

LEGISLATIVE ASSEMBLY

Wednesday, 13th November, 1991

Mr Speaker (The Hon. Kevin Richard Rozzoli) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

BILLS RETURNED

The following bills were returned from the Legislative Council without amendment:

Local Government (Movable Dwellings) Amendment Bill
Residential Tenancies (Movable Dwellings) Amendment Bill

PETITIONS

St Joseph's Hospital

Petition praying that the Minister for Health Services Management intervene to save St Joseph's Hospital from closure and that the necessary funding and support staff be provided to allow it to continue to operate as a public hospital, received from **Mr Shedden**.

Hunter Region Health Services

Petition praying that the House take action to ensure that no cuts occur in the delivery of health care services in the Hunter region which would result in the closure of public hospitals and or health facilities, received from **Mr Mills**.

Royal Hospital for Women

Petition praying that the House provide funding to the Royal Hospital for Women to ensure that it maintains its leadership role in women's health care, received from **Ms Moore**.

Conveyancer Licences

Petition praying that the House take the necessary action to license conveyancers in New South Wales and end the monopoly held by the Law Society of New South Wales, received from **Mr Amery**.

Adoption Information Act

Petition praying that the Government take urgent action to prevent the damage that will be done by the Adoption Information Act becoming effective in its present form, received from **Dr Macdonald**.

Unanderra Police Station

Page 4408

Petition praying that the Government and Minister for Police and Emergency Services reappraise the staffing formula for Unanderra police station and upgrade the staffing-manning level to at least six officers, received from **Mr Rumble**.

Woollahra Traffic

Petition praying that the House take all necessary steps to reduce the traffic volume in Ocean Street, Woollahra, and that Ocean Street be returned to a safe and pleasant street consistent with residential neighbourhood values, received from **Ms Moore**.

Paddington Traffic

Petition praying that the House remove clearway conditions from Oxford Street, Paddington, received from **Ms Moore**.

Reef Beach

Petition praying that the nudist classification for Reef Beach be revoked and that the beach be returned to general public usage, received from **Dr Macdonald**.

Chaelundi State Forest

Petition praying that the proposed logging of the Chaelundi State Forest not be proceeded with and that the area be declared an extension of the Guy Fawkes River National Park, received from **Dr Macdonald**.

Cooks River Pollution

Petition praying that the House take steps to restore the Cooks River to its original condition, received from **Ms Moore**.

Woolloomooloo Finger Wharf

Petition praying that public money not be wasted demolishing the structurally sound finger wharf and establishing a walkway on the western side of Woolloomooloo Bay but instead that basic renovations be carried out on the wharf and an integrated multimedia arts centre be established, received from **Ms Moore**.

Royal Agricultural Society Showground

Petition praying that the House will prevent the sale by the Government of foreshore and public parklands, including the Royal Agricultural Society Showground, the E. S. Marks

Athletic Field and part of Moore Park, and that residents be included on their administrative bodies, received from **Ms Moore**.

Sydney Harbour Foreshores

Petition praying that the House stop the sale of publicly owned land on the foreshores of Port Jackson and its waterways, including that currently leased from the Maritime Services Board, and retain such land in public ownership; acquire for the public foreshore land whenever the opportunity arises; and optimise public access to the foreshore, received from **Ms Moore**.

Walker Estates

Page 4409

Petition praying that the Government preserve the Walker estates, including Yaralla, for public use, received from **Ms Moore**.

Microchip Implants in Dogs

Petition praying that because of concern at the cost of microchip implantation for dogs and the long-term health problems that may develop in dogs from such a procedure, the House should not alter the Dog Act to make microchip implants in dogs compulsory, received from **Mr Hunter**.

Water Rate Payments at Post Offices

Petition praying that for the convenience of customers, particularly the elderly and those without private transport, the Minister for Housing reappraise the facilities available for the payment of water rates to include post offices, received from **Mr Rumble**.

Health Services

Petition praying that funding cuts to health services and hospitals cease and that funding be provided to ensure that waiting lists for hospitals and operations are eliminated, received from **Mr Gaudry**.

Nadgee Nature Reserve

Petition praying that the House not declare the Nadgee Nature Reserve as wilderness under the Wilderness Act, received from **Mr Cochran**.

QUESTIONS WITHOUT NOTICE

ROYAL PRINCE ALFRED HOSPITAL RESOURCES

Mr CARR: My question without notice is directed to the Minister for Health Services Management. Did he hold a meeting last night with the surgeons from Royal Prince Alfred Hospital at which he was unable to give details of any extra resources to the State's growth areas? Will the Minister confirm that two, and possibly three, wards are to be closed at the hospital and that surgeons will have to reduce the number of patients they are entitled to admit to the hospital?

