this side of the house welcome and support the amendments. This bill has quite important points — —

Hon. G. K. Rich-Phillips — Are you re-reading John Brumby's speech?

Hon. S. M. NGUYEN — No, I am not reading anything. The Bracks government came in with a commitment to improving for all Victorians services such as gas, electricity, water and sewerage, and to bring those services to every householder in Victoria. That is important to the social and economic wellbeing of Victoria.

When talking about benefits for all Victorians we should look at what the Victorian community wants to know and to make contributions about. The second-reading speech clearly states that the aim of the reforms is to protect the interests of all consumers in relation to reliable supplies of gas, water and electricity. The government is protecting the interests of users and future consumers who will be using the services. The minister has sought public opinion by having lengthy public consultations and inviting people to write submissions. The reason for that is that the government wanted to hear the concerns of the people.

The Essential Services Commission consultation paper was released on 28 July 2000. The paper drew 72 submissions from a broad cross-section of the community, including consumer and community groups, regulated businesses and industry associations, unions, regulatory and other government bodies, and individuals. Those important people wrote letters which were used for the government public consultation paper.

Based on the submissions the government received it developed the plans outlined in a proposal paper, 'Implementation of the Essential Services Commission', and a draft of the bill which were released for community comment in June 2001. On the draft and proposal paper the government received 54 submissions from a broad cross-section of the community. So there was both a consultation paper and a proposal paper. The government was very keen to see and welcomed the many interesting submissions that were received so it could learn from what the community wanted to know and what people wanted the government to address.

An issue raised in the proposal paper concerned the commission's role in the regulations. A key element of the proposal involved the Essential Services Commission becoming responsible for economic regulation of the water sector. That is what people wanted to see the commission take a more important role in. They also wanted Melbourne Water and Victoria's non-metropolitan and rural water authorities to be looked at. This important initiative is consistent with the government's key policy pillars, referred to in the second-reading speech. As that speech says, it 'fosters more accountable, transparent and inclusive decision making', and that point is important, because the public wants to see the government being accountable to the community before it makes any decision, as well as being transparent so that people will have a clear understanding of what is going on at the commission.

The second important point is to provide more affordable and reliable services that are available to all Victorians, including low-income and vulnerable groups. The government will ensure that it provides to the community services which are affordable and reliable so that people get the best possible services. The government does not want to give cheap services to the public, but it wants services that are reliable. The

government does not want the community to be unhappy and to make complaints. It is good to provide affordable services but they must also be reliable so that everyone can afford to use them. That is an important point.

It is particularly important for low-income earners who live in housing commission dwellings and who receive government benefits. Their services should be affordable and reliable. Many poor families cannot afford to turn on their heater and use the gas or electricity during the winter time. That is the sort of thing the government should look at to see how it can provide for those families.

Another important point is that the services should be provided for the whole of the state, not just for people in the metropolitan area; they should be provided for all Victorians, including people who live in rural areas who will benefit from the reform of these regulations. Many country Victorians who live far away from the cities find that their services are not normally as good as they are in the city. The government wants to provide good services to all Victorians. It is not an easy task, but the government will do its best to make services more accessible to every person in the state, especially those living in rural and regional areas.

The Essential Services Commission must operate in a financially disciplined and responsible manner. Some people may have difficulty in paying their bills on time because they cannot afford them, but if they are unable to pay their bills the government does not want to cut off their services. It wants to encourage people to pay what they can while their services are maintained.

The bill protects the interests of utility consumers by enhancing customer advocacy arrangements. Consumer interests must be protected to ensure they have good arrangements for services. The bill establishes an independent consumer advocacy body — the Consumer Utilities Advocacy Centre — to deliver effective consumer input to regulatory processes. The centre will provide an interface between consumers and the commission. It will ensure the voice of consumers is heard loudly and clearly. It will also provide a forum where consumers and disadvantaged groups can come together to discuss day-to-day issues that are important to them. They will receive information from the commission and will have the opportunity to speak and the centre will listen to them.

The Consumer Utilities Advocacy Centre will open when the Essential Services Commission starts next year, on 1 January 2002. The government intends to provide a service to ensure that community members have the right and the ability to raise day-to-day issues of concern. The government has tried to balance the view of the service providers and that of the consumers.

Another reason the government has introduced the bill is to make the prices utilities set affordable. That is a matter I have not heard the opposition talk about much. The opposition has criticised other points but has not mentioned that the government is trying to deliver affordable services. The bill is well planned and well designed, and the Essential Services Commission will do its best to bring utility services to all Victoria.

As I have said, the government makes a commitment to all Victoria on quality, equity and reliability of supply of utility services. The government has established the Essential Services Commission to deliver the services to the community in a professional and responsible way.

Consumers have many opportunities to get information about the services provided to them and about their rights and responsibilities so they can work with the Essential Services Commission to tackle any problems that arise. At the same time the government has set up a centre for customers so their voices can be heard and information can be found. Sometimes consumers complain because they do not fully understand the information. The government will provide the information to people, and the centre can explain it to them before complaints are made. It is a way to solve problems before they become official complaints. Often someone can sit down with the customer, go through the problem with them point by point and explain it to them clearly and honestly. When people trust the process and know that when they raise concerns they are heard they may not make official complaints. They may realise that what they were thinking was the result of a misunderstanding, so the government is giving them the opportunity to understand the issues more clearly. I have been through that process in many cases and tried to improve community awareness. The processes are there to be used rather than going to court or to dispute.

The bill also provides a way of helping consumers who might face financial difficulties to pay their bills. The government would like to work out a way to help them to pay their debts rather than cut off the supply of power and other services to their homes. Some consumers have many children, and the government does not want to see children going home at night and not having a hot shower or access to electricity. The government understands the difficulties of some sectors of the community that have difficulty in paying bills on time. The government has also tried to make the prices

of services affordable so people can feel more comfortable in using them. It also shows them the best way to use electricity and explains when and how to use it in order to save. The government wants to make sure these problems are tackled and members of the community learn so they know how to effectively use and know how to save gas, electricity and water.

In conclusion, I support the bill. The minister has done a good job in making it happen.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — In his dissertation the Honourable Sang Nguyen mentioned a number of times, as I understood it, the objective of helping poor families and families experiencing financial difficulties pay their utility bills. As admirable as that is, I am not sure where it is picked up in the many claimed objectives of this particular piece of legislation. Perhaps in the committee stage the Minister for Energy and Resources will address the issue of how this piece of legislation, which introduces the Essential Services Commission, will actually address that issue.

This debate would not be occurring if not for the reforms of the previous government in the area of industry policy and utilities. It is worth reflecting on the reason for the reform that took place in the 1990s. Obviously there were sound industry policy reasons for the utility reforms in this state but there were also budgetary imperatives which dictated that that industry reform take place. I am referring to the fact that the previous government inherited from the Kirner government state debt approaching $32 billion and a recurrent budget deficit of around $2.5 billion. Much of that budget deficit was due to the costs of servicing that $32 billion state deficit at a time when the state's credit rating had been and was continuing to be downgraded.

The previous government inherited an untenable budgetary and state debt position and one of the key ways it addressed that position was the corporatisation and privatisation of utilities. Not only did that process of privatisation bring about benefits for the state in terms of the budgetary position but it also brought about substantial benefits in terms of what was achieved through industry reform. I would like to mention some of those improvements.

The privatisation of the electricity industry resulted in increased productivity of capital and labour and in lower retail electricity prices. Figures from the Electricity Supply Association of Australia show that electricity costs for household users declined from 14.5 cents per kilowatt hour at the commencement of privatisation to 12.93 cents per kilowatt hour in 1998–99. We have seen similar declines in the cost of commercial electricity in real terms, with prices declining from 13.98 cents per kilowatt hour in 1993–94 to 7.96 cents per kilowatt hour in 1998–99. Some tangible improvements in pricing have been derived through the industry reform program.

There have also been improvements in the reliability of services provided by the privatised electricity companies as opposed to the old State Electricity Corporation of Victoria. The Office of the Regulator-General will be abolished by this bill, but in one of his reports the Regulator-General indicated that planned and unplanned electricity outages declined from approximately 54 000 in 1995 to only 31 000 in 1999, a 43 per cent decline in electricity outages across the state. This shows that privatisation has delivered very tangible improvements not only in price but also in service reliability.

It is the reality of the situation when you have monopoly providers broken up into basically oligopoly providers that you need a strong regulatory framework. That was the basis upon which the Office of the Regulator-General was created in 1994. This bill is the Labor government's attempt to claim ownership of the Office of the Regulator-General and put its stamp on that office. It is worth reflecting on comments made by members of the then Labor opposition at the time the Office of the Regulator-General Act was passed by this Parliament. If time permitted I would detail some of those comments.

Another purpose of this bill is to deliver in the broadest sense on the government's pledge. Honourable members may recall that at the last election the then Leader of the Opposition circulated a card listing six Labor pledges. One of those pledges guaranteed reliable supplies of gas, water and electricity through an Essential Services Commission with tough new powers. That was the promise, but what we are seeing with this bill today falls far short of that promise.

I will now touch on what the bill does. With the passage of this legislation, on 31 December this year the Regulator-General, Dr John Tamblyn, will conclude his role as Regulator-General and on 1 January 2002 he will start his new job as the Essential Services Commissioner. That is instructive as to what this bill does. It basically changes the Office of the Regulator-General into the Essential Services Commission. It is largely window-dressing. One could argue that the changes brought about by this bill could have been achieved largely by simply amending the Office of the Regulator-General Act rather than repealing and recreating it. It is quite extraordinary to

compare the bill before the house with the existing act and see how it has been lifted verbatim from the act. References to the Regulator-General have been changed to references to the Essential Services Commissioner, but apart from that it is largely the same document.

In talking about the specific provisions of the bill I turn first to clause 1, which outlines its purpose. The government has cut out much of the framework created for the Office of the Regulator-General. Clause 1(b) of the existing act states that its purpose is to:

> create an economic regulatory framework for regulated industries which promotes and safeguards competition and fair and efficient market conduct or, in the absence of a competitive market, which promotes the simulation of competitive market conduct and the prevention of the misuse of monopoly power.

It is very telling that in the bill the government has replaced that section with a clause that simply provides that the purpose of the act is:

> … to provide for an economic regulatory framework for regulated industries.

The government has removed all reference to maintaining or providing a simulated competitive environment.

I turn now to clause 8 of the bill, which outlines the objectives of the proposed Essential Services Commission. Clause 8(1) marks a major change in the focus of the Essential Services Commission compared to the Office of the Regulator-General in that it provides that the primary objective of the commission is:

> … to protect the long term interests of Victorian consumers with regard to the price, quality and reliability of essential services.

It is instructive that the words ‘long term’ have been included in that clause. As Mr Davis mentioned, they were not included in the exposure draft, which means that the commission’s focus would have been short-term consumer benefit. That could have meant delivering the cheapest services in the short term but with long-term detrimental effects. So I am pleased that although the references to maintaining competitive markets have been removed at least the expression ‘long term’ has been inserted, which should provide the commissioner with the scope to look at the overall and ongoing health of the regulated industries to which the bill pertains.

Clause 8(2)(b) is also very instructive on what the government is doing. It states that in seeking to achieve its primary objective the commission must have regard to facilitating the financial viability of regulated industries. That is in stark contrast to the existing Office of the Regulator-General Act, which provides that the Regulator-General can facilitate entry into the relevant market. We therefore have a situation where the government is moving from a position of the regulator being required to facilitate new entrants into the market to a situation where the regulator is required to essentially protect existing operators. In effect the regulator will have the role of protecting monopoly players rather than facilitating the entry of new players into these markets. That represents a significant change in the focus of what the regulator will be looking at. It will be interesting to hear from the minister in the committee stage why the government is taking this approach of moving away from encouraging competition to protecting a monopoly position.

Another inclusion in clause 8 is paragraph (e), which requires the regulator in making decisions to have regard to factors such as occupational health and safety issues and environmental and social legislation. It is interesting that those factors, which are already picked up under existing legislation, are included as factors the commissioner shall have regard to in making a decision. It will be interesting to hear what the minister has to say on that provision.

Most of the provisions of the bill mirror what is contained in the Office of the Regulator-General Act. Clause 14 inserts a new requirement for the commissioner to publish a charter outlining whatever matters are prescribed. Clause 15 requires the commissioner to consult with other regulatory bodies. It is very interesting to refer back to the 1994 debate on the Office of the Regulator-General Bill, because on that occasion the then Leader of the Opposition, Mr Theophanous, criticised the bill and said community groups were concerned the Regulator-General was not specifically required to regularly obtain information and to consult publicly before making determinations. It is interesting that Mr Theophanous made that criticism in 1994, because his own government’s legislation before the house today still omits that requirement to consult publicly. Despite Mr Theophanous’s criticism, there is still no requirement for the new regulator to consult publicly when making determinations.

