PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

17 October 2001

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By authority of the Victorian Government Printer

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WEDNESDAY, 17 OCTOBER 2001

Wednesday, 17 October 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.03 a.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Commonwealth Games: construction unions

Hon. BILL FORWOOD (Templestowe) — My question is to the Minister for Industrial Relations. It refers to her answer in this place on 9 October in response to the Honourable Bob Smith's question about the Foundation for Sustainable Economic Development. Does the government plan to negotiate an agreement with the construction unions which will create a Commonwealth Games site agreement, similar to the one used for the Olympic Games, covering all sites, all contractors and all subcontractors for the duration of the Commonwealth Games construction period?

Hon. M. M. GOULD (Minister for Industrial Relations) — The government has been in discussions with a number of unions and employers with respect to the Commonwealth Games, both on the construction and the ongoing delivery of the games. We will have those discussions with the employers. We will help facilitate those discussions with the employers, with the contractors and with the unions. As I indicated in the house, the book that was developed by the Foundation for Sustainable Economic Development indicates the benefits of having such agreements to ensure that the games are successful — and I know all honourable members, with the passing of the legislation on the Commonwealth Games just last week in the house, support the games being successful. The government will work with all parties to ensure that there is — —

Hon. Bill Forwood — Will there be an agreement?

Hon. M. M. GOULD — Wherever possible we will have discussions with the parties to, wherever possible, reach an agreement to ensure that the games are delivered and are delivered on time and within budget.

Industrial relations: performance networks

Hon. E. C. CARBINES (Geelong) — Will the Minister for Industrial Relations inform the house as to how the Bracks government is promoting cooperation amongst public sector and local government agencies across Victoria in respect of industrial relations issues?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for her question. As this house will be well aware, when the Bracks government came to office, just two years ago this week, it faced the task of turning around seven years of neglect and destruction of the state's industrial relations structures. We had a big job ahead of us — to both restore industrial relations services to this state and to restore awareness of modern industrial relations issues and solutions. The previous government's conflict-based approach meant that cooperative structures across both the public and private sectors in this state had been severely eroded.

I am pleased to advise that Industrial Relations Victoria has been working hard to restore some of these cooperative structures. One example of this is the establishment of the regional high performance networks. These networks are made up of senior human resources or industrial relations managers from the public sector and local government across particular regions, and further networks will be developed over the next few months.

These networks provide an important forum for the exchange of ideas across the agencies. Industrial Relations Victoria provides support to the networks by presenting workshops, facilitating discussion groups and working with individual agencies on special projects. These workshops and discussion groups also assist the network members to understand and implement partnership approaches to industrial relations. That is something this state had neglected for seven years under the previous government.

We have already received feedback from the agencies and authorities involved, which is that these networks are working and have made significant improvements in their industrial relations and human resources practices. This, in turn, obviously produces better services for regional Victoria.

These networks epitomise what the Bracks government's cooperative, partnership approach to industrial relations is about. They also assist in restoring services to Victorians and repairing some of the damage that was inflicted on Victoria by the opposition when it was previously in government. This government is about restoring services, not demolishing them, like the previous government did.

Kyoto protocol: impact

Hon. PHILIP DAVIS (Gippsland) — I direct my question to the Minister for Energy and Resources. The federal Labor leader, Mr Beazley, has committed a future Labor federal government to ratifying the Kyoto convention. Presumably the minister will have

considered the impact of this policy on the Victorian brown coal power industry. Therefore, I ask: how many jobs will this policy cost in the Latrobe Valley?

Hon. C. C. BROAD (Minister for Energy and Resources) — I welcome this opportunity to address this very important issue of climate change and the actions that are being taken by the Victorian government in contrast to those of the current federal government. Judging by the comments from on the one hand Senator Hill, the sometime environment minister, and on the other the Deputy Prime Minister, John Anderson, in the course of this election campaign, the current federal government is still far from any agreement as to what action, if any, Australia should be taking on climate change, let alone any leadership being shown by the federal government in terms of Australia facing up to its responsibilities with climate change.

The Victorian government has indicated that it believes the responsible course of action in addressing climate change is to act within the framework of the Kyoto protocol, and that is what it is doing. It is in the process of developing a Victorian greenhouse strategy. I have indicated that the government requires new technology to be developed with the brown coal tenders in the Latrobe Valley to ensure that any further development is done in a way which meets community expectations and addresses emissions which impact on climate change.

The government is showing leadership in this area, unlike the federal government. The Victorian government's view is that it is possible to address the Kyoto protocol in a way which is of net benefit to the economy in providing new opportunities in new industries whether it be — —

Hon. Philip Davis — So you are abandoning the Latrobe Valley!

Honourable members interjecting.

The PRESIDENT — Order! The minister, to complete her reply.

Hon. C. C. BROAD — I am happy to wind it up, Mr President. The government's view is that there are substantial job opportunities — —

Hon. Philip Davis — You have no interest in jobs in the valley!

Honourable members interjecting.

The PRESIDENT — Order! The house is entitled to hear the minister's response. The Honourable Mr Davis has asked his question and the minister's colleagues behind her are not really helping her. I am trying to get both sides of the house to settle down so we can hear the minister!

Hon. C. C. BROAD — The government's view is that there are substantial job opportunities in developing new technologies to continue to utilise brown coal in the Latrobe Valley, developing renewable energy industries including in the Latrobe Valley for wind power and for energy efficiency and demand management.

Small business: E-commerce Advantage

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Small Business update the house on the latest e-commerce initiatives that are benefiting Victorian small businesses?

Hon. M. R. THOMSON (Minister for Small Business) — It is not so long ago that the Honourable John Brumby and I announced Victoria's E-commerce Advantage, a $10-million strategy to encourage the uptake of e-commerce by small and medium-sized businesses. It is the first time such a policy has been produced by a Victorian government.

As part of that program, last Friday at Burra Foods in Korumburra I was able to announce that six regional businesses will take part in the exhibition projects to encourage businesses to take up the advantages e-commerce offers. Some $300 000 will be spent on the exhibition projects which will support collaborative and innovative e-commerce initiatives, particularly business-to-business activities. We know the new technology can have its greatest benefits in regional Victoria.

Honourable members interjecting.

Hon. M. R. THOMSON — The opposition does not care about small and medium-sized businesses. In fact every time we talk about the real issues of concern to small business, there is just a whole lot of noise from the opposition. E-commerce uptake by small and medium-sized enterprises is a very important component for them to be able to compete in a global market. While the government is keen to ensure that Victorian businesses, particularly small and medium-sized enterprises are best positioned to compete, the federal government puts a GST burden on small and medium-sized businesses to the point where they are closing their doors and going backwards. If opposition members do not believe me, refer to the worm on Sunday night!

The government is committed to ensuring that Victorian businesses are well positioned to meet the global economy, and E-commerce Advantage is an initiative that ensures that small and medium-sized enterprises take up that opportunity.

Aquaculture: funding

Hon. R. M. HALLAM (Western) — My question is to the Minister for Energy and Resources and addresses her responsibility for fisheries. I am sure she would acknowledge that she has gone on the public record on a number of occasions to extol the Bracks government's financial support for the aquaculture industry and has claimed that this support can be justified on the basis of the new private sector investment being attracted to this emerging industry. Indeed, the minister is on the record claiming credit for the attraction of that private sector investment.

Against that background, I ask the minister to explain to the house why she, as the responsible minister, took the decision to axe the criteria of private sector investment as a key performance indicator employed and published by her department.

Hon. C. C. BROAD (Minister for Energy and Resources) — It is interesting to hear questions from the Honourable Roger Hallam which essentially go over ground we went over in the Public Accounts and Estimates Committee. If we were to compare the questions asked in this place in question time and during the adjournment debate with the Public Accounts and Estimates Committee, I suggest there would be very little if any difference. If that is the way the honourable member wants to use question time, that is up to him.

Hon. N. B. Lucas — So, what is the answer?

Hon. C. C. BROAD — The honourable member asks, 'What is the answer?'. The answer is the answer I gave to the Public Accounts and Estimates Committee. I am sure it is no surprise to honourable members opposite that my answer is unchanged.

The PRESIDENT — Order! Can I say in relation to that that the house is not privy to the proceedings of the Public Accounts and Estimates Committee. The question was specific, and the minister should not attempt to hide behind what happened in another forum. This is the Legislative Council, and the councillors are entitled to an answer. So the minister can summarise what she has said before but otherwise give the honourable members the information.

Hon. C. C. BROAD — Let me assure you, Mr President, as well as honourable members opposite, that far from hiding anything, I simply suggest that the Honourable Roger Hallam knows the answer to the question he has asked. Therefore there is some question as to why he needs to repeat it. The answer which I gave to the Public Accounts and Estimates Committee, which I am more than happy to repeat, goes to a process which was not commenced by this government but was commenced under the previous government — and as a former finance minister the Honourable Roger Hallam is very familiar with this.

It was a process to ensure that the output measures which are included in the budget are measures of outputs under the control of the government. As a result there has been an ongoing process, commenced under the previous government, of revising output measures to ensure that they reflect activity under the direct control of the government. Further measures of outcomes are being developed which go to matters not directly under the control of the government, including private sector investment. In this instance all that has happened is that the output measures in a number of areas of the Department of Natural Resources and Environment have been revised and replaced with more accurate measures.

I have made it very clear in my replies, including my replies to the Public Accounts and Estimates Committee, that this government remains committed to and has been successful in facilitating further investment in the seafood industry. I was pleased recently to launch a new directory funded by the Department of State and Regional Development — the first ever directory of the seafood industry in this state — which was warmly welcomed by the industry. It is something that was not done by the previous government.

Youth Parliament

Hon. R. F. SMITH (Chelsea) — I ask the Minister for Youth Affairs to advise the house how the government is encouraging young people to become involved in decision making and to engage in the democratic process?

Hon. J. M. MADDEN (Minister for Youth Affairs) — Two weeks ago I had the good fortune to open the 15th Victorian Youth Parliament in this chamber. You, Mr President, were also in attendance. Since 1987 the annual event has been supported and sponsored by the government through the youth services program. This year approximately 120 young people were involved in the Victorian Youth

Parliament and two days were spent debating bills in the Legislative Assembly and the Legislative Council. Bills were voted on along conscience lines and the acts proposed will be forwarded to me for distribution to my government colleagues. For the young people involved one of the great aspects is that it engages them in the development of public speaking skills, in personal development, team building and an extensive recreation program, which no doubt they had a lot of fun being involved with.

An interesting aspect of the Youth Parliament is that the themes, topics and bills often promote dialogue and discussion for future debate in these places and, not surprisingly, form some of the policy development for some of the parties in this place. I briefly mention a number of the bills: the Increase and Expansion of Drug Rehabilitation Centres across Victoria Bill, the Regulation of Video Games Bill — I could refer to a number of such bills.

As does the government, I look forward to receiving and considering the outcomes. The event and its process indicate that the government is involved in changing the culture of government engagement with young people. The previous government pursued a culture of exclusion of young people; we include young people. We listen to young people debating bills in the Youth Parliament. We are also taking the opportunity to talk to young people and listen to their views through the youth round tables, and we are investigating young people's views expressed in the submissions to the youth strategy. We are also meeting with young people in regional and rural Victoria to discuss their concerns.

I take this opportunity to thank all those involved. I congratulate the YMCA on its work in running this terrific program. I thank the Youth Parliamentarians for their enthusiasm and motivation during the program. I thank the schools, community groups and youth agencies who volunteered their time and energy to support young people in the process.

Most of all — I am sure you would appreciate this — Mr President, I thank the staff of the Parliament for their continued hard work in assisting members and the young people of Victoria.

Kyoto protocol: impact

Hon. W. I. SMITH (Silvan) — Has the Minister for Small Business calculated the impact of job losses in Victoria as a result of a federal Labor government ratifying the Kyoto agreement? What assistance will she give to these businesses?

Hon. C. C. Broad — Why don't you just say you are opposed to Kyoto?

Honourable members interjecting.

The PRESIDENT — Order! The opposition has asked a question and I am sure its members are interested in the answer. I am interested in hearing the minister's answer. Everyone else, keep out of it!

Hon. M. R. THOMSON (Minister for Small Business) — I am not quite sure I understand what is intended by the question. It seems to be anticipating job losses from the Kyoto agreement. That agreement will enable us to look ahead to the future and the demands and needs of our communities. If we bury our heads in the sand and do not look at the challenges faced by Victoria, Australia and the world, we will be doing nothing for our children and for the jobs which need to be created.

Hon. G. R. Craige — You did a real good job when you introduced poker machines.

The PRESIDENT — Order! Interjections are always disorderly but especially so when they are totally irrelevant to the matter under discussion. Let us keep the poker machines out of this and stick to the issue.

Hon. M. R. THOMSON — If we bury our heads in the sand we will not be looking to the development of new jobs or for Australia's future place in the world. It is time we looked to the future and not to the past.

Consumer affairs: interest rate comparisons

Hon. T. C. THEOPHANOUS (Jika Jika) — The ability to compare interest rates on a common basis is fundamental to informed consumer choice. Will the Minister for Consumer Affairs inform the house about the progress being made towards mandatory comparative interest rates?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for his question. With so many products out there and because of the different ways they are packaged comparing interest rates is very important for consumers. The comparative rate method puts interest rates and the fees and charges that may be attributed to loans into percentage terms. This enables consumers to compare the packages in the market place.

The uniform consumer credit code includes a voluntary capacity for those who provide loans to provide comparative rates for consumers. Unfortunately very

few credit providers have taken up that option. At the Ministerial Council on Consumer Affairs last year an agreement was reached to move to a mandatory comparison rate. This comparative rate was to be introduced into the Queensland Parliament in September this year with the agreement of all states. Unfortunately the federal government has yet again neglected the needs of consumers and is delaying the introduction of this code.

Hon. R. A. Best — Get serious!

Hon. M. R. THOMSON — I am very serious about this. The federal government is delaying the introduction of the code into the Queensland Parliament. A great deal of consultation took place in the lead-up to this piece of legislation that was to go before the Queensland Parliament and now the federal government says further studies need to occur. It is an unnecessary delaying tactic. If the federal government has concerns which require further studies to be undertaken it has had 12 months in which to do them but on the eve of the introduction of the legislation we hear that the federal government is not prepared to allow this matter to proceed in the Queensland Parliament.

On top of that we have heard there will be a review of the mergers and acquisitions provisions of the Trades Practices Act to make it easier for big business to acquire and merge with other businesses. This is being highlighted as a wonderful thing, but that is not the case for small businesses and consumers.

Hon. K. M. Smith — On a point of order, Mr President, the minister is supposed to be talking on issues regarding the state government; she is not being relevant. She is also debating the issue which is against the standing orders of the house. I ask you, Mr President, to get her back to the point.

Hon. M. R. THOMSON — On the point of order, Mr President, it is very relevant to the state government. The consumer credit code is a uniform credit code implemented by the states by unanimous agreement. Victoria played a very important role in the development of that code. It is relevant as it concerns the government and my portfolio.

The PRESIDENT — Order! I do not uphold the point of order. I ask the minister to wind up her answer.

Hon. M. R. THOMSON — It is important that consumers have access to relevant information when looking at loan products. The government would like to see a speedy introduction of this legislation into the Queensland Parliament. However, it now looks as though this legislation will not be introduced into the Parliament before next year because the federal government has failed to support this move. I hope the federal government gets what it deserves at the next election.

Minister for Industrial Relations: Ansett Australia

Hon. P. A. KATSAMBANIS (Monash) — My question is to the Minister for Industrial Relations, and I hope she focuses on issues relevant to Victorians. What action is the minister personally taking in her self-described honest broker role to ensure that unreasonable trade union demands do not delay or dissuade potential investors in a relaunched Ansett airlines?

Hon. M. M. GOULD (Minister for Industrial Relations) — I can assure the honourable member that this government has done more for Ansett airlines and Ansett employees than the Liberal Party members or their federal colleagues ever did. It is an absolute outrage!

Honourable members interjecting.

The PRESIDENT — Order! I know this is all good fun. The minister is responding and she is entitled to do so in the way she chooses. I think other members should let her be heard.

Hon. M. M. GOULD — The Bracks government has done more for the Ansett employers and more to assist in getting Ansett Mark 2 off the ground. State opposition members and their federal colleagues have done absolutely nothing. The National Party's federal colleague the Deputy Prime Minister has washed his hands of the matter and walked away. He has not attempted to do anything in any shape or form.

The Bracks government has taken a whole-of-government approach. Last week the Premier flew to Singapore in an attempt to get some assistance from Singapore Airlines. Singapore Airlines is coming to Australia to assist the administrator and potential buyers to re-establish Ansett. It will be assisting with technical advice on administering an airline. I and other government ministers have been involved with the Australian Council of Trade Unions and the administrators to ensure that any attempt to get Ansett Mark 2 off the ground is done in a way that is affordable and long term. The opposition has a cheek to come into this house and ask what this government has done for Ansett when it has done absolutely nothing.

Hon. P. A. Katsambanis — On a point of order, Mr President — —

Honourable members interjecting.

The PRESIDENT — Order! The honourable member is entitled to be heard on the point of order.

Hon. P. A. Katsambanis — My question to the minister was very specific. I understand ministers have a lot of flexibility in the way they wish to answer questions, and if they wish to engage in a tirade, that is fine. However, I asked a specific question that related to what action the minister is personally taking in her self-described honest broker role to ensure that unreasonable trade union demands do not delay or dissuade potential investors in a relaunched Ansett airlines. I do not believe the minister even attempted to answer the question I asked, and I call on you, Mr President, to direct the minister to answer the question.

The PRESIDENT — Order! I thank the honourable member for repeating the question. The minister's response was meant to be a whole-of-government response, as I understood it.

Hon. M. M. Gould — And specific.

The PRESIDENT — Order! I said that one of the problems was hearing the minister. The answer was certainly responsive to the question. It may not have been what the honourable member was wanting, but I do not believe I can uphold the point of order.

Boating: safety programs

Hon. G. D. ROMANES (Melbourne) — With the approach of the summer boating season, will the Minister for Ports advise the house of what activities the Bracks government has undertaken to promote marine safety?

Hon. C. C. BROAD (Minister for Ports) — I thank the honourable member for her question and for the opportunity to advise the house of the government's actions in delivering on key services like marine safety as we approach the second anniversary of the election of the Bracks government.

The government is delivering on better marine safety in a number of ways. The Marine Board of Victoria as the state's primary marine safety agency has recently sought input from the community, boating safety organisations and the boating industry on how it can improve the delivery of important safety messages, safety programs and new government initiatives. As a result of that consultation the marine board has revised the methods it uses to promote marine safety and initiatives around Victoria, including a better web site, updated information in newsletters and the establishment of regional forums. The program of regional forums has been developed to ensure that rural and regional Victorians, particularly those around the coastline, can access the marine board and the valuable information it can provide, particularly with regard to marine safety.

Safety forums have been held in Lakes Entrance, Portland, Port Fairy and Geelong, and a further forum is planned to be held in Sandringham in early November. As well as being designed to ensure that regional Victorians have the opportunity to meet with officers of the marine board to discuss local issues, these forums also provide an opportunity for the marine board to get direct feedback from people about marine safety. The forums have been extremely well attended with an average attendance of around 60 people. Clearly they are meeting a need which was not being met under the previous government.

These actions by the Bracks government are designed to deliver better marine safety and to ensure that in the coming summer Victorians not only enjoy themselves on the water but do so in a safe manner.

PAPERS

Laid on table by Clerk:

Subordinate Legislation Act 1994 — Minister's exception certificates under section 8(4) in respect of Statutory Rules Nos 99 to 103.

Tricontinental Holdings Limited — Report, 2000.

FORESTS: INDUSTRY SUPPORT

Hon. P. R. HALL (Gippsland) — I move:

That this house calls on the government to demonstrate its support for Victoria's hardwood timber industry by —

(i) renewing timber licences immediately;

(ii) negotiating with the federal government for a substantial increase in forest industry structural adjustment program (FISAP) funding to support value-adding initiatives and voluntary industry exits; and

(iii) allocating timber from special protection zones to make up contract shortfalls as provided for under the regional forest agreements.

I take pleasure in the opportunity to talk about one of Victoria's most prominent and important primary

industries — the timber industry. I have raised this motion in a way that does not attack the government, but rather in a cooperative and I believe responsible way, seeking support from all members of the house for the ongoing viability of the timber industry.

Most honourable members, particularly those who represent rural electorates, would understand that for many years the timber industry has been the subject of uncertainty and much change. Because of its reliance on resource growing on public land, the timber industry has often been thrust into the public spotlight because of the competing demands on that public resource. It has often been portrayed in a very unfair light, and it is my view that politics have often got in the way of logical decision-making processes when it comes to timber industry-related issues.

It should be remembered that timber is a renewable resource. It also needs to be remembered that the timber industry has been the subject of severe curtailment over a number of years. During this time with good grace, but also with a good deal of pain, the timber industry accepted decisions with the optimistic hope of achieving sustainability and once and for all ending the ongoing political fighting. We have had the umpire in on a number of occasions within the timber industry to try to resolve some of the differences and to resolve sustainability of resource as opposed to the need to conserve particular aspects of the environment. But, sadly, despite the verdict of the umpire being delivered on a number of occasions, there is still ongoing public brawling associated with resources in the timber industry. It is a great shame that that continues today despite the verdict of independent umpires arbitrating in that process on a number of occasions in recent years.

It is worth recording that it was an initiative of a Labor government in 1986 that introduced the timber industry strategy in Victoria. That strategy introduced the concept of 15-year licences, something the industry welcomed, but also we saw associated with the timber industry strategy a severe curtailment of available resources for the industry. In some areas of Victoria available timber resources were cut by up to 50 per cent, such as in far East Gippsland, but the industry took the pain with the expectation that it would now have security of supply, long-term tenure of resources and would avoid the ongoing public conflict of people protesting about the activities of the industry.

Over the years successive reviews have been undertaken by the former Land Conservation Council to assess public lands in Victoria. Almost invariably each time a review has been undertaken by the LCC, additional areas of forest resources have been locked away in conservation areas, and once again the level of resource available to the timber industry has been reduced.

In recent years we have had what have been termed regional forest agreements (RFAs). We have five of them here in Victoria. They are joint state–commonwealth initiatives designed to give 20 years of certainty to the timber industry. The intent of the regional forest agreements was to put the arbiter in place, to determine appropriate levels of sustainable resource within the industry and to allow the industry to develop and progress with the expectation of a fixed resource for the next 20 years.

Once again, sadly, that seems to be falling apart, for a number of reasons which I will talk about during the course of the debate on the motion today. Not the least of those reasons is a group of people in this state who are once again refusing to accept the umpire's decision. We see people out there protesting in the forests and disrupting the legitimate and legal livelihood of many people involved in the timber industry. It is sad that people cannot accept the umpire's decision on these matters.

The regional forest agreements have not delivered in another sense as well. What has emerged in recent times is that the available resource under the RFAs was grossly overestimated at the time they were signed off. Consequently it has become evident that the resource availability is not there. That is causing a crisis in the timber industry.

I have raised this in a way that allows the government to cooperate and demonstrate its support by way of its contribution and the commitments it gives in debate today. I apportion no blame to the current government, nor do I apportion blame to the previous government. Both were involved in the state of Victoria. Three of our RFAs were signed off by the state and the commonwealth under the previous state government. The last two RFAs have been signed off under the present government. It is a problem we commonly share, and it is a problem we have to commonly work through to try to resolve.

During the course of this debate I want to talk about three aspects of the timber industry. I want to speak first of all about resource availability. I then want to talk about resources in the department and the ability of those resources to appropriately administer forest services. Finally I want to talk about the commodity price of timber and timber-related products.

I turn now to the issue of resource availability. As I said, the regional forest agreements gave everybody in the industry the expectation of a fixed amount of resource that would be available over the next 20 years so that appropriate planning could take place beyond that period of time.

I refer to the *VAFI News*, the journal of the Victorian Association of Forest Industries, of October this year. The head article in that document is entitled 'Resource — time for government to deliver'. It says in its opening comments:

> Victoria's forest industries and many of the communities it supports seem likely to face a crisis — a lack of resource.
>
> VAFI's position has always been, and remains, that state government is legally, socially and morally obligated to make the land area available for wood production and to supply the wood to the volumes agreed under the five Victorian regional forest agreements.

I believe that is a very sound position taken by the Victorian Association of Forest Industries. The regional forest agreements are binding documents. Licence contracts between the government and sawmillers are legally binding contracts under which the government is required to deliver certain volumes of resource to the sawmillers. We have a problem in that it seems that the level of resource is not available to honour those legally binding contracts, and we therefore have a real problem in ensuring that the industry is sustainable.

I need to talk briefly about the regional forest agreements and why mistakes were made. Why is it that RFAs at the time so grossly overestimated the level of resource that was available? It is worth while giving a little bit of background to the RFAs and seeing what they delivered for Victoria. One of the explicit objectives of the RFA process was to create a world-class forest reserve system which still provided a land base for production forestry but which at least maintained social and economic values or adequately addressed any negative impacts of the creation of those forest reserve areas.

I do not think there is any dispute that Victoria's five RFAs have delivered a world-class forest reserve system, and I think most people in Victoria would concede and recognise that. As an outcome of the five RFAs we have seen approximately 750 000 hectares of public forest added to the reserve system in Victoria. We have produced a forest reserve of about 2.86 million hectares — more than 50 per cent of public land in the regions covered by the RFAs. I will repeat that so that we understand exactly what that means: in the regions covered by Victoria's five regional forest agreements more than 50 per cent of that public land is tied up in conservation reserve systems. The RFAs also identified more than 1 million hectares of old growth forest and protected 68 per cent of it — once again a significant level of protection for old growth forests. They are some of the outcomes in terms of the reserves that were achieved by the RFA process.

What has emerged is a significant shortfall in the predicted resource available for use by the timber industry. In some cases early estimates were that statewide the resource shortfall was of the order of 150 000 cubic metres. This equates to an average of 20 per cent across the five RFA areas. So on preliminary estimates there is 20 per cent less resource available. We understand — and I will talk about it in a moment — that the minister is doing a more detailed assessment to try to get greater accuracy on the level of resource available for the industry. My great fear is that that 20 per cent will grow and that there will be even less resource available to the industry, and that will have dire consequences for many of our timber communities throughout this state. That is what the RFAs were about.

One of the implications of this is that, because of the uncertainty of the level of resource available to the industry, the government has delayed renewing the current timber licences in this state. Some of those timber licences were 15-year licences that commenced with the timber industry strategy in 1986. They are due for renewal. Many of them need to be renewed before June next year. We have approximately eight or nine months before those contracts expire. What we would normally have expected is that those 15-year licences would have been renewed after about 12 years, because you cannot expect a business to work right up until the death knell of the contract and its licence expiring. Businesses need some lead time, some certainty that there is going to be a continuation. The state would normally have renewed those licences approximately two years ago.

One of the reasons I moved this motion is that the situation is now critical. There needs to be some urgent action on renewing those timber licences. It is said that the lead time for investment in the timber industry is about 10 years. That is why we went to 15-year licences. Timber businesses need at least a 10-year lead time in which to make significant investments. It is a big industry where there is significant capital investment. Without that level of certainty we are going to see that investment stall. That is already happening.

Because of the uncertainty about the renewal of those licences, what sensible business organisation would invest millions of dollars in new capital equipment

when it is unsure of whether its licence will be renewed or, if it is renewed, at what level it will be renewed? Consequently we are now seeing a significant delay in much-needed investment in the industry.

They are some of the implications of not having available resources to readily renew those timber industry licences. Does the government know about this? Yes, it does. It was brought to its attention some time ago and brought to a head earlier this year. I refer to an article by Claire Miller, environment reporter, in the *Age* of Monday, 26 February this year — some seven or eight months ago. It is headed 'Log jobs to go: secret paper' and states:

> The Department of Natural Resources and Environment briefing paper says logging rates are unsustainable and volumes need to be reduced by 20 per cent if the industry is to survive.
>
> It says a 'corresponding impact on employment' will result, but doing nothing means the industry will collapse in time because of overlogging.
>
> A 20 per cent drop in employment equates to 900 regional jobs in sawmilling, timber cutting, haulage and the public forestry service, plus a potential 2600 jobs lost in downstream industries such as pulp and paper processing, furniture making and wood products manufacturing.
>
> Some regions may suffer more than others, however.
>
> In East Gippsland, for instance, sawmills are the lifeblood of many small and isolated towns, and fewer alternatives exist.

I repeat those figures, because they are significant. We are talking about 900 direct jobs from the timber industry and a potential 2600 jobs in downstream processing. That is something that regional and country Victoria simply cannot afford. It would be an absolute disaster. We all know what great pain and hardship the people of Swifts Creek experienced when a sawmill there closed recently. A number of towns will be in a similar boat if the government does not address this issue.

I refer to another article, this time in the *Herald Sun* of Saturday, 10 March, headed 'Timber industry warns on logging quotas: death knell for sawmills'. Under the subheading 'Awaiting the axe' it states:

> Twenty of these timber towns could loose their sawmills and possibly their main employer.

In East Gippsland they are: Swifts Creek, Cann River, Valencia Creek, Heyfield, Club Terrace, Orbost, Newmerella, Nowa Nowa, Buchan, Bruthen, Mount Taylor, Bairnsdale, Waygara, Noorinbee, Bendoc, Genoa, Marlo and Leongatha. All of those towns — —

Hon. T. C. Theophanous — What did you do for them?

Hon. P. R. HALL — I will enjoy Mr Theophanous's contribution. Had Mr Theophanous been present in the chamber he would have heard that I apportion no blame to anybody. This issue needs to be addressed in a bipartisan way, and I would hope his comments in this debate would be made in a bipartisan way.

Hon. T. C. Theophanous interjected.

Hon. P. R. HALL — I would hope he would address this issue in a bipartisan way.

I will read out some of the other towns in other parts of Victoria — in the Central Highlands they are: Mansfield, Seymour, Alexandra, Toolangi, and the list goes on significantly. In the Midlands they are: Woodend, Ballarat, Creswick, Daylesford, Beaufort, Lyonville, Bullarto and Colac.

All of those towns and many others on this list rely greatly on the timber industry. Therefore the obligation is on us as members of the Parliament of Victoria to ensure that our resources and efforts are put towards assisting the industry through the crisis it is currently experiencing.

The issue was followed up in the *Age* of Tuesday, 27 February. An article headed 'Workers call for forests inquiry' states:

> A spokeswoman for the conservation and environment minister, Sherryl Garbutt, said timber estimates were being reviewed as part of the sawmill licence renewal process. Most mills have 15-year licences that begin expiring next year.

I have just said that. The article continues:

> She said licences in most forest management areas could be renewed at current levels but the government would need to take a precautionary approach in some regions because new data was not yet ready.

I hope that eventuates. I hope most licences can be renewed, but when I go out and talk to the licence-holders themselves, they do not share that confidence. I have spent some time talking directly to a number of sawmill operators and hearing about their concerns and their experiences of working with departmental forestry services. On 8 February this year I met with a group of sawmillers in East Gippsland. That meeting was prior to some of the media comments I have referred to, so I was aware of the situation brewing. I met with people like Max Reynolds, who operates a sawmill at Marlo, Alan Steel, who is the manager of a sawmill at Brodribb, Greg Dolan at Cann

River, and Ron Becker at Genoa. I sat down with them at one of the sawmills and listened to what they had to say.

They are concerned about the quality of logs currently being delivered to the sawmills. Obviously there is an issue associated with the regional forest agreement and the assessment process where not only was the resource underestimated but also the quality of that resource as well. We know that the timber industry in Victoria is sawlog driven and wherever a coupe is cleared it is done on the basis of extracting pieces of timber that are of sawlog quality. The rest is often inferior timber which cannot be used for sawlog and is used for pulp and goes eventually into paper manufacture, and that is called the residual timber. So the field of operation in native forests is one of clear-felling where sawlogs are extracted and as a by-product the residual timber is used for woodchips and ultimately paper manufacturing.

They are concerned about the quality of the logs the department is apportioning to them. They are saying that the royalties they have to pay to the government make it difficult for them to survive. They all — this is the important thing — understand that the resource is just not available. They know that the government, which has signed these sawmill licences, is unable to deliver on the contracts it has with each of these licence-holders. Yes, they are bitter about it. They are bitter that the government cannot meet its side of the contract, but they accept reality. They have said to me, 'For goodness' sake, don't just hang us out to dry and wait until our licence expires; do something now to resolve the situation so at least we can continue with some pride and dignity'.

West Gippsland, another part of my electorate, also relies greatly on the timber industry. On 15 March this year I met in the Baw Baw Shire Council offices with a number of shire councillors and local timber operators. One of the people I met there was Peter Ward, who operates Drouin West Timber. The company has 68 employees and exports 30 per cent of its product, so it is doing the right things. It is value adding and it is creating export opportunities, employment and income for this country, but if it is faced with a 20 per cent reduction then a lot of the viability of that business will be put in jeopardy. As I said, there is not a big margin in the timber industry now. Many timber companies are just surviving and if there is to be a reduction in the resource availability the viability of that industry will be under some degree of cloud. I am sure they will survive because they are good operators but it makes it more difficult for them.

People from other sawmills who were at that meeting passed on some opinions. Once again, they echoed some of the thoughts of the people in East Gippsland: the resource availability is not there, the quality of the resource is not what it should be, and moreover they realise that the government is unable to deliver on contracts. The situation in recent times has not improved. On 14 September this year I met with other East Gippsland sawmillers, in this case Gary Squires and Frank Brunt. They are involved not only in sawmilling but also in the cartage and harvesting side of the industry as well, and they echoed the same sorts of things. They are frustrated that the timber licensing review put in place by the minister is dragging through and there is still no outcome to that process. A log haulage and harvesting review and a timber pricing review are going on at the moment, and the delay in the licence renewal is also frustrating the process up there.

Hon. T. C. Theophanous — You just sat on your hands for seven years!

Hon. P. R. HALL — That is absolutely untrue! The regional forest agreement process was agreed by you, Mr Theophanous, and by every other member of this house, as it was in the commonwealth Parliament as well. We all thought it was a good thing. The independent arbiter was to try to assess the difficulties within the industry and give it certainty for 20 years.

Mr Theophanous supported it the same as I supported it. He and I did not expect that this situation would arise today — that is, that there was a gross overestimation of the resource available at that time. We need to address the problem today. They were not evident two or three years ago when the RFA process was debated in this house and signed off by both the government that I was part of and now the government that Mr Theophanous is a part of. So I say to the honourable member again, it was unforeseen — —

Hon. T. C. Theophanous interjected.

Hon. P. R. HALL — Mr Theophanous can continue with those inane interjections, which I will ignore, because there is no logic in them. I do not see that he is producing any productive contribution whatsoever to this debate.

The DEPUTY PRESIDENT — Order!
Mr Theophanous, you will have an opportunity later.

Hon. P. R. HALL — The sawmillers and the industry know there is a problem and are willing to work with the government to try to resolve it in a responsible manner.

The Minister for Environment and Conservation, who is responsible for the timber industry, issued a press release on 20 March headed 'Minister announces new native timber licence renewal framework', where she mentions, in part:

> … key stakeholders had agreed to a strategic framework to progress the renewal of native timber harvesting licences in Victoria.

She explains in the press release the importance of getting more accurate assessments of the available resource for the industry, which we welcome, but that started in March and it is still not resolved. With licences due for renewal by the middle of next year the situation is indeed becoming urgent.

I want to move on and talk about what needs to be done in respect of the deficit in available sustainable yield and what are the sorts of things we can do to try to support the industry to get through this difficult period. There is no doubt that one of the first and crucial steps that has to be undertaken is to have an accurate assessment of the sustainable yield. That is absolutely essential. That process is being undertaken at the moment. I do not presume that we can hurry that by any means, but it is in progress, and I hope some outcomes of that are delivered shortly.

We can take a number of measures, for example, through the forest industry structural adjustment program (FISAP), which is mentioned in the motion, where funding was made available to all states in recognition that the RFAs brought with them a reduction in resource availability. FISAP was essentially all about providing funding for innovative value-adding projects that would make better use of available resources. Victoria was allocated, after some negotiation, an increase of $42.5 million under the FISAP program. Much of that is yet to be allocated. Given the errors that occurred in the RFA process, there is a very sound case for a substantial increase of those funds that were made available.

Hon. T. C. Theophanous — What errors?

Hon. P. R. HALL — Did somebody say, 'What errors?'. Is somebody not listening to this debate? Has somebody got such a thick head that they can't hear this morning? I can't believe those inane interjections.

I will be specific. The Minister for Environment and Conservation is trying to be specific. She has a crew out there now trying to get an accurate estimate of the sustainable yield, Mr Theophanous, for the last time. When people did it last time they got the figures wrong.

Hon. T. C. Theophanous — Who?

Hon. P. R. HALL — People in the department; it is called the Department of Natural Resources and Environment. They did the assessments of the sustainable figures. Yes, they were employed by the Victorian government. In part it was when Mr Kennett was Premier and in part it was when Mr Bracks was Premier. There are faults on both sides.
Mr Theophanous wants to try to apportion blame to somebody all the time. It proves that he is a political animal who simply has no intent whatsoever to try to resolve things for this state. I think Mr Theophanous's attitude is extremely selfish.

The FISAP funding program is an important one that can deliver better value-adding projects within the industry. Much of that has not yet been allocated. There is an urgent need to ensure that it is allocated in the process. For example, many applications have been put forward, one of those I am aware of has been put forward by Hallmark Oaks Pty Ltd, a company in East Gippsland based at Cann River. It has made an application to purchase an adjoining sawmill site — basically amalgamate the two operations — to produce better value adding of the combined product that each of those sawmills delivered. Looking at the application, I thought essentially the project was a very worthwhile one. It is important to know that since it began in 1987 the particular company has invested nearly $10 million — $9.7 million — into the industry. That shows the level of commitment it has to value adding. It sought funding under FISAP to the tune of just over $1 million or thereabouts to acquire the operation of the adjoining sawmill to make better use of the combined resource of those two particular operations.