Clause 33 relates to price determinations, and an interesting insertion when compared to the Office of the Regulator-General Act is subclause (6)(g), which prescribes that in making a decision the commissioner may have regard to fixing a maximum average revenue or maximum rate of increase or minimum rate of decrease in the maximum average revenue in relation to

specified goods or services. Therefore under this bill not only may the regulator look at fixing the price of individual goods and services supplied by regulated industries, he also has the ability to impose a cap on revenue that a regulated organisation or industry can gain from a particular product and impose a cap on how quickly that organisation can grow that revenue, or indeed impose a requirement that the revenue stream from that particular product decline at a certain rate. It seems strange that the bill would enable the regulator to regulate an industry by imposing a revenue cap rather than limiting regulation to specific pricing of goods and services.

Clause 40 relates to inquiries by the commission. Again I refer to the debate on the Office of the Regulator-General Bill in 1994, because during the course of that debate the then Leader of the Opposition, Mr Theophanous, quoted clause 28 of that bill, which says:

> The office may after consultation with the minister conduct an inquiry if it considers an inquiry is necessary or desirable for the purpose of carrying out its functions.

Mr Theophanous was incredulous that the clause required consultation with the minister and said:

> It —

the Office of the Regulator-General —

> should not have to consult with the minister, during which process the minister is clearly in a position to exert political influence on the regulator to either modify the terms of reference of his inquiry or to change this provision altogether so that the regulator does not perform it at all. Once again we see government interference.

In light of those comments by the then Leader of the Opposition it is interesting that we see exactly the same clause in this bill. Clause 40 is an exact duplicate of clause 28 of the previous legislation. Seven years ago Mr Theophanous criticised that clause for allowing government and ministerial interference with inquiries by the regulator, yet when his government brings a bill before the house it includes exactly the same clause with exactly the same power for the minister to intervene in inquiries by the Essential Services Commissioner. That is all I would like to say on the specifics of the bill.

I now turn to how the bill falls short of the government's commitment. I refer to Labor's financial statement entitled 'The first term of a Bracks Labor government', which was published before the election by the then opposition leader, Steve Bracks. It contains the much-heralded Access Economics assessment of the Labor Party's pledges. On page 18 of the document is the heading 'Industry — Initiative no. 1: Essential Services Commission. The description which accompanies it states:

> This initiative establishes an Essential Services Commission with powers to impose — —

Hon. K. M. Smith — On a point of order, Mr Acting President, I direct your attention to the state of the house.

Quorum formed.

Hon. G. K. RICH-PHILLIPS — The Labor document under the title 'Industry — Initiative no. 1 Essential Services Commission' states:

> This initiative establishes an Essential Services Commission with powers to impose tough penalties, including fines, on utilities that cannot guarantee supply, quality services, environmentally safe practices and safe workplaces. The commission will have jurisdiction over all major essential services, including gas, electricity, water, and public transport.

The first fraud of this bill before the house today is that it fails to pick up the issue of public transport. Like the Office of the Regulator-General Act that it will replace, public transport is not included under the powers of the new regulator. So the government in the first instance has failed in its promise to include public transport under the Essential Services Commission. Perhaps more significant are the details of the government's promise which said the ESC would impose tough penalties on utilities that could not guarantee supply.

There is nothing — and nor should there be — in this bill which attempts to impose penalties on a utility that cannot guarantee supply of the essential service. There is a very good reason for that, because the supply of electricity, gas or water is not always under the control of the service provider. We saw the situation in the Latrobe Valley with electricity companies on two occasions now where we have had blackouts caused by industrial activity, and the government was unable to act on that. The Essential Services Commissioner will not have the power to act on that. There is nothing in this legislation which gives the commissioner power to act against a union causing industrial disputation in an essential service.

This legislation, despite the government's promise, will not guarantee supply and reliability of supply. It was just hyperbole of Labor, in opposition, in stating that it would introduce legislation to guarantee supply. It is interesting that this bill does not even deliver what the minister said in the second-reading speech it would deliver. I refer to page 3 of the minister's speech, where

she indicated that a key feature of the ESC is to ensure it delivers on goals, including:

> a focus on achieving triple-bottom line outcomes through more effective integration of economic regulation with broader environmental and social objectives;
>
> a regulatory approach that provides strong incentives for optimal long-term investment in infrastructure.

Those two points are not adequately picked up in the legislation and in no way could the government say that the bill before the house guarantees delivery of those two commitments in the second-reading speech.

This bill falls short of the government's commitments with respect to its election promise relating to the Essential Services Commission. It is worth asking: at what cost is this bill and will this ESC be formed? Again I refer back to Labor's financial statement document which detailed the promise for the Essential Services Commission and which stated that a maximum of $3.47 million would be allocated over four years from 1999–2000 to 2002–03 as additional funds within the Department of Infrastructure for 'this initiative', meaning the Essential Services Commission.

It is clear from the minister's second-reading speech and from this year's budget papers that the cost of regulation under the Essential Services Commission will far exceed that election promise of almost $3.5 million. In this year alone the minister talks of one-off costs of $11 million, which obviously far exceeds the $3.5 million over four years mentioned by the government. That is reflected in the budget papers under regulatory services, where the output cost last year was targeted at $11.1 million and this year jumped to $20.6 million. There will be a real and substantial financial cost associated with the establishment of the Essential Services Commission. The question has to be asked: given that this cost will ultimately flow through to consumers, what are consumers going to gain through the establishment of the ESC? That question remains unanswered.

The further cost is one that Mr Hallam touched on in his speech when he referred to the situation with Freight Australia and the difficulty it is having with the access regime. I do not propose to go over that in detail again other than to say it is a matter I have raised in this house before. It goes to the very fundamental issue of sovereign risk for private companies providing public sector infrastructure in Victoria. It is a situation where with Freight Australia the government has moved the goalposts. The company thought it had a certain operating regime and a certain regulatory regime. We now have a situation where that company is forced by the minister to operate under a different, less profitable regime, and a regime which is likely to ensure that the capital investment required to upgrade and maintain the rail network is not provided. We run a very real risk with the Essential Services Commission Bill, where we are shifting the goalposts on the utility service, that a similar environment will develop where the companies do not know from day to day, week to week or month to month the type of regulatory environment they will have to operate under and where we will see other companies currently not operating in Victoria discouraged from entering and providing public infrastructure in Victoria because of fears over shifting goalposts in the regulatory regime.

To conclude, this bill arises not through need but through the desire of the government to be seen to be doing something. This is evidenced by the fact that the bill is not creating a new entity; it is merely rebranding in a convoluted way the Office of the Regulator-General. It is making change for change's sake, and the government must not allow undue uncertainty around these changes to develop and in doing so discourage investment in Victoria.

Hon. G. D. ROMANES (Melbourne) — I speak in support of the Essential Services Commission Bill, the elements of which were an election commitment by the Bracks Labor government to ensure high quality, reliable and safe provision of utility services, in particular, gas, electricity and water.

The Essential Services Commission is a critical component of a suite of reforms of this government to the essential services sector, including expansion of the jurisdiction of the Energy and Water Ombudsman of Victoria and a range of reforms arising out of the security of electricity supply task force report. The bill represents an evolution in the regulatory framework from the Office of the Regulator-General to the existing regulatory framework incorporated in the bill.

It builds on the provisions of the Office of the Regulator-General and meets a range of the Bracks Labor government's policy objectives. In particular it aims to protect the long-term interests of consumers, to create a stable investment environment for the utility industry, to achieve triple-bottom-line outcomes and to provide greater transparency and accountability in the sector.

The elements of the bill are the result of a long process of consultation. There were two rounds of public consultation: consultation on a draft paper with 72 submissions received in the middle of 2000, and further consultation on the draft legislation with a

further 54 submissions received. There were also a number of meetings with key stakeholders including unions, industry and consumer groups in June 2001. So the government has gone through a long process of consultation. It has endeavoured to draw on the experience and knowledge of a range of stakeholders to work with the community to improve the regulatory framework in the essential services sector and to build on the strengths of the Office of the Regulator-General.

The key features of this bill subsume the Office of the Regulator-General. The Essential Services Commission Bill puts in place a new commission structure with a chairperson and two part-time commissioners. It expands the jurisdiction to include regulation of the water industry across the state from 2003, and that is designed to achieve fair pricing to fulfil national competition policy requirements and to provide as a result better protection to the consumers of Victoria.

The bill provides enhanced powers to achieve reliability of supply, including investigations into issues such as reliability of supply at the minister's direction. The bill provides improved accountability arrangements, including longer time lines for hearing appeals, and so provides better feedback and inputs into what are sometimes very complex issues. The appeals period will be increased from 14 to 30 days, with an expanded panel pool of from 12 to 24 members.

The bill provides for memorandums of understanding between the Essential Services Commission and other specialist regulators such as the Australian Competition and Consumer Commission and Nemmco in an endeavour to create better integrated decision making and to overcome some of the fragmentation currently in the system, where about 15 separate agencies at state and national level are making decisions in this particular area.

The objectives of the bill recognise the importance of facilitating optimum long-term investment and also providing increased penalties of from $100 000 to $500 000 for breaches of an Essential Services Commission enforcement order. It also increases penalties for the provision of false or misleading information to the Essential Services Commission.

As other speakers have said, the Essential Services Commission will be an independent economic regulator, but the government has also incorporated in the bill a number of facilitating objectives that go beyond the function of economic regulation. The commission will be required to have regard to these in seeking to fulfil its primary objectives in delivering benefits to all Victorians. Those other objectives are outlined on page 10 of the second-reading speech and are designed to ensure that the commission's decisions reflect applicable environmental safety and social statutory requirements, and that the regulatory framework is aligned with the relevant health, safety, environmental and social legislation. Indeed, those other objectives are extremely important.

For example, just last week a number of honourable members of this Parliament were present when the energy industry ombudsman of Victoria, Fiona McLeod, gave a presentation to honourable members and electorate officers. Ms McLeod was asked about the possible impact on low-income people of full retail contestability when it is introduced next year. She was able to reassure members that this issue had been discussed and negotiations had been undertaken with the Office of the Regulator-General to take into account the needs of low-income people when full retail contestability takes place. They will be able to transfer debt between companies. However, she professed an ongoing worry about how the system will operate for the most vulnerable low-income people and how companies currently manage customer debt.

Among the concerns she raised was the tendency of the electricity companies to use tools of last resort — that is, disconnections — too readily when often more appropriate methods might be to put in place such as payment plans and to provide financial counsellors for those who get into difficulty paying their gas and electricity bills. Ms McLeod cited two water companies as good examples of how companies might better handle debt and how those two water companies work with people who are having difficulty paying their bills They do that under the guidelines of comprehensive hardship policies, which spell out the criteria to apply in reducing fees and waiving debt in particular circumstances.

I was also pleased to hear that Ms McLeod, in recognition of the social needs that have to be taken into account within the regulatory framework, has put in train a conference, coming up on 9 November, on credit management and debt problems for people on low incomes. The social objectives are a very important component of the determination of prices and the implementation of the regulatory regime within which the companies operate.

Another important part of the package the government is putting forward for essential services legislation is the establishment on 1 January 2002 of an Essential Utility Services Consumer Advocacy Centre, for which the Minister for Small Business will have responsibility. That is a new organisation to provide for effective

consumer input into the regulatory processes and to carry out research and other advocacy work on behalf of consumer representatives.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Hon. G. D. ROMANES — Before the dinner break we were discussing the Essential Services Commission Bill, the objectives of which are to protect the long-term interests of consumers, provide a certain and stable investment environment in the utility sector, and greater transparency and accountability. A key objective is triple-bottom-line outcomes.

The important part of the package elaborated on in the second-reading speech — a central part of what will happen following the passage of the bill, as I hope will happen this evening — is the establishment of the Essential Services Utility Consumer Advocacy Centre. That advocacy centre will provide a way to draw on the assistance of various community groups that have been active consumer advocates in the energy field. One of those is the Energy Action Group, but many others have also developed extensive knowledge of this complex area and made an important contribution to the community's understanding in this area of considerable change over the past few years. Community groups have stood up for their communities and been energetic and active advocates.

I hope the consumer advocacy centre will be the recipient of ideas and research and the contributions that I believe will come from a new initiative in the Moreland area with the establishment of Moreland Energy Foundation Ltd. The origin of the foundation is the result of the enforced sale of the Brunswick and Coburg electricity supply departments in the mid-1990s, when the various municipal electrical authorities (MEAs) were sold and the former State Electricity Commission of Victoria (SECV) was privatised. The municipal electrical authorities were sold without regard to the future of the energy conservation programs and the social dividends that they had put in place.

Many of the programs that related to energy demand management under the former SECV and the MEAs were lost at that time. Sometimes good things come from unfortunate circumstances, and the Moreland Energy Foundation Ltd, which was launched a couple of weeks ago, has $5.5 million of proceeds invested from the sale of the former Brunswick and Coburg electricity supply departments. It has been established in Moreland for the specific purpose of reducing greenhouse emissions in the Moreland community. One of our local municipalities is using funds from former electricity authorities in the area to assist the state government in one of the objectives that is enshrined in this bill — that is, to pursue triple-bottom-line outcomes, to reduce greenhouse gases and the effect we have on the environment by a range of activities that are carried out through the utility sector. Some 60 per cent of Victorian greenhouse gas emissions come from the energy sector. Any regime which is looking at regulating and providing for electricity, gas and other vital services, in particular electricity, must consider electricity use reduction as a central component of a greenhouse strategy and of ensuring security of supply.

Such a strategy of electricity use reduction must address all aspects of the triple bottom line, one of which is the social interests of communities. We have seen over the last few years that airconditioning has been promoted heavily. As a consequence there was an increase from 37 per cent of households using airconditioning in 1999 to 44 per cent in 2000. The state has to address the cost of supplying more and more electricity at times of peak demand during the very hot days of the summer months. But as part of the consideration of triple-bottom-line outcomes it is also important to consider the disadvantage to people who opt for airconditioning as opposed to investment in cheaper passive cooling technology such as blinds, shade trees and better site planning. It is important to assess the relative costs of such choices and options as opposed to the costs of other options which may make less demand on electricity supply.

There is also an economic side to the triple-bottom-line equation — that is, the great potential for employment and wealth creation in the sustainable energy field. Wind turbines, photovoltaic panels, new technology solutions and retro-fitting of buildings can all lead through more energy efficiency to the encouragement of conservation rather than wastage.

In terms of Victoria's energy demand management, it is important to have a long-term understanding of the environmental impacts of whatever power source we use. Therefore, it is incumbent on the Victorian government, the regulator, the community and advocates to think about how to lessen the impact on the environment, perhaps even through direct intervention. There may be a place in the future for regulation that places market barriers on activities that increase energy usage.

There are communities in other parts of the world that go as far as regulating energy supply and demand. I will give the house an example. The Sacramento Municipal

Utilities District in the United States of America is responding to power shortages by providing innovative services to customers. It gives financial incentives to customers who link airconditioning units into a system that enables the Sacramento Municipal Utilities District to switch off the system for an agreed period when peak demand hits. That is not a punitive measure but a financial incentives measure that has been cleverly put in place to manage peak demands for electricity. The customers of the Sacramento Municipal Utilities District are also encouraged to put in place passive cooling measures to reduce and remove demand for airconditioners. Solar units have become so popular in that district that they are facing a shortage of photovoltaic units in that part of the world.

I expect the Moreland Energy Foundation will play an important role in assisting the Victorian government and the Essential Services Commission in the search for a range of innovative solutions to secure the supply of energy required in this state in the future. Other bodies such as the Sustainable Energy Authority of Victoria and many non-government organisations doing work in energy demand management are also committed to harnessing the potential for both reducing the demand for energy and working to increase the amount of renewable energy sources that are available to the Victorian public.

I hope the consumer advocacy centre will benefit from the work of those active community groups and innovative bodies like the Moreland Energy Foundation and take advantage of their new ideas, their knowledge and their enthusiasm to inform the decision making of the Essential Services Commissioner and the state government by highlighting the community's concern that due consideration be given to triple-bottom-line outcomes in the development of the regulatory framework.

As other honourable members said earlier, this is indeed a very important bill. The Honourable Gordon Rich-Phillips tried to suggest that the Bracks Labor government was claiming ownership of the whole idea of the Office of the Regulator-General and all that has followed from it over the past few years, but I would contend that the privatisation of electricity in Victoria was well and truly in the hands of the previous government. It was never a popular move with the citizens of this state. It was done without consultation and without regard to a lot of important history and achievements, and it was done without consideration of the knowledge and expertise of the former State Electricity Commission of Victoria. I am sure the story of the longer term analysis of the outcome of that major change will be told in the future.

The Bracks Labor government has been faced with the current regulatory framework, which was the legacy of the previous government. By undertaking the consultations that have taken place over the past two years and by looking at the shortfalls in the regulatory framework as it currently stands, it has set about finding ways to both strengthen and improve the functions of the Office of the Regulator-General and to work to deliver a reliable supply of electricity, gas, water and other key utilities that are currently being regulated and will be regulated in the future by the Essential Services Commission under the proposed regime.

The government has taken steps to identify the problems and to put in place a range of measures through this bill which will benefit for the longer term the people of Victoria. I therefore commend the bill to the house.

Hon. B. W. BISHOP (North Western) — I have much pleasure in rising on behalf of the National Party to make a contribution to the debate on the Essential Services Commission Bill. I have no intention of going through the bill in fine detail as many other speakers have already done that. However, while the National Party does not oppose the bill it does have some real concerns about some of the ongoing views of the government, in particular the views expressed in parts of the second-reading speech. It is obvious to anyone who has studied the bill that it will apply across a number of industries including, electricity, gas, ports, grain handling, rail and water.

The National Party has had some strong debate in the run-up to its contribution on this bill. Without wishing to boast, we in the National Party are quite well informed of the issues that this bill touches on; many of us have strong views on those issues and many of us also have strong views across all those industries. National Party members have had the capacity, due to the discussions we have had, to gain a good grasp of the principles of the bill. It is important that honourable members take note of those principles when reading the bill and contributing to debate on it.

Before I get into the detail of my contribution, I commend my colleague the Honourable Roger Hallam. Mr Hallam has done a huge amount of work on this bill. I listened to his contribution to the debate, and he has presented the National Party's view very firmly, but very fairly, in the very complex set of circumstances that this bill generates.

The first two industries I would like to mention are electricity and gas, which I guess are the most popular sources of energy and power. There is no doubt from

the National Party's discussions that the power industry would have preferred a merit-based appeal system; there is no doubt in the wide world about that. We also noted that the federal system includes a merit-based system. While the National Party does not oppose the bill, it would hope that over time — let us hope in a very short space of time — commonsense and a bit of practical thinking will see a whole-of-industry approach to two industries that are very important to Victoria and Australia — electricity and gas.

I suspect the industries themselves would prefer a whole-of-nation approach to the issue. I personally, and I think I could probably say in general the National Party does also, support a national approach, and that could be well managed under the National Competition Council. It is clear from listening to previous speakers and from the research the National Party has done that some of the sectors being discussed are already under the national management process — that is of course the grid — and they include the generators as well as Nemmco. We suspect, and I suspect very strongly, that it is probably only a matter of time before all these systems are included under the national management process. That might be seen to be diluting state rights, but I do not believe that is the case; I think it is for the betterment of this state and the nation as a whole. I would strongly suggest that the government and the power industry talk the issues through and move in that direction in the future.

It is clear — and my colleague Mr Hallam made a very good point of the fact — that electricity and gas go across state borders. There are a couple of really good examples in Sunraysia of electricity going three ways — into New South Wales, through Victoria and into South Australia — just in one quite small area of Sunraysia. So we already have a truly national approach.

A few weeks ago I raised in this house the concept of solar power generators in Sunraysia. It got a fair bit of airplay throughout the system, and it certainly gained a few legs. I am very hopeful that the government will do all in its power to facilitate such a power generator in that area. The Sunraysia area, I proudly point out, has more sunlight than the Gold Coast in Queensland, so we believe solar energy operating out of the Sunraysia area would be well placed.

It is interesting to note that a German consortium has been visiting Victoria to look at a $700 million project with Enviromission. It is quite staggering to think that the project would, we are advised, consist of a tower 1 kilometre high with a base 5 kilometres in diameter. It would also have the capacity to power 200 000 homes with electricity. I could not think of a better way to generate power. I mean, you cannot get anything much better for the environment than that sort of concept. Just think of the huge flexibility that would put into the system across a national grid — I repeat, 'across a national grid'. We could have power by day produced by such an enormous solar generator. The base load could be picked up by the hydro systems and coal, which is a good way to go, and the gas-fired generators could pick up the surge loads that come into the system from time to time. That is probably a good description of how the state government should be looking at this issue from a national point of view. It is good commonsense and would lead to a better use of resources right across Australia.

I will move briefly to gas. The area where my office is located at Mildura in Sunraysia has gas from South Australia. I believe it was brave to bring gas in from South Australia. Certainly a number of issues arose when that project was thought about, when it was under way and when the funding was procured by the companies involved in it. Those difficult issues were worked through. The Mildura Rural City Council did a very good job in fulfilling its role of assisting those companies to bring gas into Sunraysia. If my memory serves me correctly, the Independent member for Mildura objected to that piece of legislation, which allowed the last government to put in place a structure to encourage people to bring gas into Sunraysia.

Everyone has to have a bit of vision and a bit of positiveness. I can tell the house without any doubt that without gas in Sunraysia we would not have a mineral sands separation plant, and we would certainly have no opportunity for any future value adding that I believe will occur there. It simply provides another option for energy, for processing and for value adding. As the area expands, as I am sure it will — I believe the population in the Sunraysia area will double within 15 or 20 years — the supply of gas will be a marvellous option and a marvellous innovation for the area. I will leave that suggestion with the Victorian government and the electricity and gas industries.

I move to the ports, where there is quite an interesting situation with privatisation and non-privatisation. Speaking generally, most ports in Victoria have been privatised, and the port of Melbourne has been corporatised as the Melbourne Port Corporation. It is performing very well; in my view it leads Australia in container management and movement. While the port businesses are highly competitive they can, by location, create a monopoly. In the second-reading speech the minister says that:

> … it will now be the responsibility of the minister administering the Essential Services Commission Act, and not the commission itself, to determine whether grain and ports facilities are regulated. This will ensure that threshold decisions on whether regulation is appropriate are made by government, with the commission responsible for administering regulatory approaches in line with its statutory objectives, function and powers.

I think that is quite a reasonable way to go, but I would urge the minister to be very vigilant with the ports — and I will come to grain handling later — to not overregulate or allow prohibitive charging if ports remain inside the regulation loop. The minister needs to be vigilant about whether those facilities are regulated as the market moves in the way we have seen it move over the past five years, particularly in grain handling.

A good example of where there is a requirement for flexibility and freedom to compete is the mineral sands industry. It is a huge industry, an industry worth $13 billion, with 60 million tonnes of product able to come through this state, be value added here, and then transported through our ports. It is a big employer, and an employer for the long term.

The other Sunday the Minister for Transport visited Sunraysia and the separation plant at Thurla, near Mildura. The reason for the visit to the Murray Basin titanium organisation plant was to look at the new transport facilities put into place by Wakefields Transport, a very large, successful and well-run transport organisation at Merbein, just out of Mildura. Its vehicles are state of the art and absolutely world class, and it uses world best practice to efficiently carry the base product from the mine at Wemen into the separation area at Thurla. We are going to see a huge expansion in that industry, but there is also huge competition for the business in that industry — it does not matter whether it is in roads, rail or ports. The road movement of the product from the mine at Wemen by Wakefields Transport's new vehicle reduces the number of trips from three to one because of the size of the vehicles. It is very good technology. It is interesting to note that this particular vehicle was drawn up and made by a firm in Melbourne under the close instructions of the principal of Wakefields Transport, Ken Wakefield. He had a vision and a view and has developed something that is absolutely world class.

Turning now to rail, there has been a lot of talk about standardisation. It will be good for the state in relation to the mineral sands industry because it will give us access into the deepwater port of Portland. Again I say quite clearly that the real savings in rail freight that the mineral sands industry will want to pick up to ensure that we get the business is in upgrading the lines. There is a substantial amount of money to be saved if those lines are upgraded. It must be done during the standardisation process, otherwise we will not have the advantage required to win the business. There is no doubt that in the mineral sands industry Portland is the preferred port for bulk shipments. The reasons for that are many, but one is that it is a good deepwater port. I suspect that further economies of scale downstream in the mineral sands industry may well occur in value adding. It may even drive that preference as hard as having a deepwater port at Portland. The Douglas deposit near Horsham in Mr Hallam's electorate is a huge deposit with tremendous potential — there is over 20 million tonnes of product. It would certainly make a difference to the decisions made by the mineral sands industry and drive their preference for the deepwater port of Portland.

None of these links totally dominate the whole stream required to be put in place to win the business. We need practical and sensible government support to ensure that the business stays in Victoria because of the thrust from New South Wales due to Pasminco losing its place in the minerals industry. It was operating strongly in Broken Hill, so that town will be trying hard to create another industry up there to ensure some of its labour force is employed. I suspect that the New South Wales government will put in a big effort there as well. The Victorian government in particular needs to be vigilant to ensure it does all it can to retain that business. We certainly do not want prohibitive interference by the Essential Services Commission or the government on charging for economic regulation as we fight for that business.

The Melbourne Port Corporation has performed so well that it will be a really strong contender for container traffic generated out of the mineral sands industry. The port of Geelong with its capacity for bulk loading will play a part in all of the links of the chain that will be required as the industry moves on into the future.

I want to talk briefly about export grain handling which figures under the Essential Services Commission. Export grain handling is a complex situation. In Victoria some sectors of the grain handling system are regulated and some are not because the previous government allowed the industry to purchase the old Grain Elevators Board of Victoria.

Hon. R. M. Hallam — It was a good outcome.