Importantly, the FISAP application involved a proposal for no net job losses. That was a commendable proposal. It is disappointing that at this time this particular application has been knocked back. I hope that in light of the outcomes that will soon come from the assessment of the sustainable yield levels that such applications can be reconsidered and assistance sought. To meet major sawlog licence volumes while there is less resource available somebody will receive reduced allocations of timber.

Part of the whole process of FISAP needs to be extended to the funding of voluntary exit packages. I mention that in paragraph (ii) of my motion. Once again the industry agrees with that. As reluctant as they are, people accept that there need to be some voluntary industry exit packages. The Victorian Association of Forestry Industries in its newsletter of June commented to that effect, and said in part:

> …as put forward by individual members — have involved large and small members retiring resource in exchange for compensation and/or industry development assistance, with an emphasis on voluntary outcomes. To achieve this, government financial assistance will be required and this is yet to be obtained.

That is why I say that the FISAP funding of $42.5 million currently allocated to Victoria needs to be increased substantially. I suggest that it needs to be increased to the order of around about $100 million so that an appropriate compensation payment or buyback of a licence can be made available to those who wish to voluntarily exit the industry. I emphasise that it needs to be voluntary, but if a voluntary buyback can be achieved then that resource bought back can therefore be retired to enable the full renewal of those other timber licences of people remaining in the industry. The funding of voluntary exit packages is an important component of FISAP, and the state government needs to look at that favourably.

The other area I turn to is included in paragraph (iii) of my motion, and that concerns the use of special protection zones to make them available for timber harvesting. Special protection zones are flexible reserves. Under the RFA legislation, if it is deemed there is a need, special protection zones can be rezoned to allow for timber harvesting.

Hon. D. G. Hadden — Tell that to the sooty owl.

Hon. P. R. HALL — The sooty owl? Yes, we will tell him too. It is also important to note that when the regional forest agreement process was introduced Victoria had a far higher level of conservation reserves than any other state in Australia — in fact, it was above the level required by the international standards set under the RFA process for reserves. The proportion of Victoria's total native ecosystems that are conservation reserves is 49 per cent, whereas in New South Wales it is only 39 per cent, in Western Australia it is 40 per cent and in Tasmania it is also 40 per cent. Victoria's proportion of its total native ecosystems that are conservation reserves is 49 per cent, which is well above the level required. Victoria can still meet its requirements under international standards of conservation reserves if it releases some of those special protection zones to enable timber harvesting to take place in those areas. After all, as I said before, the RFA process has added about 750 000 hectares of public forest to the reserve system, which is far more than was actually required.

People will always say in a timber debate that we should be reducing our timber harvesting in native forests and moving to more of a reliance on plantation forestry. I have no objection to that at all and I think we should encourage plantation forestry as it is a sensible outcome, but it will take us a very long time before we can ever rely totally on plantations.

I will give the house the figures to illustrate that point. Victoria currently has about 3.47 million hectares of forests of which only 1.2 million are managed for hardwood production — that is, only 1.2 million hectares out of a total forest area of almost 3.5 million hectares in this state. Victoria has about 300 000 hectares of plantations at the moment: 75 per cent of those are softwood plantations and only 25 per cent are hardwood plantations. We are told that by 2020 if the current rate of plantation growth continues we will have 750 000 hectares of plantations, and even if half of those plantations were hardwood by the year 2020 — only a quarter are hardwood plantations now, but if they grew and the majority of new plantations were hardwood — we would still have only a third of the area in plantations required for our current level of hardwood production. That is 19 years down the track; even if all our efforts went into hardwood plantations, two-thirds of our needs would still have to come from native forests if we are to sustain this industry.

Hon. Philip Davis — What about the quality of timber, Mr Hall?

Hon. P. R. HALL — As we know, we rotate harvesting in plantations on about an 80-year cycle, so obviously if we are looking only 20 years down the track the quality and size of that timber will not be at the mature levels we harvest today. Let us be honest with this and say that we should have an objective of increasing plantations in this state, but that we will never be able to totally rely on plantations for timber harvesting, particularly hardwoods, until many years down the track — and when I say many I mean at least 50 or 100 years down the track. Given the fact that Victoria has far more conservation reserves than are required under agreed international standards, I believe we should open up some of those special protection zones and allow timber harvesting to take place in those areas.

Hon. T. C. Theophanous interjected.

Hon. P. R. HALL — That will relieve some of the pressure on the resource availability.

I will conclude this aspect of my contribution to the debate by saying that resource availability is a real problem. I am disappointed that by interjection some members of the government do not recognise that it is a serious problem.

Hon. D. G. Hadden interjected.

Hon. P. R. HALL — Interjections by some members of the government, I said. Some members of the government — —

Hon. T. C. Theophanous interjected.

Hon. Philip Davis (to Hon. T. C. Theophanous) — Don't be a fool! Your government signed two RFAs. You are a fool! You don't know anything about the subject.

The DEPUTY PRESIDENT — Order! Mr Davis and Mr Theophanous will both have the opportunity to contribute to the debate.

Hon. P. R. HALL — It is disappointing that some members of the government by their interjections do not recognise that this is a serious problem. They do not appear to have any real commitment to assist the timber industry and that is pretty disappointing. The people out there in country Victoria would not be pleased to hear the tone of the inane interjections we have heard today.

However, I am strongly urging the government to, first of all, do as much as it can to expedite the process of assessment of sustainable yield out there to enable timber licences to be renewed as soon as possible and to give some support to the industry so it can proceed from here on in with some sound advice and proceed with some confidence in terms of investment in the future.

I want to touch on a couple of other issues, and one of those is the resources available within the department to appropriately administer forestry services. All the people I have ever met in the Department of Natural Resources and Environment who have been involved in not only forestry but also with other operations have been really good hardworking people and I admire them for the work they do. Working in forestry services is a very demanding and difficult job, often because of the confrontations that occur out there in the forests. Foresters employed by the department sometimes have to get involved in what they should not have to be involved in — that is, adjudicating between protesters in the forest and legitimate timber workers. It is a shame that much of the time of those foresters is being absorbed in sorting through some of those issues out there, which detract from the work they could and should be doing.

It is important to recognise that Victoria has lost a lot of experience in the forestry industry over the years — experience that could have assisted the current officers in delivering the services they deliver to the timber industry. I refer the house to the history of the Department of Natural Resources and Environment in its various forms over a number of years, because it has not always been the Department of Natural Resources and Environment, and there have been some significant changes. Those changes probably started in the mid-1980s at about the time of the timber industry strategy. At that time individual departments involved in land management were combined in one department called the Department of Conservation, Forests and Lands. That opened up numerous managerial positions and a number of experienced forestry personnel shifted sideways out of direct provision of forestry services and took the opportunity to gain promotion in a larger department.

In the mid-1980s we still had compulsory transfers and appointments within the public sector and at about the time of the timber industry strategy they were abolished, so it became a bit more difficult to attract experienced departmental officers to some of the more remote areas of our state where the timber industry is an important industry.

There have also been some important social and cultural changes over the years. We now see more families where both husband and wife are working and in many respects that is a good thing, but in country Victoria it is often difficult for both husband and wife to find employment. Consequently, some experienced professional people have not moved to the remoter areas of the state because of the limited employment opportunities for their spouse.

We have also seen some downsizing in the department over recent years which has led to some experienced people in the forestry industry moving out of the department. Also, some people have been less inclined to be involved in forestry because of the protest action sometimes taken in forest areas, which can make their jobs very difficult at times, as I said before. Consequently, some people have moved to other areas simply because they do not want the hassle of trying to sort out some of the needless protests that occur in our forests.

There have been separations in the department in recent years. There is now an area called Parks Victoria as well as the natural resources and environment area. Experienced forestry people have moved from one side of the department to the other and gone into Parks Victoria, so we have lost a lot of experienced people in the commercial side of forestry service within the department.

There has also been a social change in society. People have tended to retire earlier. In recent years that has also meant a loss of a lot of experienced people in forest services. A combination of all those and other matters has resulted in a lot of experience having been lost out of the department over a number of years and a heavier workload being placed upon younger and less experienced people in forest services. That has been reflected in the sorts of services the department can provide. Some of the sawmillers are frustrated by the fact that many of the people currently working for the department are being distracted from their job with the protests. Their job has been made more difficult by the lack of available resources within the industry.

A combination of all those things means they need a hand. That is the bottom line: they need a bit of a hand. One thing the government could well consider is recruiting on a part-time basis and hiring back in some of the experience that has been lost in recent years. A number of good, experienced foresters who have left or retired in recent years could be very helpful to the department at this time. The government could do well to consider bringing some of them back to help out on a part-time basis.

The final point I will look at concerns commodity prices in the timber industry. While in reasonable times most other primary commodities have fetched reasonable prices, timber and timber-related products have not been one of them. You would be aware, Mr Deputy President, that commodities like grain, dairy, beef, and even wool in recent years, have experienced quite good commodity prices, but that timber has not. However, we respect that times have been tough in general in the primary industry. So a year or two of good commodity prices is, in many respects, purely catching up for the bad years with drought and flood we have just experienced. We certainly need those catch-up years.

I am also aware that the recent acts of terrorism have put some nervousness into the markets around the world. Therefore, it cannot be said with any confidence at this time that commodity prices are expected to remain at reasonable levels. So we need to brace ourselves for the times ahead. But the timber industry is one of those primary industries that has not enjoyed good commodity prices in recent years. One reason has been the fact that the housing and construction industry now has a greater reliance on softwood than it does on hardwood. The hardwood timber industry has felt the effects of that.

We have also noticed that just this year in recent months there has been a downturn in the potential markets for woodchips, an important by-product of the timber industry. That is adding more pressures to the industry. Some government assistance — perhaps through FISAP — to help better market the product by undertaking a marketing strategy is a way forward to help promote the sale of those products which come from the timber industry. Commodity prices is an important issue for the timber industry. At the moment those commodity prices are low, and that places extra pressure on those involved in the industry.

I will sum up the points I have raised today. As I said at the outset, I have tried to be apolitical in raising these issues, because I would fervently hope honourable members would agree with me that the timber industry makes a magnificent contribution to the economy, particularly the rural economy, of Victoria and needs a demonstration of support. That can be done in a number of ways, some of which I have listed in my contribution. I sincerely hope all members of this house feel they can support this motion.

Hon. K. M. Smith interjected.

Hon. P. R. HALL — As I said before, it has important implications.

An honourable member interjected.

Hon. P. R. HALL — I have a few pages left, do I? Yes. Another thing I want to say is that I read with great interest the ministerial press release of Friday, 9 March, from the Minister for Environment and Conservation announcing $2.4 million for sustainable reuse irrigation for private forestry. I applaud that initiative of this government, and I give it good marks for doing that. One of the interesting things stated in the press release is:

> 'The Bracks government is absolutely committed to ensuring that our timber industry is sustainable and that we grow rural and regional jobs', Ms Garbutt said.

I am delighted to have that promise on the record. By raising this motion I ask the government today to put some actual actions behind those words expressed by the Minister for Environment and Conservation. I want this government to recognise that the timber industry is important — as Ms Garbutt has said in the press release — that it needs a bit of help from the government, and that there are ways that the government can help.

Hon. W. R. Baxter — Sound sentiments; they just need to be put into some concrete action.

Hon. P. R. HALL — I am prepared to give the government a chance; that is why I have raised this in

an apolitical manner. As I have said, it is important to move on the FISAP application process and to hurry that process along. That is one of the things the government can do immediately. I recognise that it must do an assessment of the sustainable yield, and that takes some time because, if anything, it needs to be ultimately accurate. But the allocation of the FISAP funding can be achieved almost immediately and can bring some real benefits to the timber industry. One other FISAP example I could have well used in my debate is — —

Hon. W. R. Baxter interjected.

Hon. P. R. HALL — You can use that, Mr Baxter. It is Terra Timbers in East Gippsland. Terra Timbers is a fine concept. Seven or eight very small sawmilling operations — sometimes they are one or two-man operations, sometimes they are a bit bigger — have pooled their knowledge together to propose to build a facility where there would be shared equipment that each of those seven or eight contributing sawmillers could use to produce better value-added products. Terra Timbers has been the subject of a FISAP application for some assistance. That is the sort of project where timber that would normally be wasted because it is of a small scale, such as small-length timber, can be put into some high value-adding processing, like parquetry flooring, timber furniture components and those sorts of things. It is a capital-intensive type project, but if seven or eight small sawmillers are each contributing some capital and expertise towards the project it is possible to achieve some outcomes which fit the criteria for FISAP.

With those few words I indicate that I was delighted to read the comments of the Minister for Environment and Conservation in her press release of 9 March that the Bracks government is absolutely committed to ensuring that our timber industry is sustainable and that we grow rural and regional jobs. I can assure government members that both National Party and Liberal Party members also share that sentiment in recognising the importance of our timber industry and the importance of jobs in rural communities. We urge the government to do what it can, to take up some of the suggestions I have put forward during my contribution, and to deliver some badly needed assistance to the timber industry.

Hon. D. G. HADDEN (Ballarat) — I rise to speak on the motion before the house moved by Mr Hall. It is certainly this government's position to support a sustainable timber industry for all Victorians.

I will go back into a little bit of the history of regional forest agreements (RFAs). The regional forest agreements, of which there were five in all, were a part of the national forests policy, as agreed between the commonwealth, states and territories in 1992, in accordance with the national forests policy agreement. The regional forest agreement for the west region in my electorate was the last of five RFAs signed by the Victorian government and the commonwealth. At about the same time, March of last year, the Gippsland RFA was also signed. The regional forest agreements apply for up to 20 years, and the intention is to provide certainty for the forest and timber industry and conservation for the local communities.

The three main objectives of the RFAs are, firstly, to protect the environmental values in what is called a comprehensive, adequate, representative, reserve system based on nationally agreed criteria. Secondly, the RFAs are to encourage job creation and growth in forest and timber-based industries including wood products, tourism and minerals. Thirdly, the RFAs are to manage all native forests in an ecologically sustainable way.

The aim of the national reserve criteria is to reserve 15 per cent of each forest type as existed before European settlement, 60 per cent or more of old growth forest and at least 90 per cent of high-quality wilderness. The criteria have been applied as far as is practicable on public land and social and economic considerations have also been taken into account. The five RFAs in Victoria are East Gippsland, Central Highlands, North-East, Gippsland and West Victoria.

The Bracks government remains committed to negotiating new agreements with industry which will sustain investment and jobs in the long term. That is very important for the economy and wellbeing of the state. The sustainability of investment and jobs is also important, and it is in the interests of the timber industry that new agreements are based on realistic and agreed resource estimates.

Following the release of the timber industry strategy in 1986, 15-year licences were entered into in the timber industry. Many of the licences, as the previous speaker mentioned, are coming up for renewal in the next 12 months. The timber volumes identified in those licences were based on what was considered to be the best information in the early 1980s. Compared with the information, experience and knowledge available today, that is considered fairly rudimentary. Since 1986 and the timber industry strategy, the Department of Natural Resources and Environment's understanding of the forests has grown, as have its skills, knowledge and historical information on the forests, as well as the technology to analyse the information and long-term sustainability of our forests.

It is important that new licences reflect the shift in understanding of the timber resources in the state. In March, the Minister for Environment and Conservation announced a strategic framework to coordinate the process for entering into new licence agreements with the industry. That framework is headed by a peak strategy group that has received information on timber volumes available for harvesting across the forest management areas from an expert data reference group. The peak strategy group will advise the government on licence renewal and industry adjustment issues. The peak strategy group consists of the Secretary of the Department of Natural Resources and Environment, the Victorian Association of Forest Industries and the Construction, Forestry, Mining and Engineering Union.

The expert data reference group has been undertaking an examination of the current data available to it, and it will advise the department and the government on the validity of the current data in order to assist and identify the most appropriate options for licence renewal.

The government is committed to assisting the continuing development of a responsible and sustainable timber industry. We certainly need a timber forestry industry that is sustainable and efficient and at the same time internationally competent and competitive.

The Victorian forest industry structural adjustment program, or FISAP as it is known, is a joint commonwealth and Victorian government program to assist the forest timber industry across the state to develop high value-added processing, rationalisation to achieve economies of scale and market capability. The current program is also designed to assist businesses, workers and employees who are affected by timber resource reductions resulting from the RFA process. The joint funding commitment to this process totals $42.6 million. Twenty-one million dollars has now been expended across the four components of the program, and it is expected that the remaining funds will be allocated during the current financial year.

The West Victoria and Gippsland RFAs between the Victorian and commonwealth governments were signed in March last year. Since then the Victorian government has provided an additional $10 million to FISAP, compared with an additional $5 million from the commonwealth, despite strong lobbying from the state government to the commonwealth government. That indicates this government's commitment to a sustainable timber industry in the long term.

The government recognises that the current licence renewal process may result in further restructuring of the industry, but the government has certainly indicated that it will consider an assistance package. That package is currently the subject of discussion between industry and unions.

The special protection zones are the home and habitat — home is probably the word I would use to describe it — of the powerful owl, the sooty owl and the spot-tailed quoll.

The powerful owl has its home in the Wombat State Forest in my electorate in the Trentham area. The sooty owl lives in the Gippsland special protection zones of Mr Hall's electorate. The home of the spot-tailed quoll in its special protection zone is in the Otway region in Ms Carbine's electorate. Any suggestion to encroach on those areas, as Mr Hall has suggested in his motion, to allocate timber from special protection zones to make up contract shortfalls would not only incur the wrath of the powerful owl but would incur the wrath — and I mean the wrath — of the Cobaw and Wombat Forest Action Group members and of the Actively Conserving Trentham group members, whose aim is to maintain the ongoing conservation of the powerful owl in the Wombat State Forest. They would come down on the honourable member like a ton of bricks, very quickly.

The special protection zones are there, and the government is committed to achieving a responsible balance in the native timber industry. The regional forest agreements (RFAs) are binding and exist to see that the sustainability of the forests and the animals and flora and birdlife in our forests continues.

In Victoria the RFAs were developed in consultation with the communities based on the comprehensive, adequate and representative (CAR) reserve system. There were something like 1300 submissions to the West Victoria RFA process. The RFAs provide security to conservation needs and the timber industry through the establishment of clear zones and forest areas that define the uses for each. The RFAs are binding between the commonwealth and the states, and it is a requirement of the RFA that any changes to an area of state forest available for timber harvesting will not lead to a net deterioration in the timber production capacity of the forest. Through the RFA process Victoria was successful in establishing the CAR reserve system. It meets the nationally agreed criteria, and, as I have said, the special protection zones are an absolutely crucial and important part of the CAR system. The government will not jeopardise the system through allowing timber harvesting in special protection zones.

I suggest to Mr Hall and the National Party that they should consider withdrawing the motion and replacing

it with a motion that commits the National Party to a sustainable timber industry that protects the environment. A solution needs to be developed in conjunction with the timber industry, not MPs in Melbourne. The government is doing that right now. The department is meeting with the timber industry, and that is an attempt to manage limited resources.

I go to a joint news release issued by the Prime Minister, the Honourable John Howard, and the Premier of Victoria, the Honourable Steve Bracks, in March 2000 announcing that the RFA process was completed in Victoria. In that press release the Prime Minister and the Premier announced a no net job loss outcome. It announced that:

> An extra $15 million had been provided for the Victorian forest industry adjustment program (Vic FISAP), bringing the total available across the state to $42.6 million.

It also announced that:

> Vic FISAP assists industries to take advantage of new opportunities, to increase value adding and downstream processing, to set up new equipment and technology, expand local manufacturing and provide a safety net for timber industry workers.
>
> The Victorian government will commit a further $20 million to regional development and employment initiatives, including support for hardwood plantations, improved inventory resources, forest management initiatives and tourism development.

This funding package, combined with the RFA process, brings certainty to the industry, and it is a platform which provides for the need to invest and grow and generate new employment opportunities in the timber industry.

Victoria's five RFAs cover a total of 13 million hectares across the state. I will not repeat the three key objectives of the RFAs in detail, but in brief they are: to enhance the long-term certainty for forest-based industry; to establish the world-class CAR reserve system; and to ensure that native forests are managed in a sustainably economic fashion.

As I have said, the RFAs improve protection for threatened species: the spot-tailed quoll, the powerful owl and the red-tailed black cockatoo — that is the one I forgot before. They are in the western region, and the spot-tailed quoll, the powerful owl and the sooty owl are in Gippsland. As I have said, in excess of 1300 public submissions were received during the RFA consultation process across both the Gippsland and West Victoria regions.

On 31 March 2000 Mr Wilson Tuckey, the federal Minister for Forestry and Conservation and Minister Assisting the Prime Minister, announced that the RFA process with regard to the west Victoria and Gippsland regions had been the most challenging of the national process, but it had achieved sound results for regional Victoria. Mr Tuckey also announced that he was particularly pleased to confirm that there would be no net job losses as a result of the RFAs, and he noted that Victoria's timber industry had been asked to rise to great challenges in recent years as it strived to do more with less available timber. Mr Tuckey announced that given the RFA process was then complete the future was certain and the industry knew where it stood. Mr Tuckey also noted that something in the order of 2.86 million hectares of Victorian native forests would now be conserved in a system based on nationally agreed criteria for the protection of biodiversity, old growth and wilderness.

In March of last year Senator Robert Hill, the federal Leader of the Government in the Senate and Minister for the Environment and Heritage, announced that the RFAs would be a boost to Victorian reserves by over one-third. He welcomed the announcement of the signing of the west Victoria and Gippsland RFAs between the Victorian government and the federal government, and he said that this state could be proud of its comprehensive and adequate representative reserve system, which now covers more than half the public land in RFA regions. He also went on to say that the RFAs had strengthened the protection of rare and threatened species of flora and fauna, and that they would ensure that the entire native forests estate is managed sustainably.

Senator Hill welcomed the addition of 278 000 hectares to reserves in the Gippsland region, an increase of 55 per cent. He also welcomed another 194 000 hectares to reserves in west Victoria, and he noted that those additional reserves, with extra forest management measures, have strengthened the protection for threatened species such as the red-tailed black cockatoo, the spot-tailed quoll and the powerful owl. He noted that the final two RFAs — west Victoria and Gippsland — had not been easy but they had achieved the best possible result for the protection of biodiversity and old growth values. He also noted that each regional forest agreement was based on a scientific, comprehensive regional assessment of forest values, which has greatly increased our understanding of forest ecosystems.

In March last year the Minister for Environment and Conservation announced a new beginning for Victoria's forests on the signing of the last two RFAs with Gippsland and west Victoria. Certainly it was the Bracks government's delivery on its commitment to

complete the final two RFAs with the widest possible consultation, which was a very wide consultation process that involved some 1400 submissions to two independent panels. The Minister for Environment and Conservation noted the extra habitat protection given to the powerful owl in Trentham in the Wombat State Forest, and to the spot-tailed quoll in the Otways following sightings of the endangered species.

The minister also noted that with the reduction of sawlog from state forests there will be a reduction in the availability of woodchips, and that was most evident in the Wombat and Otways state forests. The minister announced that the five RFAs had established a forest reserve system in Victoria of about 2.86 million hectares, identified 1.08 million hectares of old growth forest and protected 68 per cent of it. They ensured the protection of Victoria's endangered fauna, including the Leadbeater's possum — our state emblem — the powerful owl, the sooty owl, the spot-tailed quoll and the long-footed potoroo. The RFAs also involved the most thorough surveys ever undertaken of the state's flora and fauna, including the first comprehensive vegetation mapping of our forests. Most importantly, the RFAs have delivered a commonwealth–state Victorian hardwood timber industry and restructuring program and $42.6 million to help businesses take advantage of the RFA certainty and to adjust to changes in the resource availability.

In March of last year the Minister for State and Regional Development announced that the RFA package meant a good jobs outcome, and announced that the state government had contributed $44.2 million of the almost $63 million package in response to the RFAs in order to improve forest management, promote the growth of Victoria's timber industry and to help develop communities in the Gippsland and west Victoria regions. That package consisted of $42.6 million for the Victorian forest industry structural adjustment program, known as Vic FISAP, and $20 million for regional development and employment initiatives. That package was a fair and balanced result that would ensure no net job losses in regional Victoria.

The Minister for State and Regional Development also announced initiatives to support regional communities with the $20 million package from the state, and it included provision of $2 million to address infrastructure needs of communities affected by the RFA process, financial support to regional business groups for regional promotions and tourism development, and financial support for community and business sector workshops to develop local business ideas and to help identify important opportunities for future business and community growth in the regions. It is a clear example of the government's commitment to a sustainable timber industry and indicates that this government is continuing to work with the timber industry to ensure a sustainable industry that promotes job growth in regional Victoria.

While Mr Wilson Tuckey was supportive of a restructuring package for the timber industry under the RFA agreement and in March of last year announced no net job losses for RFAs, I understand a Mr Bob Humphreys from Cann River recently put in an application for FISAP funding, which is state and federal funding to provide assistance and investment for innovation. Unfortunately for Mr Humphreys and for that region the application was unsuccessful. The application was rejected by Mr Tuckey even though it was an innovative project to provide for a sustainable timber industry. It was a 20 000 cubic metre no-loss-of-jobs investment in new technology, and Mr Humphrey's application met the FISAP guidelines. Perhaps Mr Hall might like to call Mr Tuckey to account in relation to this rejection of an application under the Vic FISAP program.

I repeat that this government is supporting a sustainable timber industry. It is working with timber industry representatives and relevant unions towards a sustainable timber industry and no net job loss under the RFA agreements. Certainly, as I understand it, the timber industry and the unions support the initiatives of people like Bob Humphreys from Cann River, but it is unfortunate that the federal minister, Mr Wilson Tuckey, did not support that application. As I have said, solutions need to be reached in conjunction with the timber industry. That is now being undertaken between the government, the Department of Natural Resources and Environment, timber industry representatives and the unions involved.

In summary, I say that this government is supportive of Victoria's timber industry as is shown by its signing of the RFA agreement and its continuing negotiation and consultation with the timber industry. Certainly the position of this government is one of supporting a sustainable timber industry.

Debate adjourned on motion of Hon. PHILIP DAVIS (Gippsland).

Debate adjourned until later this day.

SELECT COMMITTEE ON THE FRANKSTON CENTRAL ACTIVITY DISTRICT DEVELOPMENT

Establishment

Hon. BILL FORWOOD (Templestowe) — Mr President — —

Hon. G. W. Jennings — On a point of order, Mr President, I seek your ruling on whether this is a competent motion to be dealt with by the Legislative Council today, particularly as to whether it relates to state government administration. I understand that argument — —

The PRESIDENT — Order! Can you give me a moment?

Hon. G. W. Jennings — You will hear from me again, Mr President.

The PRESIDENT — Order! The Leader of the Opposition, formally moving the motion.

Hon. BILL FORWOOD — I move:

(a) That a select committee of five members be appointed to inquire into and report upon the process followed by the Frankston City Council in its consideration of the proposed construction and development of a multimillion dollar commercial facility in the Frankston central activity district, including allegations made in both newspaper reports and the Victorian Parliament on matters related to this issue.

(b) That the committee shall consist of two members nominated by the Leader of the Government, two members nominated by the Leader of the Opposition and one member nominated by the Leader of the National Party.

(c) That the members shall be appointed by lodgment of the names with the President by the leaders no later than 4.00 p.m. on Thursday, 18 October 2001.

(d) That the first meeting of the committee shall be held at 10.30 a.m. on Friday, 19 October 2001.

(e) That the committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

(f) That the committee shall elect a deputy chairman to act as chairman at any time when the chairman is not present at a meeting of the committee.

(g) That three members of the committee shall constitute a quorum.

(h) That the committee may send for persons, papers and records.

(i) That the committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

(j) That reports of the committee may be presented to the Council from time to time and that the committee present its final report to the Council on or before 1 March 2002.

(k) That the presentation of a report or an interim report of the committee shall not be deemed to terminate the committee's appointment, powers or functions.

(l) That the committee shall, unless it otherwise resolves, take all evidence in public and may otherwise sit in public at any time if it so decides.

(m) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and practice of the Council, shall have effect notwithstanding anything contained in the standing orders.

Hon. G. W. Jennings — On a point of order, Mr President, I would like your assistance in providing the house with a ruling on whether this motion before the Legislative Council today is competent, particularly in relation to state government administration. The government would contest that the matters at the substance of scrutiny that the select committee has been established to address are those that relate to local government administration, and it would contest that the Minister for Local Government is currently undertaking the appropriate requirements under the Local Government Act to deal with the complaint. His department is assessing a complaint under the Local Government Act and it is the intention of the minister to address this matter in the proper administrative practices.

The motion does not call on actions of the minister to administer the act and does not call on the minister to undertake due process. On that basis the government would contest that the minister — —

An Honourable Member — This is a debate, not a point of order!

Hon. G. W. Jennings — No, I am advised by the minister that those processes are being undertaken. If the motion before the chamber today were to deal with whether the minister was appropriately applying the requirements of the Local Government Act, that would be a different matter. This motion goes to the heart of the practices and processes of a local government body and for those reasons it does not fall within the rubric of the scrutiny of government administration.

So, Mr President, I seek your assistance in providing us with a direction about whether this motion is competent to be dealt with by the Legislative Council.

Hon. BILL FORWOOD — On the point of order, Mr President, I have in my hand a copy of the Local Government Act 1989. This place, for as long I have been here, has dealt with issues to do with local government. I was here when we moved to restructure local government. I was here when we looked at the actions of the Nillumbik and Darebin shire councils. There is no doubt that local government is a creature of state government. There is absolutely no doubt that this motion is entirely appropriate and should be debated before this house today. One can only question the reason why the government does not want to bring it on.

Hon. T. C. Theophanous — I want to support the point of order moved by my colleague. This should be considered very carefully by you, Mr President, because the opposition is beholden to bring before this place issues that are relevant to government administration. In this case the motion is about the establishment of a select committee.

I point out to you, Sir, that the establishment of a select committee to inquire into these matters goes beyond the notion of the examination of issues related to government administration. I have been able to find two instances in the past where select committees have been established. In one case Mr Birrell sought the establishment of a select committee during the period of the Kirner government. In another case Mr White sought to establish a select committee in this house.

In both instances the select committees related to the examination of government activity. The select committee on government appointments, which was moved by Mr Birrell back in 1991 — very similar to what is being proposed today — was appointed to inquire into and report upon all matters relating to appointment and employment, et cetera, in all Victorian government departments. So it directly related to matters coming under the jurisdiction of the Victorian government. Mr White attempted to establish a select committee of five members to inquire into and report on such matters as, for example, the selection, appointment, and payment of Spaces Property Ltd, which provided architectural services at the Surrey Hills residence of the Premier, the Toorak residence of Mr Ron Walker, the official office of the Premier at 1 Treasury Place, the Liberal Party headquarters in Canberra and the proposed national cemetery for former prime ministers in or adjacent to the Melbourne General Cemetery in Carlton, Victoria.

The point is that in both instances the motions were about government administration. They were about the operation of the Victorian government. This motion is about establishing a select committee to look into something about which no evidence of wrongdoing has been presented. This motion is about establishing a Star Chamber to look at the operations of private citizens — people in the community — and local government, which is a separate tier of government and does not come under the jurisdiction of the Victorian government.

An Honourable Member — What is the point of order?

Hon. T. C. Theophanous — The point of order I am asking you, Mr President, to consider is the point of order raised by my colleague and which I support, that this is not an appropriate matter for this place to consider, because it does not relate to government business. I therefore ask you, Sir, to rule it out of order.

Hon. BILL FORWOOD — Further to the point of order, Mr President, it is extraordinary that a member of this chamber can come in here and argue that the Council does not have the capacity to inquire into an issue if it so chooses. It is extraordinary that the honourable member would come in here and try to argue that local government is not a matter suitable and competent for consideration by this chamber.

Hon. G. W. Jennings — Further to the point of order, Mr President, the argument I mounted in my contribution was to pin this issue to the appropriate government administration, to pin it to the application of the Local Government Act and to apply the rigour of the act and the minister's responsibility of complying with the letter of the law of this state and ensuring that where there are concerns about the processes that apply in local government they are dealt with appropriately by the Victorian government in compliance with the Victorian statutes. That is the substantial basis on which this issue should be dealt with. This matter does not relate to that because there is no hook, no pinning of the matter to government administration. It is deficient because it does not make that connection.

The PRESIDENT — Order! On the point of order, generally the house has a very broad role to play in relation to investigating, whether by way of debate in the house or by other means, matters relating to the administration of the state government. The question is whether local government is so different that one can say that it is not in any way related to state government administration. We can get some guidance from the

Constitution Act of 1975, which in fact recognises local government and states in part IIA:

> There is to continue to be a system of local government for Victoria consisting of democratically elected councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district.

Then there is a provision in 74B:

> (1) Parliament may make laws it considers necessary for or with respect to —
>
> (a) the constitution of councils; and
>
> (b) the objectives, functions, powers duties and responsibilities councils …

And there are a whole lot of other issues. So clearly the Parliament through the Constitution Act has given itself the right to take action in relation to municipalities, including the provision that says that a council shall not be dismissed except by an act of Parliament relating to the council.

If we look at the Local Government Act and the relationship between the minister and the municipalities we see, even if we go to the index on page 344, a whole series of powers the minister has in relation to local government. For instance, in relation to rates he can direct councillors on the levels of rates and he can override the views of councils. So I would believe that it is in the public domain that local government is very much a part of state government operations, and that is why ministers normally take a great interest in what happens in municipalities.

The question is then whether this house should entertain a motion, even a general motion, dealing with local government, or one which sets up a committee, which is still just a motion of this house. I certainly see no reason to differentiate between the types of motions relating to local government that this Council may entertain.

I am guided by a series of motions put before this house by a very articulate spokesman on local government for the ALP, the Honourable Pat Power, from 1996 to 1998 when on 19 June 1996, 14 December 1996, 2 April 1997 and 21 April 1999 the house debated issues relating to local government and the operation of local government in this state. There was another one on 28 October 1998 that dealt specifically with the suspension of the Nillumbik Shire Council, so I am not persuaded by the arguments put to me suggesting that this motion is outside the competence of the house to debate.

The motion the house passes is entirely in its hands, not in my hands. I do not uphold the point of order.

I invite the Leader of the Opposition to proceed with his motion.

Hon. BILL FORWOOD — At the outset I should explain to the chamber why we did not proceed with the motion at the end of question time this morning. Yesterday afternoon at 3.10, not long after I gave notice that I would move this motion today, I wrote to the Premier in these terms:

> I write, in terms of your letter to the Leader of the Opposition dated 3 December 1999, to advise that I intend to move for the establishment of a Legislative Council select committee to inquire into matters concerning the proposed construction and development of a multimillion dollar commercial facility in the Frankston central activity district.
>
> I will be available for consultation and negotiation on this proposal from this evening.
>
> You may care, as part of the consultation process, to consider the establishment of a new joint house committee in place of the proposed Council committee.

I heard nothing from the government until 9.15 this morning when Mr Jennings and I had an amicable conversation in the chamber about the way forward today. Nothing was decided, but it was a genuine conversation. As we came into question time today Mr Jennings said to me, 'Can I see you for 10 seconds during question time'. Honourable members will recall that I asked the first question, and once I had received the answer I had a conversation with Mr Jennings in the passage, at which time he put to me the proposition, 'If we appoint an inspector, will you not proceed with the motion?'.

I was prepared to consider that. After all, yesterday I offered the government the opportunity to have negotiations and consultations over that. For the next 2 hours or thereabouts there were genuine discussions between the government and the opposition over ways of dealing with this issue. We had come to the stage where we exchanged forms of words about whether it was possible to come into this place and for the government by leave to indicate that it was prepared to appoint inspectors to look into these matters and for me, on behalf of the opposition, to then agree that we would not proceed with the motion.

That consultation has broken down, but that is the way these things go. I am in no way critical of the Honourable Gavin Jennings. He and I approached the discussions this morning in good faith, and we attempted to resolve this issue to the satisfaction of both the government and the opposition. Unfortunately on

this occasion we were not able to do so, and it is for that reason that we are now proceeding to debate the motion that we establish a select committee.

Last Thursday night I, with many others, attended the Keith Murdoch Lecture given by his son, Rupert. I shall read a couple of paragraphs from his address, in which he said:

> We must learn to protect and increase Australia's share of human capital as carefully, and as ambitiously, as we would financial capital. It is a vital fund, and a mathematical value, that grows with the growth of markets and that thrives with open and honest capitalism. According to the formula of leading American financial and social theorists, a country's prosperity equals the value of its financial technologies multiplied by its human capital, social capital and real assets. In Australia we have all the ingredients. We have a healthy population, a peaceful and well-governed society, and a transparent financial system that allows people's initiative to flourish. In fact, in a recent study of financial systems by Pricewaterhousecoopers, based on research at California's Milken Institute, Australia was ranked the world's sixth most transparent nation. In determining 'transparency', the study measured how open countries were in terms of clear, accurate and widely accepted financial, legal and regulatory systems.

Then he said:

> Australia leads most of the pack.

This motion is about just that, about transparency in dealings and about regulatory systems. I shall touch on both of those aspects later.

At the outset let me state that the committee is being established to clear the air. I have no idea what it will find. It does not have a predetermined outcome. Its findings will be based on the evidence it takes. It is not a Star Chamber, a kangaroo court or a witch-hunt, it is a serious effort to get to the bottom of a very public and most contentious issue.

This committee is not being established to take aim at any particular or specific person. It is not aimed at Cr Conroy; it is not aimed at any other councillor; it is not aimed at any council officer; it is not aimed at any member of Parliament; and it is not aimed at any entrepreneur. This committee is designed to take evidence, to weigh that evidence and to report to the Parliament. It is designed to look at claim and counterclaim. It is designed to clear the air of the whiff and the stench that is beginning to grow.