Hon. B. W. BISHOP — It was a very good outcome. The industry made the right decision. It was a good move from both government and the grain industry. It was a shared purchase between the growers, the Australian Barley Board and Graincorp, the handler

in New South Wales. They are all grower owned and run organisations. But it was agreed that when that sale took place some overview needed to be put in place because the ports of Geelong and Portland had a natural monopoly on grain handling. It ensured that Vicgrain, the organisation which took over from the Grain Elevators Board of Victoria, would not unfairly exert its market power on the market. The regulation of the two ports in export grain handling was managed by the Office of the Regulator-General. Those powers will be swallowed up by the Essential Services Commission.

Turning to the present day we have seen huge changes in the grain industry, particularly in the export grain handling industry in Victoria. We have seen a brand new, state-of-the-art terminal put into place at Appleton Dock at the Melbourne Port Corporation. It is an export terminal owned by an organisation called Globex, which is a mix of Grainco, the Queensland grain marketer and the Australian Wheat Board. It is a good organisation and a good export terminal. It now provides strong competition to the two other export terminals that are still regulated. That has been the subject of a hot debate in the grain industry. Some say regulation should continue, but I suspect that most of the people in the grain industry now would say, 'No more regulation' because of the new competition. I suppose it is a matter of fairness when you think it through. We should not have one player in a very competitive industry constrained while the other goes free.

The complicated debate in the grower community had two major issues: one was access into the ports of Portland and Geelong for rail and road; and the second was the pricing policies of then Vicgrain for different operations at the export terminal. There has been claim and counterclaim throughout the grain industry. As in any industry where people feel strongly, personalities have been involved in that particular argument as well.

Hon. R. M. Hallam interjected.

Hon. B. W. BISHOP — Of course, Mr Hallam, good strong personalities and, as Mr Hallam well knows, they got right into the debate. The National Party looks at that in a practical and sensible way. The Honourable Roger Hallam had correspondence with the Office of the Regulator-General and he included some of that correspondence in his contribution. It confirms the National Party's position. The review should be brought forward as early as possible to ensure that the right decisions are made on whether any further regulation occurs in the grain handling export stream in Victoria. That review will be early in 2002 and the issue will be settled and everyone will have the opportunity to take part in the debate.

Hon. R. M. Hallam — That is if the government responds appropriately.

Hon. B. W. BISHOP — It gives the government the right and proper platform to listen carefully to the industry and to make the right decision. It is important that the minister not the regulator makes the decision about further regulation. I have always believed that is the better position so there is no real question of whether the regulator is retaining the status quo because of a requirement of power or position or whatever the reason might be. It puts it in the correct court and I look forward to the review.

I shift now to rail, an area of real concern which my colleague the Honourable Roger Hallam put well in his contribution. We have seen V/Line Freight privatised and bought by Freight Victoria, now known as Freight Australia. As Mr Hallam said there has been a long-running dispute between Freight Australia and the government and it has not been about access. A red herring has been dragged across the path where people have said the debate is about access of a third party to the rail. That is not true. It is about the pricing principles that reside in another act rather than under the proposed Essential Services Commission. Freight Australia argues vehemently that it should be under the Essential Services Commission. It should be treated the same as everyone else in the same category and not taken out and utilised in another area. Its rail pricing principles are provided for in the Rail Corporation Act while everyone else is under the Essential Services Commission.

Freight Australia is in a difficult position. As I said, there was never any argument about the access, but there has been and there will continue to be strong debate about the pricing principles not being available in detail at the point of sale. Honourable members might say, 'They should have made sure they knew what was going on'. However, the debate has revolved around whether or not the pricing principles have changed. The pricing principles being in the Rail Corporation Act makes Freight Australia different from anyone else. As Mr Hallam has said, the debate centres around sunk costs and further to that the averaging of costs across all users of the railway line.

Freight Australia is certainly interested in national regulation by the National Competition Council and would have been interested to have been included under that regime as it would have been better positioned under the Essential Services Commission rather than

where it is now. In our discussions Freight Australia has expressed the view that the National Competition Council system is more commercially oriented and would drive a better result in relation to railway access charges. The merit-based appeal system of that organisation would give a better result for Freight Australia as well.

The debate has gone on for a long time and from the position of the National Party it needs to be settled. I urge the government, Freight Australia and the National Competition Council to work closely together to work the issue through. It is not a time for any of us to stand on our digs and prolong the dispute. The world of rail is changing rapidly. We rely on the rail system greatly. We recognise that our rail system, particularly in the area of freight, is lightly travelled in the corridors in comparison to other parts of Australia. Again the National Party is looking at the standardisation program of the government and believes it is essential that the upgrade go in at the same time. We want a world-class system to compete on the markets around the world.

The other change is that Australia now has a national operation. We have railways going through a number of states in their operations with economies of scale and they are prepared to invest to do that. Probably the best spot for the Freight Australia access regime lies in the National Competition Council for its determination and across all of the lines and we should all work towards that end.

The most important aspect of the issue is the capacity of the industry to draw investment into the rail system. I do not mean only the above rail, which is the locomotives and the wagons and so on, but most importantly we need a solid investment regime and structure for the rail system itself — the railway lines — to ensure they are world class and we can gain those efficiencies. The National Party urges government, Freight Australia and the National Competition Council to work together to resolve the dispute so we can get on and improve our railway system to the world-class system we must have if this state is to compete with the rest of the world.

We have seen some big changes in the water industry. We have seen our rural water authorities amalgamated into a smaller number of large authorities. A substantial amount of pain was felt as those reforms were put into place. These authorities' responsibilities cover irrigation, stock, domestic and other rural services. They work very well and most of them use water service advisory committees to give them advice.

I know that the National Competition Council has been advised that the water service advisory committees generate institutional separation in those operations. These water service advisory committees do a good job. They work out the priorities for new work and infrastructure upgrades. It might be channel repairs, relining a channel, piping where channels were before or piping new work. These advisory committees are also very strong on salinity management. They work through with the authorities by district the service agreements they require for that time. They also work through the corporate plans.

In relation to pricing they work through the service delivery with their authorities, which of course has an impact on the pricing. Put very simply, they provide very strong grassroots views of what their irrigators and stock and domestic users want and what level of service they want. They have been very strong on the level of service. As I said, it affects the cost; you can have a Rolls Royce system or a Holden ute. The water service advisory committees work out what they want out of the system, what they can afford and what is efficient and practical for them and they advise their authorities of that. These committees provide very good separation between the regulation and service requirements and the price that operates within the industry.

The National Party will resist strongly any move to put our rural water authorities into the Essential Services Commission. We will fight the government in every corner if it tries to do that because it goes against the principles of privatisation systems. The water authorities will never be privatised. They would never have been privatised under the previous government and I assume they will never be privatised under this government. The principles should apply and the water authorities should not be involved in the Essential Services Commission. That is a matter of principle. The ports, the grain export, the rail, electricity and gas are different issues and should be dealt with differently, but the water authorities now have a very good structure which works well.

As an aside, in the Sunraysia area the First Mildura Irrigation Trust growers have an action group. They are very concerned about what effect future irrigation developments may have on them. They ask basic questions such as how will it all be paid for, is there enough water available and are there enough markets. It is called the Deakin project. The Deakin project committee has been through a consultative process funded by the government. We have seen a tragic fight within the First Mildura Irrigation Trust which has damaged the whole situation. That is something I feel very sad about. However, the First Mildura Irrigation

Trust is different again to most of our water authorities because it has its own elected board with a certain degree of autonomy. I wonder what those growers would think if their authority was put under the Essential Services Commission. When they fight for autonomy and control as they are now, what would they think about the Essential Services Commission setting the rates and capital works? I can assure members that that would create World War III in the Sunraysia area.

That is not in the bill but it is clearly stated in the second-reading speech. There is a real concern that if our water authorities come under the Essential Services Commission we will lose the accountability of Parliament. We have seen it before and many of us have shared in it: years ago you went to the minister and told him you had a problem in a water authority area and he would say he understood exactly what you were saying but he could not do anything about it because it was the responsibility of the State Rivers and Water Supply Commission, as it was in those days. If this goes through it will be the responsibility of the Essential Services Commission. We will take away the accountability of the Parliament in relation to the minister's accessibility.

I would like to conclude by saying that I am concerned about the accountability of the Parliament being taken out of this bill and the emphasis given to that in the second-reading speech. I think ministers can shelter behind the Essential Services Commission, particularly in the water area. The National Party has real concerns about this bill, perhaps not as of today but certainly as a result of where it may lead us in the future.

Hon. C. A. STRONG (Higinbotham) — I think this bill is one of the most reprehensible, awful and terrible bills I have had occasion to speak on in the time I have been in this place. It is all those adjectives not because of what it does but because of what it masquerades as doing. It is what I would term logo legislation. What do you do if you are trying to make it look like you are doing something when you are doing nothing? You change the logo and give an appearance of doing something but actually do nothing. We saw this in the last Labor government. What did it do when it wanted to make it seem like it was doing something with public transport? It painted the trains. You have an appearance of change, you change nothing and the net result of all that is it costs you money. The most reprehensible and disgusting part of the whole thing is that that is being done now in this area of energy management and regulation when there are some real issues that must be dealt with rather than simply doing a bit of logo legislation.

Unfortunately this is what we see all too often in what the Labor Party has been doing. Basically it is all spin, all about creating an appearance of activity. But scratch beneath the surface and there is very little change or activity in what it is doing. In my contribution this evening I would like to go through this bill fairly rapidly in the interests of time but on a clause-by-clause basis to highlight the total hypocrisy of this government and the fact that this is no more than logo legislation. I have calculated that 93 per cent of the clauses in this legislation are lifted straight out of the Office of the Regulator-General Act. The fundamental thing this bill does is change the name Office of the Regulator-General to Essential Services Commission and change the title of the Regulator-General to the Essential Services Commissioner. Of course, the ultimate hypocrisy is the bill simply renames the individual who stays on.

Hon. N. B. Lucas — The same bloke.

Hon. C. A. STRONG — As the Honourable Neil Lucas highlights, it is the same bloke. This is nothing more than logo legislation. I will take a little bit of the time of the house to outline how that is.

We need to look at the make-up of this bill. It is a reasonable sized bill. It looks like a bit of significant legislation which the government can hold up and say, 'Look at the wonderful things we have done'. It is a fairly meaty sort of document compared to the miserable, two-page bills we have received in this place recently. In previous administrations and parliaments of both persuasions those bills would have been put into an omnibus bill but now they all come through as separate legislation; once again to create the impression that something is happening when nothing is happening.

So this reasonably sized bill is made up of 15 parts. Let me analyse those parts. Part 1 of the bill contains the preliminaries dealing with the name, purpose, definitions, proclamation and so on, and issues that are basically generic and similar in all legislation. Parts 2 to 7 contain the substantive clauses that deal with what the bill is all about, clauses 7 to 66, so there are 60 clauses in that substantive part of the bill. Part 8 contains basically three transitional provisions that deal with the consequence of the name change — in other words, they state that the Office of the Regulator-General is renamed the Essential Services Commission, that the staff of the Office of the Regulator-General is now the staff of the Essential Services Commission, and that the Regulator-General is now the Essential Services Commissioner. So although the clauses do something,

they do not really do anything but change the logo of the body.

Parts 9 to 15 deal with consequential amendments to various acts — for instance, the Melbourne and Metropolitan Board of Works Act, the Public Sector Management and Employment Act and a series of other acts. They are basically consequential amendments that result from the name change — in other words, where in a series of other legislation there was a reference to the Office of the Regulator-General or to the Regulator-General, that reference is now amended to be the Essential Services Commission or the Essential Services Commissioner.

In essence there are 63 substantive provisions in this bill, and I intend to work through those provisions one by one. I will establish that at best 4½ of those 63 provisions could be called new or different. I intend to show that it is simply logo legislation. It is simply painting the train — doing nothing. It is simply fiddling while Rome is burning, and there are real issues that need to be dealt with.

I was also left aghast on hearing honourable members talk about the consultation that took place, the discussion papers and the endless talking to this person and that person, the wonderful work that has been done to put the bill together and about all the people who have been involved. What have they done as a result of all those years of work and all that consultation, and all those study groups and papers? They have changed 4½ of the 63 provisions of the bill. They must have been working hard! I would hate to see the consultation when people had to do something of significance and substance. I find it quite amazing. I am left to wonder what would happen if something of substance had to be done.

I turn to the 63 substantive provisions and highlight the extent to which changes have been made. In the interests of time I will endeavour to do it as quickly as I can, because I know if anybody takes the time to read the bill they will quite clearly know that what I am saying is true, that this is nothing more than logo legislation.

Part 2 is the start of the substantive part of the bill, and clause 7 establishes a body called the Essential Services Commission. It would be a surprise to know that for all intents and purposes it is exactly the same as section 6 of the Office of the Regulator-General (ORG) Act, except that one reads Essential Services Commission in place of Office of the Regulator-General. Clause 8 sets out the objectives of the Essential Services Commission, which is remarkably similar to section 7 of the Office of the Regulator-General Act. To be fair, the bill does flesh out some of the givens in section 7 of the Office of the Regulator-General Act, and says what would be obvious on any interpretation of reading it.