Paragraph (a) of the motion is specific to the central activity district of Frankston, but it will cover allegations that are in the public arena. The terms of reference enable a thorough analysis, but they do not dictate a direction for the committee to take, nor do they dictate an outcome in any way, shape or form. They merely enable the committee to do a thorough job, to follow through the issues before it.

I do not propose this morning to dot every i and cross every t; that task, rightly, belongs to the committee. But it is important that I provide some background to this project and sketch out two concerns. I have in front of me some background that comes from the chief executive officer of the City of Frankston, Jon Edwards, dated 20 August 2001. It states:

1. At its meeting on 21 June 1999 in relation to the north of Beach Street car park — development options — the council authorised the chief executive officer to conduct negotiations with interested parties regarding the possible future development of the site with a view to preparing a draft proposal.

2. On 7 August 2000 council approved the expression of interest brief which was advertised mid-September 2000 closing on 6 November 2000.

Hon. M. M. Gould — Who is the memo to?

Hon. BILL FORWOOD — It is headed 'Frankston CAD development opportunities — proposed urgent business'. I presume it comes from the council notice papers.

Hon. M. M. Gould — Who is it from?

Hon. BILL FORWOOD — It is from the chief executive officer. It looks to me as though it is a council paper. It reads:

3. On 18 December 2000 council determined for the working party comprising the corporate management team and the senior strategic planner to conduct concurrent negotiations with short-listed parties. Councillors have not been privy to or part of the process.

4. On 18 December 2000 the council resolved to appoint a probity auditor to oversee and report on the process. Mr Geoff Harry, partner, Pricewaterhousecoopers, was subsequently appointed.

5. On 15 February 2001 the council approved the evaluation criteria and weightings for use by the working party in assessing proposals received at the completion of the concurrent negotiations.

6. On 5 March 2001 a comprehensive memorandum was distributed to councillors and members of the working party on conflict of interest — CAD redevelopment.

7. On 29 March 2001 the working party members adopted 'Frankston CAD redevelopment opportunities — concurrent negotiation process', a set of rules consented by the probity auditor for the conduct of the process.

8. Each member of the working party and its consultants has executed declarations of confidentiality and conflict of interest.

There are a number of other points on the bottom of this memo which I am quite happy to read into *Hansard* if honourable members opposite desire me to, but I make the point that the remainder of this memo deals with an accusation of conflict of interest that was dealt with under the processes by the city's solicitor and by the probity auditor and cleared, so I do not propose to take that issue further. The reason for putting that on the record is solely to demonstrate that this council had gone out of its way to develop a probity structure that was bullet proof and had gone out of its way to develop a system of handling this project which had some integrity and which had some steel. It is an important point, I think, that the council set out to establish a totally pristine process.

On 26 September this year a briefing was apparently held at which the working party established for this project reported to the councillors. This is where things become really murky and this is where issues of public interest begin to arise. A newspaper article appearing in the *Frankston Standard* of 8 October states:

> Selection of a developer … has become a drawn-out affair, tainted by suspicion and bitterness.

It also says:

> Earlier, Proclan–Grocon's 'Harbour City' concept decisively outscored Gandel's 'integrated city concept' when analysed by a working party.

It then goes on to say:

> Relations between councillors were strained further by dramatic events during six days to last Tuesday.
>
> During this time, councillors were briefed on commercial factors pertaining to the concepts. A closed-doors council meeting last Monday became heated, and last Tuesday the publication of confidential project details confirmed a leak.
>
> Sources said disagreements among councillors and officers, and at times isolation of Cr Conroy from colleagues, sprang from conflicting views over the designs and whether a new process should begin.

Another newspaper, the *Frankston–Hastings Independent* of 2 October, states:

> The process for the multimillion dollar redevelopment of prime Frankston sites appeared to go haywire as councillors were briefed for the first time at a special meeting last Wednesday.
>
> The disarray became evident at the meeting …

And it goes on. I will quote another section of the article, which states:

> This separate process would have involved the working party entering into exclusive negotiations for 30 days with Grocon for the development of the north of Beach Street and Evelyn Street sites and Proclan on the Sherlock and Hay site, on the corner of Young Street and Playne Street.
>
> This effectively froze out Gandel Retail Trust, the biggest investor in the central business district, after the working party told councillors the Grocon scheme scored 768.2 points out of 1000 to Gandel's 654.7. Grocon's offer for the north of Beach Street was $9.5 million compared with Gandel's $5 million.

It goes on later to say:

> At week's end Gandel had returned to the working party with an increased cash offer …

In these circumstances it is interesting to speculate on what actually happened. On Friday, 28 September — two days after the briefing that took place on the Wednesday — the chief executive officer wrote to the mayor and councillors in these terms:

> The council at the briefing was advised that the Gandel Retail Trust (GRT) had not signed … the contract of sale for the purchase of the north of Beach Street site and that the matter was to be considered by the GRT board of directors on Thursday, 27 September (see letter from Mallesons Stephen Jaques 24 September …). Council's solicitors Maddock Lonie and Chisholm by letter dated 25 September … declined the request for the time extension. An earlier request for extension of time (letter from the Gandel group of companies …) had been declined.

The next point states:

> At 5.16 p.m. on Wednesday —

that is, the 26th while the briefing between the working party and the council officers was taking place —

> … Bill Kerr —

who I understand works with Deloittes —

> received a phone call from GRT advising that the board of GRT had resolved to execute … the contracts. This was subsequently confirmed by email at 5.34 p.m. (see copy attached 'D'). GRT also deleted the conditions, each requiring 90 days to have the commercial viability of its Central Park proposal and to negotiate the commercial terms and conditions for the civic centre at Central Park.
>
> This issue was the subject of discussion with senior counsel on Wednesday evening.

The next points states:

> On Thursday, 27 September, council's solicitors received a further letter from GRT's solicitors, Mallesons Stephen Jaques, confirming that the GRT board had resolved to execute … the contracts … and had deleted the special condition involving the two 90-day periods … The letter continued and indicated that with adjustment to car parking requirements, the GRT commercial offer could be increased by between $4 million and $5 million …

The next point states:

> The signed contracts of sale were received, by hand, at 9.50 a.m. this morning.

In these circumstances it is entirely appropriate that the committee be established to answer whatever questions it wishes to ask. The committee has the capacity to inquire, as the terms of reference say, into the process that was followed. The questions the committee may choose to ask include: is it or is it not a fact that Cr Conroy left the briefing on the afternoon of 26 September? The committee has the capacity to find out. Is it or is it not a fact that Cr Conroy made a phone call that afternoon? There have been claim and counterclaim about that issue, but the committee has the capacity to find out.

Hon. M. M. Gould — Is this an ALP-endorsed candidate at the forthcoming federal election you are talking about?

Honourable members interjecting.

Hon. BILL FORWOOD — I did not say that. Is it or is it not a fact that a bid or bids were altered or amended or that new bids were received late in the process?

Documents appear to indicate so, but the committee, if established, has the capacity to find out. Is it or is it not a fact that bids were changed? Were they changed because of a phone call? The committee has the capacity to find out — to clear the air, to ensure that the community has absolute faith in the process that has been followed, according to the probity guidelines established by the council when it set out to undertake this process.

I turn to the regulatory issue I mentioned earlier. This goes right to the heart of the lack of action by the Minister for Local Government. We know it is a fact that the newspaper printed confidential information. It is also a fact that the chief executive officer of the council sought legal advice about this breach. On 4 October 2000 the CEO wrote to the mayor and councillors saying:

> I wish to advise that a copy of the newspaper article 'Civic centre doubt as prime site talks reopen' which appeared on the front page of the Frankston *Independent* on 2 October … has been referred to council's solicitors, Maddock Lonie and Chisholm.
>
> Advice has been received that, from the content of the newspaper article, it is possible that there has been a breach of section 77 of the Local Government Act which relates to improper use of information.

Section 77 states:

> (1) A person who is, or has been, a Councillor or a member of a Council committee must not make improper use of any information acquired as a Councillor or member —
>
> (a) to gain, or to attempt to gain, directly or indirectly, a pecuniary advantage for himself … or any other person; or
>
> (b) to harm, or to attempt to harm, the Council.

The penalty for a first offence is 20 units, and for a second or subsequent offence, is imprisonment for three months. Subsection 77 further states:

> (2) A person who is, or has been, a Councillor or a member of a Council committee must not release information that the person knows, or should reasonably know, is information —
>
> (a) that is confidential to the Council; and
>
> (b) that the Council wishes to keep confidential.

The CEO went on to say:

> The solicitors have advised that they see a real need for the circumstances of the newspaper article to be investigated independently of council. They advised that the proper course is for the matter to be referred to the Minister for Local Government (through his office) for investigation pursuant to the act.
>
> This has been done and it is understood that an investigation is to be undertaken.

The CEO followed on with a media release headed 'For media release: Thursday 4 October 2001 re: Office of Local Government contact', which states:

> Following legal advice, an apparent breach of confidentiality relating to a newspaper article published in the *Independent* news on Tuesday, 2 October 2001, has been discussed with the Office of Local Government.
>
> It is understood that an investigation is being undertaken into the alleged breach.

The local newspaper — —

Honourable members interjecting.

Hon. BILL FORWOOD — Let's just get this right.

Hon. M. M. Gould interjected.

Hon. BILL FORWOOD — Thank you very much. The date of the media release was Thursday, 4 October. This is from the *Independent* newspaper dated 9 October — five days later. I shall quote from the article headed — —

Honourable members interjecting.

The PRESIDENT — Order! I ask honourable members to allow the member to develop his argument. I am not sure who the first government speaker will be, but I am sure it will be an exuberant response. I ask you to allow the honourable member to be heard so we can hear what is being said.

Hon. BILL FORWOOD — Thank you, Mr President. This article from the *Independent* newspaper is headed 'News report may indicate improper use of info: lawyers'. I again draw the house's attention to the fact that the article is dated 9 October — five days after the release by the CEO. It states:

> Late Friday afternoon Paul Conroy, spokesman for the minister of local government, Mr Bob Cameron, stated: 'I've only heard about this, but an investigation will only go ahead if there is prima facie evidence supporting specific allegations against anyone.
>
> I must say this is the silly season for all sorts of claims where you have councillors seeking election to federal government'.

So the Minister for Local Government's mouthpiece has pooh-poohed the idea that there has been an issue that needed to be dealt with — and dealt with promptly and appropriately. I should follow on. Another article quotes Cr Diane Fuller as saying:

> Some of the information in the article was confidential and has done a lot of damage as it was inappropriately given.
>
> The comments relating to the closed council outcome were —

also —

> false and appeared to be prescripted.

So it is a fact that, acting on advice, the council sought a section 77 inquiry, and it is a fact that this government refused to act. It is an absolute fact that this government refused to act.

Hon. M. M. Gould interjected.

Hon. BILL FORWOOD — Where is the evidence of the inquiry? You were not even prepared today to nominate an inspector to inquire into it!

I say to the house on this issue that these two things need to be inquired into by this select committee. There are two things. One is that the inquiry has the capacity to ascertain whether or not any prima facie evidence does exist, and whether any specific allegations do exist. I go back to my earlier point. There are no preconceived outcomes about this.

Honourable members interjecting.

Hon. BILL FORWOOD — Why are you hiding? That is the question. The motion before this house today has the capacity to establish a select committee to remove any taint or suspicion which may be over anyone, and the government should approach it in those terms. The motion before the house enables a committee of the Parliament, rightly, to investigate matters, take evidence and report — just facts, just clearing the air and enabling people to be heard. I ask members opposite: why would anyone object to that?

Hon. M. M. GOULD (Minister for Industrial Relations) — I rise to strongly oppose the motion before the house. The motion undermines the processes of this house. The Leader of the Opposition's purpose is to establish a kangaroo court and a fishing expedition. It is absolutely outrageous! The proposal would set up a process that would have the majority of the opposition benches — look at the numbers over there — —

Hon. G. W. Jennings — The majority and the quorum.

Hon. M. M. GOULD — The majority, plus the quorum, plus the possible chairperson. Paragraph (a) of the Leader of the Opposition's motion would set up a process where a select committee of five members would:

> be appointed to inquire into and report upon the process followed by the Frankston City Council in its consideration of the proposed construction and development of a multimillion dollar commercial facility in the Frankston central activity district, including allegations made in both newspaper reports and the Victorian Parliament on matters related to this issue.

All opposition members have come up with is a few articles in the newspapers to which the Leader of the Opposition has referred, failing to refer to the one about phone records that cleared the mayor.

Hon. Bill Forwood — I referred to that. I said there was claim and counterclaim.

Hon. M. M. GOULD — He failed to refer to the fact that the chief executive officer of Frankston City Council, Jon Edwards, has said that the matter relating to the telephone call did not exist.

The proposed select committee will be established with the sole purpose of being a political exercise during the course of a federal election. That is what the process is all about. It is a political stunt by the opposition in an attempt to cast doubt and aspersions on a candidate in a forthcoming federal election.

The motion before the house sets up a number of issues and overrides a number of standing orders of the house. Forget the concept of the tradition and standards and practice, the resolution before the house and the setting up of a McCarthyist witch-hunt as proposed by the Leader of the Opposition is absolutely outrageous. In all the time I have been in this Parliament and heard honourable members from the other side talk about the traditions of this house, I have never heard anything so absolutely outrageous.

When there was a change in the opposition leadership just three weeks ago the new Leader of the Opposition proposed a motion to change the standing orders. Following that change the Leader of the Opposition said, 'We will consult and work together with the government'. So what does he do? Three weeks later, a man you cannot trust, the Leader of the Opposition, puts up a motion to throw the standing orders out the window so he can run a Star Chamber, a witch-hunt and a kangaroo court on this issue. It is absolutely outrageous.

Honourable members should understand what this motion is about. It is a political stunt during the forthcoming federal election, based around the mayor of Frankston, who is an ALP candidate in that election. The blokes on that side of the house are going to use their numbers to ram this motion through the house today.

Motions put before this house are defeated on party lines, and any committee that is established is also established on party lines and conducted on party lines. This is just a political exercise by the Leader of the Opposition.

Turning to some of the items in the motion, paragraph (i) states:

> That the committee may authorise the publication of any evidence taken by it in public and any documents presented to it.

The Leader of the Opposition wants to drip information out. He wants to release the information publicly, before the committee has the courtesy to bring it to this house. Under standing orders no evidence that is taken by any select joint or investigative committee is ever presented to the public until such time as it comes into this house. Under the Leader of the Opposition's proposed motion — —

Hon. Bill Forwood — On a point of order, Mr President, I understand the government has just appointed an inspector to investigate this issue. If there is not a prima facie case that needs to be answered, why would he have been appointed?

Hon. M. M. GOULD — That is not a point of order. I do not know where the opposition is coming from.

Paragraph (i) of the motion undermines the traditions, customs, practices and standing orders of the house, which say that no evidence or documentation taken in any joint committee is presented publicly until such time as it has been reported to the house.

The motion proposes that we absolutely ignore standing order 207 and throw it out the window so that we can take evidence and drag witnesses in under a sham and a McCarthyist witch-hunt and publish evidence whenever the opposition wants to. Paragraph (m) of the motion shows that the Leader of the Opposition wants a caveat thrown across the standing orders so they can be overridden and thrown out the door.

What does it say about the traditions and standing orders of the house? It shows that the exercise is all about a political witch-hunt that the Leader of the Opposition has orchestrated because the Liberal Party is concerned about the forthcoming election. It is trying to look after its federal Liberal colleagues and divert attention away from the federal campaign. Opposition members are concerned about the tricky and sneaky issues their federal colleagues are up to.

This so-called select committee will be established with a quorum of three. I ask the Leader of the Opposition under what circumstances he or any of his colleagues have ever been involved in a select committee that votes along party lines. He is proposing to have two Liberal Party members and one National Party member. I thought they were not in coalition any more, but obviously they are; they are in cahoots with the National Party.

They still have not changed and are still doing the dirty tricks with their mates. They are sitting on the opposition benches because of being with the Liberals. They are ready to get back into bed with them again. This committee would have a quorum of three, could sit any time it likes — while this house is sitting a meeting could be called. It is an exercise solely and wholly to discredit a person who is standing in the forthcoming federal election. That is what the Leader of the Opposition is on about. It is a witch-hunt.

The proposal is to have a quorum of three members, the two Liberals and the National Party member, who can travel wherever they want, call witnesses in and do whatever they choose and still form a quorum. They

can present to the media or run out a press release saying that they had somebody in without substantiating the evidence. And I bet London to brick on that if this proposed committee is established after today's debate they will hold a number of meetings. According to the motion the first one will be on Thursday. I strongly suggest they will have a busy time between now and 10 November and, come that date, they will shut their eyes until about 2 March next year. That is what this is all about. It is a cheap political stunt by the opposition. The rapport the government had with the opposition no longer exists, and I tell the opposition that. It is not possible to have a private conversation with the Leader of the Opposition these days without having it reported in *Hansard*. At least with the previous leader you knew that if you spoke with him it was not repeated in the chamber.

Sitting suspended 1.00 p.m. until 2.01 p.m.

Hon. M. M. GOULD — As I was saying before the lunch break, this motion is nothing more than a witch-hunt, a kangaroo court and a fishing expedition that the members on the other side of the house — —

Honourable members interjecting.

The PRESIDENT — Order! I just arrived and already I cannot hear what is going on. I ask honourable members to allow the Leader of the Government to develop her case. Other members will get a chance later.

Hon. M. M. GOULD — The motion before the house is nothing more than a witch-hunt. It is a clear example of why the house needs to be reformed. The opposition is using its numbers, which it is not entitled to use. If there were proper representation of the electorate of Victoria, the numbers in the chamber would be different. The whole argument that the opposition and the then Leader of the Opposition used to defeat the government's bill to reform this house was the example of the committees and the select committees this chamber is able to establish.

A proposal is before the house for the Liberal Party and the National Party to join forces in a coalition to undertake a witch-hunt. They propose to trash all the conventions that have been in place since 1856. The opposition wants to establish a process so it can use its numbers to conduct a Spanish Inquisition into the affairs of the Frankston City Council. Processes are currently being undertaken — and will continue — to ensure that if there is a prima facie case appropriate steps will be taken to investigate it.

We had the accusation prior to the luncheon break that an inspector had been appointed. That is untrue. It is inaccurate. It is another of the innuendoes the opposition is throwing around. The lack of integrity shown by the Leader of the Opposition in this debate is astounding. He has been involved in some private conversations and he came into this house and misled it about the contents of those conversations. I will not stoop to his level and relay what they are.

Hon. Bill Forwood — On a point of order, Mr President, the Leader of the Government has accused me of misleading the house. I take great exception to that and ask her to withdraw.

Hon. M. M. GOULD — I withdraw. The Leader of the Opposition was involved in private conversations in which he says certain things were said. That is not the case. The integrity of the Leader of the Opposition in moving this motion today is now in question.

The reform of the upper house needs to take place to ensure that this sort of witch-hunt cannot take place. I am sure the Liberal and National Party members are already building the pyre to burn the witches at the stake because that is what they are on about. That is all they want out of this. This is a political stunt because of the federal election. It shows that the Liberals are concerned about their success or otherwise in the forthcoming federal election. It shows that they will come up with any diversion to prevent due process taking place.

In his contribution to the debate the Leader of the Opposition mentioned a number of newspaper articles. The Honourable Ken Smith sits on the board of one of the newspapers that printed those articles which brings into question the independence and integrity of such a newspaper. On 16 October the *Independent* ran an article on pages 1 and 3 headed 'Phone records clear mayor'. Did the Leader of the Opposition refer to this? Of course not, it is not what he is on about in this particular exercise. That article states that:

> A copy of phone call records for the day in question were released by Frankston council chief executive officer Jon Edwards and given to the *Independent* by Cr Conroy.
>
> The records refute claims made in state Parliament by Mr Gary Rowe, MP for Cranbourne, that Cr Conroy left the council meeting and made a call on his mobile phone.

The argument the opposition put up has already been dispelled by the chief executive officer. By this motion today the opposition is proposing to undertake an inquiry and release information during the course of that inquiry without reference back to this house. Paragraph (i) of the motion allows the committee to

authorise the publication of any evidence taken by it in public and any documents presented to it. The committee can also conduct this inquiry during normal parliamentary sitting times which is an unusual practice. The tradition of this house and the Parliament has been that any evidence given to any inquiry should not be made public until such time as it is presented to the chamber. The proposed witch-hunt, political stunt, kangaroo court, Star Chamber that the Opposition is putting up — —

Hon. A. P. Olexander — On a point of order, Mr President, during the minister's presentation, which began before the lunch break, she has made precisely the same points using precisely the same words on at least seven occasions. I submit to you, Mr President, that the Leader of the Government is breaching the standing order relating to tedious repetition and I ask you to rule on that.

Hon. M. M. GOULD — On the point of order, when you, Mr President, called me after a previous point of order you asked me to continue to develop my argument. I have been doing so, and I do not believe I have breached the standing orders.

The PRESIDENT — Order! Standing order 133 reads as follows:

> Any member may, either in the Council or in committee of the whole Council, call attention to continued irrelevance or tedious repetition on the part of a member addressing the Chair, and the President or the Chairman, as the case may be, may direct such member to discontinue his speech.

It is not my view that we have reached that stage so I do not propose to invoke that provision at this stage.

Hon. M. M. GOULD — The motion before the house is stacked. It calls for me, as the Leader of the Government, and other leaders in this place to nominate people to you, Mr President, by 4.00 p.m. tomorrow afternoon and that the first meeting of the committee shall be held at 10.30 a.m. on Friday. I submit that the proposal is for this committee to meet on Friday and it will want to meet every day next week and the week after and the week after that until the federal election and then the committee will cease to exist. The motion contains a proviso that even if the committee does make any reports or interim reports it shall not be terminated until 1 March next year.

I suggest that this committee is exactly what I have indicated; it is nothing more than a political stunt by the opposition. The government strongly opposes this motion. The opposition's actions will be shown for what they are — an abuse of this chamber and its processes and traditions. When honourable members opposite face the election next time they will be worse off than they are today.

Hon. B. N. ATKINSON (Koonung) — It is a set of most unfortunate circumstances that brings this motion to the house today. I take no pleasure at all in speaking on this motion and supporting it. I would prefer it if another course of action had been achievable. However, in the context of the debate which has already been held in this house I have no qualms about the competence of this house to deal with the motion. Government speakers have suggested otherwise by way of points of order, and those points of order have been dealt with appropriately in the context of the position of the government on both the Local Government Act and the constitution.

Returning to the substance of the debate, and it was debate rather than points of order at the outset, there is no doubt that this house has the competence to rule on this matter and to establish a committee. Clearly local government is a creature of state government. Its operation is bound by the Local Government Act. Reporting responsibilities are conferred on local government by the Local Government Act and the Audit Act, and local government is established within the Victorian constitution. Therefore this house quite properly has the competence to address issues that relate to local government matters in this state. We have a Minister for Local Government who is responsible for this area and has clearly developed responsibilities under the Local Government Act. I will come to some of those in a moment because the minister's actions might well have averted the unfortunate circumstances of the motion before the house today.

The probity of local government operations is very much subject to the reports to the state government via audits and annual reports of local government authorities. It is critical that the state government and therefore the houses of Parliament ensure that local government behaves with probity and discharges its responsibilities correctly. The house is also clearly competent to establish committees, and the committee outlined by way of this motion to be established and to inquire into this matter will be properly constituted under the rights and responsibilities of this house. There is no problem with that.

I have described this as an unfortunate set of circumstances, and I do believe that, because I would have been very happy to have avoided this motion by seeing the Minister for Local Government develop an inquiry of his own using the responsibility conferred upon him under the Local Government Act to launch a local government department inquiry into this matter,

which was brought to him by a competent person — the chief executive officer of the City of Frankston.

Mr President, even today the motion need not have proceeded. The opposition would not have proceeded with the motion had the minister been prepared to announce and confirm that there would be a ministerial inquiry or a departmental inquiry into the matters that are the substance of this motion. I believe the opposition would have been — certainly I would have been — more than satisfied with that course of action because it would have been the minister properly discharging his responsibilities under the Local Government Act, and it would have been a fair and proper way of progressing this matter and ensuring that the probity and integrity of the processes involved in the City of Frankston's deliberations on commercial developments, land exchanges and the sale of public lands, to facilitate development in and around the Frankston central activity district, were maintained.

Hon. T. C. Theophanous — You would not even let the Supreme Court rule on your case.

Hon. B. N. ATKINSON — One of the problems with Mr Theophanous is that he keeps getting his facts wrong. He is the most inept person I know when it comes to getting the facts right. As Mr Theophanous would be aware, the Supreme Court found that it did not have competence to rule on the position. I know that, he knows that and the public of Victoria knows that. He is always wrong, and he would be better off sitting down and being quiet.

The PRESIDENT — Order! The whole issue is really quite irrelevant to the matter before the house. I suggest that both honourable members deal with the matter before the house.

Hon. B. N. ATKINSON — This morning the government raised the possibility of the minister discharging his proper responsibilities under the Local Government Act and initiating an inquiry into the matter. In talks with the opposition this morning the government indicated that that was an option and the opposition would not proceed with the motion before the house. The opposition would clearly have entertained that course of action. However, no announcement of such an inquiry has been forthcoming. Even though this matter was listed for debate as part of the business of the house today, the minister chose not to make any effort to announce an inquiry and to discharge his proper responsibilities.

The government has talked a lot, both in opposition and in government, about probity and the transparency and integrity of its processes and the importance of having governments that are open to public scrutiny and that go through all of their processes with a clear appreciation of the need for probity, honesty and fairness to all parties, while trying to balance matters of commercial interest with matters the public ought to be informed about.

In this case concerns were raised with the Minister for Local Government about a possible breach or compromise of the process involved with the exchange and sale of lands and negotiations for commercial developments — mixed-use developments, if you like — in the Frankston central activities district. The minister received that request on 2 October.

An honourable member interjected.

Hon. B. N. ATKINSON — By way of interjection, I take it that it was 1 October. The chief executive officer of the City of Frankston, Mr Jon Edwards, issued a press release on the following day, 2 October, indicating that the matter had been referred to the Minister for Local Government and that a request had been made for an investigation into this matter. Mr Edwards did that after receiving legal advice. Mr Edwards was concerned about compromises of the processes by which two bids had been assessed by council consultants and by a working party and had been discussed and evaluated by the council meeting in committee. Mr Edwards was concerned about the compromise of those processes and properly referred the matter to the minister after taking legal advice.

In most cases when a minister receives that sort of information — when he receives a request for an investigation or a complaint or an allegation of some sort of compromise or breach of trust or a problem involving the proper legal responsibilities of a council — by convention the minister automatically refers that matter for investigation by the local government department. That is true of matters concerning the probity or such like of a council's dealings with and evaluation of commercial contracts or indeed any activities where there are allegations of wrongdoing or contraventions of the Local Government Act, and in this case I would suggest that the City of Frankston and its legal advisers believe section 77 of the Local Government Act has been at issue in a possible compromise of the process at Frankston. The minister does not show fear or favour. The minister does not say, 'But I know this person, and I think he is a pretty good bloke'. The minister is responsible under the Local Government Act to deal with that matter expeditiously and properly.

The only circumstances where a minister may decide not to proceed with an investigation by the local government department when an allegation has been received is if it comes from somebody who is clearly putting to the minister a vexatious complaint where there is in fact no substance to the complaint, where it may be a fishing exercise to try to besmirch somebody's character. But in this case one could not possibly say that, because it was the chief executive officer of the Frankston City Council who brought this matter to the attention of the minister and sought the minister's intervention by way of an investigation. In other words, it was not a vexatious complaint and the minister really did not have the opportunity to show any discretion in the matter. He ought to have proceeded instantly to an inquiry.

There was some need for urgency with the inquiry because there were bids on the table and contracts on the table. Two major developers' proposals worth many millions of dollars are being held in abeyance until such time as this matter can be properly resolved. In fact, to proceed with any of the processes involved in the assessment of those bids when there is a cloud over them is likely to leave the council and other parties subject to a legal test.

The timing of this inquiry is not of our choosing. It has been suggested that it is a political witch-hunt and that it has something to do with the federal election. The timing is not of our choosing, because the process by which the Frankston City Council was dealing with this matter was to be resolved this month. The people who might contribute information to the inquiry are not of our choosing. We have not named specific people who might contribute to the inquiry broadly. Although there are allegations against a number of people, in the context of who might be involved in this inquiry, they are not of our choosing either.

These people have made their own decisions and have by their own actions either absolved themselves from any concerns in the context of allegations, particularly in terms of breaches of the Local Government Act, or indeed have left themselves liable to allegations and possible penalty under those breaches.

We have no preconceived outcome for the inquiry. I mention again that this motion would be entirely unnecessary if the minister had acted to establish an inquiry into potential breaches of the Local Government Act.

In conclusion, I have dealt with some of the people involved in these inquiries in the past and have found them to be honourable people. I believe the developers involved in this process are both highly regarded developers who have contributed a great deal to this state's economy and advancement. But they and all developers and all local government, and indeed the state government as well as the public of Victoria and, in this case, the people of Frankston, need to understand that the integrity of the processes has been proper and genuine and that probity has been maintained throughout.

There is a doubt about that, and this motion, given that the minister has failed to act, therefore ought to be passed by this house and we should proceed to ensure that those probity concerns are explored.

Hon. G. W. JENNINGS (Melbourne) — This chamber has been in existence for almost 150 years. The 150th anniversary of the chamber occurs within the next month. This is a very sorry, tragic, desperate day for this chamber in the establishment of this select committee.

The last time a select committee was established by this chamber was on about its 140th anniversary. It demonstrates how often this tawdry mechanism is adopted by those who control the numbers within this chamber. And it is a tawdry exercise we have before us. This is the first time in 10 years that this device has been used by this chamber. The first time in 10 years happens to coincide with a federal election. The only councillor and the only person against whom behavioural allegations have been levelled by the Leader of the Opposition in producing this motion today, despite his protestations that no-one is in the gun of this select committee, is the ALP's candidate in the federal election that will be held on 10 November. The first time in 10 years that this mechanism has been used, has been imposed on the Parliament of Victoria, has been to examine the performance of the ALP's federal candidate in the seat of Dunkley.

It will be understood by the people of Victoria that this is a tawdry, sorry day in the history of the Parliament of Victoria and the history of this chamber. The net position this will add in the eyes of the Victorian community will be the scrutiny it imposes upon this chamber and the future expectations it has of it. It is a repetition of the sorry way we have seen, on a number of occasions since the election of the Bracks government, the outcome of a number of reforms that this government has pursued. In fact the very proposal for the reform of this chamber itself was kicked out of this chamber on the basis of a stale mandate of people who were elected — —

Honourable members interjecting.

Hon. G. W. JENNINGS — Not the 1999 election, but the election of 1996. In fact there is a sorry record of recent times, as demonstrated in the recent debate upon the sessional orders that currently apply. Despite the rhetoric and despite the often-put position about the reverence with which standing orders and procedures are regarded as custom and practice of this place, despite that regular adherence to those principles by members of the opposition, they are happy at a whim to dismiss them in relation to amending standing orders in a flouting of the integrity of the establishment of select committees. We have seen in the motion that is before us today a handful of standing orders that are amended in the name of this motion to establish a select committee for no other purpose than to create a Star Chamber, as the Leader of the Government has attested in her contribution to this debate.

The sole purpose of this select committee is to allow people who appear in Mr Smith's newspaper to throw as much muck as possible using the cloud of parliamentary privilege. The allegations that have arisen in the public domain were published in the newspaper that Mr Smith is on the board of, so this is an exercise where allegations are raised in a newspaper that is controlled by a member of the opposition. The matter will be sent on a resolution of this committee to be considered by a select committee which will comprise a majority of members of the opposition, and if and when this motion goes through there will be no requirement for the committee to have any government members on it to satisfy a quorum.

If we go back to first principles in relation to what is, in effect, the semijudicial nature of the inquiry that is undertaken by this select committee, we see that *May* refers to the normal circumstances you would expect — three to constitute a quorum of a select committee — and in semijudicial instances that is not necessarily the case. What is implied by *May* is there are inherent dangers in establishing a select committee where there is a quorum of three that can be totally constituted by one side, as in this exercise. There can be a totally partisan operation of this select committee in an acutely partisan environment leading up to the federal election.

The motion itself amends at least four standing orders of this house. I think we should have some regard for the fact that the way the committee is constituted flies in the face of normal standing orders of this house. The motion is silent on the question of who the nominees are or that there should be a ballot of this chamber, which is the mechanism outlined in standing orders for the establishment of a select committee.

The standing orders of this place that are supposed to serve the chamber and the people of Victoria so well also stipulate that evidence should not be spilled out on a daily basis the way this motion would allow the select committee to do. In his contribution the Leader of the Opposition indicated that the select committee would operate on the basis of weighing up the evidence before it. That is not the method that is outlined in this motion. This motion outlines a method or practice that would enable the committee to spill out each and every day it sits whatever it chooses — whether it is running in Mr Smith's newspaper or released through any outlet to the people of Victoria — on a daily basis, never weighing up the evidence, not hearing the evidence in camera, as you would expect under the normal standing orders of this chamber, but spilling it out into the public domain.

An honourable member interjected.

Hon. G. W. JENNINGS — In fact it is standing orders 207 and 208. Have a look. The issue in this regard is that the motion itself and the contested nature of it in the establishment of the select committee flies in the face of private and public knowledge about the way in which the Department of Infrastructure, in this case the local government division, is investigating the complaint that has been made before it.

In fact there is public and private knowledge about the way in which that investigation will be undertaken. It is the intention of the minister to comply with his obligation under the Local Government Act to ensure that this complaint, which relates to items under section 77 of the act about the inappropriate use of information, is dealt with seriously and, if due process determines, that a proper investigation is undertaken. It is very clear from my conversations with the opposition about this matter that I have been particularly keen to ascertain — —

Hon. G. R. Craige — How keen?

Hon. G. W. JENNINGS — Absolutely keen to ascertain the bona fides of the opposition to pursue this matter with rigour in an independent fashion and to ensure that appropriate accountability is brought to bear in this exercise. That is the nature of the discussions I held with the opposition about this matter, and the response by the opposition today and the contribution of the Leader of the Opposition demonstrates that there is a clear preference to use that advice in a way that demonstrates that the political advantage may be obtained through the use of this select committee during the next few weeks.

Hon. K. M. Smith — That is not right!

Hon. G. W. JENNINGS — That is absolutely correct. I did not split hairs by rising to allege that the Leader of the Opposition misrepresented a conversation that I had with him, but I clearly put on the record that it was a totally incomplete account of the nature of the conversation. For my part, I was interested in my conversation to ascertain the true level of the desire of the opposition to have an independent scrutiny of this exercise and whether that was the prime objective in moving the motion before us today. I believe the subsequent actions of the opposition in this regard indicate to me that their vain hope of deriving some political advantage through the nature of this select committee was just overwhelming, too good to resist. That is a very disappointing confirmation of the fact that the intent of this select committee is to abuse the integrity of this house, to engage in a tawdry political exercise.

I restate in my opposition to this motion that it is the intention of the Minister for Local Government to deal with this matter appropriately and that his department is currently considering providing advice on the basis of whether there is a prima facie case that warrants the introduction of inspectors in this instance. That is an absolutely legitimate function and it is the responsibility of the Minister for Local Government, one I totally support and one I have conveyed both publicly and privately to the opposition. On that basis I suggest that this sorry motion should be dealt with in the way it deserves and voted down.

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! Before introducing the next speaker I welcome to the gallery representatives from the Aichi Prefectural Assembly which, as honourable members are aware, is our sister state from Japan, lead by Mr Fumihiko Kobayashi, vice-chairperson. Also in attendance are Mr Minami Kato, Leader of the Liberal Democratic Party; Mr Kazuaki Sugioka, Leader of the Democratic Party; and Mr Hidekazu Kito, Leader of the Komei Party. Welcome gentlemen, on behalf of the Parliament of Victoria.

Debate resumed.

Hon. BILL FORWOOD (Templestowe) — In summing up this debate I will make a number of short points. This is not a witch-hunt and it is not designed as such. The bona fides of the opposition were established yesterday when I wrote to the Premier. The one issue that the Leader of the Government and the Deputy Leader of the Government did not address is why I did not get a response to the offer I made to them yesterday to discuss these issues prior to the Deputy Leader of the Government coming to see me today.

I state again for the house: the proposition they brought was that if we did not proceed with the motion, an inspector would be appointed, and that is what we canvassed. I am happy to say here and now that if the government decides in the next two days that it will appoint an inspector to investigate this issue, we will ensure that the committee does not proceed down the lines that government members seem to be so concerned to prevent it from doing. If they are prepared to appoint an inspector, this committee's job in some sense can be put on hold, and so I would say to them to seriously think about that.

I need of course to correct the record. I was informed briefly before lunch during the contribution of the Leader of the Government that in fact an inspector had already been appointed, and I made that point by way of a point of order.

Hon. T. C. Theophanous — Who told you that?

Hon. BILL FORWOOD — It was right around the building, Mr Theophanous. I am now completely satisfied that this government has not yet appointed an inspector and consequently I take this opportunity to correct the record and to apologise to the house for my incorrect assertion earlier.

At the end of the day, this is about clearing the air. This is about an open, honest, transparent process as outlined in the speech by Rupert Murdoch. I find it difficult that the Deputy Leader of the Government can come into the chamber and assert that this is not an important issue that should have the support of the house.

The PRESIDENT — Order! Before putting the motion I think I should clarify something for the direction of the house. If this motion is passed it has to be put into effect. I know the Leader of the Opposition made an offer about this matter, but if the house orders that the committee be established the committee is due to be set up from this Friday unless the house, by leave, decides something else later today.

House divided on motion:

Ayes, 28

Ashman, Mr	Forwood, Mr
Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr

Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Bishop, Mr	Lucas, Mr (*Teller*)
Boardman, Mr	Olexander, Mr
Bowden, Mr	Powell, Mrs
Brideson, Mr	Rich-Phillips, Mr
Coote, Mrs	Ross, Dr (*Teller*)
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Smith, Ms
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr

Noes, 13

Broad, Ms	Madden, Mr
Carbines, Mrs (*Teller*)	Mikakos, Ms
Darveniza, Ms	Romanes, Ms
Gould, Ms	Smith, Mr R. F.
Hadden, Ms	Theophanous, Mr (*Teller*)
Jennings, Mr	Thomson, Ms
McQuilten, Mr	

Pair

Luckins, Ms	Nguyen, Mr

Motion agreed to.

UNCLAIMED MONEYS AND SUPERANNUATION LEGISLATION (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The primary purpose of the bill is to amend the Unclaimed Moneys Act 1962 as a result of amendments to commonwealth superannuation legislation.

These changes are necessary to enable Victoria to continue the administration of Victorian unclaimed superannuation benefits, which has been our responsibility since the introduction of unclaimed superannuation legislation in 1997.

If Victoria does not meet the requirements of section 18 of the commonwealth's Superannuation (Unclaimed Money and Lost Members) Act 1999, the collection of unclaimed superannuation benefits from Victorian superannuation funds would become the responsibility of the Australian Taxation Office, thereby denying Victoria the use of $4 million per annum in unclaimed funds.

The bill inserts provisions for tax file numbers to be quoted by superannuation providers in all lodgments of unclaimed moneys. This is consistent with new commonwealth legislation and provides a more efficient system of reuniting the public with their lost superannuation moneys.

The bill also inserts provisions for the minister to deduct any tax payable to the commonwealth, from an unclaimed superannuation benefit payment. This ensures that the same taxation arrangements apply to the state as currently apply to the commonwealth government and superannuation funds in relation to unclaimed superannuation benefit payments.

The bill also makes a number of minor amendments to the State Superannuation Act 1988 and the State Employees Retirement Benefits Act 1979. The amendments are largely definitional and are designed to bring the commutation rights of those whose entitlements derive from the Superannuation Act 1958 into line with those enjoyed by members of the State Superannuation Fund's revised scheme.

The bill also inserts a new more concise and more robust definition of 'commonwealth funded pensioner' into the State Superannuation Act 1988 and the State Employees Retirement Benefits Act 1979.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until next day.

ESSENTIAL SERVICES COMMISSION BILL

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. C. C. BROAD (Minister for Energy and Resources) — In the course of the second-reading debate a great many issues were raised as were some matters on which honourable members requested clarification. I propose to deal with those matters as we come to the appropriate clauses. I think that will be the most efficient way of dealing with those matters.

Hon. R. M. HALLAM (Western) — By way of clarification, I seek from the minister the specific clause under which she intends to address my inquiry regarding the words 'wherever possible', and the

government's commitment in respect of having regulated stakeholders involved in the quantum and distribution of regulation costs — —

The CHAIRMAN — Order! It is my understanding that an opportunity to speak on clause 2 is to refer only to when the act comes into operation.

Hon. R. M. HALLAM — Mr Chairman, I am seeking your assistance. What we have just heard the minister say is that each of the inquiries that were directed to the government during the currency of the second-reading debate would be responded to during debate on the appropriate clauses of the bill. I am seeking from the minister the specifics of the undertaking. I am looking for her to advise the committee as to what particular clauses she intends to address the specific issues.

All I am asking, Mr Chairman, is clarification from the minister about the four issues that I intended to raise under the heading of clause 2, and some clarification from her as to when she intends the responses to be given.

I instance, again relying on the comment in the second-reading speech, the words 'wherever possible', and I put the government on inquiry that I would be seeking some clarification of the import of those words.

I also put the government on inquiry that I was seeking some sort of commitment in respect of having stakeholders involved in the quantum and distribution of regulation costs. I put the government on inquiry that I was looking for some sort of commitment from government in respect of its response to the Regulator-General's review of the export grain handling facility, and I was looking for some sort of response from government in respect of the costings and the particular claim in the second-reading speech that the — —

The CHAIRMAN — Order! Mr Hallam, we might have to go through the clauses. We are getting outside the parameters of clause 2.

Hon. R. M. HALLAM — Mr Chairman, with respect, I do not believe these specific issues are covered in specific clauses. I want to make absolutely sure that the government does not simply assume that debate on particular clauses will cover all the issues of concern. My point is that I do not know under which particular clauses these issues will be covered, and I am looking to the government for some idea as to which clause we could expect the costings to be discussed, for instance.

The CHAIRMAN — Order! I invite the minister to respond with a view to facilitating the committee process.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am not seeking to be difficult here and I am sure the honourable member is not either. I was not aware he was looking for some indication of which specific clauses relate to these matters. I will briefly seek some advice as to where these issues can most sensibly be addressed, because I know there are clauses where that can be done, and I will then indicate those.

Hon. R. M. Hallam — Mr Chairman, while the minister is taking advice on that, can I assist the committee in this context by simply getting from the minister a commitment — —

The CHAIRMAN — Order! Mr Hallam, I have made a previous ruling that while the minister has the call, she has the call. The minister has the call so I ask you to wait until she returns to the table.

Hon. R. M. Hallam — Mr Chairman, I was trying to assist.

The CHAIRMAN — Order! I understand that, Mr Hallam; I am just being very consistent.

Hon. C. C. BROAD — I am advised we can deal with the 'wherever possible' issue at clause 33 and the cost issues at clause 73, and that the export grain handling issue commences at clause 84.

Clause agreed to.

Clause 3

Hon. PHILIP DAVIS (Gippsland) — I seek clarification of the clause 3 definition for 'essential service', which reads:

> … means a service (including the supply of goods) provided by …

It then lists the particular industries, but over the page it states:

> (g) any other industry prescribed for the purpose of this definition.

I ask the minister to advise what that actually means.

Hon. C. C. BROAD (Minister for Energy and Resources) — Given that the list of essential service is quite lengthy, I am advised that 'any other industry' referred to at paragraph (g) is a catch-all provision that would be subject to regulation and therefore disallowance by the Parliament. The government has

nothing in mind in terms of 'any other industry' at this time so it is a provision that is there if needed, and it would receive parliamentary scrutiny if it were invoked.

Hon. R. M. HALLAM (Western) — Clause 3 includes the definitions, and I refer in particular to the definition ascribed to that of registrar which, according to clause 3, means:

> … a person or body appointed by the regulations to be the Registrar.

Is the minister in a position to advise the committee of the negotiated outcome in respect of the registrar to be appointed?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that discussions are continuing between the Victorian Civil and Administrative Tribunal and Treasury on this matter, but the intention and the agreement in principle is that the position would be filled by the VCAT registrar.

Clause agreed to.

Clause 4

Hon. PHILIP DAVIS (Gippsland) — I seek an explanation and clarification. The scope of this clause seems to be fairly wide as to how it would apply to any industry, and the phrases used in relation to market power, the existence of regulatory benefits, the non-existence of economic regulation and so on infer that there may well be an opportunity for government to exercise a great deal of political discretion to an order that regulates industry. I therefore ask the minister to set out how this clause will operate.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that the way this clause will operate is by way of Governor in Council making an order declaring an industry providing an essential service to become a regulated industry. This section provides transparent criteria which the Governor in Council must have regard to when considering whether to declare an industry to be a regulated industry; in particular, the existence of market power must be significant and non-transitory. The clause also contains some advice on these provisions not applying to certain industries — that is, electricity and gas — because they are already declared to be regulated industries under the two industry acts, the Electricity Industry Act and the Gas Industry Act. The provisions also do not apply to railways or tramways, because they are currently provided for under contract overseen by the Department of Infrastructure. Essentially, Governor in Council will need to have regard to those matters.

Hon. PHILIP DAVIS (Gippsland) — Given my question about the definition 'any other industry prescribed for the purpose of this definition' in the previous clause and the minister's comments in regard to clause 4, I take it we can presume therefore that this effectively creates an opportunity for government to regulate any industry at all in the state which the government of the day deems fit to be regulated?

Hon. C. C. BROAD (Minister for Energy and Resources) — Putting the two clauses together, clause 3, as it does in the bill, comes first. So the disallowance regulation instrument by Parliament comes first before an order in council could be invoked.

Hon. C. A. STRONG (Higinbotham) — Will the minister elaborate on that process of prescribing the order in council and the opportunity for disallowance by the Parliament?

Hon. C. C. BROAD (Minister for Energy and Resources) — I believe I did that under clause 3. Clause 4, in a sense, is the mechanism for implementing an action if it were to be taken under clause 3 and if it were not to be disallowed by the Parliament.

Hon. C. A. STRONG (Higinbotham) — I have some questions on that as well. They deal specifically with, once again, clarification. In the definitions clause, clause 3, essential services are outlined, and included in that are rail services. As the minister highlighted in her previous comments on clause 4, it does not apply; although they are defined as essential services under clause 3, this act does not apply to them under subclause 4(7). The minister made the point that that is because they are regulated by contract.

That raises the question of where we really go in this. The water industries, for instance, are also defined. The second-reading speech clearly indicates that they will not come under this act at this point in time. Is it possible that they may not be dealt with under this act but may be dealt with under contract?

I am trying to get a fix on this. In dealing with a regulated industry like rail, we are saying we deal with that under contract arrangements. But another regulated industry, like electricity or gas, is dealt with under this act. So we have these, by definition, essential services, yet there are two models by which they are being managed. My question is: was any thought given to putting some that may be coming on stream under one model? For instance, the minister indicated that other

essential services may come on stream later. Which model will they be regulated under? The contract model or the Essential Services Commission model? I am just trying to get an understanding of the thinking behind which model is regulated.

Hon. C. C. BROAD (Minister for Energy and Resources) — By way of further clarification, the government has indicated what will happen with water, and there are clauses further on where that can be gone through in some detail if that is required. All that has been indicated in relation to railways and tramways is that, as a result of contracts put in place under the previous government which go for quite a long period, these provisions will not apply. It is as a result of those contracts being in place. However, the government has been very clear, and I will be happy to further clarify that on the clauses in relation to water if that is required. I think I explained— going back a clause — on clause 3 that the government does not have any intentions at this time to prescribe additional industries as essential services, and was referring to a catch-all provision which would be subject to parliamentary scrutiny, and indeed disallowance, if that were to arise in the future. So there is no intent at this time.

On water the government statements are very clear. A series of processes is to be gone through before water comes within the ambit of this act. The contracts are managed — currently the situation is the same with the Office of the Regulator-General — by the Department of Infrastructure rather than the independent regulator.

Clause agreed to; clauses 5 to 7 agreed to.

Clause 8

Hon. N. B. LUCAS (Eumemmerring) — I refer the minister to clause 8(2)(e), which says:

> to ensure that regulatory decision making has regard to the relevant health, safety, environmental and social legislation —

'Social legislation' are the words I wish to inquire about. Which social legislation is applicable in the case of the works of the ESC.

I refer to my speech yesterday, when I quoted a document prepared by the Public Accounts and Estimates Committee a few years ago, which said the social accountability standard, SA 8000, focuses on issues associated with social obligations. Under that heading it referred to human rights, health and safety, equal opportunities, 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. That was a reference I found which gave me some inkling of what social legislation or social standards might be.

Will the minister, firstly, indicate to the committee what social legislation the government is considering to be applicable in this context, and also whether those different items I have mentioned would be included?

Hon. C. C. BROAD (Minister for Energy and Resources) — It is the intention of the government that the primary objectives should be taken together with the facilitating objectives. Taken together they should result in a well planned, competitive and efficiently managed and regulated essential services sector. It is also the intention that they should also ensure that, as well as being investment focused, the commission's regulatory decisions should fully reflect — and this is where we come to paragraph (e) — all applicable environmental safety and social statutory requirements.

There is no particular piece of legislation that I can present to show what the government has in mind here. It is simply that in meeting its objectives the commission should have regard for statutory requirements, be they safety, environmental or social requirements, to ensure that users and consumers, particularly low income and vulnerable consumers, benefit from the gains from competition and efficiency to the extent that those are indeed available.

Hon. N. B. LUCAS (Eumemmerring) — I take it from the minister's answer then that at present there is no social legislation that will be applicable to regulated industries under the bill.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am indicating that in pursuing its objectives the commission should have regard for all statutory social, environmental and safety requirements as a facilitating objective following its primary objective, without singling out any particular statutory requirement. The commission should be taking its statutory responsibilities into account, as I am sure the industries already are.

Hon. N. B. LUCAS (Eumemmerring) — Further to the minister's answer, is there any statutory social obligation legislation at all which the Essential Services Commission has to comply with? Could the minister name any that are applicable to the operation of the proposed ESC?

Hon. C. C. BROAD (Minister for Energy and Resources) — At the risk of being repetitious, all the government is saying here is that the commission should have regard for all relevant environmental, safety and social statutory requirements. It is difficult to

predict particular circumstances, but the commission is not being asked to do anything out of the ordinary in what you would expect a government body or anyone else to have regard for in terms of statutory requirements in these areas.

Hon. N. B. LUCAS (Eumemmerring) — I take it from the minister's answer that in framing this legislation the government had a philosophical idea that social legislation should be considered by the Essential Services Commission. But the minister has been unable to nominate any piece of legislation with a social obligation in it that the ESC will have to take into account. I wonder why the legislation is worded in such a way if the government in turn has nothing at all in mind or any knowledge of any social obligation under any legislation whatsoever that the ESC has to take into account. It seems to me illogical to put in a requirement to comply with something if there is nothing there to comply with. The minister seems unable to give me an example of anything that needs to be complied with.

Am I to take it that in the future there may be some legislation with a social taint to it so that the ESC will be able to say, 'Now we have got something that we need to take into account in regulating appropriate industries.'?

Hon. C. C. BROAD (Minister for Energy and Resources) — That is not an accurate interpretation of what I said. I have indicated that there is a great deal of legislation, not only as a result of this government but of many previous governments, in all of the environmental, safety and social areas. In the government's view the commission, in addition to its primary objective, should have regard for all of that legislation without singling out any particular piece of legislation. In my view that would be a distraction in this discussion.

I am not saying that the whole body of legislation built up by a range of governments going to all these areas does not apply. I am simply saying that the commission is being required in its facilitating objectives to have regard for that large body of statutory requirements in all of those areas in addition to pursuing its primary objective.

Hon. N. B. LUCAS (Eumemmerring) — I am not satisfied with the answer, but I will leave it at that point. I was not trying to be smart. I was trying to get an example from the minister of a social obligation in some act. I think the minister thinks I am going to attack her if she gives me an example to say that the Essential Services Commission is going to take a lot of time pursuing a particular angle. That was not my idea; it was to find out what the government really meant by requiring the ESC to take into account social legislation as a secondary principle. Let the record show that the minister cannot give an example. She cannot give us any idea of what the social requirement in this proposed act really means, and that is recorded for posterity.

I have a further query about clause 8(2)(f), which states in part:

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

I noted a number of comments regarding that in the Honourable Sang Nguyen's contribution yesterday. If one wants to know what the government really means on a lot of things, one just has to read in retrospect contributions by the Honourable Sang Nguyen, who has a person in the back room who writes information out for him.

Then it is possible to read his speech and find out what the government really means. Yesterday the Honourable Sang Nguyen referred to people who have difficulty paying their bills. He suggested that the legislation before us would provide ways of helping consumers who might be facing financial difficulties to pay their bills and that the government would hope to help people with their debts rather than, say, have the electricity cut off.

In clause 8(2)(f) one sees this concept of the proposed ESC helping out users and consumers, particularly low-income people, where it states it will help them:

> … benefit from the gains from competition and efficiency;

I assume bills would generally be reduced across the board, but knowing what the Labor Party is about I wonder whether there is some redistribution mechanism behind the scenes that the Labor Party is considering to help those in trouble. I support the concept of people who are not able to pay their bills being given some sort of support, but I wonder how far the ESC will go in this case given what was said by Mr Nguyen and given this clause of the bill. I ask the minister: how will the ESC implement this objective? How is it envisaged that the ESC should implement an objective of providing benefits to consumers who are vulnerable customers or are on low incomes or, to paraphrase Mr Nguyen, are unable to pay their accounts?

Hon. C. C. BROAD (Minister for Energy and Resources) — In response, we should reflect on the fact that we are dealing with a set of objectives. Further, the government proposes to put into place an Essential

Services Commission which would have scope for determining the best way of meeting those objectives. There is no hidden agenda. The objective is straightforward: to ensure that users and consumers benefit from the gains of competition to the extent that they are available, and that low-income and vulnerable consumers are not excluded from such gains. It recognises that essential services such as power and water are vital, particularly to low income and vulnerable consumers. For the commission the objective might be pursued in a number of ways. If it was to have regard for the existing Office of the Regulator-General a simple example might be the minimum service requirements which have been put in place.

Hon. PHILIP DAVIS (Gippsland) — This is a very important clause, and while we are all anxious to work our way through the bill, we may have to spend a little time on it because it is the substantial clause which sets the direction for the rebadged Office of the Regulator-General. As my learned colleague Mr Lucas has just pointed out, there are some significant social policy engineering changes compared with the objectives of the Office of the Regulator-General. The objectives are starkly different with a different set of priorities. As my other learned colleague Mr Strong pointed out yesterday in his contribution to the second-reading debate, 93 per cent of the bill before us has been lifted straight from the Office of the Regulator-General Act.

It is not so much the issue of what remains the same but what is different. In all of the representations that have come to me — and I have seen many of those that have gone to the government — the fundamental issue of concern to industry — that is, the stakeholders in the essential services that the community relies on and who contribute the capital and take the risk — is the issue about changing the objectives and the way that regulation of infrastructure industries will operate in the future as a result of what is a fundamental change. It is probably useful to read into the record the objectives of the Office of the Regulator-General, and I refer to part 2 section 7 of that act:

> (1) In performing its functions and exercising its powers the Office has the following objectives —
>
> (a) to promote competitive market conduct;
>
> (b) to prevent misuse of monopoly or market power;
>
> (c) to facilitate entry into the relevant market;
>
> (d) to facilitate efficiency in regulated industries;
>
> (e) to ensure that users and consumers benefit from competition and efficiency.

That set of objectives clearly demonstrates an approach to regulation that is ultimately designed to be light-handed and is about ensuring the most efficient operation of those industries for the benefit of the community as a whole. The objectives in the Office of the Regulator-General Act do not go to social engineering. There are obligations on government, and I will grant that it is a responsibility that we have as parliamentarians. In particular the government of the day has to ensure that members of the community who are disadvantaged are protected, supported and assisted in the ways necessary to ensure that society can function as a fair and reasonable community.

I have no difficulty with that, but that is an obligation for government through government support under community service obligations. It is not an issue which the regulators of utilities and infrastructure assets ought to be disciplined to impose as a criterion to involve themselves in setting up a framework of regulation as defined under the bill's objectives that would threaten investment in infrastructure in this state. As I alluded to, every representation to me and to the Liberal Party that I am aware of on this issue from those who represent or are directly involved in investing in infrastructure in the state has raised the concern about this clause being a fundamental problem to confidence in long-term investment. I know that there was a change on the way through the consultation process and a change of wording in the objectives clause to make reference to long-term interests, but the reality is that the primary objective set out in this clause is qualified by the fact of there being a set of secondary objectives, only two of which Mr Lucas alluded to in his examination of the minister a moment ago.

I put to the minister that it is clear to the Liberal Party that there is a risk of the implementation of this legislation having a significantly detrimental effect on investment in infrastructure in this state. I have had meetings with a number of representatives of infrastructure developers, whether they be in the electricity or other industries, and the whole range of industries was represented in some of the discussions I had. They all raised the concern that there is a fairly deliberate piece of work going on here to change the approach taken by the commission to setting the framework for each of those regulated industries, and the consequence will be that they will vote with their feet and they will not put capital into this state.

At this stage of consideration of the bill it is critically important for the government to clarify that issue so

that honourable members will know the position and the industries to which I have alluded will also know whether to invest in Victoria or elsewhere.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government and the opposition are just going to have to agree to disagree about this clause and the impact that these objectives will have. I am pleased that at least the shadow minister drew attention to the emphasis on long-term interests with regard to the primary objective, since in emphasising in the primary objective that reference to long-term interests the intent is that the interests of all current and future consumers are best served through regulatory arrangements that promote an environment for investment in essential utility services infrastructure for the long term.

I refer the committee to the facilitating objectives and indicate that fixing long-term investment, facilitating the financial viability of regulated industries, facilitating effective competition and promoting competitive market conduct are matters that are strongly supported by the industry. Promoting consistency and regulation between states, and on a national basis, are matters that are very dear to the hearts of those in the industry.

There seems to be a particular hang-up about clause 8(2)(e). Meeting statutory requirements in areas like health and safety, environmental impacts and social statutory requirements are costs to industry. The fact that the regulator is required to have regard to those matters and the costs they impose on industry is part of an approach that is actually of assistance to industry, because they are statutory requirements that must be met. To the extent that they are being regulated, having those costs recognised is of assistance to industry. So far from the misplaced concern about social engineering, this is actually of assistance to regulated industries in requiring the regulator to have regard to the costs to regulated industries.

Hon. PHILIP DAVIS (Gippsland) — The issue that seems to escape the minister is that Mr Lucas quite properly pointed out earlier that the minister was able to broadly describe the statutory obligations that already exist in relation to the operation of these industries, and clearly the regulated industries do invariably meet their statutory obligations — they have done so and will continue to do so — and inevitably that imposes a cost discipline on those industries which is taken into account in terms of the cost structures that the Office of the Regulator-General, or in the future the Essential Services Commission, will look at in any event. However, this clause that alludes to protecting the long-term interests, which is set out as part of the primary objective, is qualified by the subsidiary set of objectives called facilitating objectives, and it is especially qualified by the reference to social legislation about which the minister has not been able to provide any information to this committee, other than that she is not prepared to designate or name any legislation that would have relevance in this provision.

I am fully sympathetic to the industry representatives I have met with who have expressed concern about that, and if it is the case that the minister wants the record to show that the government was not competent to describe what it intends to do with respect to social legislation, then I guess that will have to stand as part of the record.

Hon. N. B. LUCAS (Eumemmerring) — We have had all this discussion and the minister has continued to refer to social statutory requirements. I ask the minister to name one social statutory requirement.

Hon. C. C. BROAD (Minister for Energy and Resources) — I have already indicated in response to an earlier question that there is a large body of social statutory requirements with which industries would be expected to comply. I do not believe it will be helpful in dealing with this bill to canvass what is a huge body of statutes arrayed up and down the table, which might come under the category of social legislation over the period of a great many governments. I simply indicate again that this recognises the requirement for all social statutory requirements to be met, and for that to be recognised in the facilitating objectives.

Hon. N. B. LUCAS (Eumemmerring) — I have asked whether the minister can name one social statutory requirement. In answer the minister has said there are a whole lot of them, but to use her words, 'I do not think it is going to be helpful'. I think it is going to be helpful for the minister to name one so we know what we are talking about. We have a bill before us which says that when the new Essential Services Commission comes into force it is going to have to take into consideration social legislation. The minister has been asked about five times to give an example of social legislation, and she says, 'I do not think it is going to be helpful'.

I would like to know, Mr Chairman, any example of social legislation that the commission will have to take into account. It is not good enough for the minister to say it is not helpful. I think it is something we should know the answer to.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am sure the honourable member would

like nothing more than to spend a good deal of time debating the application of sections of the Planning Act, the Building Act, the Equal Opportunity Act or the Local Government Act which might be relevant, but, as I say, this is a facilitating objective. It is not possible to say, without dealing with specifics, what particular sections of what particular acts might impose a cost at some point in time which the regulator should take into account. But there are a great many acts which would have application in particular circumstances. All that is being indicated here by the government is that the commission or the regulator should have regard to the costs that those requirements impose on industries in meeting their obligations.

Hon. R. M. HALLAM (Western) — Can I suggest a way through the issue before the committee? I understand the sensitivities of those regulated sectors who note the particular inclusion of the words 'social legislation', but in another form the real concern goes to the fact that the government has announced its intention and delivered on that intention to have for the first time a primary objective which goes to the protection of the long-term interests of Victorian consumers.

I suggest to the minister that there might be there the opportunity for her to offer some words of comfort as to what that change effectively means. If the rules are not to be changed, in effect, compared to those which apply under the current rule book with the Regulator-General, there is one fundamental difference — that is, the government's deliberate announcement to make a primary objective in this instance where that was not the case in the past. Is the minister able to offer some comment by way of response to the views expressed by members of the committee as to the relevance of the decision to impose a primary objective?

Hon. C. C. BROAD (Minister for Energy and Resources) — To add to the comments I have already made stressing the importance of the primary objective and its primacy over the facilitating objectives, it is the government's view that this is the way to best protect the interests of Victorian consumers with regard to price, quality and reliability of essential services to the extent that they come under the commission. The government's intent in emphasising the long-term nature of these interests was in relation to promoting an environment for investment in an essential utility services infrastructure. So in terms of the consultations which surrounded the wording of the primary objective, which has for the most part been the main focus of discussion in consultations, the insertion of that emphasis on long-term interest was seen to address the interests of both consumers, current and in the future, and investors in utility infrastructure.

Hon. D. McL. DAVIS (East Yarra) — On the objectives, and in particular 8(2)(e) and this point of social legislation, following on from what Mr Lucas has said and the minister's comments in which she gestured to indicate the huge expanse of legislation, I think her point is correct. While it may not be possible to go through every statute and ask whether that would apply in this social context, it may be possible for the minister to give us some classes of legislation that might apply in this respect. I might start with one class with the minister and come to another class in a moment. The first class of legislation I would like to know about is: does social legislation in this context mean perhaps federal legislation on some occasions?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that to the extent that it can be demonstrated that there is a cost imposed, if that imposition came about as a result of federal legislation, that would be something that the commission would take into account as a result of this objective.

Hon. D. McL. DAVIS (East Yarra) — I welcome the minister's indication that on some occasions federal legislation could impact on the Essential Services Commission objectives through this secondary objective 8(2)(e). I want to move to another class of legislation. The minister mentioned local government. I wonder whether local government requirements, legislation and regulations might from time to time impact on this provision and the Essential Service Commission's work.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that to the extent that there is a cost imposition which can be demonstrated, the effect of this facilitating objective is for the commission to have regard to that cost imposition.

Hon. D. McL. DAVIS (East Yarra) — In the same way I want to ask about the class of state legislation and whether all state legislation is potentially under consideration in this respect.

Hon. C. C. BROAD (Minister for Energy and Resources) — Only to the extent that a demonstrated cost impact comes about.

Hon. D. McL. DAVIS (East Yarra) — I seek to pick some examples that might tease this out a little further. I understand the minister's point earlier on when she mentioned the Equal Opportunity Act, and I will pick that for the purposes of demonstration without specifically wanting to single it out as such. There may

from time to time be certain legislative requirements under those acts, and a generator or other registered provider under the Essential Services Commission Act will of course need to comply with the laws of the land in that respect.

The Equal Opportunity Commission is a good example of where this act may allow that requirement under legislation to go further. From time to time the Equal Opportunity Commission might have a legislative requirement, an advisory requirement or a code of practice that is non-binding or another instrument that is recommendatory or suggestive to parts of society or to industry, and that might not be a legislated requirement but may simply be advisory or recommendatory. Would that advisory or recommendatory instrument impact on the phrase 'social legislation' in clause 8(2)(e)?

Hon. C. C. BROAD (Minister for Energy and Resources) — As I suspected, this is a very long piece of string. The provision makes it clear that the reference is to statutory requirements. To take an area of legislation with which I am particularly familiar because I am responsible for it, the health and safety area and the Office of the Chief Electrical Inspector, it is clear that to the extent that businesses are required to meet requirements under that legislation and that that imposes a cost, that should be taken into account by the commission as a result of this objective.

Hon. C. A. STRONG (Higinbotham) — I refer to clause 8(1). A comparison of the basic objective with the objectives of the Office of the Regulator-General Act shows the key addition of the words 'long-term interests', and that same terminology is used again in clause 8(2)(a) in the context of facilitating incentive for 'efficient long-term investment'. I interpret that in a particular way and I would like to get your view, Minister, of whether my interpretation is right, wrong or different from yours.

As the minister would know from experience of what is happening now, this industry, particularly the electricity industry, can be fairly volatile. Prices go up and down, and we are seeing the effect of that as we speak. One of the risks in establishing a viable industry is that one might make a knee-jerk reaction to this volatility. One needs to have a long-term view, particularly when one is in a market, and say, 'In the long-term view markets do tend to be volatile but we need to look at the longer term to protecting the interests of the Victorian consumer or, alternatively, establish investments which are viable in the long term rather than investments which are viable in meeting today's crisis'.

As I interpret it, the inclusion of 'long-term interests of Victorian consumers' is a positive amendment to the objectives because there will then be cognisance of low-level volatility in taking a slightly longer view. I wonder if that is the way the minister would see that being interpreted.

Hon. C. C. BROAD (Minister for Energy and Resources) — It is certainly the government's view that the optimum environment for investment in essential services infrastructure is created by taking a long-term view. If we consider that from the start of next year we will move into a competition environment and it will take some time for that environment to sort itself out and be fully effective — hence the ongoing role for the Office of the Regulator-General and, following that, the Essential Services Commission — the best results for not only current but future consumers will be obtained only through taking a long-term view, which is also very much in the interests of encouraging investment in infrastructure.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for her response and put on the record that I think the addition that she has outlined is very positive.

Hon. PHILIP DAVIS (Gippsland) — This is particularly important and the minister has gone a long way towards clarifying the point I raised earlier that this aspect of the bill is probably the one about which I have had the most discussion. It was highlighted yesterday by comments about the short-term and long-term issue. I do not invite the minister to respond to the remark I am about to make, but it is worth making the point that yesterday in the heat of a radio interview the Premier was obliged to respond to a question about the state of prospective electricity prices. I think his response was either informed and interesting, if it was an informed view, or it was an uninformed view. Regrettably — he may choose to regret it and I am sure the minister may choose to regret it — he made a pre-emptive remark without ruling out any consideration of giving merit to an announcement foreshadowed by one of the electricity companies. That is the short-run issue.

The long-run issue is to hold electricity prices down. In the long run we need a market that works and we need a regulator who takes a long-term view and is not influenced by the inevitable day-to-day political processes that prejudice securing a long-term outcome for the consumer. The long-term outcome to which the minister has clearly alluded is served by putting in some certainty about trying to attract investment in the long term rather than responding immediately to what is in this provision. Clause 8(1) states:

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

As I understand it, that is the wording that was originally proposed. Then after some representation by industry the government agreed to insert the words, 'the long term interests of', and so we have here a fundamental point of difference in the way that the government came to this issue.

However, I acknowledge that the government has restructured the clause to reflect the line about long-term interest. But industry's concern is very much the fact that this is not the desired thrust of the government. The approach that the government has taken in respinning and rebadging the Office of the Regulator-General into the Essential Services Commission has resulted in an attempt to create a body with the primary function of serving a short-term political need. If the minister is in a position to at all embellish and add to what I think was a good comment in response to Mr Strong, that would be helpful because that is the issue that is causing some difficulty for industry.

Hon. C. C. BROAD (Minister for Energy and Resources) — I shall add briefly to what I have already said and indicate that this change was made as a result of consultation not only with industry but also with representatives of consumers, who also see this as being a very important change in the interests of current and future consumers. To the best of my knowledge we have reached a consensus, in the view of industry, of consumer representatives and of the government and, at least, I think, some opposition members, of the wording of this primary objective.

Hon. D. McL. DAVIS (East Yarra) — As do other honourable members, I welcome the move from the exposure draft on the insertion of the words 'long term interests'. I seek further clarification as to what those words mean. I know that the briefing, and I thank the minister for it, was helpful to the opposition and produced the phrase 'beyond the five-year pricing period'; but what does the government understand by the expression 'long term'? A number of definitions could be given. 'Long term' could relate to electoral cycles or an economic view of this clause, or it could apply to some other phrase that was given to us — for example, 'beyond the five-year pricing period'.

My concern about that description is that in these utility areas 'long term' is in my view a great deal longer than any of those cycles — it is cycles of 10, 20 or 30 years. Is that what the minister means by 'long term'? Can she point to other legislation for an interpretation that would give us a better explanation?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can set the honourable member's mind at rest and indicate that it is certainly not the view of the government, consumer representatives or the industry that electoral cycles are in any shape or form an appropriate time period. However, the appropriate time period would vary depending on the nature of the infrastructure and the essential service.

As the honourable member has said, in the briefing it was indicated as being beyond the five-year pricing reviews undertaken by the current Office of the Regulator-General. However, in terms of being precise about what might be the appropriate definition of 'long term' for a particular essential service, it would be a matter which would have to have regard for the nature of the investment and the interests of consumers in relation to that investment in infrastructure.

Hon. D. McL. DAVIS (East Yarra) — Do I understand the minister to be saying that it would be part driven by the investment with that understanding of the words 'long term'?

Hon. C. C. BROAD (Minister for Energy and Resources) — Yes.

Hon. D. McL. DAVIS (East Yarra) — I pick up the issues Mr Lucas has already canvassed with regard to clause 8(2)(f), which states:

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

I note that in the second-reading speech the minister gave a lengthy description of the Consumer Utility Advocacy Centre, which it was claimed will deliver effective consumer input to regulatory processes. How does that directly relate to that advocacy centre, which I understand is not covered under this legislation but was mentioned in the second-reading speech?

Hon. C. C. BROAD (Minister for Energy and Resources) — As the honourable member has correctly identified, that matter, which was referred to in the second-reading speech, is not the subject of this legislation and is therefore not a matter to which the commission is required to have regard.

As the honourable member is probably aware, the current Office of the Regulator-General has and the Essential Services Commission will continue to have its own mechanisms for consulting with industry, consumer representatives and others. It is intended that

the mechanisms the Regulator-General currently employs will be enhanced by the commission.

However, they are completely separate from the proposition the government outlined in the second-reading speech in relation to consumer advocacy through the establishment under the responsibilities of the Minister for Consumer Affairs of a consumer advocacy organisation. These objectives are not to be read in terms of those related but separate initiatives by the government. These are in relation to the actions of the commission itself.

Hon. D. McL. DAVIS (East Yarra) — How would the advocacy centre impact on these objectives and on the commission's determinations, or do I understand it to be not at all?

Hon. C. C. BROAD (Minister for Energy and Resources) — As I have indicated, they are quite separate. Those initiatives are in relation to consumer advocacy separately provided for by the government under the auspices of the Minister for Consumer Affairs. The commission will be the responsibility of the Minister for Finance, and these objectives go, as I think I mentioned in response to an earlier question on this clause, just to use an example, to matters such as the minimum standards of service.

Hon. D. McL. DAVIS (East Yarra) — Clause 8(2)(g) states:

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

In the second-reading phase I had an exchange with Mr Hallam about this and I commented about the need for a more national approach, which is appropriate. However, I want to be clear. What would occur if a fixed price were set in another state? Could that be used by the Essential Services Commission in Victoria via the objective in clause 8(2)(g) to fix price, for example, in the interests of promoting consistency and regulation between states and on a national basis?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am not certain that I fully understand what the honourable member is referring to. The intention of the government is that what is a very significant issue for industry and for consumers, because ultimately the costs are passed through to consumers in the form of paying higher prices for services, is that it is highly desirable to the greatest practical extent to harmonise national and state regulation and take a national approach to these matters. I have placed that issue on the agenda for the electricity ministers who are members of the national electricity ministers forum put together by this state. The intent of this facilitating objective is not only that the commission should have regard to this objective but that the government would expect the commission to take a leading role in promoting best practice in seeking a national approach to economic regulation.

Hon. D. McL. DAVIS (East Yarra) — The minister has talked about economic regulation, but my specific concern relates to economic regulation as it may pertain to price. If another state set up a regime under its own legislative arrangements, I wonder whether this clause could operate in such a way as to allow the Essential Services Commission to harmonise — to use the word used by the minister — that particular regulation.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response, I would emphasise that the primary objective is the first consideration. In terms of this facilitating objective of promoting best practice in seeking a national approach in economic regulation, it is not necessarily a question of the lowest price or of pricing. In relation to one of the areas for which I am responsible — that is, electricity — I cannot envisage a situation in which the sort of scenario the honourable member has outlined would come into play or would have any applicability.

Clause agreed to; clause 9 agreed to.

Clause 10

Hon. R. M. HALLAM (Western) — Clause 10(f) provides for a new function of the commission 'to conduct public education programs', and during the second-reading debate here and in another place some concerns were expressed about the extent to which that new function might be misused. I ask the minister for some advice on the application of that new function which might provide some consolation. For instance, can the committee be assured that the new commissioner will have absolute freedom in setting the internal budget and the extent to which that new function will be financed internally?

Hon. C. C. BROAD (Minister for Energy and Resources) — On this matter of clause 10(f) and the public education programs, I can advise the honourable member that this function will be limited to promoting the commission's objectives under the act and relevant legislation and to significant changes in the regulation of a regulated industry, such as the circumstances being faced right now with the introduction of full retail competition for domestic electricity and gas markets,

which are hopefully not circumstances that will be faced on a regular basis.

I can advise the honourable member that the commission will not have a specific annual budget for each of its functions but that it will have a total budget and that it will be up to the commission to allocate its budget internally in such a way as to meet all its responsibilities.

Hon. PHILIP DAVIS (Gippsland) — Picking up on that issue, I am interested in the delivery of those public education programs, and I ask the minister how those programs under that function will be funded.

Hon. C. C. BROAD (Minister for Energy and Resources) — As I have said, the commission will have a total budget and it will be up to the commission to allocate that budget internally to ensure it is meeting all its objectives.