Clause 9 deals with the commission representing the Crown, which for all intents and purposes is exactly the same as section 7A of the Office of the Regulator-General Act. Clause 10 is a look-alike of section 8 of the Office of the Regulator-General Act. Of the four clauses I have covered there is no change.

Clause 11 once again is a look-alike of section 9 of the Office of the Regulator-General Act, and clause 12 is the same as section 11. Having gone through eight clauses, the score is still zero changes. Clause 13, surprise, surprise, is the same as section 12. There is a change at clause 14. I have covered seven clauses and the first change is at clause 14. However, let us look at how significant that change is because that is relevant. I am trying to be fair. I am saying there is a change, but let us look at how significant it is. Clause 14 advises that the commission must publish a charter. That is all very nice, but it is hardly earth shattering in the process of any legislation and in how it is done. So we have our first change.

Once again we strike a few changes in clause 15, but let us look at what they are. They are changes that essentially say that in doing its work the commission has to be mindful of the laws of the land — in other words, in doing its work the commission must be closely integrated and better informed about overlapping arrangements with other bodies. It must be aware of health, safety, environmental or social legislation applying to a regulated industry. In other words, what it is saying is that when it considers its undertakings it cannot make a decision that breaches the relevant health and safety legislation, the environmental legislation, et cetera. It is saying it cannot do that, but I would have thought it is relatively redundant to actually put that in legislation. And so it goes on.

Those changes in clause 15 essentially state the obvious. To be fair, I have counted that as a change, so by the time we get to clause 15, I count 2 out of 63 changes. I have also been fairly generous and counted clause 16 as a change. What does that say? Clause 16 says that, to help it do its work better, the new commission should have understandings with the other bodies in the areas in which it deals. It needs to understand how its activities will interface with environmental and other agencies. It needs to have some sort of memorandum of understanding. Once again that is a change, but one would have thought it

hardly significant because the commission is not going to be able to do its work unless it takes due cognisance of what the other agencies do, otherwise it would be breaking the law, and it could not do it anyway. To be fair, I have counted that as a change, so we get 3 out of 63. Remember I said at the outset there are 4 out of 63. We have done 3 already, and one can see how significant they are.

Clause 17 is probably the most significant change apart from the name. It is in part similar to sections 13 and 17 of the Office of the Regulator-General (ORG) act, but it is a little different insofar as it deals with additional commissioners and allows for additional commissioners to be appointed if required. But I would highlight that the ORG act allows for what are called associate regulators-general to be appointed as well. So although it is a change, it is a very small change. We have additional commissioners being able to be appointed as well as associate regulators-general. So once again I count that, but I only count that as half a change, so we end up with 3½ out of 63.

Some of the rest become fairly easy because there are no changes. Clause 18 of the bill is the same as section 14 of the ORG act. Clause 19 is the same as section 15 of the ORG act. Clause 20 is the same as section 16 of the ORG act. Clause 21 is essentially the same as section 17 of the ORG act. Clause 22 is essentially the same as clause 18 of the ORG act. Clause 23 is essentially the same as clause 19 of the ORG act. Here we are up to clause 23. Remember we have counted 3½ changed clauses so far out of the 63. Clause 24 is essentially the same as section 20. Clause 25 is essentially the same as section 21, but there are some small changes there. The fact that they are so small simply highlights that this is nothing more than, as I say, logo legislation — changing the badging. Clause 25 is exactly the same. Clause 26 is the same as section 22 of the ORG act. Clause 27 is essentially the same as section 23 of the ORG act, but once again there are some little changes that are worth noting. They are essentially changes to section 23.

Clause 27 deals with the pecuniary interests of commissioners. If anything, the new provision weakens the pecuniary interest test, because under the ORG act, if a commissioner had any dealings with the Office of the Regulator-General it was deemed to be a pecuniary interest. Clause 27(2) amends that test to simply say that, if a commissioner has dealings with the commission which are as a result of the supply of goods and services that are available to a member of the public on the same terms and conditions, there is no pecuniary interest. In other words, the normal test of pecuniary interest, which says, 'Well, I have some dealings with this body and therefore I have a pecuniary interest', is weakened to say, 'Well, if the dealings I have are the same as those anybody else has, I have not got a pecuniary interest'. That is a fairly significant watering down of the pecuniary interest test.

Clause 28 does have some changes I will deal with because I rank them as my last significant change. Let us look at how significant it is, because clause 28 deals with meetings of the commission. Honourable members will recall that under the ORG act there was a Regulator-General and there was the ability to have associate regulators-general to do a particular inquiry and so on. They were essentially associate regulators-general who did that inquiry and then made a report on it that was published, et cetera.

Under the new act we have rebadged associate regulators-general as additional commissioners. It is therefore conceivable that there might be more than one commissioner. Clause 28 simply deals with the situation that can arise and says that if there is a meeting of the commission and there is more than one commissioner, more than one commissioner must be at the meeting. It sets a quorum, as it were, so although it is a new provision it is a change that is clearly not very significant. I count that as a change. So here we are up to clause 28, and we have essentially four new clauses. Clause 29 is basically the same as section 17 of the ORG act and certainly has the same impact with associated regulators-general. Clause 30 is basically the same as section 17 as well, as it deals with additional commissioners in the same way that the ORG act deals with associate regulators-general.

Clause 31 is new but is essentially redundant. It deals with matters to be included in the annual report of the commission and states that what is to be included in the annual report of the commission is what is required under part 7 of the Financial Management Act 1994, which one would presume would have been done anyway, given that the Office of the Regulator-General came under that provision of the Financial Management Act. Although it is a new provision it does not add anything and therefore I have not counted it as a change, so at clause 31 the count is still 4 out of 63.

Clause 32 is basically the same as section 24 of the Office of the Regulator-General Act. Clause 33 is as per section 25; it just fleshes out the detail a little more, and unnecessarily so. Clause 34 is essentially the same as section 26. Clause 35 is essentially the same as section 27.

In part 4 of the bill clause 36 is practically the same as section 27AA. Clause 37 is basically the same as

section 27A. Clause 38 is the same as section 27C. I have now covered 31 clauses, 4 of which have changed.

Clause 39 is the same as section 27E. Clauses 41, 42, 43 and 44 are absolute mirror images of sections in the Office of the Regulator-General Act. Clause 45 is the same as section 33. Clause 46 is the same as section 34.

The modification in clause 47 is unfortunate, and I will certainly raise it in committee. It deals with the cut-off date of the special transitional provisions that exist to give the minister power to handle special references during the transitional period. The transitional date, which under the amendments of last year was 31 December 2003, has now gone out by eight months to 31 August 2004, unfortunately implying yet more slip in the process towards full retail contestability.

Clause 48 is, once again, essentially the same as section 34A, and so on through to part 6 where the clauses are essentially mirror images of the sections in the Office of the Regulator-General Act.

Hon. K. M. Smith — It is a sham!

Hon. C. A. STRONG — As Mr Smith says, it is a sham. I could not think of anything better than to describe it as logo legislation — change the logo, pretend that it is something different, but in essence it is exactly the same.

I am up to clause 54, which is exactly the same as section 36. The count is now 4 new clauses out of 63. All the clauses from clause 54 through to clause 66 are basically mirror images of sections from the Office of the Regulator-General Act.

Part 8 has three clauses, and these are the last clauses I will deal with. Clause 67 simply changes the title of Regulator-General to that of Essential Services Commissioner and deals with the name, the staff and the person, given that magically when this act is proclaimed the Regulator-General will become the Essential Services Commissioner.

Part 9 contains many more clauses. As I said in my introduction, they are simply consequential name-changing provisions to other acts. Of the 63 substantive provisions there are 4 changes; 93 per cent of the bill is nothing more than a total mirror image of the Office of the Regulator-General Act, and the remaining 7 per cent-odd of changes are pretty small cheese anyway.

I hope my running through the bill in that way has made it clear that this is just typical do nothing. It is spin with no substance. It is another example of logo legislation, some of which we have already seen in this place where the name of an act is changed. There are some superficial changes to the act to make it look like it is something new, to create an impression of activity where there is none.

One of the things that frustrates me enormously is that we on this side of the house have allowed the government to get away with it. It is disgusting — that is the only word I can use — that when there are important things happening, this is how the government uses its time. The minister smiles, and I can understand that because I think she is getting away with it and it is sad for Victoria, it is sad for this industry and eventually it will catch up with her because she cannot keep doing nothing forever; she cannot keep changing the badges or the logos forever.

Unfortunately if changing 4 out of the 63 provisions of the legislation is the full intellectual import of the government to this enormously important area, it is tragic. Certainly my discussions with industry revealed that industry had no trouble with this bill because essentially all they ask is, ‘What has changed?’. They are absolutely right to ask that. The government has sent a mixed signal that it will have to deal with. The Office of the Regulator-General has carved out a niche, established itself, and the public has confidence in it. People can rely on it. However, the public now has to learn to rely on the Essential Services Commission, and I am not so sure that at the end of the day simply changing the logo and the name will be a net positive anyway.

With those few comments I have put on the record why I believe the bill is a disgrace. It does nothing but change the label: it changes the logo and a few names and masquerades as major legislation in an area where major legislation is required. Sooner or later — I hope it is sooner for Victoria’s sake — this sort of cynicism will be exposed, because, frankly, it will not do. Real legislation has to be dealt with, and all this time and effort has been taken to change the name in logo legislation. It is not good enough.

Hon. N. B. LUCAS (Eumemmerring) — The opposition is not opposing the Essential Services Commission Bill but has a number of concerns which it has articulated to the house, and I wish also to raise a few points.

Honourable members would be aware that government-owned businesses constitute about 10 per cent of Australia’s gross domestic product and that rail, electricity, gas and water alone account for nearly 5 per cent of GDP. We are talking about large areas of the

Australian economy, and we should note what is occurring in this bill.

Honourable members would be aware of the work done by the Industry Commission some years ago. Studies undertaken at that time pointed out that there were huge identifiable opportunities for increasing GDP as a result of increasing efficiency in the areas I have mentioned — rail, electricity, water and gas. The potential that was seen to be available to the Australian community was of the order of $8 billion per annum.

Interestingly, the Prime Minister of the day, Paul Keating, called upon Professor Hilmer, with the agreement of all the state premiers, to prepare a document under the heading of 'National competition policy'. When the report was released it indicated that tremendous savings could be achieved through putting each of the state economies and businesses through a competitive process. That is what has occurred. In Victoria the Labor Party has consistently objected to and opposed corporatisation, opposed the initiating of commercialisation of government bodies and certainly opposed privatisation.

Now the government with this bill is trying to put its label on what we have in the state in the form of an Essential Services Commission as something it thought of. We know that all along the Labor Party, whether in government or in opposition, has not been happy with the changes that have been made. That is a shame, because it is a fact that we are now seeing some tremendous efficiencies and benefits being derived from the structural changes that occurred during the 1990s and into this century.

At page 217 under the heading 'Structural reform of public monopolies' the Hilmer report states:

> The primary focus of competition policy in this area is to dismantle excessive market power that may impede the introduction of effective competition into markets traditionally supplied by public monopolies. This may require structural separation —

and it mentions a number of areas but specifically refers to —

> the separation of regulatory and commercial functions.

That is what happened in Victoria with the development of the legislation to establish the Office of the Regulator-General (ORG), and then the providers of the various services went their own way. That has occurred.

The annual report of the Office of the Regulator-General for the year 1999–2000 at page 49 under the heading 'Customer service issues' says that the Energy Industry Ombudsman of Victoria had a role in looking into areas such as electricity, and at page 103 there is a summary of how the Office of the Regulator-General would operate. It also says that the Office of the Regulator-General has as one of its functions:

> … to ensure that users and consumers benefit from competition and efficiency.

It is a fact that as a result of that requirement the ORG established its customer consultative committee. Page 82 of the report states:

> The committee's purpose is to provide a forum for representatives of the office, utilities, customer groups and state government departments to discuss issues relating to utility reform and operations.
>
> The work of the committee contributes significantly to various office projects involving customer service standards. Membership of this committee comprises representatives from:
>
> Victorian Council of Social Service
>
> Financial and Customer Rights Council (Victoria)
>
> Consumers Federation of Australia
>
> Consumer Law Centre of Victoria
>
> Australian Industry Group
>
> Victorian Employers Chamber of Commerce and Industry
>
> Victorian Farmers Federation
>
> Environment Victoria
>
> Energy Users Group
>
> Property Council of Australia

I am aware that there is a push in the legislation to support the rights of consumers by the establishment of the new advocacy centre. I and other honourable members are aware that under the Office of the Regulator-General there was already a committee called the customer consultative committee which had the role of looking after the interests of customers or consumers.