I do not know if the honourable member wants to go on to talk about cost recovery and some of those mechanisms, but if that is the case — the honourable member is nodding — I can advise that the commission's budget for 2001–02 is $20.2 million, which includes a one-off cost of $5.2 million for public education related to the introduction of full retail competition for domestic and small business consumers of electricity and gas, which are clearly one-off costs.

I am advised that cost recovery from the regulated industries will be $13.7 million in 2001–02, which will be based on the costs of regulating each sector. The government has made a commitment to further consult with industry in relation to the actual imposition of the recovery of those costs, and that will occur via the Treasurer.

Hon. PHILIP DAVIS (Gippsland) — On the issue of cost recovery, I take it there could be education programs in the future — some of which we can only imagine at this stage because we do not know what they will be beyond the education program that is running now for full retail contestability — that will result from a determination by the Essential Services Commission in consultation with government, the costs of which will effectively be met by the regulated industries under the cost-recovery arrangements. If there is, therefore, to be a cost imposed on a regulated industry to claw back the cost of an education program, I am particularly interested in what rights that industry will have to consult on the nature and form of the education program.

Hon. C. C. BROAD (Minister for Energy and Resources) — I can advise the honourable member that there is close consultation between the incumbent businesses in particular, the Office of the Regulator-General and me.

It is clearly to the advantage of consumers, to the extent that the Office of the Regulator-General is conducting a public education program to explain to them the changes which will be occurring from the start of the next year and the choices available to them and ensuring that the industry is well informed about the nature of that public education program. To the extent that the industry is willing to reveal the details of its marketing approaches, it is clearly also of interest to the Office of the Regulator-General to be aware of those marketing approaches.

The honourable member, I am sure, can imagine that some sensitivities are involved in all of that. But I can assure him that there has been close consultation between the businesses and the Office of the Regulator-General and that they are fully informed about the public education program being conducted by the Office of the Regulator-General.

Hon. PHILIP DAVIS (Gippsland) — Further on the point, so we have an acknowledgment that there is a cost recovery for education programs from industry and that in effect — as I would understand it, because it has not been denied — the cost-recovery requirements can be imposed unilaterally on industry without any appeal, as I see it, and that it can be for education programs which have more to do with the objectives of the commission than, perhaps, the outcomes that might be desirable. Given that within the new objectives being imposed by this bill there are references to matters which are perceived to be fairly extraneous to the central purpose of delivering essential services — for example, I will return to the much belaboured clause 8(2)(e) and the reference to social legislation as part of the objectives clause — by linking the functions clause to the objectives clause it seems there is scope for a future government to, through the Essential Services Commission, deem that it is appropriate for education programs to be run on a range of social policy issues which have relatively low impact on the reality of the delivery of services to the community and that the funding for those social engineering education programs could be by way of cost recovery from the regulated industries, and obviously therefore, from consumers ultimately.

Hon. C. C. BROAD (Minister for Energy and Resources) — I can indicate in response that that is most certainly not the government's intent. It is the government's view that that is not the way this clause can reasonably be interpreted. If we read together the

fact that this function will be limited to promoting the commission's objectives and significant changes in the regulation of a regulated industry, it can be seen that the current situation where there is a change that will affect some 2.2 million customers is clearly a major change and that there is a need to advise consumers about that and to ensure that they are well informed for their own protection. I might add that there are also significant benefits to accrue, particularly to the incumbent businesses, who are strongly supporting this change. So the sort of scenario the honourable member has painted is not one that in the government's view could reasonably arise under any circumstances through this clause in the bill.

Hon. PHILIP DAVIS (Gippsland) — The minister is correct insofar as clause 10(f)(2) is concerned. She has made great issue of the important program announced last week by the Regulator-General in respect of the full retail competition education program, evidence of which we now see in our letterboxes and newspapers. But I am not really referring to that aspect of the clause. I am acknowledging that, where there are significant changes to the regulation of a regulated industry, there will be education programs and they will be important and necessary. I have absolutely no doubt that they will be implemented with the appropriate diligence. But I am referring specifically to the fairly wide ambit of clause 10(f)(1), which alludes to promoting the objectives of the act.

I would not have a problem, frankly, if we were agreed that the scope of the objectives of the act were as limited as the minister would have us believe. It seems to me that the objectives of the act are so wide now that, taking the functions power and the objectives provision together, it does not require a great leap of imagination to see that a range of education programs could be run on matters extraneous to the main activity of the industries which are now and will be regulated in the future.

It is important for the government to make it clear — absolutely unequivocally clear — at this point of the consideration of the committee that it is not the government's intention to use this clause in any way beyond dealing with matters that are of major import to those regulated industries.

Hon. C. C. BROAD (Minister for Energy and Resources) — I will check one point. I just wanted to clarify the legal interpretation here. As is normally the case, in relation to clause 10(f)(1) and (2), the linking of those two together means that they must be taken together. As I have previously indicated and I will indicate again, that is the government's intent, and in the government's view that is the only way in which the commission can conduct public education programs in accordance with this function.

Hon. N. B. LUCAS (Eumemmerring) — The minister mentioned that under this clause the expenses for 2001–02 would be $20.2 million and that there would be $5.2 million in one-off expenses. That leaves around $15 million. The minister further indicated that there would be a cost recovery of $13.7 million. I take it that this amount comes from the industries which are regulated under the proposed Essential Services Commission legislation. Do I assume, then, that the $13.7 million translates through to a little bit being added onto the accounts of businesses, and mums and dads throughout Victoria who pay bills to these regulated industries?

Hon. C. C. BROAD (Minister for Energy and Resources) — As is currently the case, the approach to regulation and to cost recovery, which is conducted through the mechanism of licence fees, is that that impacts on the costs of the businesses being regulated. The cost recovery of $13.7 million is somewhat less than the budget of $20.2 million so cost recovery is not related to the entire budget. It is the government's expectation that the costs will decline given these are one-off costs associated with the introduction of full retail competition.

Hon. N. B. LUCAS (Eumemmerring) — I assume from the way the minister skirted around that answer that she agrees that this will all trickle down and the mums and dads of Victoria will pay a little bit more for this regulation.

The minister has just indicated that costs will reduce and that is also mentioned in the second-reading speech. Do I take it that the estimated cost of running the Essential Services Commission will be less than the cost of running the Office of the Regulator-General?

Hon. C. C. BROAD (Minister for Energy and Resources) — Clearly the Essential Services Commission is taking on additional responsibilities. The water area is a significant responsibility which it will take on in future years. In relation to comparable budgets, the current year's budget which is having to address these one-off costs would result in a lower budgetary allocation in the future, to the extent that we are comparing apples with apples.

As to the commission's budget when it is at the point of taking on additional responsibilities, that is not a matter that I have advice on but clearly that is not comparable.

Hon. N. B. LUCAS (Eumemmerring) — I note that the last annual report of the Office of the Regulator-General indicated a total cost for the year to June 2000 of just under $13 million. You have added $7 million to the bill, Minister!

I wanted to ask about the public education program provided for in clause 10. The second-reading speech indicates that one of the roles of the new Consumer Utilities Advocacy Centre will be to provide an interface with consumers and to get involved with information dissemination with consumers and research. I wonder where the activities of the centre and the function of the commission to get involved with education fit together given there is a bit of overlap between the advocacy centre and the role of the new commission in that area?

Hon. C. C. BROAD (Minister for Energy and Resources) — I would not describe those matters as overlapping. The commission has clear responsibilities, as does the current Office of the Regulator-General, about consultation with industry, consumer groups, and so forth. It will continue to meet those functions. The public education function is set out in the bill. That is quite a separate matter from the government's commitment to fund a consumer advocacy centre, which will not be the responsibility of the commission or the minister with responsibility for the commission. It will be the responsibility of the Minister for Consumer Affairs. Although it is not covered by the bill, for the advice of honourable members it was referred to in the second-reading speech. The matter is the responsibility of the Minister for Consumer Affairs and she is proceeding to develop that initiative as a quite separate matter from the Essential Services Commission.

Hon. N. B. LUCAS (Eumemmerring) — Will the minister give an undertaking that she will liaise with the Minister for Consumer Affairs to ensure that there is no overlap?

Hon. C. C. BROAD (Minister for Energy and Resources) — I certainly will be liaising with the Minister for Consumer Affairs on these matters and I expect that when the consumer advocacy centre is in place it will have a good deal to say about government policy and the activities of the commission as a quite separate matter.

Hon. C. A. STRONG (Higinbotham) — Fundamentally two paragraphs have changed in clause 10 from that of the Office of the Regulator-General Act. We have spent some time on the public education programs and I seek some clarification on the other one. Clause 10(b) states:

> to advise the Minister on matters relating to …

and then a new inclusion states:

> including reliability issues …

As the minister would know, the Office of the Regulator-General, soon to be the ESC, produces a quarterly or half-yearly document on reliability.

In its last determination on network charges it dealt with reliability and set reliability limits. My question is: is there any change or anything we need to worry about in the inclusion of reliability issues or are the functions currently taking place in reliability anticipated to run through? In other words, I am trying to see if there are any hidden extras in that or if it is a continuation of what is currently happening.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am not sure what concerns the honourable member might have about this, but it is the intention of the government that in fulfilling this role the commission should complement rather than duplicate existing measures and roles in security of supply and that the emphasis is on ensuring that consumers benefit from greater reliability of supply.

A range of bodies have a role in this area and it is the intention that the existing arrangements should be enhanced to see that consumers benefit from having greater reliability of supply. This has been an issue in various areas of Victoria. The honourable member is correct in referring to the reports produced by the Office of the Regulator-General and the approach to regulation to enhance greater reliability of supply. The intention is to continue to enhance that approach. I do not think there is anything here that should be regarded as hidden or unexpected.

Hon. C. A. STRONG (Higinbotham) — So the minister is confirming that it is a continuation of what is happening now. Clause 10(f), which the minister has spent some time on, introduces a new function of the commission but, as has already been pointed out by others, there is currently in play a significant education program. All honourable members have had good documents in their letterboxes on the changes that are coming and it is a good and necessary education program, which I support in every way. However, my point is that it is now being carried out under the Office of the Regulator-General Act which does not provide for this function. I guess this is a jocular comment as much as anything else — I presume that it is being

carried out under the similar provisions that exist under clause 11, the next to be dealt with, which is the catch-all which essentially says that the office can do whatever it likes. Clause 11, headed 'Powers of the Commission,' essentially says the office can do whatever it likes and it has undertaken this education program, which is appropriate. My only comment is that it is good that the minister has made these clauses clearer in terms of the roles, but after answering these questions for the past half an hour the minister may wish they had not been made clear and she could have continued to do that under clause 11.

Hon. C. C. BROAD (Minister for Energy and Resources) — It is the view of the government that it is desirable for both industry and consumers to make these roles and functions as explicit as possible and that is what clause 10 does. In relation to my earlier remarks about reliability under clause 10(b), I add that the function where the commission is given the capacity to provide advice to the minister on industry reliability matters is an extension of the current functions of the Regulator-General and it is certainly one which, as the responsible minister in relation to some of the industries which will be regulated by the commission, is a function I will pursue in seeking advice from the commission in addition to its current reporting on reliability.

Hon. R. M. HALLAM (Western) — I did not intend to pursue the issue of costings under the heading of clause 10, but given that the minister has broached the subject there are a number of issues I would like to canvas. We are told that the commission will be co-funded by government and industry on an equitable and transparent basis. We are also told a number of other things, but I go to that general issue for a start. I raised the question during the second-reading debate about whether the regulated stakeholders will be involved in the determination of the quantum and the distribution formula in respect of those regulation costs. Is the minister in a position to offer the committee any advice about that involvement?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can respond to the honourable member on this issue in two ways. The first is to reiterate the government's commitment to further consultation with industry in relation to the cost-recovery and cost-sharing arrangements on the passage of the bill. I can also indicate that under this bill the commission is required to report on its operations in order to demonstrate to consumers, industry, the government and indeed the Parliament that it is regulating in an efficient way.

Hon. R. M. HALLAM (Western) — I invite the minister to take the first part of her answer that one step further. It seems to me that the regulation process itself will be much more effective if those who are subject to it feel themselves to be part of the process. What form will this further consultation with the regulated parties take? Will they be involved in discussions regarding the quantum of the regulated cost and the way in which it is to be recovered from the regulated sectors?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that the consultation is to go to the question of the way in which the costs are to be shared across the regulated industries. As I indicated in response on an earlier clause, at the moment there is an approach to recovering certain costs through licence fees. I am advised that the Treasurer will be consulting with industry on these sorts of details as to the most appropriate arrangements for cost recovery.

Hon. R. M. HALLAM (Western) — I thank the minister for that indication. I can assure her that the regulated industries will be looking forward to that consultation with the Treasurer with a great deal of interest.

I was delighted to hear the minister's response to a question put by the Honourable Neil Lucas in relation to the costings associated with the establishment of the Consumer Utilities Advocacy Centre. That leaves me with just one question to pursue in relation to the costings here. I invite the minister to provide the chamber with a summary of the actual effect on the operational costs of the commission in the year we are addressing.

We are told that there will be a fair, equitable and transparent basis of co-funding. We are told that the operational costs will reduce over time. We are told that the establishment costs will be directly met by government and that the government anticipates that there will be a cost of $5.2 million related to the introduction of full contestability across the electricity and gas businesses. We are told that that $5.2 million specifically will be met by the regulated industries directly involved. I invite the minister to give the committee a snapshot of what that actually means in terms of the budget confronting the commission when it is established. What is the aggregate to be co-funded by government on the one hand and by the regulated industries on the other?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that the government is indicating that cost recovery from the regulated industries, which as I have indicated is $12.7 million in

the current financial year, will be less than, I think, $8.5 million, which has been arrived at after deducting the one-off costs of the introduction of full retail competition. I cannot be more specific than it will be less than $8.5 million, because among other things this will be subject to consultation with industry, and these are the costs to be recovered from industry as distinct from the total budget for the Essential Services Commission.

Hon. R. M. HALLAM (Western) — I thank the minister for that clarification. I would like one point of confirmation. Is the Minister for Energy and Resources actually saying that the maximum quantum to be subject to shared responsibility between the Essential Services Commission and government is $8.5 million for 2001–02?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am not exactly sure what the honourable member means by 'shared by the government'. I have indicated that the government's intention is that cost recovery from industries will be less than the $8.5 million. That is the amount in the current financial year after adjusting for the one-off costs. The budget over and above that amount of $8.5 million is to be met through the state budget and not recovered from the regulated industries.

Hon. R. M. HALLAM (Western) — I was not trying to be tricky at all. Leaving aside the question of the $5.2 million specifically mentioned in the second-reading speech as being related to the introduction of full retail contestability which is to be recovered directly from the licensed electricity and gas businesses, I am talking about what that leaves to be co-funded in the terms of the second-reading speech. We are told that the commission will be co-funded by government and industry on an equitable and transparent basis. What I am trying to establish is the aggregate of the cost to be co-funded on an equitable and transparent basis relative to the 2001–02 year.

Hon. C. C. BROAD (Minister for Energy and Resources) — In the 2001–02 year after subtracting those one-off costs we are talking about the difference between $8.5 million to be recovered from regulated industries and a total budget of $15 million. That is the total budget for the commission in this current financial year. Out of a total of $15 million, $8.5 million is to be recovered from the regulated industries. This is putting to one side the one-off imposition of the $5.2 million. That $8.5 million directly relates to the costs of regulating those industries.

Hon. R. M. HALLAM (Western) — I am having some difficulty in establishing what the minister would have the committee understand. Is the totality of the $8.5 million and the $5.2 million to be recovered from the licensed businesses?

Hon. C. C. BROAD (Minister for Energy and Resources) — Yes. The total amount to be recovered from regulated industries is $13.7 million, which includes the one-off cost of $5.2 million.

Hon. R. M. HALLAM (Western) — Can I have one final go at understanding this issue? Will the minister advise the committee as to the establishment costs associated with the commission that will be funded by the government?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that the establishment costs are in the order of $1.5 million.

Clause agreed to.

Clause 11

Hon. N. B. LUCAS (Eumemmerring) — One of the pledges of the Labor government was to guarantee reliable supplies from essential service providers in Victoria. When we received the bill it was therefore good to see that in clause 8(1) the primary objective of the new Essential Services Commission will be to protect reliability. One of the biggest challenges and biggest problems we might suffer in Victoria in terms of reliability is a black ban on work in the Latrobe Valley or some sort of industrial relations activity. Victoria had a couple of blackouts last summer, and the way we are heading now with works not commencing on provision of a new electricity supply means that we could have a situation in the coming summer when everyone turns on their airconditioners and the unions see that we all need plenty of power. They might pull the pin and we will have an industrial relations dispute before us that will cause us to be without power.

If one of the commission's key aims is to provide reliability, will the minister answer the question: does the Essential Services Commission have any power anywhere in the bill, and certainly in clause 11, which contains the powers of the commission, to get involved in industrial disputation to ensure the continuation of an essential service to the Victorian community?

Hon. C. C. BROAD (Minister for Energy and Resources) — In response I point out that the clause we are dealing with is expressed in similar terms to section 9 of the Office of the Regulator-General Act, which I think the Honourable Chris Strong pointed out

in the second-reading debate. It is a standard provision that provides the commission with broad powers to fulfil its functions and objectives under the act. On matters relating to industrial action, I am not inclined to speculate about future events of which I have no knowledge, but I can indicate in relation to past events that where those circumstances arose they were dealt with by me as the minister responsible for the Electricity Industry Act, and those powers under the Electricity Industry Act were found to be more than adequate to deal with the situation.

I also refer the honourable member to the relevant industrial relations legislation, which is federal legislation, which also goes to matters of industrial disputation, given that as a result of the actions of the previous Kennett government there is no longer a state industrial relations framework to deal with those matters. In terms of dealing with those sorts of situations, they are the relevant pieces of legislation.

On the issue of reliability, the honourable member should understand that we are talking about technical standards which infrastructure is required to meet as well as standards of service, which is a somewhat different matter from the matters the honourable member has raised.

Hon. N. B. LUCAS (Eumemmerring) — I assume from the minister's response that the answer is no, the Essential Services Commission does not have any power and will not get involved in industrial disputation, and that there is other legislation and other powers the government will use in the circumstances I suggested. I just cannot understand why the minister does not say that, why she has to be really smart and go around the long way. All we want to know is the answer to the question. If the question was simply answered with, 'No, it is not going to get involved, it does not have any power', we would all sit down and move forward. Why can the minister not give us a simple answer to a simple question? I cannot understand it.

Clause agreed to; clauses 12 to 15 agreed to.

Clause 16

Hon. D. McL. DAVIS (East Yarra) — I turn to clause 16, which deals with the memoranda of understanding, and seek some explanation of how this clause is intended to be implemented and how it should operate. Subclause (1) refers to a person, body or agency which is a prescribed agency or represents the interest of users or consumers and is prescribed for the purposes of this section. Subclause (2) states that the commission and a prescribed body must enter into a memorandum of understanding by a date determined by the minister. I am curious to know what the procedure is for compelling the commission to enter into that memorandum of understanding and how is it intended to force it to enter into a memorandum of understanding perhaps with other federal, or in some cases state, bodies which are spoken about elsewhere in the bill.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that the mechanism to be used in relation to the memorandum of understanding (MOU) is by regulation and that it would apply only to state bodies, that there is no power by regulation to force federal bodies, for example, to enter into MOUs. Certainly under these provisions there is the power by regulation to require other state regulators to enter into MOUs. This goes back to the matter of the primary and facilitating objectives. Given that the primary objective of the commission is as an economic regulator and not to take over or enter into the domain of a number of other regulators — the Office of the Chief Electrical Inspector to use one example — the approach here of entering into MOUs — and I would indicate that this will be the subject of consultation and will be publicly available — is to clarify the regulatory roles and obligations as between the other regulators which do impact on the costs of economic regulation.

Hon. D. McL. DAVIS (East Yarra) — Further to that point, as the minister indicated, it relates back to the objectives we discussed earlier on. In developing the memorandum of understanding, is it the minister's intention that the commission will always use those objectives, both the primary and secondary ones, or the facilitating ones, as a tick list or guide into what it will seek to achieve?

Hon. C. C. BROAD (Minister for Energy and Resources) — It is the government's expectation that that will produce the desired result in terms of better integrated decision making.

Hon. D. McL. DAVIS (East Yarra) — To follow on from that, to take the minister's own example of the electrical safety inspector, the memorandum of understanding would in effect indirectly bring the primary and secondary objectives into the involvement in the memorandum of understanding with that body and with other bodies, federal and state?

Hon. C. C. BROAD (Minister for Energy and Resources) — As I have indicated, given that the mechanisms to be utilised here are regulations, under this legislation it would not be possible to have that apply to federal bodies, but it is certainly possible in

relation to state bodies. The MOUs would go to detailing the respective roles and key interfaces as between the Essential Services Commission and other state regulators which are subject to state regulations.

Clause agreed to.

Clause 17

Hon. C. A. STRONG (Higinbotham) — I seek some clarification on this particular issue, clause 17, which is the membership of the commission. By way of background, under the Office of the Regulator-General (ORG) Act, we had the Regulator-General and we also had the ability to appoint associate regulators-general. Basically those associate regulators-general were appointed because of their skill to look at a particular area or carry out an inquiry as such, but they were associates confined, as it were, to a particular area because of their skill.

Clause 21 also ties in with my question about the additional commissioners. Under clause 17(b) full-time or part-time additional commissioners can be appointed. Clause 21 is similar to the section in the ORG act, which says these additional commissioners will be appointed because of their particular skills and knowledge and presumably would be used in a particular part of the process of regulating a particular industry — transport, water or whatever — because of their particular skills. It is different from the ORG act insofar as these assistant commissioners can form part of the commission. You have an Essential Services Commission which is the commissioner and associate commissioners, whereas under the old ORG you did not have that. These associate regulators-general just did their job but were not, as it were, a corporate body. We have now the potential for a corporate body to be made up of the Essential Services Commissioner and some number, possibly, of additional commissioners.

My question basically is what is anticipated there? There is no limit to the additional commissioners mentioned. You could end up with a board of 20, or you could end up with a board of one. I am just interested to know what is anticipated. Will these additional commissioners really have a role similar to the associate regulators-generals, who were task-orientated but not part of the board as it were, or will the additional commissioners be there as a board to build up a four, five or six-man board? It is not really clear from the bill and there is no limit to the board set under the bill. It does not say the commission will be made up of a minimum of four and a maximum of six. The commission at the minimum is in fact the Essential Services Commissioner. At the maximum, it is a big question mark. I seek some more information of the intention.

Hon. C. C. BROAD (Minister for Energy and Resources) — What the government has indicated is that this is a change which establishes the commission as a collegiate body, which is a change from the current arrangements under the Office of the Regulator-General. The government has indicated its intention to appoint two part-time commissioners in addition to appointing the current Regulator-General as the full-time commissioner in readiness for the commencement of the Essential Services Commission. Those appointments are being dealt with by the Minister for Finance. The extent of the government's expectations at this point is that a full-time commissioner and two part-time commissioners should be adequate, so there is not an intention to appoint a raft of commissioners, full time or part time — I would certainly hope they would not necessarily have to be men! — with the exception of the Regulator-General who is to be appointed as the full-time commissioner.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for that information. In essence am I right in assuming that if you were to stretch it to the ridiculous extreme there is no reason why you would not have 20 members on the Essential Services Commission if you so chose?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can say confidently that I am sure it would be the government's view as well as the view of industries and consumers that that would not be an efficient approach to regulation — far from it; it would be ridiculous. Given that these appointments are in the hands of the government, that is not what the government will be doing.

Hon. C. A. STRONG (Higinbotham) — I am very pleased to hear that, but the legislation would be improved for the sake of posterity if some maximum limit was put there because it is fairly unusual to have a commission or a board of unlimited size. With those comments, I thank the minister.

Clause agreed to; clauses 18 to 20 agreed to.

Clause 21

Hon. C. A. STRONG (Higinbotham) — I called clause 21 because it deals with 'additional commissioners', but clause 17 with which we have just dealt also deals with 'additional commissioners', so I am happy with what has been said.

Clause agreed to; clauses 22 to 32 agreed to.

Clause 33

Hon. R. M. HALLAM (Western) — The particular issue I want to raise in respect of clause 33 goes to subclause (4) which states:

> (4) In making a determination under this section, the Commission must ensure that —
>
> (a) wherever possible the costs of regulation do not exceed the benefits …

I seek from the minister some clarification as to what we might read into the specific inclusion of the words 'wherever possible'. I frankly think those words are a nonsense. I cannot envisage a circumstance in which a regulator would see the wisdom of regulating to achieve benefits, notwithstanding his assessment at the time that those benefits would be outweighed by the costs incurred under the particular determination.

I know the regulated industries are very nervous about the inclusion of the words 'wherever possible', so I am offering the minister an opportunity to explain to the committee why the government felt the need to include the disclaimer of 'wherever possible' and also to explain to the committee in what possible circumstances would it be appropriate for a regulator to make a determination, notwithstanding it was understood that the costs would be greater than the benefits.

Hon. C. C. BROAD (Minister for Energy and Resources) — The reason the government has included the words 'wherever possible' goes to a number of factors. One takes cognisance of the fact that assessing the net benefits of regulation necessarily involves a degree of qualitative judgment, that it is not always possible to absolutely precisely quantify the costs of regulation, and that the government is seeking to avoid litigation on these matters, and that within an overall regulatory approach individual measures may impose direct costs that exceed benefits but nevertheless generate net systemic regulatory benefits. It is the government's intention that the benefits of regulation should certainly outweigh the costs, but that in order to avoid what could be costly litigation in very precisely defining both the costs of regulation and the benefits there should be some scope for assessing these matters, taking into account the fact that there is necessarily a degree of judgment involved in making that assessment.

Hon. R. M. HALLAM (Western) — I thank the minister for her comments and I understand that the government is seeking some room for the commissioner to manoeuvre. I frankly do not have too many concerns about that, except that I find absolutely and totally inconsistent the notion that implicit in this proposition the minister brings to the committee is that a regulator would even contemplate a determination where he recognises the costs to be greater than the benefits.

But I will leave that to one side. If the particular costs and benefits are so hard to determine and describe, why then do we read in clause 33(4)(b) the need for the commissioner to clearly articulate any trade-off between costs and service standards? If it is so difficult to determine to the point where the government feels it needs to have the disclaimer in respect of the words 'wherever possible', why has it then gone on to require of the commissioner that he articulate the trade-off?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that this is in place to take account of the fact that very precisely defining to a very high level imposes cost in its own right.

Hon. R. M. Hallam — I am sorry. Would the minister say that again?

Hon. C. C. BROAD — Yes, by all means. This is in place to take account of the fact that in price determinations particularly, very precisely defining the costs and benefits imposes a significant cost in its own right. Where, in relation to price determinations — because there are different provisions in relation to other matters that the commission might deal with — a trade-off is being made to avoid incurring very high costs associated with precisely defining costs and benefits, that should be explicitly stated.

Hon. R. M. HALLAM (Western) — I shall let the issue go at that, but I cannot help but bring to the attention of the committee what I see to be an inherent inconsistency in the explanation just offered to it. It is something of a nonsense to suggest, as the minister has, that it will not always be possible for the commissioner to precisely quantify the costs and benefits of a particular determination, but require of the same commissioner that he articulate the trade-off between them.

Hon. C. C. BROAD (Minister for Energy and Resources) — I am not indicating that it is not possible for the exercise to be undertaken, simply that there is a law of diminishing returns in whether the costs involved in precisely defining all of the costs and benefits are actually worth while for the price determination being undertaken.

Hon. R. M. HALLAM (Western) — I shall let it go because it is not taking us anywhere other than a dead

end. If the determination of the costs is excused because it would be so costly to establish what those costs were, why impose the condition that the commissioner nonetheless articulate the trade-off?

Hon. C. C. BROAD (Minister for Energy and Resources) — What I am indicating is that where a decision is taken to not incur higher costs in precisely defining the costs and benefits, that should be clearly identified. I am not suggesting that costs and benefits are not identified, but in the nature of price determinations, which are very complex and costly exercises, as I am sure the honourable member is aware, where a point is reached where it is considered that those matters have been defined satisfactorily without necessarily taking them to the nth degree, if you like, because of the costs involved, that should be clearly identified.

Hon. PHILIP DAVIS (Gippsland) — On the same matter, when looking at this provision, and recognising that it is a new provision inserted compared with a similar section in the ORG act, I had to come back to it time and again to try to make sense of it. I was pleased that Mr Hallam identified that it was an issue for some consideration by the committee. However, I am no further advanced at this stage of the committee than I was when we came to this point in understanding what is the government's intention. The government has not clearly defined in its own collective mind what it really means by this provision, or if it has it has not provided a useful, comprehensible explanation about how it will be relevant.

My initial reading of it is that it is a get-out-of-jail card in relation to regulation. It says that wherever possible, which implies, conversely that if it is not possible it does not really matter, the costs of regulation should not exceed the benefits. That seems to be nonsensical. It is saying to the Essential Services Commission that it does not really matter if it cannot justify the costs of regulation. That is essentially what I read into it.

Further, there is a question the minister might like to respond to, as I am merely making a statement because I have no understanding about how the costs might be assessed specifically in relation to that provision. Do the costs of regulation include every facet of the imposition of the regulation about the particular business? Is it the costs of the commission itself, or is it the costs to the community as a whole? Essentially I am making a statement. It seems to me that this provision is an excuse for regulating where there is not a net benefit to the community.

Hon. C. C. BROAD (Minister for Energy and Resources) — This clause is in similar terms to section 25 of the Office of the Regulator-General Act but with additions, which Mr Strong pointed out earlier. Clause 33(3) sets out clearly the matters the commission must have regard to, including:

> (b) the costs of making, producing or supplying the goods or services …

All of this in relation to price determination is quite specific. The process the Regulator-General currently goes through on price determinations is a very detailed one. Subclause (3) sets out all of the matters the commission must have regard to. It is clear that the commission must have regard to a whole range of costs, return on assets, relevant interstate and international benchmarks and so on.

The government has made it clear in subclause (4) that what is intended is that the benefits should exceed the costs of regulation. I have indicated in relation to the 'wherever possible' the particular reasons for that, which do not in any way suggest that the government has any intention of this being implemented in a way where the costs of regulation exceed the benefits.

Clearly if we go right back to the objectives of the commission and its responsibility for economic regulation, that would be a nonsense. This is a set of words that is incorporated to cover particular technical issues and they do not in any shape or form detract from the approach of ensuring that the benefits do indeed exceed the cost of regulation.

Clause agreed to; clause 34 agreed to.

Clause 35

Hon. R. M. HALLAM (Western) — The issue I wish to canvass in respect of clause 35 goes to the terms of subclause (1), which reads:

> A determination must include a statement of the purpose and reasons for the making of the determination.

I have a number of questions that are prompted by the way that clause is expressed. But let me begin by asking the minister whether she sees that to be an expansion of the current requirements as applicable to the Office of the Regulator-General?

Hon. C. C. BROAD (Minister for Energy and Resources) — Yes, the clause is in similar terms to, I think, section 27 of the Office of the Regulator-General Act. The purpose of the provision is to ensure that the key decisions of the commission are transparent and

clarify the duration and the binding nature of determinations.

Hon. R. M. HALLAM (Western) — I am not sure what I gained from that. Does that mean that this is an expansion of the rule book or simply a replication of the rules applicable to the ORG?

Hon. C. C. BROAD (Minister for Energy and Resources) — My advice is that it is in similar terms. That suggests to me that it is not precisely the same. I do not have the ORG act with me to do a word-for-word comparison, but I am advised that it is in very similar terms.

Hon. R. M. HALLAM (Western) — Mr Chairman, in the course of our discussions with the stakeholders in this bill, one of the complaints we heard, particularly from the power sector, was that the Regulator-General had not addressed each component of particular submissions. I was led to believe in drafting this legislation the government had set about addressing those circumstances. I ask the minister if that is the case and, if it is, how the construction of the new clause would address that criticism?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can certainly advise the honourable member that this clause outlines the requirements for the commission in explaining its determinations, including providing details of notification and publication, as well as the requirement for a determination to include a statement of the purpose and reasons for making the determination. I do not think we will ever get away from having disagreements between the industries being regulated and the regulator as to whether or not the regulator has come up with the right answer, but the intent of this clause is to ensure that the process of and the reasons for the determination are clearly set out for everyone to see.

Hon. C. A. STRONG (Higinbotham) — I might be able to help clarify what the differences are. The only difference between section 27 of the Office of the Regulator-General Act and clause 35 of the bill relates to how determinations are to be published. There is one additional requirement in clause 35, which is that determinations are now also to be published on the Internet. That is the only change. That may be of assistance to the committee.

Clause agreed to; clauses 36 to 46 agreed to.

Clause 47

Hon. C. A. STRONG (Higinbotham) — Clause 47 provides for the sunsetting of part 6 of the proposed act, which deals with special references that can be referred to the commission by the minister for inquiry into the electricity and gas industries. The sunset date in the Office of the Regulator-General Act is 31 December 2003 and this bill seeks to sunset part 6 eight months later on 31 August 2004. An eight-month extension to 31 August is interesting and implies some precision rather than a simple rolling over for another 12 months, so I seek some clarification from the minister as to how this date has been arrived at. My question is twofold: is the extension simply to give the minister some more elbow room if there is any difficulty in the process or does 31 August 2004 have some great precision to it?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am advised that this date coincides with the sunsetting of powers under the Gas Industry Act and that that is the reason for selecting that date.

Clause agreed to.

Clause 48

Hon. C. A. STRONG (Higinbotham) — Clause 48 also deals with special references relating to the Gas Industry Act and the Electricity Industry Act, and the issue I raise relates to the various conditions and objectives that can be set by the minister when initiating such a special reference. I am particularly interested in clause 48(4)(e), and I seek the forbearance of the committee at this point because subclause (4)(e) seems to me to relate to clause 50 of the bill, so my comments will also deal with that clause as well. If the committee will grant me that little bit of latitude, I will turn to the general issue of special references.

Part 5 of the bill allows for the minister administering the act to call on the commission to make an inquiry into anything — it can call for a special inquiry to be carried out — but part 6, and specifically clause 48, gives special powers to the minister administering the act in conjunction with the Minister for Energy and Resources to call for a special reference into either the Electricity Industry Act or the Gas Industry Act. It seems to me there is a bit of an unnecessary duplication there. If the Minister for Energy and Resources wanted to have an inquiry carried out into any aspect of the gas or electricity industries, she could surely go to the minister administering the proposed Essential Services Commission Act — the Treasurer — and ask for such a special reference.

To provide for this second set of reference powers seems to me to be a duplication, and I also see it as presenting a real danger. I realise that this bill is a replication of similar provisions in the Office of the Regulator-General Act, but that is not what I am saying.

I am saying the bill has very unfortunate connotations because, as I say, under these special reference provisions the minister has to give written notice of the terms of reference of the investigation and set out what is required from it, but clause 48(4)(e) says that in doing so the minister:

> may specify objectives that the Commission is to have in performing its functions and exercising its powers in relation to the investigation.

However, clause 50 under the same part on special references deals with 'Objectives not to apply', and this is the area with which I have great difficulty. The clause headed 'Objectives not to apply' reads:

> Except to the extent (if any) that the Minister referring a matter otherwise determines, the objectives of the Commission under this … Act —

need not apply to this reference.

Then if we go to the objectives — which we have dealt with, but which the minister will no doubt recollect we spent some time on, particularly clause 8(1), or whatever it was — we see that, in essence, in performing its functions the commission's objective is to protect the long-term interests of Victorian consumers with regard to price, quality and reliability of essential services. The clause goes on to talk about the subsidiary objectives of facilitating long-term investment, the financial viability of regulated industries, and ensuring there is no misuse of monopoly, power, et cetera, including that regulatory decision making has regard to the relevant health, safety, environmental and social legislation.

The combination of clause 48(4)(e) and clause 50 allows the minister, when conducting an inquiry into electricity or gas, to say, 'You can put all those objectives away and forget about them' — in other words, the minister can instruct the commission to throw away all those safeguards, all those probity checks, and all that transparency that was set up in the objectives. It is obliged to just put all those aside in these special references.

As I said in my initial comments, I do not see why a special reference is needed, because the minister can have a normal reference anyway. So I see it as very dangerous to set up all these safeguards and objectives, when in carrying out the reference the objectives need not apply. I wonder whether the minister would ever use that and, if so, how. Specifically I am talking about clause 50 now, which says:

> … to the extent (if any) that the Minister referring a matter otherwise determines, the objectives of the Commission under this … Act —

will not apply.

When the minister gives a reference under part 6, the minister will actually have to say that these objectives of the act will apply, because by default they will not. As I read it, unless the minister says that the objectives apply, they will not. I would seek some assurance from the minister that she would not be calling a reference without clearly stating that the objectives set out in clause 8 would apply. Otherwise, it really makes a mockery of the whole bill. So I seek an assurance from the minister that, in calling for a special reference, she would make it quite clear in that reference that the normal objectives of the Essential Services Commission would apply.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response, taking causes 48 and 50 together it is important to note, as the honourable member did in his remarks, that clause 50 is essentially in the same terms as section 34C of the Office of the Regulator-General Act, that the provisions of both clauses 48 and 50 are transitional, and that they are in place to deal with special investigations into the transition to full retail competition.

These are provisions in relation to the Office of the Regulator-General Act which I have had cause to take advantage of. Essentially time is of the essence with these special references. The full processes which currently the Regulator-General and, in the future, the Essential Services Commission go through in making determinations are simply not practical in terms of seeking advice under these special references.

Currently under the Office of the Regulator-General Act in making these special references I am not required to consult with the minister administering the Office of the Regulator-General Act. It is considered by the government to be appropriate, given that clearly there are impacts on the office and, in the future, on the commission of making special references, that there should be consultation. That is the reason that that provision has been included.