You wonder why it is that there has been the change. As the Honourable Chris Strong said in his contribution, you can observe by the work of the government that it is only a rebadging, and there is possibly a subtle change in terms of the advocacy centre that we need to be concerned about. In spite of the predicted and recorded savings since the privatisation of the electricity industry, Labor has traditionally opposed contestability, opposed other

changes and opposed the ORG bill when it was introduced in both houses in 1994. There were divisions in both houses where the Labor opposition of the day opposed the establishment of the Office of the Regulator-General.

Interestingly, the Treasurer, the then Leader of the Opposition, expressed concern about changes in the electricity industry. He indicated that in government Labor would roll back those changes. We now have the government rebadging what we have in Victoria to regulate these industries.

The opposition has a number of concerns with the bill, a couple of which I shall mention. Clause 8(1) of the bill provides for the protection of the reliability of essential services. I personally do not have a problem with that at all. The government needs to protect essential services, and I note the government's pledge when in opposition that a Labor government would ensure the reliable supply of essential services. It seems to me the government has stepped away from that pledge — I underline the word 'pledge' — and we now have a situation where, although an objective of the Essential Services Commission is to protect the reliability of essential services, there is no mention in the bill or anywhere else of the commission getting involved in any industrial relations issues.

The biggest threat we have in Victoria is the potential for industrial relations activities by unions to close down essential services. There is no mention of that in this bill. It provides no role, no involvement, no intervention power and no power at all for the Essential Services Commission to do anything about an industrial relations issue that affects an essential service. That is a concern.

Clause 8(2)(e) talks about the commission ensuring:

> … that regulatory decision making has regard to the relevant health, safety, environmental and social legislation applying to the regulated industry.

I wonder what the term 'social legislation' means. I refer to page 86 of the interim report of the Public Accounts and Estimates Committee on environmental accounting and reporting, where it said at paragraph 5.12 under the heading 'Emerging trend — social accounting':

> While this report has focused on environmental accounting, sustainability requires that social issues also be taken into consideration. A social accounting standard was released in 1998 by the Council for Economic Priorities. The standard entitled Social Accountability SA 8000 focuses on issues associated with human rights, health and safety, and equal opportunities.

Do I assume the Essential Services Commission will start regulating our essential services under these headings?

The report goes on to say:

> According to the *Green Futures* magazine (April 1999), SA 8000 requires the audit of site performance against the principles of the United Nations Declaration of Human Rights, the International Labour Organisation conventions and the United Nations Convention on the Rights of the Child. These are strict procedures laid down to ensure that those carrying out the audit (who must receive special training to qualify) take into account local opinion and operations.

Is that what we mean by 'social legislation'? I will be interested to find out from the minister at the committee stage what this actually means, because it is potentially drawing a very long bow to apply that to the regulation of essential services.

I have great concerns about those two issues in clause 8. I am not saying I am against environmental or social issues being taken into account, but the government needs to define under what headings it will be considering those areas, and the opposition needs to get some detail on what the government has in mind.

In his contribution earlier tonight the Honourable Sang Nguyen said on the social obligation side of the discussion that it is the Labor government's proposal to help poor families. Does that mean the Essential Services Commission under the heading of 'social legislation' will start looking at the redistribution of wealth in terms of gas or electricity accounts? What does it mean? I do not know, but the opposition will certainly be asking that question, and I am sure the minister will attempt to have an answer to it.

The other issue I wish to refer to is the consumer utilities advocacy centre, which the second-reading speech says will be established. The second-reading speech says:

> The centre will ensure a world-class centre of excellence in customer advocacy research and information dissemination …

I am interested to know how much that will cost and who will pay for it. I have heard rumours of half a million dollars. I do not know whether that is to set up the centre or to operate it or what it is for, but the opposition is and should be interested in the costing of this centre and who will pay the bills. I am aware that in another part of the second-reading speech there is a suggestion that the establishment cost for the new commission — it did not say for the advocacy centre, it said for the commission — will be met by the government, and then it goes on to say that the ongoing

costs will be met by the industry. We need to home in on that issue and find out the cost of this centre and who will be paying the bills. I look forward to the committee stage of our discussion on this bill, because the government certainly has some questions to answer about the issues I have raised.

Other honourable members have gone into great detail on this bill. It is not my intention to do so, although I am certainly concerned about a number of issues in the bill. I hope the minister will be able to satisfy the opposition on the issues raised by me and other speakers.

Hon. G. W. JENNINGS (Melbourne) — Thank you, Mr Acting President, for the opportunity to join the debate to support the government's proposal to introduce an Essential Services Commission through the vehicle of this bill.

The timing of the debate on this important matter coincides with some interesting developments in the electricity market in particular and comes off the back of the government last week receiving an important review into the way electricity prices will be benchmarked and monitored into the future and the mechanisms by which the government will seek advice on the way the full contestability of the retail electricity market will take place.

A very informative briefing was also provided to members of Parliament last week by the Energy and Water Ombudsman of Victoria, Fiona McLeod. The government sees the ombudsman as an important part of the regulatory regime for essential services in this state, of which this bill is a part. The government's intention is to ensure as much as possible within all essential services in Victoria that Victorians receive high-quality, reliable and safe services. The government has introduced measures such as the establishment of the Essential Services Commission and the office of the Energy and Water Ombudsman and other measures that are part of the suite of new support services to consumers in Victoria in order to instil in Victorians a high degree of confidence that an appropriate regulatory regime applies to these important services and that appropriate levels of advocacy and appropriate appeal rights are available to consumers who believe they have been poorly served by their essential service provider. I will cover these matters in my contribution.

This bill is the culmination of a consultation process the government commenced as far back as 28 July 2000, when it sought submissions from stakeholders in the Victorian community — including representatives from industry, community groups, industry associations and unions as well as consumers and other interested players — about their views on the way the interests of the industry and of consumers may best be protected into the future.

The government received 72 submissions from the initial consultation process, considered those responses at some length, and then refined the proposals, which it took to the people on 7 June of this year in the form of an exposure draft of the very bill that is being debated today. The exposure draft received a further 54 submissions from stakeholders — not necessarily the same stakeholders — making up an important cross-section of the industry, including consumers, unions, other government bodies, and those who have an interest in essential services in Victoria.

It is with some degree of enthusiasm that I support the Minister for Energy and Resources and my parliamentary colleague the Treasurer in the introduction of this piece of legislation, which seeks to achieve a number of prime objectives. It will enable Victoria's legislative framework to apply appropriate regulation to the electricity and gas distribution industries, ports and grain handling services and rail access, and from 1 January 2003 that will cover water and sewerage services.

The Essential Services Commission will be independent of government and will subsume the responsibilities of the Office of the Regulator-General. The objective of the Essential Services Commission will be to protect the interests of Victorian consumers. It will have an enhanced role in its capacity to investigate security supply issues, and it will have the capacity to undertake investigations about the reliability of service provision to Victorian consumers. It is clearly the government's intention to make sure that the processes of the commission are as transparent as possible, and that it will take responsibility for ensuring that adequate and appropriate levels of consultation take place with stakeholders and consumers within Victoria.

The government is hoping to achieve as much as possible a streamlining of the regulatory regime that operates within Victoria and of the bodies that play a regulatory role. The government seeks at all costs to avoid unnecessary duplication of the regulations that apply to essential services in this state and, if it can assist, across the nation. It wants to ensure that there are provisions to enable appropriate appeal processes for Victorian consumers, and will provide for appropriate new time lines to ensure that consumers will not forgo their opportunity to pursue their claims against

providers by the severe limits of jurisdiction or the current time lines that apply restraint on the time available to them to appeal.

The bill provides for the Essential Services Commission to provide for sanctions and penalties for non compliance with directions that it may make. The bill provides a definition of essential services, which will support the role of the commission. It provides for that definition to apply to the electricity, gas, water, grain handling and rail industries and ports. It also designates a number of regulated industries within the scope of the current Office of the Regulator-General which, as I have indicated, are subsumed within the responsibilities of the commission.

The bill formally establishes the operations of the commission; it describes how the commission will be constituted; and it allocates its functions, powers, objectives, relationships with government, and corporate governance and staffing arrangements. In the first instance the commission will comprise a full-time chair, with additional full-time and part-time commissioners as required. All those positions are to guarantee a degree of independence once the appointments have been made. The Governor in Council appointments will provide for some security of tenure for the commission, which will be at arms-length from day-to-day government administration.

It is clearly the intention for the Essential Services Commission to operate as an independent economic regulator. The commission's determinations, reports and inquiries will not be subject to ministerial control or direction. The commission will be constituted in a way that will enable it to take terms of references from the appropriate minister and to respond to specific reviews and commissions of inquiry that may come from the government of the day. The report of the Office of the Regulator-General received within the last week is an example of the types of references the new body may receive from the government from time to time.

It is clearly the objective of the government to ensure that the commission underpins an appropriate long-term, well-planned competitive environment within essential services in Victoria, and that they are regulated in a way that delivers all benefits to all Victorians. It wants to ensure that the commission does this in a way that satisfies social, environmental and economic objectives, and is cognisant and compliant with health and safety legislation and requirements, within the framework — which has been described in the second-reading speech and on many occasions by government members within this place and the other — of satisfying triple-bottom-line objectives.

In some ways that becomes jargon and people's eyes glaze over at what that may mean. But it is important to underscore that by making the point that the government wants to ensure that essential services operate within a sound, economic and sustainable environment, and that the commercial viability of essential services in Victoria remains sound, while ensuring that consumers receive equitable access in terms of physical distribution, delivery of services and competitive prices and that they are not denied access through exhaustive prices. It also wants to ensure that the companies that operate within those essential services comply with appropriate occupational health and safety standards the government sets down from time to time through legislation and which are implemented through the Victorian Workcover Authority. It wants to at all times push through government priorities, through legislation and through environmental regulation, to ensure that it pushes the envelope in terms of environmental sustainability of resource use within Victoria and that wherever possible it encourages the take-up of sustainable approaches to energy generation within our state.

That is the longhand of the shorthand of the triple bottom line. The government has equal expectations for service provision to Victorian consumers in the long-term viability of the state to ensure there is rigour in the industry.

The government wants to make sure wherever possible that no anticompetitive activity takes place in the sector. It wants to promote competitive behaviour to avoid the misuse of monopoly operations. That brief goes to the Essential Services Commission when undertaking its task and understanding its relationship with other regulatory bodies such as the Australian Competition and Consumer Commission (ACCC). As an example the government would envisage that the commission may enter into a memorandum of understanding (MOU) to ensure that there is an appropriate level of interjurisdictional responsibility to satisfy the antimonopoly objective given to it.

It is hoped the commission can operate in a regulatory environment that does not cut across the work of the ACCC. The government hopes to avoid unnecessary duplication of regulatory effort between state and federal bodies via an MOU as described in the bill. To augment the approach of working in a consistent and coherent fashion, the commission has been encouraged to establish a charter of consultation and regulatory practice, which is outlined in the second-reading speech and is a fundamental component of the bill.

The bill outlines the commission's specific powers, which include price regulation and setting standards and conditions of service and supply. It also outlines various matters that the commission must have regard to in making its determinations on those various aspects. The issues include the cost of making, producing or supplying the goods or services and the cost of complying with the various regulatory regimes imposed by the government such as the environmental, health, safety and social legislation. It must be mindful of the appropriate level of return on the asset that the generator of service has the right to expect. The commission will ascertain whether there is an appropriate level of return and whether the commercial footings of the utility are sound and then establish an appropriate level of benchmarks for prices, costs and return on assets in comparable industries.

The commission will scan the horizon for local, interstate and internationally comparable industries to make sure that appropriate benchmarks are set. But the commission's specific brief is to ensure that it understands the regional and local parameters in which the businesses are operating and is cognisant of those factors in determining how the price and operation of a utility relates to the benchmarking analysis.

Wherever possible the commission will ensure that the cost of regulation and scrutiny brought to bear by its operations do not exceed the benefits to Victorian consumers. The government wants to make sure there is not an inappropriate trade-off between the costs the commission would expect of a utility provider and service standards. That is the art to the science.

The commission has the capacity to take references from the minister relating to the specific environment. The report handed down by the Office of the Regulator-General last week is an example of what will be seen in the life of the Essential Services Commission. My colleague the Minister for Energy and Resources received the report last week in response to a brief to provide appropriate advice on the way it would monitor the introduction of full retail contestability in the electricity industry. I quote from a media release from the Minister for Energy and Resources dated Thursday, 11 October.

In responding to the report it states that:

> The ORG has recommended that prices be reviewed against benchmarks based on general information in the electricity market and specific information provided by the retailers …
>
> The benchmark prices are designed to protect consumers while maintaining the financial viability of the industry and allowing competition to develop.