But essentially these are transitional provisions which will expire, and which are there to deal with very specific issues. The references are of course published, so they are quite open and transparent, as are the reports to the government arising from the special references. It is then in the hands of the government as to how it responds to that advice.

Hon. C. A. STRONG (Higinbotham) — The minister has correctly summarised the situation. Although this is in the current act, I do not think we

teased this out sufficiently at the time, and I really want to do it here. The minister said one thing that I seek to have clarified. As I have said before, clause 50 specifically says that the objectives of the commission under this act need not apply to these special references. It says, 'the objectives of the Commission'. I read the objectives of the commission to be those set out in clause 8. Those set out in clause 8 simply deal with what sort of industry we want to have in terms of competition, monopoly power or lack thereof, and so on. They do not deal with issues of advertising, consultation and all the other things the minister referred to which, I agree with her, do take time.

Perhaps there is a good case to expedite the procedures for important special references and bypass all that stuff. But she was implying in her response to me that the objectives of the commission were not as in clause 8; that they were the procedural things that take time. Are the 'objectives of the Commission' in clause 50 the objectives as set out in clause 8? If they are, they are not things that would cause the commission extra time or work in dealing with a special reference.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the honourable member I would indicate that, after all, the procedures followed by the commission are to give effect to all of its objectives, not for their own sake. In order to give effect to those objectives, it is necessarily a lengthy process. I indicate again in relation to this part, and in relation to special references, that we are not talking here about regulating industries; we are talking about advice to, in this case, me as the minister responsible for the Electricity Industry Act and the Gas Industry Act. So this is quite a different situation from price determinations in situations where currently the Regulator-General and, in the future, the commission go through price determination exercises.

The CHAIRMAN — Order! Mr Strong, we are relating this to clause 48 are we not?

Hon. C. A. STRONG (Higinbotham) — We are, but if it would aid you in the efficiency of your deliberations, I am happy to finish clause 48 and go on to clause 50. It is just that, as I said in my initial comments, I see the two as interrelated. But if it makes life easier, we really are now talking about clause 50, having introduced it via clause 48.

The CHAIRMAN — Order! I am happy to do clause 48 and move on.

Hon. C. A. STRONG (Higinbotham) — I have no further comments on clause 48.

Clause agreed to; clause 49 agreed to.

Clause 50

Hon. C. A. STRONG (Higinbotham) — The minister said two things which I would like to pursue. One was that, in essence, when she called for a special reference it was something for the minister's information personally and therefore it would not have to go through all the normal processes because it was different in some way. That is not being quite fair because if the minister calls for a special reference to give her advice on a particular issue, I would have no doubt that it was the minister's intention to receive that advice for some reason — either to act or not to act. If she chose one of those two courses, in so acting she would no doubt call on the legitimacy provided by the Essential Service Commission in giving her that advice. It is not fair to say that because it is a special reference to the minister that the normal probities of the inquiry process need not apply.

I do not know if the minister has any comment on that, but I do not see how she will use the decision for a purpose and will use the legitimacy that the Essential Service Commission gives her in that. It is an inquiry by the commission and therefore it is wrong to say that because it is for the minister it can bypass all the normal procedures of the commission.

Hon. C. C. BROAD (Minister for Energy and Resources) — I believe I have indicated that it is not anything to do with probity, but in relation to the special reference inquiries and in order to get advice to deal with the particular position of consumers during the transition to full retail competition, if the commission was to be required to go through the full procedures in relation to, for example, price determinations, and fully meet all of its objectives — a process which can take 18 months or more — then this part providing for special references would not be of great advantage to the minister responsible for the electricity and gas industry acts to utilise.

In order to provide advice in a timely fashion in dealing with particular circumstances that consumers are confronted with, these special reference panels, which are essentially the same as those provided under the Office of the Regulator-General, need to have a somewhat curtailed set of procedures bearing in mind that this is a fully public, transparent process where the references and the reports are made publicly available.

Hon. C. A. STRONG (Higinbotham) — Perhaps I can help by saying that the minister has said that the full procedures of the commission for a special reference would be a hindrance because time is of the essence, and I accept that. But clause 50 does not refer to the procedures of the commission; it refers to the objectives of the commission, and they are spelt out in clause 8. They do not include any procedural issues. Therefore, will the minister give the committee an assurance that clause 50 will not be interpreted as being the objectives of the commission, which have a distinct meaning because they refer to clause 8, which is headed 'Objectives of the commission'. If the minister is able to say that clause 50, rather than being interpreted as the objectives, will be interpreted as the full procedures then I certainly would feel more comfortable. I absolutely understand the full procedures for these special references; there is a legitimate need to bypass those. The committee and I would be very concerned if the objectives as spelt out in clause 8 were to be bypassed in special references. Clause 8(1) states:

> 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 the price, quality and reliability of essential services.

If the minister is saying that in these special references she can relieve the commission of the necessity to conform to the objective I have just read, that is very disturbing and I suspect the minister would agree with me. However, if she is saying she can give the committee the assurance that she does not mean the objectives but it would be interpreted as the procedures, I would be much more comfortable.

I hope I have made myself clear in the distinction between objectives and procedures.

Hon. C. C. BROAD (Minister for Energy and Resources) — What I can indicate to the honourable member is that the government's intention here is in relation to the procedural matters, but it is intended that this be implemented in the same way as the existing provisions under the Office of the Regulator-General Act.

Hon. C. A. STRONG (Higinbotham) — I am pleased to hear the minister say that she is talking about the procedural issue, but because the clauses here are exactly the same as those under the Office of the Regulator-General Act to say that this will be administered in the same way does not give us a huge amount of comfort. If the minister is able to go that extra step and say the objectives set out in clause 8, or at very least the primary objective set out in clause 8, would be maintained for special references, that would just close the two parts of the argument being put. Yes, that the procedures would be accelerated, and we all agree to that; but no, the fundamental objectives as set out in clause 8 would not be compromised under special references. If the minister could give us that assurance it would be very useful.

Hon. C. C. BROAD (Minister for Energy and Resources) — I can certainly indicate that in exercising special references in terms of the key objectives, in particular the primary objective set out in clause 8, it is intended that these special references will be consistent with those objectives.

Hon. C. A. STRONG (Higinbotham) — I would like to thank the minister for her assurance.

Clause agreed to; clauses 51 to 61 agreed to.

Clause 62

Hon. R. M. HALLAM (Western) — Clause 62 goes to the issue of proceedings. It is structured in such a way as to specifically exclude the accommodation of any appeal based upon the merit of the determination. I ask the minister whether she is prepared to put anything on the record as to why the government decided against the inclusion of the merit-based appeal provision, given that it was canvassed extensively in the consultation process, and what she might be able to offer by way of comfort for those who were promoting the inclusion of such a merit-based appeal provision.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response I can indicate that the grounds for appeal are the same as those currently in the Office of the Regulator-General Act and that while the government considered the possibility of extending the grounds for appeal to include merit-based reviews the costs of such an approach both in time and resources were considered to outweigh the benefits. It is also the view of the government that the more transparent and inclusive regulatory approach that is put forward in this bill further reduces the arguments put forward to include merit-based reviews.

Clause agreed to; clauses 63 to 65 agreed to.

Clause 66

Hon. R. M. HALLAM (Western) — I said during the course of the second-reading debate that the National Party supported the concept of the operation of the commission being reviewed at the expiration of five years. I seek from the minister some idea of the form that review would take. Is the minister prepared to put on the record who would be involved in that

review; what questions would be posed; whether the stakeholders' views would be canvassed; and so on? That would be very helpful to the committee.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response, while the government has not determined the exact process for the review, it will be a consultative approach including industry. The review will focus on the appropriateness of the act's objectives and, as this clause provides, the review and the government's response to the review are required to be laid before the Parliament ensuring transparency. So, yes, consultation will certainly be part of the process in the government's determination of the conduct of the review.

Clause agreed to; clauses 67 to 72 agreed to.

Clause 73

The CHAIRMAN — Order! There were discussions about costs at the beginning of the committee stage.

Hon. C. C. BROAD (Minister for Energy and Resources) — Yes. At that point we were searching for a clause with relation to some matters Mr Hallam wished to raise about distribution costs.

Clause agreed to; clauses 74 to 83 agreed to.

Clause 84

Hon. R. M. HALLAM (Western) — During my contribution on the second-reading debate I explained why the Regulator-General's intended review of the export grain handling sector had taken on such critical importance across the industry. I am not going to canvass those arguments again, but I simply make the point, as I did then, that the current circumstance of having one part of the sector regulated and another part of the sector not regulated is nonsensical and certainly not sustainable in the long term. Therefore the timing of the Regulator-General's review becomes of critical importance as well.

I advised the Parliament of the commitment given by the Regulator-General in respect of the timing of that review, and I welcomed the advice of the Regulator-General that the review he intended to undertake would be completed by 30 June next year, whereas the government's commitment had only been to complete it by 30 June the following year.

Given that the product of that review becomes a specific recommendation to government, and given the critical nature of the timing involved, I invite the minister to advise whether there is any commitment she is able to give on behalf of government in respect of the time taken to respond to the Regulator-General's specific recommendation on the completion of that review.

Hon. C. C. BROAD (Minister for Energy and Resources) — I can indicate that the government has certainly recognised the significant developments that are taking place in this industry, and without pre-empting the outcome of the review I can say that the government is committed to considering the recommendations of the commission as a matter of high priority once it is presented with that review.

Clause agreed to; clauses 85 to 90 agreed to.

Clause 91

Hon. D. McL. DAVIS (East Yarra) — I seek clarification on clause 91 as the Essential Services Commission relates to the water industry. By way of background I mention that electricity, gas and so forth are very competitive industries, but water is part corporatised and part statutory authority, and largely a monopoly provision. In fact authorities currently pay their dividends to the government — it is calculated and paid to the government — and that tariff setting will transfer to the Essential Services Commission, as I understand it. I ask the minister what she can explain about the differences that will occur under this regime as compared with the current arrangements, and what the government was hoping to achieve.

Hon. C. C. BROAD (Minister for Energy and Resources) — The government has announced that the commission will be responsible for the regulation of the water industry from the start of 2003. The exact nature of that regulation is to be determined, and will certainly involve extensive stakeholder consultation. The commission will take over the existing functions of the Office of the Regulator-General in relation to the three metropolitan retailers. The bill does not change current regulatory arrangements for non-metropolitan urban authorities or rural water authorities, which are regulated under the Water Industry Act.

I understand that clause 92 was amended in the Legislative Assembly to make it explicit that only the three metropolitan retailers will be subject to the licence surcharge — perhaps I am getting ahead of myself — in relation to inserting licensing surcharge provisions into the Water Industry Act. So they are the general indications that I can make in response as to the government's intentions and the effect of these amendments.

Clause agreed to.

Clause 92

Hon. D. McL. DAVIS (East Yarra) — On the matter of a licence surcharge in clause 92, I wonder what estimates the government has of how the licence surcharge may change, and whether there has been any empirical work done by the government on how the Essential Services Commission might alter that surcharge.

Hon. C. C. BROAD (Minister for Energy and Resources) — I can indicate that these provisions enable the regulator to simply recover the costs, and they also require the minister to consult with the minister responsible for the Water Industry Act in determining those surcharges. At present there is no provision for recovery of the regulator's costs. They are matters that will need to be determined.

Hon. D. McL. DAVIS (East Yarra) — In respect of the surcharge, and returning to the objectives we have discussed before, how would the Essential Services Commission's implementation of those objectives impact on the surcharge? Has the government examined that point? Are there any estimates of how the altered objectives may alter the size or the way the surcharge is constituted?

Hon. C. C. BROAD (Minister for Energy and Resources) — In response I indicate that in the short term the government is not expecting there would be any significant change in costs. As far as the situation where the commission takes on responsibility for economic regulation of water from the start of 2003 is concerned, my advice is that the exact nature, and hence the costs, of that regulation are to be determined following extensive stakeholder consultation and that it is not possible at this point without pre-empting that review and consultation involving stakeholders to give a definitive answer to that question about future costs.

Hon. D. McL. DAVIS (East Yarra) — Given that the minister has conceded at this point that she cannot give a definitive answer, is it not possible and would she concede that the introduction of new objectives may have an impact on the licence surcharge and hence on water prices for consumers?

Hon. C. C. BROAD (Minister for Energy and Resources) — I indicate in response that that will depend on what comes out of stakeholder consultations. Those matters have not been determined, so I do not believe it is appropriate to speculate on what may come out of the review the government has committed to with stakeholders.

Hon. D. McL. DAVIS (East Yarra) — That provides me with very little comfort on this matter. It seems to me there is a significant prospect with the altered objectives that we may see an increase in the cost of regulation in this area. As the minister says, this licence surcharge is aimed at recovering the costs to the commission. I wonder whether the minister would give any guarantee that there will not be an increased cost in regulation and whether she can provide the house with a guarantee that we will not see higher costs that are in effect regulatory costs through the surcharge.

Hon. C. C. BROAD (Minister for Energy and Resources) — I indicate that the new arrangements are to be developed in close consultation with stakeholders. I venture the observation that stakeholders are unlikely to be putting forward in those consultations new arrangements which will substantially increase costs in the way the honourable member is speculating about. My observation would further be that the government as well as stakeholders can be expected to be searching for arrangements which are efficient in terms of the costs involved in that regulation.

Hon. D. McL. DAVIS (East Yarra) — But essentially there is absolutely no guarantee that the increased regulatory costs associated with the new objectives will not mean higher charges through this surcharge and hence higher water prices for consumers.

Hon. C. C. BROAD (Minister for Energy and Resources) — I also indicate to the honourable member that the existing price setting period continues until the middle of 2004, so that period is covered. The expectation is that we will be searching for efficient regulation that does not result in the increases in costs the honourable member is speculating about.

Clause agreed to; clauses 93 to 96 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The PRESIDENT — Order! I am of the opinion that this bill requires to be passed by an absolute majority of the whole of the numbers of the house, and I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask

honourable members supporting the passage of the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.28 p.m. until 8.02 p.m.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (AMENDMENT) BILL

Second reading

Debate resumed from 26 September; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to make a contribution to the debate on the Drugs, Poisons and Controlled Substances (Amendment) Bill, which is another example of the hypocrisy expressed to a very large extent by the Labor Party, which in 1997 in the course of debating the Confiscation Bill — which probably reflects the main thrust of the effect of this bill — significantly denigrated the initiatives taken by the then Attorney-General, the Honourable Jan Wade. I will refer to that subsequently.

This bill is about not insubstantial reforms to the Drugs, Poisons and Controlled Substances Act of 1981 as amended. It makes substantial and, for the government, innovative amendments to the legislation that will have real effects on drug traffickers and drug barons.

The bill is a relatively short piece of legislation. In the main it creates a new offence of trafficking in large commercial quantities of drugs. Its other major element is to introduce a process of aggregation of different types of drugs for the purpose of determining commercial quantities, or indeed quantities generally.

I say at the outset that the opposition strongly supports any initiatives that will lead to the diminution of drugs in our community and the capture and apprehension of drug traffickers and, in particular, will then ensure that those drug traffickers are kept in jail where they belong. The process of dealing with those who traffic in death — those who peddle drugs and who lead those who use drugs into areas I suspect none of us in this place have ever been to — deserve to be dealt with in the harshest of ways with absolutely no mercy.

The amendments in the bill elevate the penalties for drug trafficking in a way that was foreshadowed by the Liberal Party early in its drugs policy, by introducing compulsory and automatic confiscation not only of assets associated with the crime but of all assets. It also urged that there should be reconsideration of the penalties associated with those who traffic in drugs, who peddle death, and the penalty of life imprisonment was proposed for commercial trafficking of drugs.

The Drugs, Poisons and Controlled Substances (Amendment) Bill introduces more severe penalties for those who are convicted of the new offence of trafficking in large commercial quantities of drugs.

It is important to take the house through the current system, which in effect is set out in schedule eleven of the Drugs, Poisons and Controlled Substances Act. It is a fact that we as a community acknowledge that there is a distinct difference between those who traffic and trade in drugs for profit and those unfortunates in the community who have an addiction problem, now recognised as a health problem, and for whom concessions are made at law and whose difficulties receive social recognition.

The various levels of criminality are set out in the schedule to the Drug, Poisons and Controlled Substances Act, which quantifies small quantities of drugs and trafficable quantities of drugs, commercial quantities of drugs and, when enacted, will quantify commercial quantities of drugs. It sets out by definition the different amounts of drugs for each category, which is reflected in the sentences the people found in possession of those quantities will be subject to in the event of conviction.

I will refer to the various quantities of drugs. I will not consider the whole 220-odd drugs of dependence that are listed in the schedule but will restrict it to a few such as cannabis and heroin. A small quantity of cannabis — that is, a quantity for personal use — is identified as 50 grams; a trafficable quantity is 250 grams or 10 plants; and a commercial quantity, which currently is of the highest level of severity, is 25 kilograms, a substantial amount, or 100 plants.

A small quantity of heroin is identified as 1 gram for personal use; 3 grams is a trafficable quantity; and 250 grams is a commercial quantity. We are talking in this instance of pure heroin. Similarly, other illicit drugs are identified in that way in terms of weight. I am advised that that relates back to, in effect, the value of

the drug that is possessed. The most serious penalties currently apply to commercial quantities of drugs that have a street value of between $100 000 and $200 000.

In the past 12 to 15 months there has been a drying up of the heroin supply and in 2000 there was almost a death a day from heroin overdoses. The reasons given are varied. It is generally accepted that one of the major reasons was the high grade of heroin that was coming into Australia. The number of deaths over the last eight or nine months has declined dramatically and again the reasons are probably difficult to identify. I have been told that one reason is that the heroin has been cut back dramatically to somewhere in the order of 15 per cent of the grade that was sold for use at the same time last year and therefore is not as potent.

The quantities that we are dealing with in this bill take the commercial element to another level. I must admit, without wanting to engage in semantics, that I would have thought that a commercial quantity was a commercial quantity, but what is being introduced in this bill is a new offence, a new definition, of a large commercial quantity. I guess the intention of the government is to raise the high jump bar. So for cannabis the commercial quantity of 25 kilograms or 100 plants has increased tenfold to 250 kilograms or 1000 plants, by way of defining a 'large' commercial quantity, which is indeed an enormous amount.

With respect to the other illicit drugs, heroin, lysergic acid diethylamide or LSD, cocaine and amphetamines, the amount has been tripled from 250 grams in most instances to 750 grams, which again on the face of it is a substantial amount, but when you consider the prospect that that can be cut back from a pure drug to a mix of 15 per cent or 20 per cent of those drugs it constitutes an enormous volume of drugs on the street. The question that the opposition asks, while it supports the general thrust of the bill, is: was there a need to increase the volume? 'Commercial' is defined in the *Macquarie Dictionary* as 'of, or of the nature of, commerce' or 'engaged in commerce'.

It is difficult, as I said, leaving semantics aside, to consider the need to introduce the word 'large' commercial quantity in front of commercial quantity. I would have thought the object of the legislation was to punish, and punish very severely, those who engage in the heinous crime of trafficking in death, marketing, selling, or distributing this pernicious substance. If there was a commercial quantity which, up until the introduction of this bill, was regarded as a commercial quantity, the increase in that volume is a bit of a cop-out for the government, and certainly from the opposition's perspective a commercial quantity of 250 grams of heroin would have been adequate to impose a penalty of life imprisonment, which this bill introduces for those who traffic in large commercial quantities of heroin in the future.

There is no doubt that those who have a drug in their possession are dealing with a premeditated intention and in the full knowledge that the distribution of the substance and that volume of illicit drug on the street will lead to the most incredible misery and, in many instances, to death. I recollect that while I was in practice we had a client of the firm who on one occasion came to see the criminal law partner in the firm because his daughter had been charged with trafficking in heroin. The father of the girl and her family were distraught. The matter was taken to court and, from memory, there was what we will call a good result for the young lady who had been charged. She was given a bond and released. The unfortunate part is that within 12 months that same young lady had died from an overdose. This issue touches very much many people. It touches on the lives of the families of those who fall into this malicious circle — this dreadful involvement of drugs.

We as an opposition are very supportive of the fact that the government sees fit to introduce heavier penalties. We acknowledge and seek to point out that heavier penalties are not necessarily the only way to go. The recent debate in this place on the introduction of supervised injecting facilities referred to this whole issue and many aspects were raised. It was more than an issue simply of safe injecting facilities; it required a broad and complex approach, including education, information and rehabilitation. I hesitate to add that we have seen not a great deal of activity from the government in those areas aligned to the proposals which were disruptive of the community when they were introduced some time ago. In that case the opposition saw fit to pursue the community's wishes and block the introduction of legislation which was totally inappropriate and which was not fully understood or explained to the Victorian community.

To highlight the aspect of small quantities of drugs in relation to the proposed facilities the government had debated and was considering introducing, I will repeat that the intention of the government was to allow addicts to use these facilities for the purposes of taking any one of the 220-odd substances listed in the schedule, but they could have taken a small amount of each of those drugs into the injecting facility.

That aspect of the proposal, which was not fully understood by the community, now appears to have been addressed by the government in the legislation

before the house today, because one of the other major aspects of the bill is that it allows courts to take into account each of the drugs found in the possession of an individual. Currently, if an individual is found to have a small quantity of four or five different types of drugs — for example, heroin, cocaine, amphetamines and cannabis — then each of those drugs is treated separately and each small quantity attracts a far lesser penalty than if they were aggregated. This bill repairs that loophole in the sense that it introduces a fractionalising formula whereby those small amounts of drugs are brought together and aggregated for the purposes of determining whether they constitute a small quantity, a trafficable quantity, a commercial quantity or a large commercial quantity. Those who are trading in larger amounts of drugs, irrespective of the particular type of drug, will receive the heavier penalties, depending on the quantities in which they are dealing.

As I said earlier in my contribution, between 250 grams and 749 grams of an illegal drug is a commercial quantity and attracts 25 years jail; 750 grams is a large commercial quantity and attracts a maximum penalty of life imprisonment. In the past, according to the records up to 1996 which the opposition has been able to access, on only very rare occasions have there been any sentences approaching the maximum sentence.

I have the utmost respect for our judiciary. I practised law for almost 30 years and I believe that the discretion the judiciary has is a fundamental and crucial element of our community and an essential part of the justice system. I am confident from my discussions with senior members of the judiciary that if the legislature indicates by the severity of the jail term that a crime is a serious crime the judiciary pays attention to the legislature's intention and imposes heavier sentences than it otherwise would. I accept that and I have no difficulty with it.

However, I believe that we, as legislators, should be considering the possibility that instead of continuing to raise the ceiling in these instances it may be time to start raising the floor. Perhaps in instances of crimes that cause the type of harm, pain, disruption and destruction to families and individuals in our community that drug-related crimes cause — crimes that are premeditated and intended, in which the perpetrators are aware of the results and the outcomes — we should be considering imposing a floor or minimum sentence and giving the judiciary discretion above that minimum sentence.

In the opposition's view it is important that sentencing be treated as an essential part of the process of punishing those who have been caught breaking the law. However, it is not the sole element and it is vital that detection as well as deterrence be one of the major goals of the government in this area.

The bill is, as I said, fairly brief and simple. The way it is structured is novel and innovative. It is interesting that this is one of the first bills I can recall that actually includes examples. Those examples form part of clause 4 where, in the introduction of aggregated commercial quantities, we have examples of how the clause is to be applied and implemented.

The bill contains a new definition of cultivation in respect of narcotic plants; it retains the existing definition of commercial quantity; it contains proposed new section 71, which introduces the new offence of trafficking in drugs of dependence in large commercial quantities; and it contains the provisions in clause 12 that remove from the jurisdiction of the Magistrates Court the power to hear cases under the new provisions for trafficking in large commercial quantities and in commercial quantities. The reason for that is that the maximum sentence of the Magistrates Court in that jurisdiction is currently three years jail, and given that the main thrust of this bill is to increase penalties imposed on drug traffickers the bill ensures that those offences that carry penalties of up to 25 years jail and life imprisonment are to be heard in the County Court and the Supreme Court.

The bill makes a number of other amendments, in particular to the Confiscation Act of 1997. I began my contribution with a criticism of Labor because when the Confiscation Bill was introduced by the previous Kennett government, the Attorney-General — or the shadow Attorney-General as he then was — in his normal manner bullied the Honourable Jan Wade, the former Attorney-General, in merciless tones for introducing such legislation. If honourable members were to read the *Hansard* record they would see that the word 'fascist' was used in respect of the Attorney-General. It was a totally unacceptable bill from the perspective of the then Labor opposition.

The shadow Attorney-General, as he then was, and his spokesman in this place at the time, the Honourable Don Nardella, both expressed serious concerns about the provisions of the Confiscation Bill which they claimed went 'against the principles that have served the justice system in Australia for a very long time'. The Labor Party was concerned at the reversal of the onus of proof in that bill and it was concerned that owners of assets that had been frozen under the bill's provisions would have to use legal aid to defend themselves. 'The bill is draconian', said the Attorney-General's spokesman at the time.

There were suggestions that the right to remain silent was removed, and there was enormous concern about the regressive and punitive measures in the bill. Indeed — shock horror! — the automatic forfeiture provisions which were included in the Confiscation Bill were abhorrent to the Labor opposition of that time — so much so that the Attorney-General in the other place and his representative in this place sought to pass a reasoned amendment to the bill, which would have emasculated its provisions and totally removed any prospect of operation and included those who had acquired proceeds from substantial corporate crime to be locked in as if they were commercial drug traffickers.

That was the attitude of the Labor Party back then. So it was that I began my contribution with the word 'hypocrisy' — because that is what it is. Now the Labor government does have an opportunity and the prospect of introducing those changes and making those amendments, we do not see those concerns it expressed back in 1997. In fact, what we see in the second-reading speech is an indication of the great support for the 1997 legislation. The second-reading speech states:

> Victoria's confiscation laws are among the toughest in Australia.

As I have indicated, they were introduced by the previous Kennett government. It states further that:

> The toughest procedures under the Confiscation Act are known as automatic forfeiture and civil forfeiture. Automatic forfeiture applies to a limited number of serious offences.

It should be obvious that the automatic forfeiture provisions in this bill have been introduced to apply to those who would traffic in large commercial quantities of drugs.

The bill comes through a recommendation of the Model Criminal Code Officers Committee, which is a national committee. We appreciate the fact that we are approaching the drug problem on a national basis and that Victoria is participating. For that the government should be applauded. The bill also makes a number of changes to a number of other acts, in particular the Bail Act, and effectively implements the commercial quantity provisions — that is, that if somebody is charged with trafficking in a large commercial quantity the court will not and must not grant bail unless exceptional circumstances apply. The exceptional circumstances provision is an opportunity for a court — a judge — to have discretion in what are clearly exceptional circumstances. The true meaning of the word is to be understood.

The bill amends the Sentencing Act so that serial drug offenders can be classified as serious drug offenders, and as such the Sentencing Act provisions which change the emphasis on how sentencing is to be implemented are taken into effect. Because of the fact that a life sentence is imposed for those who deal in large commercial quantities, and because a life sentence is the most onerous of sentences which our criminal judicial system can impose, in those circumstances there must be a unanimous verdict by a jury.

In conclusion, while the opposition supports the approach to these issues by the government, it does so noting the hypocrisy of this government and supporting this as part of a broader and more complex approach to dealing with this most pernicious of trades in Victoria.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to have an opportunity to make a contribution on this important bill, which has the support of the opposition. With the introduction of this bill we again see the Bracks government delivering on the election commitments it made prior to the last election. Our policy and the initiatives we have taken as a government in tackling the drug problem have always been very clear. It has been a priority for us as a government, and as a Parliament we have all taken a very real interest in finding ways to tackle this problem in our community.

We believe very much in an integrated drug strategy, which needs to address four key elements. They are: preventing drug abuse — that is, stopping or finding ways in which we can curb and stem the uptake of the use of illicit and harmful drugs, particularly by our young citizens; saving lives — and the previous speaker before me, the Honourable Carlo Furletti, has already talked a bit about the kinds of experience we have seen here in Victoria in our electorates with the number of deaths that are associated with illicit drug use; getting lives back on track; and delivering treatment in an appropriate way to people who need it.

This government has undertaken many initiatives, and I will talk about those a little later. Another key plank in our strategy is law enforcement, and this bill goes right to the heart of law enforcement. The Bracks government has committed many millions of extra dollars to expanding existing drug treatment programs and initiating a whole range of new services and treatment locations in its fight against drugs. The reforms proposed in this bill complement and are part of an overall strategy the government has implemented that goes to prevention, education, treatment and law enforcement — all key elements which are equally important in tackling this dreadful problem.

There would probably not be a member in this chamber who has not been personally touched by drug abuse and drug problems — whether it be by a family member, a family friend, a relative, someone from the school community where their children go to school, or one of their constituents or their families. We have all been touched in a personal way and have experienced or know something of the experience of not only the devastation drugs have on the drug addict but also the far-reaching consequences they have on their families and friends and those in the broader community.

I would like to talk about some of the initiatives the government has implemented apart from those introduced in the bill before us. I would also like to talk about some of the challenges that face my constituents in my electorate of Melbourne West, where we have a problem not only with the selling, peddling and distribution of drugs but also with the number of people who are involved in drug use and abuse and the number of people who have died as a consequence of that abuse.

First of all I direct my comments to the changes proposed in the bill that go to toughening the penalties for commercial drug traffickers. The main purpose of the bill is to amend the Drugs, Poisons and Controlled Substances Act to make provision concerning offences relating to trafficking and cultivating drugs of dependence and the aggregation of certain quantities of drugs of dependence. It amends the Confiscation Act in relation to offences of trafficking in drugs of dependence and the cultivation of drugs. It amends schedule 4 of the Magistrates' Court Act. It amends the Juries Act in relation to unanimous verdicts in trials for certain drugs offences, and it also amends the Bail Act in relation to bail for offences of trafficking in drugs of dependence and cultivating drugs of dependence.

Clause 5 is designed to close a loophole that currently allows some traffickers to avoid being charged with trafficking in a large commercial quantity of drugs. At the moment, to be considered a commercial dealer there is a requirement that a large amount of one particular type of drug must be found in the possession of the person who is trading in the drug. Under the proposal set out in clause 5 various types of drugs can be aggregated to establish that a commercial quantity exists for the purposes of trafficking. Mr Furletti gave the example of a person trading in small quantities of five different drugs. If the quantities are aggregated and together represent a large commercial quantity, then the loophole is closed, and the person will no longer be charged on the separate offences for each type of drug but will be considered to be a commercial dealer and subject to harsher drug sentencing.

Clause 6 establishes the new offences of drug trafficking in and cultivation of large commercial quantities of drugs. These new offences are needed to stem the supply and use of drugs in our community. The new offences are also needed because of the changing nature of the drug trade today. The bill provides for higher penalties for larger commercial quantities of drugs including a maximum penalty of life imprisonment. The government believes the harsher penalties reflect the community's absolute abhorrence of the drug lords dealing in large commercial quantities. The government believes it better reflects what the community wants when dealing with the people who trade in the death and destruction of young lives and the destruction and breakdown of families.

Large commercial quantities are defined in clause 8. It defines the large commercial quantity for a number of drugs of dependence and also sets out the large commercial quantity of a number of drugs when that drug of dependence is a quantity of a mixture of substance and the drug of dependence. The table in part 3 of schedule eleven shows that a large commercial quantity of amphetamines, cocaine and heroin is 750 grams of each of those drugs and a larger quantity again for a large commercial quantity if the drug of dependence has been cut and mixed with some other substance. For cannabis a large commercial quantity is defined as 3 kilograms. Other drugs are also set out in the table according to their commercial value.

In Victoria at the moment the longest sentence for drug trafficking is 25 years imprisonment. The bill will increase that penalty to life imprisonment and a maximum fine of $500 000. That is double the maximum fine that exists for commercial quantities at the moment. These changes to the penalties for people charged with dealing in large commercial quantities is directed at the drug lords or drug barons who are involved in the manufacture, cultivation and distribution of drugs of dependency. They are not directed at those who are drug addicts and may be involved in dealing small quantities of drugs to feed their own habits and to make money so they are able to purchase drugs for themselves. They are directed at those who are involved in the higher levels of manufacture and distribution.

Clause 11 amends the Confiscation Act of 1997, and I should point out that Victoria has some of the toughest confiscation laws in Australia. The provisions of this clause of the bill are designed as a deterrent to those who traffic in drugs of commercial quantities. It allows for the confiscation of the assets which have been gained as a result of these illicit drug-trafficking activities. We do not want to see people who are

making large sums of money from this kind of activity being able to gain assets and carve out a prosperous life when they have traded on the death and destruction of the lives of our citizens.

Clause 12 of the bill provides that the Magistrates Court will no longer have the jurisdiction to hear and determine charges that relate to large commercial quantities of drugs. The Magistrates Court has lower sentencing powers, and having such serious matters heard by the Magistrates Court would be inconsistent when the offences carry such serious penalties.

Clause 13 amends the Bail Act of 1977 and provides that a person charged with the new offences of trafficking or cultivating large commercial quantities must be refused bail unless the court is satisfied that exceptional circumstances exist.

Clause 14 amends the Sentencing Act, and the tougher sentencing regime will apply to those convicted of the new offences. The amendments provide that if a serious drug offender — that is, someone who has been convicted of trafficking in commercial quantities of the drug — commits another serious drug offence then in fixing the sentence the court must have reference to a number of factors. It must have regard to the protection of the community as the principal purpose of the sentence; may impose a sentence that is longer than is proportionate to the gravity of the offence committed; and must impose a sentence to be served cumulatively upon any other sentence of imprisonment unless the court orders otherwise.

The bill also provides that if the offence is punishable by life imprisonment the verdict of the jury must be unanimous. For any other offence the verdict of the jury may be by a majority in accordance with the provisions of the Juries Act 2000. So a person can be found guilty of an offence punishable by life imprisonment only by unanimous verdict of the jury.

The government is determined to look at a range of measures to ensure we are doing everything we can to combat the use of illicit drugs in our community. Part of that approach is the bill before us today. I would also like to remind the house of some of the other important initiatives for the key targets of prevention, education and treatment that the government is embarking on.

The government is determined to see that all Victorian government schools have in place a comprehensive drug education program, and two-thirds of Victorian government schools have been provided with the opportunity to enhance their drug education programs and develop ongoing action plans. Parents are now involved in drug education programs in schools through Department of Education, Employment and Training initiatives such as the parents education program.

We are also keen to see offenders diverted from the criminal justice system into drug education and treatment. This is particularly the case where people who are addicted to drugs are involved in a range of criminal activities as a consequence of their need to find money to feed their habits. The government wants to see these offenders diverted from the criminal justice system.

In the nine-month period to 30 June 2001, 1450 people were referred to drug education and treatment as a result of funded initiatives including the cannabis cautioning, drug diversion, CREDIT — which stands for Court Referral and Evaluation for Drug Intervention and Treatment — and deferral sentencing schemes that have been put in place.

We also want to see seriously dependent heroin users linked to drug treatment programs. It is estimated that there are between 36 000 and 40 000 problem heroin users in Victoria. That figure came out of a study done by the Turning Point Alcohol and Drug Centre. Of those, 8578 were involved in alcohol and drug treatment services and 13 000 were provided with methadone programs. Of this number, 2600 received access to two or more treatments for their heroin dependence, bringing the number of individuals who accessed treatment for heroin use in 2000–01 to around 19 000. We want to see more people who are seriously dependent on heroin having access to treatment programs.

We have also seen a decrease in the amount of time people have had to wait to access withdrawal and detoxification services. All withdrawal and detoxification average waiting times in Victoria are less than 10 days as a result of six new residential withdrawal services and new home-based withdrawal services becoming fully operational over the past two years. The waiting time for residential withdrawal treatment has dropped from an average of 11 days in 2000 to under 4 days. There have been significant changes there and we want to see those waiting times continue to be reduced so people can access these services when they feel they need them and when they feel ready to embark on them.

There has also been an increase in the number of treatment beds provided. In 1999 there were 432 alcohol and drug treatment beds in Victoria. That number has now increased to 676. This consists of 120 residential rehabilitation beds, 380 supported

accommodation beds and 176 residential withdrawal beds.

The importance of a comprehensive drug strategy cannot be overstated. We all participated in the joint sitting for the drug summit in March this year. If it was not already clear to us it certainly became clear that there is not one solution to this problem; there is not one way to fix it and there is no quick fix. It needs a comprehensive strategy that looks at a whole range of initiatives which go to education, treatment and law enforcement as well as the very important preventive measures.

We need to continue with these effective programs as well as providing treatment services. We need to ensure that these services are directed at young people so they do not become involved in illicit drug use and do not get on the vicious treadmill which is so deadly and difficult to get off. We can do that by ensuring that we provide appropriate and accessible treatment programs to those who need them. However, we also need tougher penalties for those who deal in death and destruction. This bill is an important part of the government's comprehensive strategy for combating the drug problem in our community. It deserves the support of everybody in this chamber. I commend the bill to the house.

Hon. R. A. BEST (North Western) — It gives me pleasure to rise on behalf of the National Party to contribute to this debate. It is an issue that is always of interest to me. I have an enormous amount of passion for it and particularly the way in which we tackle the problems associated with those who traffic in and supply drugs. The National Party will not oppose this bill but will give it qualified support. It will do that because National Party members believe it is important to have a total range of initiatives to tackle the drug problem in our community. We have consistently said in this house on all occasions when legislation concerning the drug industry has come before us that we need a comprehensive policy that tackles the problems of drugs. I will return to that shortly.

The Drugs, Poisons and Controlled Substances (Amendment) Bill makes a number of amendments to various acts. It enables the aggregation of different types of illegal drugs of dependence to allow an accused to be charged with a new offence of trafficking in or cultivation of a large commercial quantity of those drugs. It introduces a sentence of life imprisonment for a person convicted of cultivating or possessing a large commercial quantity of drugs coupled with a fine of up to $500 000. It enables the aggregation of different forms of the same drugs — for example, cannabis as opposed to cannabis resin — to constitute a quantity enabling the accused to be charged with trafficking or cultivation of those drugs. The bill removes the capacity of the Magistrates Court to deal with certain indictable drug offences and makes subsidiary changes to the Juries Act and the Bail Act to toughen their provisions particularly as they relate to those charged with offences involving large commercial quantities.

The National Party's general approach is to give qualified support to these measures as components of a complete package which it says is necessary to attack drugs. The National Party does not convey any impression of these measures taken in isolation as being the answer. Its view has always been and will always be that we need a comprehensive plan to tackle drugs. That means prevention, education and rehabilitation, and it means treatment facilities.

As I have said, we have debated on many occasions the various problems associated with the suggested solutions to this scourge on our community and particularly the younger people in it. On more than one occasion I have suggested that we should have a Vichealth-style model. I would like to address that tonight because while we have many government departments and agencies all doing very good work, there is an enormous amount of crossover between those departments and agencies. The Office for Youth and the departments of community services, health and education are all undertaking very worthwhile work and trying desperately to resolve this situation in our community, but we need to maximise the dollars spent on tackling this problem. I do not question the quality of the programs being delivered, but we need to minimise duplication and focus our efforts in a way that enables us to maximise the opportunity of rehabilitation and removal of the problems of drugs across our community.

The bill introduces two main measures. Firstly, people who are caught trafficking in commercial quantities of drugs could receive a life sentence, and I will return to that point shortly. Secondly, the bill enables drugs to be combined so that drug traffickers can be sentenced for the true extent of their drug trafficking. Mr Furletti referred earlier to the fact that what we have now is a range of designer drugs that are available right through the community, and it is unreasonable that because the traffickers have different quantities of drugs they should not be combined and used to exert the full strength of the law and all the measures associated with that against these people.

Current provisions allow for a sentence of up to 25 years to be directed towards somebody who is

caught trafficking commercial quantities of drugs. We have heard from Mr Furletti on this point, and I will not go over the same ground. Part 3 lists the different types of drugs that a person can be carrying or trafficking, but the reality is that currently, prior to the introduction of the bill, those commercial quantities are about 250 grams, or about $100 000 worth of drugs. Under this bill those levels are to be lifted, which I find a bit strange. The government is now saying that anybody who has 750 grams of drugs is a commercial drug trafficker and will be subject to the life imprisonment conditions.

It is reasonable to ask what the courts are doing, because I believe that at all levels within society there is a responsibility that must be accepted by us as legislators, by the courts that interpret the legislation, and by the community as a whole, and there must be a level of resolve within communities to ensure that we all unite to try to minimise the amount of drugs in our society.

When the legislation came before us I flicked through copies of my local paper from the past three weeks or so just to see how courts are handing down sentences and treating people who come before them for drug-trafficking offences. I was quite concerned to see some of the cases before the courts and the way these cases are being dealt with. Firstly, in the *Bendigo Advertiser* of 28 August there is an article entitled 'Heroin pusher jailed' which states:

> A convicted heroin trafficker was told yesterday he had contributed to the spread of a cancer through society by selling drugs to people who stole to support their habits.
>
> Bendigo Magistrates Court was told regional police raided Shane Lewis's Harvey Street, Golden Square, home on March 22.
>
> …
>
> Prosecutor Senior Constable Russell Kelly said police found a coin bag containing two 'rocks' of heroin when they searched the 34-year-old.
>
> A butterfly knife, two sets of scales, cannabis seeds and $1840 in cash were found during a search of the home.
>
> …
>
> Magistrate William Gibb conceded Lewis had a 'relatively small-scale' drug operation but said his extensive prior criminal history weighed against him.
>
> …
>
> Lewis was sent to jail for two years for trafficking with a non-parole period of 18 months.

He had already served five months of that term, so basically this man was going to serve around 13 months for that crime.

Hon. D. G. Hadden interjected.

Hon. R. A. BEST — He might be a good defence lawyer, but the issue is that on 14 September under the headline 'No jail for trafficker' an article states:

> A Moama man has avoided a jail term for selling ecstasy and amphetamines from an Echuca nightclub.
>
> Troy Love, 22, of Martin Street, appeared before the Echuca Magistrates Court and pleaded guilty to trafficking and using ecstasy and amphetamines.
>
> …
>
> Magistrate Elizabeth Lambden sentenced Love to five months jail but suspended the term for 12 months.

Again, a mixed message to the community.

An article in the *Bendigo Advertiser* of 19 August states:

> A Long Gully man who made amphetamines in his backyard shed has been jailed for at least nine months.
>
> …
>
> Magistrate William O'Day said the seriousness of the theft and amount of amphetamine created justified a jail term.
>
> He sentenced Curphy … to 18 months jail with a non-parole period of nine months.

So even though the sentence was 18 months the judge only applied nine months real sentence.

An article in the *Bendigo Advertiser* of 22 September states that the police raided homes and that trafficking charges were laid, and there is reference to a lab. It was not a massive lab but it was regularly used for making amphetamines. The article states:

> The early indication is there was ongoing processing to service the local area.
>
> As a result of this operation there will no doubt be a shortfall of amphetamines in the Maryborough district.
>
> Detective Superintendent Newton said 50 police officers, led by the tactical response unit of the drug squad, were involved in the raids which started at about 3.00 a.m. yesterday.

So these people are going to court, and I hope the full weight of the law comes down on them. One of the worst cases is reported on 27 September:

> A milk bar owner who sold cannabis from his shop had three months added to his jail term yesterday after a County Court Judge ruled his initial sentence was too lenient.
>
> Brian McGregor, 49, of Kangaroo Flat, was jailed for six months after pleading guilty in the Bendigo Magistrates Court in June to trafficking cannabis.
>
> He was released immediately on appeal bail, but was yesterday taken into custody for a nine-month term.

…

> The court was told members of the Bendigo regional response unit searched McGregor's shop in November 2000 and discovered about 4 grams of cannabis, scales and drug paraphernalia, and tick sheets indicating sales of more than $11 300.

Initially this man was sentenced to only six months jail. Fortunately the police appealed, and at least he had his sentence extended to nine months. However, it seems to be a very lenient sentence when it has been suggested that this man was selling drugs to kids who came into his shop to buy a coke and get a bit of cannabis, or marijuana.

I will not continue to quote the article, but one point that is consistent, and one of the things that causes dismay in the Bendigo community, is that like many areas across the state we have a drug problem. There is a level of concern being expressed that while there are sentences that apply to the charges that are laid, invariably the sentence that is handed down does not match the crime that has been committed. While I admit that many of these cases may be only small operations, there seems to be little deterrent for them to continue. As far as I am concerned these traffickers are the scum of the earth. They prey on other people's weaknesses and they trade on other people's misery. They make money through greed while others suffer from addiction. I have absolutely no sympathy for these people.

Hon. B. C. Boardman interjected.

Hon. R. A. BEST — They would not want to come before me. I agree with you, Mr Boardman, because I have very firm views on this issue. They are examples of some of the small players and the sentences they get.

I turn to the issue of the Mr Bigs, because after all that is who the legislation is aimed at. Whilst I disagree with the way the government has introduced this legislation, in the *Age* of Saturday, 4 August, an article that has the headline 'Heroin dealers jailed for 16 and 21 years' says:

> In casinos across the world they were regarded as 'premium players' — betting large and, often, winning large.
>
> But yesterday luck officially ran out for Hong Kong residents Ko Kon Tong and Vin Lac Lao, who, in the Victorian County Court, were sentenced to jail for their roles in an international drug syndicate that placed millions of dollars worth of heroin on the local market.
>
> In what Judge Anthony Duckett described as a racket based largely on 'commercial greed', Lao, 42, was sentenced to a maximum 21 years prison for supplying three multimillion-dollar drug consignments to Australia from China and Hong Kong, between April and August 1999.

It goes on to say:

> Tong and four other local syndicate members were arrested on 3 August 1999 in what was regarded as one of Victoria's biggest heroin-trafficking busts in recent years.
>
> Lao, 42, arrested one month later while trying to board a flight to Hong Kong, was last week found guilty by a Victorian jury of one count of trafficking in heroin.
>
> Both men were regarded as principal offenders in the scheme, but Tong's admission of guilt earlier in the year entitled him to some allowance in sentencing, Judge Duckett said.
>
> Tong was ordered to serve a minimum of 12 years jail before becoming eligible for parole. Lao was sentenced to a non-parole period of 17 years.

What we have here are the most commercial of traffickers. What we have here are the Mr Bigs in the drug world. Yet even with the legislation providing for 25 years as a maximum sentence, the reality is the courts still diminished the sentences these people were handed down.

It is that issue that really concerns me. I believe, and I think we all accept, that while the courts will be given the power, nobody is going to cop a life sentence. I think there will be judges right across the system who will reduce these sentences based on matters that are provided to them by, as the Honourable Dianne Hadden said previously, good defence lawyers. This perturbs me enormously, because unless we create a bottom-up system, unless we start to tackle from a very low level of drug trafficking sentences that actually fit the crime, we are not going to be successful in minimising the amount of drug trafficking that occurs. I accept that people are in it to make money, and they make it out of somebody else's misery. We need to deal with that appropriately.

While a 25-year sentence has been an option for the courts, as I have just been able to demonstrate, the judges and the courts do not hand out those sentences. They reduce the sentences, and those big commercial operators, multimillion-dollar dealers who are able to fly the world gambling at casinos and enjoying the high life, still receive reduced sentences. If the government is really serious there needs to be more consistency from the courts. We need to see tougher sentences. We need to send the message very loud and very clear: 'You traffic and you get caught, look out!'.

Finally, this legislation got a very good headline for the government. I am disappointed about that because the headline did not reflect the true legislation in total. It is legislation that says the government is going to provide for life sentences for commercial drug traffickers, but that is just not true. The government has once again

taken the option of creating a headline rather than getting to the substance of the problem, which is that we must send a very clear message that if you traffic in drugs and get caught, you are going to be sentenced. Drug trafficking is a curse in our society. Those who take part in the sale of drugs to their unfortunate victims deserve no mercy. Despite the fact that members of the National Party are extremely disappointed with the provisions of this bill, the National Party gives it its qualified support.

Hon. B. C. BOARDMAN (Chelsea) — Taking up where Mr Best left off, I was also extremely disappointed with the quite manipulative and inaccurate way the government first promoted this legislation in the public forum. There was a deliberate attempt to suggest that life sentences were going to be introduced for commercial quantity trafficking of illicit substances, which could quite easily have been interpreted by the public as being tough on drugs by introducing these new penalties that would be commensurate to the quantities of drugs being trafficked, and that would mean that this government was doing something proactive in what undoubtedly is an extraordinarily serious and complicated community dilemma.

Unfortunately this bill will not achieve that at all. It is with a great sense of regret that I cannot make this a positive contribution. I would like to promote this legislation as being in the community's best interests and as being likely to have a definite impact on the situation, but it will not. My colleagues Mr Furletti and Mr Best articulated the problems and issues this bill will not address.

It will not save any lives. It will not increase the penalties that drug traffickers should have imposed on them by what is at times a very lame and non-community-responsive judiciary, and importantly it does not provide any additional resources, whether real or inferred, to the appropriate bodies to meet the operational requirements of those in law enforcement in particular who have the responsibility in carrying out their duties of trying to track down the people who commit these crimes.

The government's initial speaker, Ms Darveniza, said the bill introduces tough new penalties that are aimed at the drug lords and drug barons — that was the language she used. She put in a proviso that this legislation would not be effective in isolation and had to be used as part of a comprehensive strategy in order for the maximum benefit to flow on to the community.

The fundamental problem this community faces and this government has not addressed is how does the government provide, through its approach to law enforcement initiatives, through its strategic response to policing and operational issues and the challenges these essential service bodies are faced with both in funding and in personnel, the capacity to enable these bodies to carry out their tasks? We have seen the decline of specialist crime squads in the two years this government has been in power to the extent where the Victoria Police has faced a number of internal challenges trying to find adequate experienced staff to fulfil those roles. Faced with the current climate of uncertainty the police are in, primarily due to a lack of support and leadership from the government in its enterprise bargaining agreement, there is potential for the Victoria Police to lose yet more experienced officers, which is not going to make up the shortfall of operational experience that is needed to try to combat this issue.

Furthermore, what this legislation does not take into account and the government certainly has not promoted to any real and serious degree in its contribution and publicity is the international implications this whole problem has for Victoria. As chairman of the joint parliamentary Drugs and Crime Prevention Committee I was fortunate enough to travel internationally and at various other stages to travel domestically with that committee to examine best practice in drug law enforcement, drug education, rehabilitation and detoxification. As part of our recent international study tour we visited the United Nations office for drug control and crime prevention, which is based in Vienna. This is one of the more important United Nations offices that is primarily there in an international monitoring capacity to gauge law enforcement success and performance, to evaluate the programs that the international bodies in the member states carry out and to try to coordinate to the best possible advantage international policies to prevent illicit crop production and illicit trafficking and manufacturing of these substances, so that the approach is maximising the benefit to the member states that have an interest in this problem.

I refer to a United Nations publication, *World Drug Report 2000*, which is an annual report. The report shows, fortunately, a decline, albeit slight, in international opium production over recent years from a peak in 1997. The explanation for that is the international border methods, which are very important in this regard. Similarly, there has been an equal decline from a peak in 1993 in the illicit production of dry coca leaf, the base product that is responsible for producing cocaine. However, production has started to increase again in the past 12 months. Page 25 of the report states:

> The global area under opium poppy cultivation is at its lowest level since 1988, some 17 per cent smaller in 1999 than in 1990. Similarly, the area under coca cultivation is at its lowest level since 1987 and about 14 per cent less in 1999 than in 1990 … All of this suggests that alternative development, eradication, intensified law enforcement activities, and the effort of governments concerned to reduce levels of cultivation, have led to positive results.

That point is relevant because current international issues will no doubt have a profound effect on the opium and heroin situation in Victoria. The government has praised a number of strategies it has introduced over the past two years and has somehow promoted them to a level where it is taking credit for decreasing heroin-related deaths. The reality is that any initiative from government, particularly if it is focused and coordinated, needs to be welcomed. But because of the global decrease in opium production, international economies of scale have seen trafficable quantities into Australia decrease significantly, which is making it less available on the streets and that will have an effect on supply.

Furthermore, we find ourselves in an increasingly tense situation, particularly in the major international opium-producing country of Afghanistan, which prior to the recent military intervention was responsible for 70 per cent of the world's opium production and manufacture. There was an intense campaign by the Taliban regime in the first six months of this year to try to replace crops with alternative development. It passed a resolution that all opium poppy fields in Afghanistan, particularly in the southern provinces, would be destroyed. However, the United Nations office advised that it was uncertain as to what quantities of raw heroin post-production were in stockpiles in Afghanistan ready for traffic overseas.

Most of Australia's heroin, as many honourable members would be aware, comes from Myanmar in South-East Asia. Myanmar was producing about 30 per cent of the world heroin supply, but because of the implications of the international efforts in Afghanistan and the domestic efforts in Afghanistan much of Myanmar's supply of raw heroin now goes into the Americas and particularly into Europe. That is another factor which has had dramatic implications for the domestic situation in Australia because the European market is far more lucrative, primarily on a per capita basis, than the Australian market.

The challenge Australia faces and one this government has not addressed at all is cocaine importation. Our committee received direct evidence from both the United Nations and the drug enforcement agency in the United States of America that Bolivian, Peruvian and Colombian drug syndicates are well and truly networking and active in Australia, trying to find opportunities to capitalise on the lack of heroin in this country and to form extensive networks so they can trade their product to the detriment of Australian society.

Page 43 of the same report shows a map of patterns and trends in cocaine trafficking in the 1990s. Australia is, unfortunately, one of the countries that has registered an increase over the 1990s of more than 10 per cent. That is a serious issue which no government in Australia has addressed satisfactorily, because while the effort has certainly been on opium and heroin-based substances and to a lesser extent amphetamine-based substances, particularly ecstasy and other designer drugs, as they are colloquially known, cocaine has been viewed as belonging to an exclusive domain that is very much the province of the rich. When low-grade cocaine, commonly referred to as crack, starts coming into this country in quantities which are undoubtedly going to be significant to say the least, the response from government has to be definite and dramatic and appropriate resources need to be allocated to ensure that the government has the best possible response to counteract any attempts by international syndicates.

We have also witnessed what I found to be divisive debate over recent years which has been hijacked by certain sections of this community for personal use — that is, the philosophy of harm minimisation. I suspect that most honourable members would have an individual viewpoint on the benefits or non-benefits of harm minimisation, but certainly the international experience suggests that demand reduction, which is a combination of three key pillars including epidemiology, prevention and treatment, has to be the way to go. Harm minimisation is viewed internationally as more of a public relations exercise and is used as a scapegoat by governments trying to justify their efforts, whereas demand reduction by targeting in a preventive sense the people who are most vulnerable can lead to supply issues being addressed as a consequence of those efforts and has to be a way of dealing with this situation.

I refer to another document from the United Nations Office for Drug Control and Crime Prevention entitled *Global Illicit Drug Trends 2001*. It discusses in significant detail the implications for the international markets of opiates and amphetamine-based products as well as coca-based products, and particularly the countries which are in supply and in manufacture and what ramifications that has for people who are clients of these countries. The chapter that deals extensively with the situation in Afghanistan is at the moment unfortunately a little out of date, but it made a very

strong statement that Afghanistan opium production was almost 60 per cent of its rural economy due to a number of quite definite instability issues regarding the government. It was described by the United Nations as a livelihood strategy, as a source of credit because Afghanistan did not have a developed financial system so opium was used as a form of credit against which to balance other products. It was also seen in the context of a lack of other income-generating activities, and certainly it had a definite role in labour market opportunities because of underdeveloped employment and industrial situations. Page 41 of the report states:

> Afghanistan's regional importance is still considerable. It was noted above that as opium production grew over the last 20 years, Afghanistan also became an open war economy, the linchpin in a vast regional trade of arms, gemstones and many different kinds of contraband. A World Bank study estimated this contraband trade to be worth $2.5 billion in 1997, equivalent to nearly half of Afghanistan's estimated GDP.

So it clearly states that Afghanistan, one of the failed member states which is responsible for developing these illicit products, does so because those products are economically viable to its people. Unfortunately the government does not have sufficient regulatory controls to counteract any illegal activity because clearly it provides benefits to its community, benefits that we should not underestimate. In the current situation it is uncertain as to whether there are stockpiles of heroin, but considering that the military operations are intensifying it will be very difficult to traffic drugs out of Afghanistan. The concern lies in how much is being shifted elsewhere, particularly into western Africa.

Closer to home — this is where the greatest challenge for Australia and Victoria lies — is how the rest of the world is dealing with Myanmar. Because of international issues that country now has the responsibility of producing in excess of 80 per cent of the world's opium. Page 55 of the same report states:

> One of the main outlets for Afghanistan's heroin outside of south-west Asia has been the European market, but the history of drug control during the last 30 years provides evidence that opiate markets can rapidly shift from one source of illicit opiates to another. Myanmar is at present the only country where traffickers could find a potential to rapidly fill part of the heroin supply gap created by the evolution of the situation in Afghanistan.

It is relevant for Australia because it is a neighbouring country with close trade links to Thailand, Laos, Vietnam and Indonesia, which are where most of Australia's heroin comes from.

I make these points quite definitely because as consumption rates in Australia increase — they are lower than the international average — we have to be cognisant of our place in the international situation with these substances. As I have stated in the short time available to me tonight, South American infiltrators are making a concerted effort to get crack cocaine into this country and use it as an alternative to and to flood the market with a very cheap alternative to heroin. Furthermore, the expansion of designer amphetamine-based substances such as ecstasy is causing great alarm. Because of the non-systematic addiction that these types of substances produce in users it requires a more comprehensive response from government than what is being offered at the moment.

In conclusion, the key to all this is cooperation and a degree of leadership. This country has not had the same level of social infrastructure from government that is needed to try to coordinate law enforcement, treatment and detoxification activities which have been so successful in the United States of America through the development of the office of national drug control policy, which has seen a 6 per cent to 7 per cent decrease in consumption rates since 1995.

Bills like this and headlines associated with its introduction are not in the community's best interests. It is fine to have the political spin and the political opportunities which go with introducing such legislation, but until this government in particular realises that trying to achieve a cheap political advantage by introducing bills like this will not help the community and will not serve any real systematic response to what undoubtedly is a complex issue. It requires the cooperation of all levels of government and the community to see some dramatic improvements.

Hon. J. W. G. ROSS (Higinbotham) — It gives me a great deal of satisfaction to rise and speak on the Drugs, Poisons and Controlled Substances (Amendment) Bill and to indicate that the Liberal opposition will be supporting the bill. However, we are quite disappointed that the bill is not consistent with the public utterances of the government and its recent press statements indicating that it intends to deliver life sentences for drug traffickers.

The truth of the matter is that this is another example of the government using the media to communicate one set of objectives to the public while the real situation is something less. I say at the outset that the Liberal Party is thoroughly committed to the principle that drug traffickers commit a heinous crime and that life imprisonment is an appropriate penalty to the consequences of that crime. That is indeed what the government would have led us to believe is the principal objective of the bill.

According to the information from the Victorian Institute of Forensic Medicine and published daily in the *Herald Sun*, in Victoria alone up until the present time there have been something like 33 deaths from heroin overdoses. Those who place the means of death into the hands of predominantly young people should be subjected to no lesser penalty than murder. The Liberal opposition is absolutely committed to that proposition, no ifs, buts or maybes. However, we do not believe the government has matched that rhetoric with decisive and unambiguous action.

The second-reading speech indicates that the bill is another step in a series of initiatives designed to beef up drug trafficking by imposing life imprisonment. However, the truth of the matter is that this legislation is really laying another layer of complexity and ambiguity onto what should be a very simple proposition for individuals who traffic in significant quantities of illicit drugs and who are caught and convicted. They should be subjected to the most severe penalties available to society — that is, of course, deprivation of liberty for the rest of their lives.

The government has indicated that this bill is the result of a policy it took to the last election and that it is consistent with its view to introduce tougher penalties for commercial drug traffickers. It is probably worth briefly considering the history of changes to the principles of drug trafficking. When the state and federal governments first introduced the offence of drug trafficking it was equated simply with the act of selling drugs through various levels of the drug distribution chain.

The common levels were understood to be trafficking, dealing and peddling. That represented the sale of drugs at the street level to drug users. Initially there was no intention to distinguish the various levels of the marketing chain. However, as our understanding of the dynamics of the drug market evolved, it became perfectly clear that many drug users were in fact dealing in drugs to sustain their own drug habits. For instance, an individual might buy, say, a gram of heroin and cut it back to double the quantity with something like cornflour or glucose and then onsell an equal quantity of, say, a gram, for the original price. The idea was that they were able to satisfy their needs for their own drug consumption through the process of peddling, which would be in contradistinction to other ways of raising the necessary cash such as prostitution and crime.

The scenario was that many low-level dealers were drug users themselves and that it was much more of a health problem than a criminal problem. To get around this dilemma governments in 1983 came up with the concept of commercial trafficable quantities of drugs to distinguish the Mr Bigs or the individuals who were selling drugs simply for the purposes of profit from the peddler users. New penalties of 25 years imprisonment were introduced at that stage. In my view the emphasis should be on the smaller quantities, which the bill alludes to in schedule eleven, such as 50 grams for cannabis or 10 grams for drugs such as amphetamines, cocaine or diacetymorphine, or heroin.

The point I make is that if you want to distinguish between the quantities, then the emphasis should be on the lower end in order to pick up that part of the marketing chain that can be equated with a genuine health problem, and then as you go up the penalty scale and by the time you reach the existing penalties for trafficking in something like 250 grams, that in itself is a quantity appropriate to warrant the most severe penalty.

The truth is that a penalty of 25 years jail for trafficking in a commercial quantity of drugs has never been imposed, and I am pleased to say there seems to be some bipartisan support emerging for the need to present to the courts a set of legislation that will encourage stronger penalties. The courts are greatly guided by maximum penalties in respect of a whole range of offences, so the simplest way to increase the severity with which the courts deal with the problem of selling drugs is to increase the penalties. If you increase the penalty from a maximum of 25 years to life imprisonment, then the courts should take cognisance of that in determining an appropriate penalty to hand down.

I have no doubt the government could have influenced the sentencing practices of courts by simply introducing life imprisonment for trafficking in the existing quantities of drugs, and we on this side of the house believe that is the direction the government should have taken. Let me remind the house that the existing commercial quantity of a trafficable drug such as heroin is 250 grams — that is, a quarter of a kilogram. That is a very large amount of drugs in anybody's language, and it is far and away in excess of the amount of drugs you would expect people with a genuine health problem to be peddling in order to sustain their own habit.

The government chose not to go down that path and unfortunately came up with this idea of linking the new penalty of life imprisonment with an increased trafficable quantity of drugs defined in the schedule I have already mentioned as a large commercial quantity. We on this side of the house believe that will lead only

to confusion and give the Mr Bigs of the world more flexibility in plying their evil trade.

I have some real concerns that dealing in drugs is gaining some measure of acceptability in various parts of the world. I recall when we debated in this place the legislation relating to the proposal for supervised injecting rooms that there was an implicit acceptance that there would be low-level dealing within the vicinity of those supervised injecting rooms in order that people would utilise those facilities. The opposition was dead against that and the legislation was defeated, as it should have been.

When we compare the number of deaths from heroin overdoses thus far this year in this state — 33, which is far too many — with the number of deaths that were occurring one and two years ago we see there has been a dramatic decline, and I have no doubt that is in large measure due to the Tough on Drugs policy of the commonwealth government and, indeed, the increasingly toughening stance of the state Labor government, and I commend them for that. I suggest that this legislation is a part of that process of recognising the need to come down fairly heavily on this issue of drug trafficking.

Over the past couple of years I have taken the opportunity to visit a number of European countries where I have been alarmed at the extent to which trafficking in drugs is condoned. Of all the countries I have visited, Sweden stands out as a country where all political parties are as one in their approach to the pursuit of the objective of a drug-free society. That is, in reality, a naive wish, but the extent to which the Swedes have attempted to gain community support and support from all sides of government in pursuit of that objective is exemplary and, as I said, it enjoys the full support of all parties in that country.

The information I obtained from Sweden is, however, that it has great difficulty in maintaining that policy because of the erosion of the laws in other parts of Europe designed to prevent trafficking. In particular, the Swedes are very critical of the Danish government because since the opening of the bridge across to Malmo they have found an escalating drug problem as a result of fewer controls over the trafficking of drugs in Denmark, as indeed is the case in Germany and Switzerland.

Great store was placed in the report of the expert committee into drug abuse in Victoria — the so-called Penington inquiry — on the lessons that can be learnt from Europe. Having looked at a lot of those situations first hand, let me say that the lessons that can be learnt from Europe are that we should be doing more to control the drug trade rather than tolerating amounts of trafficking at relatively low levels — for example, in situations where supervised injection facilities are in place there is a tacit acceptance of the principle of dealing in drugs in the vicinity of those rooms.

In Denmark, in an area known as Khristiana Park, there is absolute acceptance of the retail sale of a whole range of cannabis products and probably narcotic drugs. In fact, I went into that park on a guided tour and it would have been possible to purchase up to 40 different types of cannabis without any inhibition whatsoever; the government simply tolerates that. That is a situation we must thoroughly resist in this country.

Spain was cited by the Premier's expert committee on drugs as an example of a country where a supervised injection facility was operating appropriately. I found the government in Spain to be culpable in regard to the tolerance of drug trafficking. It had in recent years had a number of shanty towns populated by gipsies and a variety of illegal immigrants where drug trafficking was tolerated on a grand scale. I went out to the last remaining shanty town outside Madrid with the director of the drug enforcement agency and saw an unending stream of cars containing people dealing in drugs.

The situation was such that police were cruising around the shanty village and tolerating that level of trafficking in drugs. That is something to be thoroughly resisted. The implementation of the supervised injection facility in that shanty town was a last resort of a desperate government to try to control the outbreaks of disease that came from it.

The most depressing things I saw in that shanty town were not only young adults injecting one another with intravenous drugs into their jugular veins and lining up against a wall sharing a tourniquet to intravenously inject drugs but also entire families, some with babes in arms. It was an absolutely horrifying experience to witness that level of tolerance of the drug problem in Spain. It would be very unwise for us to go down that path.

The point I make is that we should not place an undue emphasis on the quantities of drugs. I think the existing quantity of 250 grams is sufficient to indicate that people are trafficking in drugs at a level that is well beyond the needs of an individual person who might have a health problem. For a drowning man there should be little debate about whether he can swim in 3 metres or 50 metres of water. I express some disappointment that the government, in increasing the

penalties for drug trafficking, has chosen to increase the trafficable amount to 750 grams.

However, there are some interesting initiatives in this legislation, and we on this side of the house certainly support the principle of the aggregation of quantities of different drugs. Once again, there have been many instances of where relatively smaller quantities that do not reach the threshold for commercial trafficking have been dealt with as separate aliquots. This bill certainly goes a long way to ensuring that those separate aliquots of drugs are pooled together and that persons are charged quite legitimately with trafficking in the total quantity of drugs. We on this side of the house welcome the toughening of the drug laws, but we deplore the extent to which there is some window-dressing in this bill.

In summary, the bill does two main things. It introduces life imprisonment for persons convicted under a new offence of trafficking drugs of a large commercial quantity. As I have said, we on this side of the house believe it was unnecessary to create that new quantity, because the present commercial quantity of 250 grams is sufficient to scotch any suggestion that the drug dealing was in some way connected to private or personal use. The bill also provides a suitable formula for the aggregation of lesser quantities of drugs — and we are fully supportive of that — in order that aggregate quantities reach that magic number of 750 grams.

The bill contains a number of consequential provisions related to the confiscation of assets and the need to obtain unanimous verdicts where large quantities of drugs are involved. I have already indicated that I do not believe there is any need to invoke those super quantities where it is patently clear that the drugs have been trafficked for profit. So I believe the issues related to the confiscation of the assets of individuals who have accumulated wealth could really be viewed as superfluous in linking them with a larger quantity.

The nub of our argument on this side of the house is that we do not wish to increase the legal complexity or erode the uncompromising position of our society on the seriousness of drug trafficking. Quantities of illegal drugs that are clearly several orders of magnitude above those that could even remotely be considered for personal use are quite sufficient.

Furthermore, the shadow Attorney-General in the other place has indicated that when the opposition returns to government it will revisit the legislation and reconsider the inconsistencies in it to make sure that the full force of the law and the penalty of life imprisonment will apply to all trafficable quantities of drugs of addiction. With those few words, I commend the bill to the house.

Hon. D. G. HADDEN (Ballarat) — I rise to speak in support of the Drugs, Poisons and Controlled Substances (Amendment) Bill. I will not say that it gives me pleasure, because illicit drugs are a scourge on our community.

The intention of this bill is to enable the full force of the law to be brought to bear on traffickers and cultivators of drugs. It introduces a new offence of trafficking or cultivating a large commercial quantity of drugs, punishable by a maximum penalty of life imprisonment. It also enables drugs to be combined or aggregated into one offence so that those drug traffickers will be sentenced for the true extent of their drug trafficking and its harmful effects on our community. The bill also makes consequential amendments to the Confiscation Act 1987, the Sentencing Act 1991, the Bail Act 1977, the Magistrates Court Act 1989 and the Juries Act 2000.

The new maximum penalty of life imprisonment provided by the bill reflects the community's abhorrence of large-scale drug trafficking and cultivation. The intention is that it be a warning to potential offenders of the price they may pay once convicted and the court can impose the maximum penalty legislated in the act. At present the maximum penalty for drug trafficking in Victoria is 25 years. That penalty applies to trafficking in any drug above a set amount. In the case of heroin this penalty applies to an amount of 250 grams.

Large-scale commercial trafficking is defined in the bill as trafficking in any amount more than 750 grams of pure heroin, cocaine or amphetamines. For cannabis it is trafficking in any amount more than 1000 plants or 250 kilograms. Clause 8 contains the definitions for large-scale commercial trafficking, and the amounts for the specified drugs are set out in parts 2 and 3 of schedule eleven to the bill.

In addition to introducing the new offences of trafficking and cultivating in large commercial quantities of drugs, the bill provides for a maximum fine for the new offence of $500 000 — double the current maximum fine. The bill also defines similar maximum penalties for cultivating a large commercial quantity of cannabis plants. The bill takes the important step of restructuring the offences of cultivation and trafficking of drugs of dependence to enable the offences to work simply and effectively in a wide range of circumstances.

The second measure in the bill is the closing of the loophole that currently allows some drug traffickers to escape being charged with commercial-level drug trafficking offences. Currently separate parcels of different drugs cannot be added together, so that a drug dealer who is in possession of certain drugs, each of which is less than the commercial quantity as set out in the act, cannot be charged with trafficking in a commercial quantity. The inability to aggregate such parcels of different drugs means that large-scale traffickers can avoid the highest penalties under the act and tougher confiscation regimes by ensuring that they do not have a commercial quantity of any single type of drug.

The bill closes this loophole by enabling drugs to be aggregated for the purpose of establishing whether they are a commercial quantity or a large commercial quantity. Drug traffickers will be liable to a maximum penalty of 25 years imprisonment for trafficking in an aggregated commercial quantity of drugs or life imprisonment for trafficking in an aggregated large commercial quantity of drugs. The maximum penalty of life imprisonment introduced in the bill is consistent with the penalties in most other Australian jurisdictions, including New South Wales, South Australia, the Northern Territory, the Australian Capital Territory and the federal jurisdiction Crimes Act.

The bill's intention is to make it clear to drug traffickers that they are as unwelcome in this state as they are in other states. Victoria's confiscation laws are among the toughest in Australia. The confiscation processes to the new offences provide a significant deterrent by ensuring that those who engage in drug trafficking will not profit from their criminal activities.

Last October the government commissioned a sentencing review, which is currently being undertaken. It has six broad terms of reference, which relate to the offence of child stealing, sentencing for drug offences and drug-related offences, sentencing options in general, mechanisms to inform the sentencing process as well sentence indication and spent conviction schemes. In his executive summary to the sentencing review discussion paper Professor Arie Freiberg looks at the maximum penalties for drug trafficking. He notes that there is concern that the current maximum penalty for drug trafficking offences does not send a sufficient message of deterrence to potential offenders.

He goes on to note the Attorney-General's announcement of amendments to the Drugs, Poisons and Controlled Substances Act to increase the penalty to life imprisonment in respect of certain drug offences. He also notes that the intention is to reflect the communal abhorrence of the offence and as a directive to sentencers as to how to weigh the gravity of this kind of offending. The executive summary also looks at sentencing options and notes that the challenge for any criminal justice system is to create a safe community in which criminal behaviour is addressed and people feel confident about their own safety. The summary also notes that sentencing options are required to meet the sentencing aims of retribution, deterrence, rehabilitation, denunciation and incapacitation.

The Honourable Carlo Furletti suggested that perhaps the government should look at lifting the bottom line and legislate to fix a minimum term of imprisonment for drug offences. I suggest that perhaps a contribution to the sentencing review would certainly assist in that regard.

In relation to the suggestion by the Honourable Ron Best that perhaps the courts in his region are going soft on drug offenders, one needs to look at the Sentencing Act, which sets out the governing principles that a court must adhere to when sentencing an offender. Those governing principles are set out in part 2, section 5 of that act. The courts must look at the punishment of the offender, to deter the offender, to consider rehabilitation, to manifest the denunciation by the court of the type of conduct in which the offender engaged, to protect the community, or a combination of two or more of those provisions.

The sentencing court must also have regard to the maximum penalty prescribed for the offence, the current sentencing practices, the nature and gravity of the offence, the offender's culpability and degree of responsibility for the offence, the personal circumstances of any victim, any injury, loss or damage resulting directly from the offence as well as whether the offender pleaded guilty and at what stage. Also the offender's previous character is taken into account together with the presence of any aggravating or mitigating factor. Section 5(3) of the Sentencing Act states:

> A court must not impose a sentence that is more severe than that which is necessary to achieve the purpose or purposes for which the sentence is imposed.

Section 6 of the act outlines the factors to be considered by a sentencing court in determining the offender's character. They include the number, seriousness, date, relevance and nature of any previous findings of guilt or convictions of the offender, the general reputation of the offender and any significant contributions made by the offender to the community. These are all the matters which a sentencing court must take into account. It is not as clear cut as perhaps one reads in the newspapers.

I will briefly touch on clauses 12 and 13 of the bill. Clause 12 amends schedule 4 of the Magistrates' Court Act by providing that if a person is charged with an offence under the new clauses in the bill — namely, the trafficking and cultivation of a commercial or large commercial quantity of drugs — those charges must be heard and determined in the County Court or Supreme Court and cannot be heard and determined in the Magistrates Court. However, the remaining indictable drug trafficking and cultivation offences may be heard and determined summarily in the Magistrates Court if the court considers it appropriate and if the defendant consents to a summary hearing.

Clause 13 of the bill amends the Bail Act, which provides that if a person is charged with one of the new offences under sections 71, 71AA, 72 or 72A the court must refuse bail unless the court is satisfied that exceptional circumstances exist which justify bail being granted.

Also, if a person is charged with the new sections of trafficking to a child and trafficking under sections 71AB, 71AC or 72D, again, the court must refuse bail unless the person has shown cause.