Briefly I would like to alert the house to some of the principles and guidelines recommended by the Office of the Regulator-General to the minister and the government on the way in which that could be undertaken. I refer to page 24 of the report which outlines a number of those principles. They are in part that:

> The approach taken to oversee retail tariffs should depend on whether competition in the retail market is judged to be effective;
>
> Where retail competition is judged to be ineffective (including where standing offer tariffs are gazetted prior to the introduction of full retail competition in January 2002), the oversight of tariffs should be based on benchmarks of the key cost components that are subject to retailers' control, in particular energy costs and retail costs and profit margin;
>
> …
>
> The retail cost benchmark should be a retailer-wide benchmark derived from relevant Australia-wide cost data with particular focus on data available from the Victorian electricity retail market;
>
> The profit margin should be derived based on data from other jurisdictions. A profit margin range should be established which will allow for some flexibility for assessment during the transition to FRC.

There is a remarkable coherence between the principles and guidelines recommended by the Office of the Regulator-General and the framework provided in the second-reading speech. There is a remarkable alignment between the expectations of the government and the guidelines provided by the Office of the Regulator-General. The fascinating aspect of the minister receiving the report on the Thursday of last week is that the following day, on the Friday, an application was made of how the process may come in to play — a remarkable coincidence and it was timely that the minister had received that advice which was tabled in the Parliament on that Thursday.

On the Friday the Minister for Energy and Resources was able to respond to the gazetting of a 16 per cent increase by Citipower for an increase to apply from 1 January 2002 within the terms that had been provided within the advice that had been received in accordance with the requirement that the government had legislated for there to be a 60-day time lag from the gazetting of an intended price rise to its introduction. I refer to the media release of the Minister for Energy and Resources on Friday, 12 October, where she said that:

> … she had issued a standing reference to the ORG requiring the review of all gazetted price proposals between now and the end of 2002.
>
> A review by the ORG will ensure that any price increases are fair and that the companies are accountable for their actions.

…

The ORG will review this price rise proposal —

being the Citipower proposal —

against benchmarks based on general information in the electricity market and specific information provided by the retailers …

She concludes by saying:

I will then consider whether it is necessary to exercise my reserve powers of price regulation.

The nature of this matter was under consideration by the Legislative Council earlier today when the minister reiterated that following the assessments of the Office of the Regulator-General, as it is currently constituted, she will receive advice about the most appropriate way in which to respond to the gazetted price increase. The minister highlighted to the house that she has reserve powers in relation to the final determination of whether to accept that level of gazetted price increase.

The extraordinary convergence of the central role of the Office of the Regulator-General in the lead-up to full contestability and the transference of the ORG to the Essential Services Commission is transpiring at a rapid rate. I appreciate the difficulty for the current Regulator-General in transferring the organisational arrangements in this contentious, combustible, competitive environment which he and his officers are dealing with. The people of Victoria should have some compassion for the workload the people in the office might be subjected to with the sharp focusing of the time lines which foresee the introduction of the Essential Services Commission when we expect an increase in the competitive environment.

As has been indicated in the second-reading speech, establishment costs have been identified to the extent of $5.2 million which will be the one-off cost funded by the government. In future there will be a co-funded arrangement between the government and the industry on an equitable basis which the government anticipates will diminish over time as the regulatory framework is put into place and the cost of regulation is anticipated to decline over the next two to three years.

An additional aspect of the bill is designed to complement the roles played by the Essential Services Commission and the Energy and Water Ombudsman Victoria. It will see the establishment of a Consumer Utilities Advocacy Centre to commence operation on 1 January next year, with the introduction of the Essential Services Commission. The government believes the centre will provide an appropriate forum for consumers, the industry and the commission to come together to exchange information and provide an appropriate level of advocacy when it is required, particularly for consumers who feel disadvantaged or poorly served by the essential services providers. It will play its role in complementing the good work of the commission in establishing and regulating prices and operations of utilities. The centre will complement the good work to be done by the Energy and Water Ombudsman. The government believes this provides an appropriate suite of measures to regulate, monitor and support the essential services in this state.

In summary, the government believes this bill satisfies the triple bottom line in a way that, as I have indicated to the house, is a substantial concept, not a flippant phrase. I believe the regulatory approach adopted by the government through this legislation provides strong incentives for optimising long-term investment in the essential infrastructure upon which the Victorian community relies.

The government believes the regulatory process to be introduced through this bill is transparent and offers enhanced accountability for the people of Victoria. It has confidence that the commission will be able to establish an appropriate working arrangement with other regulators in the field. The government looks forward to the strength of the memorandums of understanding to be established between the commission and other regulatory bodies. In the government's view that will lead to the effective regulatory overview of the reliable provision of essential services to the Victorian people.

On that basis I have a great deal of confidence in the work undertaken by my ministerial colleagues and their support teams. I believe the outgoing reputation and standing of the Office of the Regulator-General is a fine one and that the good work done by that office will be maintained and enhanced through the introduction of the Essential Services Commission. I compliment the Regulator-General and the staff who supported that role. I look forward to the efficient delivery of the task the government has assigned to the Essential Services Commission.

The PRESIDENT — Order! I am of the opinion that the second reading requires the concurrence of an absolute majority of the whole of the numbers of the house, and I therefore ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! The question is that the bill be now read a second time. I ask honourable members supporting the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Ordered to be committed next day.

UNCLAIMED MONEYS AND SUPERANNUATION LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Minister for Industrial Relations: performance

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I wish to raise a matter with the Minister for Industrial Relations. As honourable members would be aware, Saturday's *Age* contained an article headed 'Stuck in the sand' which produced a report card on the current cabinet. It will come as no surprise to members of this house that the four ministers in this place were rated the lowest of all of the cabinet on a score out of 10. What may come as a surprise to honourable members is that the Minister for Sport and Recreation was the highest rating minister in this chamber. He received 5.5, the Minister for Energy and Resources received 5, as did the Minister for Small Business, but the Minister for Industrial Relations received 4 — a total of 19.5 out of 40 for the four ministers in this house.

The PRESIDENT — Order! The adjournment debate is an opportunity to raise matters dealing with government administration. A commentary on the performance of ministers does not directly relate to that matter in the normal sense. The honourable member might relate it to government administration.

Hon. G. K. RICH-PHILLIPS — It relates to the issue of the industrial relations portfolio. This article makes reference to the Minister for Industrial Relations. It says she is:

> Portrayed by her colleagues as cabinet's weakest link. Low standing among many unions and employers compounded by lack of state IR system and Premier's refusal to involve her in industrial disputes.

The PRESIDENT — Order! I cannot hear the honourable member, but I suggest he take account of the ruling I have given.

Hon. G. K. RICH-PHILLIPS — The article says that Tim Pallas, the Premier's chief of staff, seems to be the de facto industrial relations minister. My question to the Minister for Industrial Relations is: could she advise the house if in the first instance industrial relations matters should be referred to her or the Premier's chief of staff?

Mildura: stormwater infrastructure

Hon. B. W. BISHOP (North Western) — My adjournment issue is directed to the Minister for Energy and Resources representing the Minister for Environment and Conservation in the other place. It concerns the stormwater action program, a state government program. Cr Brian Grogan is the chairman convenor of the Mildura Rural City Council Sunraysia drainage task force.

Hon. R. A. Best interjected.

Hon. B. W. BISHOP — As Mr Best says, he is well qualified in that role as he recently retired as the chief executive officer of the Lower Murray Region Water Authority. He did an excellent job of running that organisation. Cr Grogan's task force is looking at the refurbishment and upgrading of the existing drainage infrastructure, which was sorely tested by heavy thunderstorms last summer. It is also looking at new drainage capacity and infrastructure, which is urgently needed due to the rapid expansion of Sunraysia. Of course this will require funding partnerships between the municipality — made up of ratepayer base funding and developer contributions — and the state government.

The Mildura Rural City Council is now preparing a stormwater management plan and a 50-year Sunraysia drainage strategy. However, it has found that the only funds available from the stormwater action program are for areas such as changes to planning schemes, staff training, information pamphlets, work on wetlands, community education and information. There is no funding available for drainage infrastructure works or, to put it another way, on or in the ground works.

Cr Grogan contacted the Municipal Association of Victoria and suggested that there be a separate dedication of funding for drainage infrastructure capital works. The MAV response talked about catchment management authorities and the Environment Protection Authority, but not about a dedicated funding stream. The mayor of the Mildura Rural City Council, Cr Ann Cox, then wrote to me and the MAV requesting as a matter of some urgency that the matter of dedicated state funding for drainage infrastructure be put into place.

I therefore request the Minister for Environment and Conservation to put in place a dedicated fund for drainage infrastructure capital works so that rapidly expanding areas such as Sunraysia can effectively meet their requirements for the present and the future.

Duffields Road–Great Ocean Road, Torquay: traffic control

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Energy and Resources as the representative in this house of the Minister for Transport. It relates to an announcement last week that traffic lights are to be installed at the intersection of Hoylake Avenue and the Great Ocean Road in Torquay. Honourable members will recall that recently I asked the minister to urgently consider the installation of traffic lights at a neighbouring intersection at Duffields Road and the Great Ocean Road. That followed approaches to me by members of the Torquay Improvement Association who are concerned about increased traffic volumes through the Duffields Road intersection crossing the Great Ocean Road due to the opening of a new primary school in Grossmans Road.

The Torquay Improvement Association recognises that because of a history of crashes the Hoylake Avenue intersection needs treatment, but believes the traffic lights would be much more beneficial at Duffields Road. Today I received a letter from Cr Beth Davidson, mayor of the Surf Coast Shire, supporting traffic control facilities at the Duffields Road–Great Ocean Road intersection. She said the lights were needed ‘in order to alleviate a major traffic accident in the Torquay–Jan Juc area’. I therefore call on the minister to undertake an urgent review of the decision to locate the traffic lights at Hoylake Avenue in light of the community’s concerns.

Stroke Association of Victoria

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Small Business as the representative in this place of the Minister for Community Services. Several weeks ago I received an interesting communication from an organisation called the Stroke Association of Victoria Inc., a volunteer organisation which is properly incorporated, has an Australian business number and is fully registered. The stroke association has provided a substantial amount of information, and among that information is the fact that stroke is the third biggest killer of Australians, and each year some 14 000 Victorians have a stroke.

The stroke association is relatively new and has only been operating for some two or three years. Already it has been able to bring information, care and assistance to many of the carers of stroke victims and to the victims themselves. Many of the volunteers in the association are people who have recovered from strokes. It is a community health issue, and the organisation wrote to me seeking, firstly, for me to be aware of its existence, and secondly, for some support in principle for what the organisation is doing, and I am very pleased to do that.

I ask if the minister would receive a suitable application for consideration for an appropriate grant to the Stroke Association of Victoria because of the importance of the recovery of people who suffer a disability through the unfortunate occurrence of stroke.

Wodonga: heavy vehicle rest area

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Minister for Energy and Resources as the representative in this place of the Minister for Transport. I report to the house that on Saturday morning, along with the honourable member for Albury in the New South Wales Parliament and the honourable member for Benambra in the other place, I attended a rally of heavy vehicle drivers who travelled from North Albury to Wodonga in a convoy of 73 heavy vehicles as part of the National Heavy Vehicle Road Safety Week campaign, and also as part of the campaign to retain the diesel fuel excise rebate that is currently in place for heavy vehicles on roads in Australia.

During the course of my conversations with many of the drivers of those vehicles it became clear to me that there is a grave need for an additional rest area for heavy vehicle drivers on the Hume Freeway south of Wodonga on the south-bound lane. It was pointed out to me that many drivers on the Sydney–Melbourne run get to Wodonga in the early hours of the morning, and they are not due in Melbourne until the factories and the delivery depots open at 6.00 a.m. There is a matter of relaxation and the thought of, ‘I have reached the border, I’m nearly there’. Fatigue is setting in and the

existing pull-offs on the road at Chiltern and elsewhere are inadequate for the number of vehicles now using the road, and it is often difficult to pull in there. It is dangerous for heavy vehicles to pull to the side of the freeway for a power nap because they are a road hazard if they do so.

I suggest that an opportunity is there to provide an additional heavy vehicle rest area in the vicinity of McKoy Street near Wodonga, or perhaps somewhere near Plunketts Road, which would be downstream of the proposed Albury–Wodonga bypass. It is a useful initiative and it would be largely funded by the federal government, bearing in mind it is a national highway. Nevertheless it is a state responsibility in terms of the mechanics of this road. It is a reasonable request and it has road safety implications. The suggestion was put very strongly to me by the drivers that day, and I think it should be pursued.

Buses: Tarrengower prison

Hon. D. G. HADDEN (Ballarat) — I raise a matter for the attention of the Minister for Energy and Resources as the representative in this house of the Minister for Transport. It concerns an important and timely issue of the implementation of a bus service from the Castlemaine railway station to the township of Maldon and then on to HM Prison Tarrengower, which is about 2 kilometres west of Maldon. Tarrengower prison is the only medium-to-low security prison in Victoria for women. Its isolation in the foothills of Mount Tarrengower is its beauty. However, its isolation also means that women prisoners who often are in the last phase of their sentence are hindered in their full reintegration back into family and community life.

Although the Castlemaine Bus Lines operate a weekday bus service from Castlemaine railway station to Maldon, there is no public transport on prison visiting days on a weekend. The nearest railway station at Castlemaine is some 20 minutes from Maldon, and the return cost of a taxi fare is in the order of $60 to $70, which is prohibitive for prisoners' children, grandchildren, family and friends. I therefore ask the minister if he can investigate the feasibility of a pilot bus service to be implemented on a Saturday from the Castlemaine railway station to Maldon and the Tarrengower prison.

State Library of Victoria: newspapers

Hon. ANDREA COOTE (Monash) — I address a matter for the attention of the Minister for Energy and Resources as the representative in this house of the Treasurer. As honourable members know, I am very concerned about the state of the newspaper collection at the State Library of Victoria and the storage facilities. I have asked several questions about the outbreak of mould at the state library and I was assured by the Minister for the Arts that the mould problem had been fixed. The minister has employed two cleaning services chosen because of their expertise in the area of mould. The cost of the clean-up was $195 461.86.

Less than one month later there is another outbreak of mould in the storage facility that is threatening the preservation of this newspaper collection. I ask the Treasurer when funding will be made available to the State Library of Victoria for a purpose-built newspaper storage facility for this very important collection of newspapers.

Seniors: national card

Hon. E. J. POWELL (North Eastern) — I raise with the Minister for Consumer Affairs representing the Minister for Aged Care an issue concerning Seniors Card concessions. A constituent of mine who had been holidaying in Queensland came to my office last week. He brought with him a brochure he brought back from Queensland. He was quite concerned because of the concessions Queensland people get and the lack of those concessions in Victoria, more particularly the motor vehicle registration concession for Seniors Card holders. Seniors Card holders in Queensland can receive a 50 per cent concession on their motor vehicle registration fee. For both Seniors Card and pensioner card holders the registration concession applies to: a motorcycle or motor vehicle up to 4.5 tonnes or a motorised caravan registered in the card holder's name; a vehicle mainly used for private use; and only one vehicle owned at a time. They also get concessions for boat registrations; a 25 per cent reduction applies to Seniors Card holders.

I also received a letter from the Warrnambool branch of the Association of Independent Retirees about roughly the same sort of issue. As well as concessions for cars and boats for Seniors Card holders, the association is talking about a nationwide Seniors Card with common reciprocal benefits that also covers such things as travel concessions, telephone concessions and health care card and other health care concessions. The national body of the Association of Independent Retirees has been working with the commonwealth government to put in place a national Seniors Card.

That would make a lot of sense, because the different concessions over the states would be neutralised, and card holders in all states would have equal concessions and reciprocal rights. I ask the minister to support this

really good initiative and support the Association of Independent Retirees in working with the commonwealth government to put in place a national Seniors Card.

Warrandyte State Park

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources representing the Minister for Environment and Conservation in the other place. The issue I raise concerns the terrible feral animal and pest weed infestations that currently plague the Warrandyte State Park. The park is one of Melbourne's most important nature conservation corridors and stretches from Warrandyte to Kinglake National Park in the north. As such the park should offer our young people a rare educative experience in native flora and fauna. Instead all they get is a sad experience in feral animal infestation and a lesson in the damage pest weeds cause in the wild.

A known, very high level of weed infestation exists at the ground layer, midstorey and in the overstorey. In addition to this five threatened flora species exist in areas of the worst weed infestation. Cinnamon fungus, a dangerous plant pathogen, is also present in the park, along with feral pests such as foxes, rabbits, cats, dogs, blackbirds and European wasps.

Despite their excellent work and commitment, park management and the Friends of Warrandyte State Park, through no fault of their own, are fighting a losing battle against heavy odds because of a lack of tangible support from the state government. The recently released 'Draft pest management strategy' has become a joke in both metropolitan and regional Victoria because it offers lofty visions but no achievement deadlines, no key performance indicators and, importantly, no budget.

I ask the minister to urgently ensure that Warrandyte State Park management and the Friends of Warrandyte State Park are given adequate resources enabling them to eradicate pest weeds and animals that are currently destroying what should be a major environmental asset for all Melburnians.

Snowy River

Hon. R. M. HALLAM (Western) — I address an issue to the Minister for Energy and Resources. I suspect she will not be surprised to learn that I again want to go to the Bracks government's specific commitment regarding the increased environmental flows to the Snowy River — in particular, the $40 million of public funding allocated for that purpose last financial year.

After all the minister's public claims in respect of the saving of the Snowy River, last Thursday during the adjournment debate she announced that until the commonwealth Snowy Hydro Corporatisation Act is proclaimed flows cannot be restored to the Snowy River. I do not recall that particular advice being offered in our earlier debates. However, the minister offered the consolation that the $40 million 'remains dedicated to that purpose' and further that 'That is what the funds will be spent on'.

My question is: if, as the minister now confirms, the $40 million is yet to be spent, how does she explain that the budget for 2001–02, which incidentally she brought to this chamber, reports the $40 million as an output initiative for the previous year?

Dorset Road, Boronia: traffic control

Hon. G. B. ASHMAN (Koonung) — I raise with the Minister for Energy and Resources for the attention of the Minister for Transport in the other place an issue relating to a section of Dorset Road between Mountain Highway and Stewart Street in Boronia that has recently been upgraded to a dual highway.

On 26 July I wrote to Vicroads asking why the 60-kilometre-per-hour construction zone speed limit was still in place. I received a response on 14 August indicating there were some issues with the City of Knox that still had to be resolved in relation to some minor safety audit matters. On 28 August I again wrote to Vicroads noting that the speed limit had not been increased and the roadwork speed limit was still in place. I also noted that the average speed of vehicles on this road was now at least 70 kilometres an hour, probably 75, and I would appreciate some advice on how long it would take to resolve what were really quite minor issues.

I then received a letter dated 20 September indicating that the speed limit will not yet be raised as there are still some unresolved issues. It is now some four to five months since construction on this section of road was completed. Prior to the duplication it was a 70-kilometre-per-hour zone. I ask the minister how long it is going to take to resolve these minor audit issues with the City of Knox?

Schools: rural computer tenders

Hon. P. R. HALL (Gippsland) — My question is to the Minister for Sport and Recreation representing the Minister for Education in another place. It concerns the

proposed supply of 23 000 desktop computers to schools under the Department of Employment, Education and Training computer tender no. 01/02–11. One of my local primary schools recently advised the department that it required an additional eight computers. The department responded to it saying, 'We will supply you with six, which is your eligibility', under I presume the tender arrangements for these computers being provided to schools, and left it in the invidious position of the government providing it with six computers when it needs eight. My question to the Minister for Education is: has this tender already been awarded?

Roads: black spot program

Hon. ANDREW BRIDESON (Waverley) — I raise an issue with the Minister for Energy and Resources to relay to the Minister for Transport in another place. The City of Greater Dandenong is most appreciative that recently it has received grants for upgrading black spots at a couple of dangerous intersections, but it is most concerned that the state's worst black spot at the corner of Springvale Road and Princes Highway still has not been looked at.

This intersection is the most dangerous in the state. It is a very complex intersection, also known as Spaghetti Junction. I think most honourable members are familiar with it. The reason it has not been included in the black spot funding is that, probably due the extensive nature of the project, it does not meet the current statewide black spot guidelines.

The City of Greater Dandenong has made numerous submissions to the state government, the Department of Infrastructure and Vicroads. Whilst the council's submissions have been acknowledged, there has not been any indication from the state government on future plans nor the time frame for the reconstruction of this important and dangerous intersection.

This intersection is notorious for the occurrence of casualty and property damage accidents. Some 97 casualty accidents have been recorded for this location during the last five years. The City of Greater Dandenong has raised many safety and road congestion issues in relation to the intersection, and the cities of Monash and Kingston concur with the City of Greater Dandenong.

I request the minister to give a definitive and positive commitment to fund the construction of a grade-separated intersection at Princes Highway, Police Road, Springvale Road and Centre Road. It is a vital project. The community has extremely high expectations of the government doing something at that intersection, and I ask the minister to respond as soon as possible.

Electricity: tariffs

Hon. PHILIP DAVIS (Gippsland) — I raise an issue for the attention of the Minister for Energy and Resources. Earlier today in question time the minister set out the process by which she suggests the standing offer pricing proposals will be considered. Given that the Premier today on commercial radio made it clear that he will make the final decision and that a 16 per cent increase is too high, is it a fact that the minister's comments on the proposed process are a farce because the Premier has already made a decision?

Police: Frankston

Hon. B. C. BOARDMAN (Chelsea) — I raise a matter with the Minister for Sport and Recreation as the representative in this house of the Minister for Police and Emergency Services. Like many honourable members, I was alarmed to read the comments in the *Herald Sun* of last Sunday, 14 October, under the heading 'City is crime hotspot'. The opening paragraph states:

> Dandenong, Frankston, St Kilda and Preston are Victoria's suburban crime capitals, figures show.

The article states further that for postcode 3199, which covers Frankston, there were 6864 reportable crime offences in 1999 compared with 7334 in 2000. It also states that in postcode 3200, which is Frankston North, the crime figures were 839 for 1999 and 924 for 2000. Honourable members would admit that is a significant increase.

Considering that these figures are provisional and their interpretation may be problematic, I confirmed today through contacts with Victoria Police that the *Herald Sun* obtained them through the Victoria Police web site and they were released as preliminary figures only, but as of today they were taken off the web site for some reason which at this stage is not apparent.

Irrespective of that, my query concerns the rhetoric of the honourable member for Frankston East in another place and the Honourable Bob Smith in this house on a number of occasions that the Frankston police station has been in receipt of numerous increases in resources.

It still alarms us that the crime figures would have increased so significantly over a 12-month period, which correlates to the full term that the Bracks Labor

government has been in control of allocating resources to the Victoria Police.

I therefore seek from the minister an explanation as to how he can justify such a dramatic increase in crime figures, commensurate with the allocation of resources that has been so effusively proclaimed by government members representing this municipality.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Gordon Rich-Phillips asked me a question. It is one thing for a journalist not to understand the administrative orders of government but it is another thing for the honourable member. I suggest he check them out before he raises such ridiculous questions again.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Barry Bishop raised a matter for the Minister for Environment and Conservation in another place. He requested that the minister consider a dedicated fund for drainage infrastructure for growth areas such as the Sunraysia. I will refer that to the minister.

The Honourable Elaine Carbines requested that the Minister for Transport conduct an urgent review of a decision on the location of traffic lights in view of community concerns about that matter, and I will refer that to the minister.

The Honourable Bill Baxter raised a matter for the Minister for Transport. He requested that the minister consider the need for additional pull-up areas near Wodonga for heavy vehicles to encourage safe driving practices. I will refer that matter to the minister.

The Honourable Dianne Hadden requested the Minister for Transport to consider the provision of a bus service on Saturdays from Castlemaine to Maldon and to HM Tarrengower Prison. I will refer that request to the minister.

The Honourable Andrea Coote requested that the Treasurer advise her when funding will be made available for the State Library of Victoria for the proper housing of the newspaper collection. I will refer that matter to the Treasurer.

The Honourable Andrew Olexander requested the Minister for Environment and Conservation to give consideration to proper funding for the control of infestations of feral animals and pest plants in the Warrandyte State Park. I will refer that request to the minister.

The Honourable Roger Hallam again raised the matter of funding for the Snowy River, and I indicate in response that my previous explanations about the allocation as opposed to the expenditure of $40 million in the 2000–01 budget, as distinct from the output initiatives in the 2001–02 budget, are accurate.

I point out that we are talking of more than $243 million in total that the government will spend over some 10 years, and the allocation and expenditure of funds from one year to the next are matters for ongoing consideration. However, those allocations stand, and those funds will be expended by and large, as I have indicated to the house, on water savings projects.

The Honourable Gerald Ashman raised a matter for the Minister for Transport concerning requirements in the City of Knox. I will refer that matter to the minister.

The Honourable Andrew Brideson raised a matter for the Minister for Transport concerning funding for black spots in the City of Greater Dandenong, and I will refer that matter to the minister.

In reply to the Honourable Philip Davis, the answer is no.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Ron Bowden raised a matter for the Minister for Community Services concerning the Stroke Association of Victoria. He explained that the organisation is providing useful information to stroke victims and their families and wondered whether it would be possible for a suitable application to be made for a grant for that organisation. I will pass that on to the minister.

The Honourable Jeanette Powell raised a matter for the attention of the Minister for Aged Care concerning pension card concessions. She received a copy of a Queensland brochure from a constituent as well as information from the Warrnambool branch of the Association of Independent Retirees, which has been having discussions with the federal government about a national seniors card where the concessions available through Seniors Cards would be uniform around Australia. She asked the minister to support such an endeavour. I will pass that on to the minister.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Peter Hall asked whether a specific computer supply tender had been awarded. I will refer that to the Minister for Education in the other place.

The Honourable Cameron Boardman raised a question concerning crime figures in specific suburbs. I will refer that to the Minister for Police and Emergency Services in the other place.

Motion agreed to.

House adjourned 10.50 p.m.