Last Saturday, 13 October, the Ballarat *Courier* had an article on the front page under the heading 'Drug raid', which relates an interim court decision of the Ballarat Magistrates Court the previous Friday which saw nine people charged with trafficking in drugs. It resulted from a two-month operation by the local Ballarat regional response unit. The prosecutor alleged there had been drug runs up to twice a day between Footscray and Ballarat. I was saddened by the article because of the ages of the persons charged: a 15-year old male; a 19-year old male; a 45-year old male; a 26-year old male; a 41-year old male; a 34-year old male; and three women aged 35, 32 and 42. They have all been charged with trafficking and a total of 65 charges. It is to be noted as well — and from my point of view it was very sad reading — that six of the nine defendants had applied for bail before Magistrate Michael Stone. They had cited exceptional circumstances as jobs which they wanted to hold down, invalid parents to care for and children to care for. I would have thought they would be the very reasons those people should not have been undertaking criminal activity. Bail was refused on the grounds that the charges were so serious and they had not shown cause to the court to be released. They were remanded in custody to appear on 13 December.

In conclusion, drugs and drug-related crimes are the major problems facing the community, the criminal and justice system and the correctional system. The bill fulfils the government's pre-election commitments of a safe and just society by introducing tough penalties for offenders who are convicted of trafficking and cultivating commercial and large commercial quantities of drugs of dependence. The bill is one part of the government's comprehensive drug strategy that covers education, prevention, treatment and law enforcement in stemming the flow of drugs. I commend the bill to the house.

Hon. E. J. POWELL (North Eastern) — It is always difficult to be the last speaker on any debate because most of the matters you would like to put on record have already been raised. However, there are a few matters I would like to put on record. The first is that the National Party does not oppose the bill. However, it is disappointed because the bill only deals with one aspect of the drug problem. The Labor Party created an expectation in the community that it would do a lot more, and the community at large expected that one of the first bills on drugs from the Labor government would have a lot more in it.

On 21 March this year a non-political, joint parliamentary sitting was held. Everyone who attended was impressed with the level of expertise of the people discussing drugs. Discussion was mainly about the importance of a drug strategy. The government in its second-reading speech said that it understood the clear need for a prevention, education and treatment strategy and the provision of services, and it acknowledged it was essential to stem the supply of drugs. The National Party agrees that it is important to stem the supply and sale of drugs and that we come down hard on those supplying and selling drugs. As I said before, the National Party is disappointed that the government is dealing with only one aspect of the drug-dealing scene. It is almost the same as when the government came forward with its safe injecting rooms legislation.

The drug issue cannot be dealt with in isolation. There must be a broad-based strategic plan. On 21 March at the forum in Parliament House that was the topic that nearly all the speakers spoke about — the importance of a 10-year strategic plan. Most of the speakers tonight have agreed that the problem will not be fixed overnight, and the National Party agrees. The problem will not be fixed overnight but the Labor government has missed an opportunity of putting a strategic plan into action that we could all agree with.

The bill deals specifically with drug trafficking and cultivating and introduces harsher penalties. The bill also deals with the general offences of trafficking and cultivating, and the more serious offences apply where substantial amounts of drugs are trafficked and

cultivated. Dr John Ross talked about the types of drugs that constitute a substantial amount of drugs.

A much more serious offence is where drugs are trafficked to children. We all feel that if drugs are being trafficked to children it is a much more serious case and charges and sentences should be much harsher. In 1997 the former coalition government introduced higher penalties for trafficking less than a commercial quantity to a child and, as I said earlier, these people who deal in drugs to young people should be dealt with to the full extent of the law.

The former coalition government also introduced confiscation laws and, as many speakers have said tonight, those laws are about the toughest in Australia. As other speakers have said, when people buy things with the money they get from the supply of drugs they deserve to lose those assets. If people are convicted of serious crimes their restrained properties can be automatically forfeited unless they can prove those properties were obtained lawfully. I would like to congratulate the former Attorney-General, Jan Wade, for bringing that bill forward to the house.

The new offence of trafficking in a large commercial quantity of drugs is, as the house has heard, to catch the Mr Bigs who make profits from the drug trade. As the Honourable Ron Best said in his presentation, the Mr Bigs who often evade the force of the law are the scum of the earth. They prey on vulnerable people, and we find that it is usually the people who are lower down the ladder who get caught, and they are the ones that go before the courts. The Mr Bigs seem to be able to escape the full extent of the law. In some way the bill will be able to catch those people in the net.

Large-scale commercial trafficking is defined in the bill as any amount more than 750 grams of pure heroin, cocaine or amphetamines. The bill also introduces a sentence of life imprisonment for offences that relate to a large commercial quantity of drugs and increases the fine to $500 000. It also enables the aggregation of different types of illegal drugs of dependence so that an accused can be charged with an existing offence of trafficking or cultivating a commercial quantity of those drugs. It enables the aggregation of different forms of the same drug — for example, cannabis plants as opposed to cannabis resin. Now the two can be combined, and that will make up the charge of trafficking or cultivating those drugs as a combined amount to incur those higher penalties and costs.

The bill removes the capacity of the Magistrates Court to deal with certain indictable drug offences, and that makes sense because in the Magistrates Court the maximum sentence is three years, so these sorts of sentences for higher drug usage should be heard in the Supreme Court. The harsher penalties bring Victoria into line with other Australian states and the commonwealth. At the moment drug traffickers and sellers are able to be dealt with less harshly in Victoria, and that may be seen as an advantage. We want to make sure they understand that Victoria will now deal with them just as harshly as every other state.

As I said earlier, the National Party does not oppose the bill, but it believes there needs to be a comprehensive strategy. As the Honourable Ron Best said in his presentation, the National Party believes there should be more rehabilitation programs and treatment facilities, particularly in country Victoria. There should be more education in schools. The Life Education program that goes around to country schools is doing a fantastic job. Last week I was at a school where the Life Education van was coming for three days. Everyone was very excited to have the van at the primary school. The program teaches young people about healthy lifestyles and the risks of saying yes to these types of drugs. It teaches them about the impact of drugs on their bodies.

More counselling services are needed, particularly in country Victoria. Harsher penalties are needed for drug dealers and traffickers and growers, and the bill in part addresses that point. The former police commissioner, Mr Neil Comrie, when addressing the joint parliamentary sitting spoke about the importance of breaking addiction at the time when the person wants to break their addiction. It is important that when a user decides to stop the support is there. At the moment in the Goulburn Valley we are finding that we do not have enough beds for rehabilitation and detoxification. Teen Challenge, which is in Kyabram in my electorate, does a wonderful job but has no government funding. It is funded by the church and by the goodwill of the community. The facility has 30 beds, and it would like to increase that number to 60. It has a great success rate.

The Percy Green Memorial Recovery Centre in Shepparton applied for funding for extra beds. I wrote to the Minister for Health to seek support for the centre and for more beds for rehabilitation. I quote in part my letter to the minister dated 28 March, which was just one week after the joint parliamentary sitting where we all discussed how important it was that we have a strategy in place to treat drugs and how we all need to work together to fight drugs. My letter states:

> Following the recent joint sitting of Parliament on ‘Drugs: education and prevention strategies’, it is timely to raise the issue of the urgent need for increased rehabilitation facilities for drug and alcohol rehabilitation in Shepparton and region.

> I wrote to you on 27 February 2001 about the urgent need for more drug and alcohol rehabilitation facilities when I forwarded to you a letter from Miss Dawn Mazzocchi, and I am awaiting your reply.

That letter was about a private nursing home in Shepparton that was up for sale, and a number of community members thought it would make a great facility to help people in need of rehabilitation. The letter I sent to the minister was in support of Mr Brian Thomson of the Percy Green Memorial Recovery Centre, who wrote to me seeking assistance and support for funding to purchase a property in Kialla. The property had come on the market for $500 000. The Percy Green Memorial Recovery Centre has seven beds available and has a statewide catchment for its target group. The proposed facility in Kialla would enable it to increase its beds to about 40. Mr Green went on to say that it was not unusual for people to wait four months to be placed in a rehabilitation facility in this area.

I am also advised by Mr Thomson that people will try up two to three times to get into a facility but when they are knocked back they do not ask for help any more, they just continue with their drug addiction. The Percy Green centre currently helps about 60 to 80 clients a year, and the waiting list is endless.

I will read part of the minister's response, dated 28 May, which was quite disappointing. The minister thanks me for my letter and states:

> Like most rural regions, Hume region's population is not large enough to support a generalist drug treatment residential service, however, when needed these services are provided by specialist agencies funded as statewide services.

There was no support to establish a rehabilitation centre in the Shepparton region. I was quite disappointed to read in the *Shepparton News* of Friday, 28 September, a press release by the Minister for Health headed 'Help for addicted youths'. The article states:

> Young Shepparton drug and alcohol users will have access to a new 15-bed rehabilitation centre based in Melbourne. The centre, designed for youths between 15 and 20, will be established at Eltham within a year.
>
> During its construction, clients will have access to a temporary centre at Yarrambat.
>
> Health minister John Thwaites described spiralling drug use in Victoria as 'a matter of urgency'.
>
> The $3 million centre is one of eight planned by the state government.

I would like to know where the other seven are going to be built and if any are going to be built in country Victoria. The minister continues:

> Heavily addicted patients statewide will have priority access, and treatment will include medical assistance and counselling programs.

Most people from Shepparton would find it very hard to have access to this rehabilitation centre. It is in Melbourne, which means the support, care and love of families will not be available.

At the joint sitting of Parliament on 21 March there were many speakers who were experts in their field. Everyone at that meeting wanted to find a solution. There was discussion about the need to give support when addicts are looking for help. A principal spoke about the importance of education in schools, and I mentioned the Life Education program earlier in my contribution. I was very impressed with the contribution of Peter Wearne, a social worker who talked about his long-term work with addicts on the streets. He supported the concept of it taking a village to raise a child. As he said, not everybody comes from a loving, supportive family. We need the help of the police, the community, the Parliament and teachers to help us find solutions.

While the National Party is pleased to support harsher penalties for drug traffickers, it is disappointed that the Bracks Labor government did not bring forward a full, long-term strategy plan to deal with the growing drug problem. Therefore it has let down the community of Victoria.

Hon. K. M. SMITH (South Eastern) — My contribution on the bill will be short. It will probably come back to haunt me, but I congratulate the government on the legislation. It has certainly taken a tougher look at some of the laws that relate to drug dealers. However, I do not believe the bill has gone far enough, and there are some weak points in it. I do not believe an amount of 750 grams for heroin is a realistic figure; I believe 250 grams would have been a far better amount to have looked at as being a large amount of heroin.

When we were in government and brought in the confiscation of assets legislation we had the people who are now in government slagging off at us for talking about taking away and confiscating the assets of those drug dealers. Now we find this government making out that this is its legislation and it was their idea to bring this in. I do not think that is good enough.

I got up to support the Honourable Ron Best in some of the matters he raised. It does not matter what legislation we bring into the house — no matter how tough this legislation is, no matter what we suggest as far as drug dealers are concerned — while we have some

weak-kneed, lily-livered, weak-gutted lawyers, judges and magistrates, who are not prepared to hand out sentences that reflect the community's concerns on drug dealers. We need to have judges who are going to have the courage to stand up and not make excuses and let off dealers when handing out sentences to those who have been caught pushing drugs to kids. We heard Mr Best talk about some of the drug dealers that the judges and magistrates had left off, and some of the lawyers who defend those people when they know damn well at the start that those people are drug dealers who have been pushing drugs not only to kids but to some of the poor unfortunates in our community. The sooner this government starts to look at some of the weak judges there are and some of the left-wing — —

Hon. D. G. Hadden interjected.

Hon. K. M. SMITH — What I am saying is — —

The DEPUTY PRESIDENT — Order! Mr Smith!

Hon. K. M. SMITH — I should not have been interrupted by the defence lawyer in the front row over there trying to defend her lawyer mates who are defending these drug dealers — the scum of the earth. The minister can laugh, but they are the lowest form of life there is — the drug dealers that are on the streets in Melbourne, in your suburb, pushing drugs to people. While we still have judges who are not prepared to put themselves in the position to stand up and be counted we are never going to be able to address this problem properly.

The DEPUTY PRESIDENT — Order! Mr Smith needs to be very careful in this house not to be disrespectful to the judiciary.

Hon. K. M. SMITH — I would not be disrespectful. I will not name one of those judges. I would like to name heaps of them because there are plenty of them there. My contribution is that the sooner we do something about getting some judges who are going to be prepared to hand out sentences that reflect the community's attitudes the better off we are going to be, because then we might start to win the war against the drug dealers.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank the Honourables Carlo Furletti, Kaye Darveniza, Ron Best, Cameron Boardman, John Ross, Dianne Hadden and Jeanette Powell for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

STATUTE LAW FURTHER AMENDMENT (RELATIONSHIPS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. R. THOMSON (Minister for Small Business).

ADJOURNMENT

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

That the house do now adjourn.

Stamp duty: conveyancing

Hon. N. B. LUCAS (Eumemmerring) — I address a matter to the Minister for Small Business relating to the attack on real estate agents in the other place by the Treasurer when he suggested they were trying to push stamp duty rates down so that people involved in real estate could make up the difference. That has caused a lot of angst and concern amongst real estate people right across the state of Victoria. I am aware that the Real Estate Institute of Victoria has written expressing its views on the issue.

The Treasurer's attack was then brought into this place when the Honourable Jenny Mikakos suggested that maybe the state government should do something to reduce the commissions paid to real estate agents. That seemed to me to be a most unfortunate turn of events and something of which the government should not be proud. I ask the minister responsible for the Estate Agents Act to explain how vendors would suddenly pay agents operating these small businesses more in the event of purchasers paying less stamp duty?

Pakenham Livestock Exchange

Hon. W. R. BAXTER (North Eastern) — I direct my question to the Minister for Energy and Resources for referral to her colleague in another place responsible for water supply, the Minister for Environment and Conservation.

I refer to charges being levied on the livestock exchange at Pakenham for the operation of the truck wash. These charges are being levied by the water supply authority and have gone up very substantially with the result that many of the transport operators who have been utilising that truck wash are finding it a heavy burden on their operations. It is important in maintaining our clean and green image to ensure that livestock transports are kept in a clean and healthy condition. It is a requirement, for example, before trucks can return to Tasmania that they be thoroughly cleaned. I am advised by transport operators in my electorate who have used this facility and found it very good that the price increases are quite steep and are discouraging trucks from being washed properly.

I am not suggesting that there is any sense of profiteering in this. It may be a cost recovery charge that has been established taking into account the costs involved in treating the waste generated by washing trucks, but as has been explained to me, the charges seem high. I would like some investigation by the minister and some response to make sure that the charges can be justified in terms of the treatment costs.

Greater Dandenong: performing arts centre

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Industrial Relations for referral to the Premier in the other place. In March this year the Premier visited Dandenong and announced that the Victorian government would contribute $5 million from the Community Support Fund for a proposal of the City of Greater Dandenong to develop the town hall into a $15-million performing arts centre. I refer to an article in the *Dandenong Examiner* headed 'Art centre jackpot', in which the Premier indicated that if the council elected not to proceed with the performing arts centre the $5 million from the Community Support Fund would still be made available to the City of Greater Dandenong.

Recently the City of Greater Dandenong held a briefing for members of Parliament at which I asked the chief executive of the city what assurances it had received from the Premier that it would obtain that $5 million from the Community Support Fund, given that it was not proceeding with the performing arts centre. The chief executive informed me that there was no agreement between the government and the council for the receipt of that money. I ask the Premier to outline the basis on which the City of Greater Dandenong will receive the $5 million Community Support Fund grant the Premier indicated it would receive irrespective of whether it proceeded with the performing arts centre.

Litter: roadside

Hon. B. W. BISHOP (North Western) — I address my question to the Minister for Energy and Resources, representing the Minister for Conservation and Environment in another place. In the past couple of months I have had a strong community push to apply measures to clean up the rubbish we see on our highways and roadsides. Perhaps a better method would be to provide some sort of program or mechanism to ensure that the rubbish does not get on to the roadsides at all!

I can remember years ago that we used to get a small amount of money back when we returned bottles, which seemed to have a worthwhile effect at that time. However, I suspect people's attitudes have now changed; nowadays they are probably even more careless with waste such as bottles and other products we see on our roadsides. For example, we now see supermarket trolleys left in the most unusual places, often a very long way from supermarkets.

I know South Australia has a program, supported by legislation, that reduces littering and encourages recycling. I believe that legislation has been in place for about 25 years. However, I am not sure how it has stood the test of time in South Australia. Will the minister initiate and fund some worthwhile research to fully examine the best way to deal with the bottles and rubbish littering our roadsides?

Rugby Union: Super 12

Hon. P. A. KATSAMBANIS (Monash) — I raise an issue with the Minister for Sport and Recreation. On 3 July this year the minister issued a press release calling for the proposed fourth Australian team to be established in the Rugby Union Super 12 competition to be based in Melbourne. At that time the minister was caught up in the euphoria of the very successful British Lions test match that was held at Colonial Stadium. Among other things he said in his press release that to become a truly successful national code Rugby Union should be played at the highest level in the Australian sports capital, Melbourne. That is a quote from the minister!

I happen to agree with many Victorians and the minister that it would be a good thing to establish a Super 12 site in Melbourne. It would have significant benefits for sport as well as for the promotion of Melbourne internationally and across Australia. The benefits that would flow from the establishment of a Rugby Union Super 12 team in Melbourne would be immense. That is why I now request the minister to advise the house exactly what specific action he has taken personally since 3 July to make this dream of having a Super 12 team based in Melbourne a reality.

Forests: road networks

Hon. P. R. HALL (Gippsland) — I raise a matter with the Minister for Energy and Resources, representing the Minister for Transport in another place. It concerns the timber industry roads evaluation study (TIRES). This study investigated the best way to upgrade and improve local and regional transport infrastructure in support of anticipated growth within the timber industry. The committee was chaired by a very capable man from north-east Victoria, Mr John Tanner, who did a terrific job, and included representatives from timber producing regions, including Mrs Helen Hoppner, who is the chair of the Gippsland TIRES group and who also did a great job. It also included people from the Private Forestry Council, representatives of Timber Towns and also representatives of various government departments.

The study reported that sales of timber products are expected to increase from the current $115 million to more than $1 billion by 2035, so it is a long way ahead. However, they are the sorts of figures that have been estimated. Jobs are expected to increase from 6000 to 9000 over that time from the growth in plantations.

To realise that very significant growth in export income and jobs local roads carrying timber traffic will need to be improved. The strategy recommended an investment of $96 million over 10 years on some 307 projects if the potential for that growth is to be realised. Normally the responsibility for upgrading local roads is with local government. I ask the Minister for Transport whether the Better Roads program would be an appropriate forum to provide assistance to local government. I also request the Minister for Transport to consider in the next budget the appropriation, as recommended by the study, of $96 million over 10 years to ensure that the potential growth in the timber industry is realised.

Little Collins Street: traffic control

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources, representing the Minister for Transport in the other place, on an issue of road safety. The area of concern is not in the South Eastern Province but 100 metres or so from this very building. Many members of the public and those who work in several buildings at 1 to 4 Treasury Place and in this building have to cross the intersection of Little Collins Street and Spring Street. There is a pedestrian crossing next to the Windsor Hotel. On many occasions, under difficult lighting conditions with rain or in the dark, traffic does not stop at those lights. Drivers confuse those traffic lights with the lights in Collins Street. The pedestrian crossing is poorly lit and heavily trafficked by pedestrians.

I respectfully suggest to the minister that it urgently needs attention. It definitely needs increased lighting so drivers can see pedestrians, and perhaps extra traffic lights. Will the minister have this pedestrian crossing examined at an early date, add a much higher level of lighting to highlight pedestrians, and also add extra traffic light units to make the traffic lights much more noticeable?

Moira Healthcare Alliance

Hon. E. J. POWELL (North Eastern) — I raise with the Minister for Small Business, representing the Minister for Community Services, the issue of home and community care (HACC) funding for the Moira Healthcare Alliance, an excellent organisation working under high duress. I received a letter from the manager, Mr Steve Doran, who is concerned about the prospect of the Moira Healthcare Alliance not receiving additional HACC funding to address its current waiting list for a number of its services. It did not receive any additional funding in the 2000–01 HACC funding round, and the board of management has now introduced a waiting list for a number of its services. The major ones that are causing concern are Meals on Wheels and home care.

There are currently 20 clients on the home care waiting list, and without additional funding being provided those people are likely to remain without a service until early in 2002. Many require those services urgently. The organisation is also requesting funding to employ a community services officer. The Shire of Moira is the only local government area in the Hume region which has not received funding for that position.

An article in the *Border-Mail* of 10 May headed ‘Meals crisis’, with the subheading ‘Demand outstrips shire’s funding’, states:

> The family services department Hume region director, Dr Tom Keating, said Moira had been disadvantaged by the funding system but this was being corrected.
>
> Dr Keating said the underfunding would be corrected next year.

He has mentioned it to the organisation, but it will be too late because it has a huge waiting list of people. The HACC funding round closes on 2 November 2001, and this matter is urgent. Once the available funding is allocated there will not be another opportunity for a further 12 months. By that time the service will be disadvantaged. It will also put further pressures on the other services. I ask the minister to review the HACC funding program for the Hume region and ensure that extra funding is available for this financial year for the Moira Healthcare Alliance, particularly for their Meals on Wheels program, home care services and the employment of a community service officer.

Dexta Corporation Ltd

Hon. C. A. FURLETTI (Templestowe) — I wish to raise an issue with the Minister for Small Business which relates to a matter that I raised in the adjournment debate on 27 September. The minister may recall that she was absent from the house at that time but that it had to do with delays in builders obtaining their building insurance from Dexta Corporation Ltd.

I raised the matter as a matter of urgency at that time, and I followed up with a letter to the minister on 5 October, a week or so later. It is now three weeks later. The reason I raise it tonight is that again I have been approached by constituents who have indicated that their building insurance is being delayed for no apparent reason. At that stage I asked the minister what she would do to expedite Dexta Corporation having these certificates issued, because the minister would be aware that they do not have building registration unless that happens.

I urge the minister to treat it as a matter of extreme difficulty for many builders in Victoria, and she should take, through her offices, whatever course of action she can to ensure that the problem is resolved.

Rail: Mitcham–Blackburn

Hon. B. N. ATKINSON (Koonung) — I raise a matter with the Minister for Energy and Resources, who is the representative in this house of the Minister for Transport. Prior to the last state election the Labor government suggested that it would be pursuing a third express railway line between Mitcham and Blackburn as an improvement to the eastern suburbs rail connection on the Belgrave–Lilydale line. I therefore ask the Minister for Transport about the progress of that particular project, when it might be realised, what work has been done at this stage in terms of developing the engineering works and a scope of works to achieve that particular project, and when the people of Koonung Province might expect that rail line to be completed.

Snowy River

Hon. R. M. HALLAM (Western) — I raise a matter with the Minister for Energy and Resources. I am sure the minister will not be surprised that I again address the issue of the Bracks government's claims regarding increased environmental flows in the Snowy River and, more particularly, the financial reporting of the investment said to be dedicated to that purpose. The reason I seek further clarification is that the minister apparently misunderstood my question of last evening. Far from explaining the distinction that she seeks to make between a budgetary allocation on the one hand and actual expenditure on the other hand, her response confused the issue even further.

I refer the minister to table B10 headed 'Output initiatives — Department of Natural Resources and Environment' which appears at page 259 of budget paper 2 for the year 2001–02. I stress for the benefit of the house, and the minister in particular, that that is the current financial year. The chart shows as an output initiative an amount of $40 million for the year 2000–01 — in other words, the previous financial year — even though the minister has confirmed the funds have not been expended.

I suggest to the chamber that the situation has become farcical because the government is now counting a previous financial commitment which may have been given in good faith at that time but which by the minister's own confirmation has not been fulfilled. I suggest to the minister that if it is so easy to demonstrate financial support for a particular cause why settle for $40 million? Why not make it $400 million and really impress the pundits? My point is that the budget documents are meant to be a financial statement, not a public relations exercise. I ask of the minister: will she now acknowledge that table B10, to the extent that it reports $40 million as an output initiative for the previous year, is not only inaccurate but actually misleading?

Queenscliff High School site

Hon. I. J. COVER (Geelong) — I raise a matter with the Minister for Industrial Relations, as the representative in this house of the Minister for Finance.

I seek advice as to whether the minister has already determined that the former Queenscliff High School site is surplus to requirements and has decided to sell it off, thus confirming that a public consultation process, chaired by the other honourable member for Geelong Province, is a sham. I quote a letter in today's *Geelong Advertiser*, which states:

> What a farce this community consultation has been …

The writer, Nan Gallagher of Point Lonsdale, started out by saying that she was full of optimism about the process and that she had even been complimentary about the government and Mrs Carbines. Then she says:

> Silly me, for being naive enough to believe that the overwhelming support for the site to remain in public ownership had been accepted by the Minister for Planning and the minister for treasury and finance.

Mrs Gallagher explains that at a public meeting on 30 September Mrs Carbines:

> … came clean at the start … and told us the government was still planning to sell the site. Then, at the conclusion of the afternoon, she reiterated that the site would be sold.

All this after public meetings, the formation of a community advisory group which thought it was going to have a say in the future of the site and much political grandstanding and publicity seeking by the other honourable member for Geelong Province.

Mr President, the chickens have come home to roost, and people such as a Nan Gallagher can smell a foul odour. They are awake up to this deceitful government's con job on the Queenscliff and Point Lonsdale communities.

The PRESIDENT — Order! Mr Cover should either ask a question or make a complaint.

Hon. I. J. COVER — I seek advice as to whether the minister has already determined that the former Queenscliff High School site is surplus to requirements and has decided to sell it off, thus confirming that a public consultation process, chaired by the other honourable member for Geelong Province, is a sham. Thank you for the opportunity to repeat the question.

Stamp duty: conveyancing

Hon. D. McL. DAVIS (East Yarra) — I refer the Minister for Energy and Resources, as the representative in this house of the Treasurer, to an issue that this house is now well familiar with — that is, stamp duty rates in Victoria. As honourable members will be well aware, Victoria has the highest stamp duty rates in Australia. The state government had an opportunity to review business taxation in the Harvey review but chose not to provide a proper review.

The Treasurer in the other place made a number of statements recently and I understand the Real Estate Institute of Victoria (REIV) has written to him as a result. I am indebted to Ray Hudson Real Estate in my electorate, which has provided me with a copy of that letter. I will quote from the letter and seek some comment from the Treasurer. The letter dated 10 October from Enzo Raimondo of the REIV to the Treasurer reads:

> Further to my letter of 4 October, I write to express my alarm and disappointment about comments you made in the Legislative Assembly yesterday regarding the motivation of our campaign to reduce stamp duty on residential conveyancing in Victoria.

He goes on further to quote the Treasurer's comments in the Parliament and says:

> To state that ' … this campaign is about … trying to push stamp duty rates down so that real estate agents can make up the difference …' (presumably in commissions) is not only incorrect, but also disingenuous on your part. Could you please explain how and why vendors would suddenly pay agents more, in the event of purchasers paying less stamp duty.

He goes on to say:

> Regrettably, Victorian homebuyers don't have the luxury of shopping around for a more attractive stamp duty rate …

And how right he is.

Hon. Jenny Mikakos interjected.

Hon. D. McL. DAVIS — Your contribution the other day was a disgrace! He says:

> I am also disappointed that you would impugn such motives on the REIV, which has at all times conducted itself in a professional manner …

I think that is right, Mr President.

The PRESIDENT — Order! I invite the honourable member to ask his question.

Hon. D. McL. DAVIS — My question is: will the Treasurer stop his vindictive campaign against the REIV and apologise?

Skate parks: Port Phillip

Hon. ANDREA COOTE (Monash) — I was extremely fascinated yesterday to listen to the Honourable Kaye Darveniza ask the Minister for Sport and Recreation about skate parks and recreational

activities for young people and to hear the minister wax lyrical in his answer about how important skate parks and recreational activities are for young people. He was also very pleased to say that councils were encouraging such parks.

I have asked the minister on several occasions about a skate park for my electorate and for the City of Port Phillip in particular. I will quote from a news release from the City of Port Phillip and our mayor, Cr Julian Hill, whom I think the minister knows.

Hon. T. C. Theophanous — He will only do it if you are the first one to use the skate park.

Hon. ANDREA COOTE — You're on! Julian Hill says:

> The proposed plans include an open parkland area where people can relax, picnic or throw a prawn (or a snag) on the barbecue. A number of paths could intersect the area. This part of the project is funded by the council with additional funding to come from the state government subject to application. Pending state government funding, there could be a skate park for in-line skating, skate boarding and BMX riding — a badly needed hub for the younger generation.

That is, all the elements the minister spoke of when he was answering the Honourable Kaye Darveniza. Here is a council ready to go. Given that we have heard how the minister is a great advocate for such parks, when will he finally approve a skate park for the City of Port Phillip, or is it last on his list because this is a metropolitan council and not a rural and regional council?

Water: diversion licences

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources, as the representative in this house of the Minister for Environment and Conservation, on an issue relating to the ability of primary producers such as horticulturalists, fruit growers and other farmers to obtain water diversion licences that would enable them to irrigate crops from natural water sources such as creeks, rivers and lagoons.

I am concerned by reports coming to me from primary producers in my electorate of Silvan that Melbourne Water has placed a moratorium on the granting of new water diversion licences. This is causing great concern for primary producers in my electorate who are engaged in intensive agriculture, including berry growers, growers of stone fruits and cut flower industry producers. They are concerned that such a moratorium will stifle development of these valuable Victorian and Australian industries; however, the bottom line for them is that their livelihoods are at risk as a result of this purported moratorium.

I ask the minister if there is such a moratorium on the granting of these licences in place and, if so, why it has been put in place. If there is no moratorium will the minister advise me as to the number of such licences that have been granted in the past 12 months in Silvan, Monbulk, Seville and Wandin?

HMAS *Yarra*

Hon. G. R. CRAIGE (Central Highlands) — I raise with the Minister for Industrial Relations, as the representative in this house of the Minister for the Arts, an issue relating to a ship, HMAS *Yarra*, which was commissioned in 1936 and sank in 1942. My request is for the history of this ship to be recorded in the form of a documentary. The second HMAS *Yarra* played an important role in not only Australia's history but also Victoria's history.

Most naval historians recognise that the details of the final battle of the HMAS *Yarra* are the bravest and most courageous events ever recorded in the annals of the Royal Australian Navy. I have had the pleasure of assisting in finding a home for the HMAS *Yarra* national memorial, which was dedicated on 12 November 2000 at its location at Newport. I encourage those who have not been there to go to see a very striking memorial and, more importantly, one that has been dedicated to many people.

I support HMAS *Yarra*, and although I notice some government members sometimes treat these issues light-heartedly, I certainly do not treat this one in that way. I support this ship simply because I served on a namesake of HMAS *Yarra* — a River class destroyer escort. There have been three ships called HMAS *Yarra*, which have all served us well. In March 1942 the HMAS *Yarra* was escorting a small convoy to Australia and on 4 March was attacked by three Japanese navy cruisers and two destroyers. It was not much of a battle, given that the Japanese ships had 30 8-inch guns and all she had was a 4-inch gun. The ship sank and 138 men, the captain and all officers were killed. Only 13 survivors were pulled from the water by a Dutch submarine.

On behalf of the working group, the memorial coordinator, Angus Walsh and his many supporters; the many men who lost their lives; and the surviving relatives, I make a request to have the final battle of HMAS *Yarra* recorded, and I ask the minister to consider Cinemedia funding such a dedication to this heroic ship and her ship's company.

Electricity: tariffs

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources. Yesterday in the house the minister outlined the process by which standing offer price increases for electricity will be considered. These comments were pre-empted by the Premier's advice that he had the final decision and that 16 per cent was too high. Will the minister confirm that the Premier has the final decision?

Yarra Valley Hockey Club

Hon. BILL FORWOOD (Templestowe) — I raise an issue tonight with the Minister for Sport and Recreation.

Hon. I. J. Cover — You didn't tell me!

Hon. BILL FORWOOD — No, I didn't. In this place over the past two years my colleague Mr Furletti and I have raised the issue of the Yarra Valley Hockey Club on more than one occasion. I guess we are up to 4, 5 or even 6 occasions now. I refer the minister to Mr Furletti's inquiry of 30 May 2000 when the minister said in response to concerns raised by my colleague, and I quote:

> I am happy to inform the honourable member that I can give the club my assurance it will not be without a ground in coming seasons.

Since then we are a year on and the club is obviously not going to be playing at the Northcote velodrome any more. An article in the *Heidelberg Leader* of 21 August starts off by saying:

> Yarra Valley Hockey Club says it could be facing extinction as the likelihood of it being homeless next season increases every day.

On 31 May last year Mr Furletti wrote to the club saying:

> I raised a question during the adjournment debate … a copy of which is enclosed …
>
> I hope you will find the minister's response reassuring.

The minister's response, which I just quoted, was that the club would not be without a ground in coming seasons. The club is now feeling more insecure than it did then. I look for a reiteration of the minister's previous commitment that the club will not be without a ground in the coming seasons.

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Gordon Rich-Phillips raised a matter for the Premier. I will pass that on and ask him to respond in the usual manner.

The Honourable Ian Cover raised a matter for the Minister for Finance, and I will pass that on to her and ask her to respond in the usual manner.

The Honourable Geoff Craige raised a matter for the Minister for the Arts, and I will pass that on to her and ask her to respond in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Bill Baxter requested that the Minister for Environment and Conservation examine water treatment charges for truck washes, and I will refer that matter to the minister.

The Honourable Barry Bishop requested that the Minister for Environment and Conservation examine research into the most effective way to deal with roadside rubbish. I will refer that matter to the minister.

The Honourable Peter Hall requested that the Minister for Transport provide assistance to local government for local roads associated with growth in the timber industry. I will refer that request to the minister.

The Honourable Ron Bowden requested that the Minister for Transport examine the need for increased safety measures associated with the pedestrian crossing adjacent to the Windsor Hotel in Spring Street. I will refer that request to the minister.

The Honourable Bruce Atkinson requested that the Minister for Transport advise progress on the extension of the Mitcham–Blackburn rail line. I will refer that matter to the minister.

In reply to the Honourable Roger Hallam, the answer is no. I am advised that it is perfectly appropriate that the 2001–02 budget papers reported the $40 million as an output initiative for 2000–01 even though the greater part of the funds made available by the Treasurer were not expended in that year. Clearly that has implications for cash flows in the years ahead.

Hon. R. M. Hallam interjected.

Hon. C. C. BROAD — It was a Treasurer's advance.

The Honourable David Davis requested that the Treasurer apologise to the Real Estate Institute of Victoria. I will pass on that request to the Treasurer.

The Honourable Andrew Olexander requested that the Minister for Environment and Conservation provide advice to him about whether or not there is a

moratorium on water diversion licences in certain areas, and if not, information about the number of licences being issued. I will refer that matter to the minister.

In answer to the Honourable Philip Davis I again indicate that as the minister responsible for the Electricity Industry Act I retain the option of exercising the price regulation powers under that act following consideration of the report after investigations by the Office of the Regulator-General.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Neil Lucas raised the matter of real estate agents' commissions and the relationships between vendors and real estate agents. That is a commercial relationship between the vendor and the agents; they set an agreeable sum and negotiate between themselves.

The Honourable Jeanette Powell raised a question concerning home and community care (HACC) funding. The Moira Healthcare Alliance is needing additional funding for Meals on Wheels, home care and a community services officer. It has been told that it will get the funds next year, but requires the funding for this year and asks the minister to review the HACC funding arrangements for the Hume region to see if payments could be made to the Moira Healthcare Alliance this financial year. I will pass that on to the minister for a response to the honourable member.

The Honourable Carlo Furletti raised the matter of builders' insurance, which he raised on the adjournment debate of 27 September. He did write to me about it, and I believe I have signed off on a letter to the honourable member about this matter. The letter outlines the additional support we gave to Dexta Corporation Ltd to assist it in dealing with the number of applications being made for insurance by builders.

I understand that — and this is just off the top of my head, so I am not sure about the accuracy of it — Dexta Corporation has employed about 25 people to assist it in dealing with the load now before it. As honourable members will understand, thorough scrutiny is used in going through the applications of builders, and that is delaying the process. However, I believe it would be worth while talking to the Building Control Commission about alternative insurance providers; it would be worth giving it a call. Certainly the advice we are giving to builders is to look at all options with insurance providers and not just rely on the possibility of one. That may also help in speeding up the process. I apologise if that letter has not reached the honourable member, but I certainly have prepared the response.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I refer to the question of the Honourable Peter Katsambanis regarding the potential of a Super 12 Rugby Union team in Melbourne. In the past 12 months I have spoken, either formally or informally, to a number of representatives from state, national and international bodies associated with the bid. I believe such a team could well complement the state's rich sporting tapestry in terms of not only events but also facilities. I have reinforced to those representatives that we offer outstanding facilities and have an outstanding sporting culture, and that any international sporting competition that requires a presence in Australia certainly could not overlook the appropriateness of market coverage through Victoria.

In relation to the question by the Honourable Andrea Coote regarding a skate park in the City of Port Phillip, probably about this time last year I met Crs Hill and Gross about the potential for a skate facility in the City of Port Phillip. I was very supportive of their proposal, but appreciated that there were some aspects that still needed to be resolved. I look forward to them making an application for this year's round of grants for such a facility, because it would certainly complement the dynamics of the population of the City of Port Phillip quite well.

In relation to the question by the Honourable Bill Forwood regarding the Yarra Valley Hockey Club, I again reinforce that it will not be without a ground this season. I have spoken with representatives of the club, and I believe the honourable member for Ivanhoe in the other place, Craig Langdon, is working very closely with members of the club to ensure that they have appropriate facilities for the oncoming season.

The PRESIDENT — Order! Before putting the question, I remind honourable members that they should lift up their microphones when they are speaking and they should not unhook the stems, because that can cause damage — and expensive damage.

Hon. G. K. Rich-Phillips — Good!

The PRESIDENT — So the general advice is: don't play with your wands.

Motion agreed to.

House adjourned 11.20 p.m.