Mr PHILLIPS: Is it not a coincidence that at the same time that this issue is raised at the Royal Prince Alfred Hospital the Australian Medical Association has been going out to the western area of Sydney and bullying its doctors to stop them speaking out about the resources going to the west?

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Londonderry to order.

Mr PHILLIPS: It has to be more than a coincidence. On Tuesday, 12th
Page 4410
November, the headline "West's doctors called traitors" appeared in the Penrith local press. The article read:

Western Sydney doctors have been called traitors and faced abuse and hostility from their colleagues for refusing to stay quiet on hospital inadequacies in the west.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Bankstown to order.

Mr PHILLIPS: The article went on to say:

The Australian Medical Association has rejected State government plans to re-allocate health resources from inner suburbs to hospitals such as Nepean, Hawkesbury and Liverpool, and asked its members to protest.

One can add to that the North Coast of New South Wales and the Central Coast. For the honourable member for South Coast I can add the needs of the hospitals of the Shoalhaven.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Bulli to order.

Mr PHILLIPS: The article quoted Dr Cregan, who was a little more blunt. He said, "They talk about centres of excellence [in inner Sydney] which means 'it is close to my home'. That is what Dr Cregan and some of the doctors out west feel about this. When honourable members talk to doctors in western Sydney I wonder how they really feel about the distribution of resources that are needed in other parts of Sydney and New South Wales. I met with the doctors last night, as I am willing to meet with delegations from hospitals. I am willing to go to hospitals and discuss issues.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Port Jackson to order.

Mr PHILLIPS: I have been to every area and region in the State at least once and have visited more than 50 hospitals. I shall continue to do that, because that is how one gets a feeling for what is happening on the ground. Last night the medical board of Royal Prince Alfred Hospital issued a press release, which I have to say contains outright lies or, at best, errors because the doctors do not really know what is going on.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Smithfield to order.

Mr PHILLIPS: That press release towards the bottom of the page reads:

The closures of Marrickville District Hospital, South Sydney Hospital, Rachel Forster Hospital Casualty, Western Suburbs Hospital Casualty, Sydney Hospital and St Vincent's Hospital Trauma Services will further increase the patient care load at Royal Prince Alfred Hospital.

As members would know, South Sydney Hospital has not closed.

Page 4411

Dr Refshauge: It did not say it has.

Mr PHILLIPS: It does say that, I just read it out. In case the Deputy Leader of the Opposition did not hear, I will read it again. The press release reads:

The closures of Marrickville District Hospital, South Sydney Hospital, Rachel Forster Hospital Casualty, Western Suburbs Hospital Casualty, Sydney Hospital and St Vincent's Hospital Trauma Services . . .

That is absolute nonsense. It is an outright lie and it is a nonsense. On a number of occasions last night the doctors stopped me and said: "Well, look, we understand your problems. We understand that you are not getting enough money from the Federal Government. We understand the budget is fine art - "

[Interruption]

Mr SPEAKER: Order! I call the Leader of the Opposition to order.

Mr PHILLIPS: " - but we did not come here to listen to your problems. We came here because we want more money". The press release also says that the hospital administrators and area boards have their hands tied by an inadequate budget. The administration is not saying that; the doctors are saying that - an inadequate budget. Let me refer in detail to what has been happening at Royal Prince Alfred Hospital. It could be argued that the budgets for Royal Prince Alfred Hospital have not increased at the rate the doctors want, but it cannot be argued that they have not increased. The budget at Royal Prince Alfred Hospital has been increased every year.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Bulli to order for the second time. I call the honourable member for Londonderry to order for the second time. I call the honourable member for Hurstville to order.

Mr PHILLIPS: Since the coalition parties came to office in 1988, the budget has increased by 11.9 per cent up to and including this year. The doctors claim the budget is inadequate. I understand that. If we examine the issue a little more closely, we find that productivity at Royal Prince Alfred Hospital has been increasing, and that is very commendable. For many years at Royal Prince Alfred Hospital efficiency has increased, new technology has been implemented and services have increased. That has meant that the hospital can do more with less beds. In the 1970s Royal Prince Alfred Hospital had more than 1,200 beds and there were 39,000 admissions each year. At the end of last year, the hospital had 908 beds, so the figure has decreased from 1,200 beds to 908 beds. The number of

patient admissions has risen from 39,000 to 51,000. That is the dilemma in health care services because members of Parliament and doctors want to argue about numbers of beds. We all know that health care is about services and the number of patients being treated.

The other thing that has happened at Royal Prince Alfred Hospital, this underfunded hospital, is the investment in capital works and new technology by the Government. Between 1986 and 1991 \$20 million has been spent on capital works, including the Page Chest Pavilion, accident and emergency, Gloucester House, the Albert Pavilion, and the list goes on. In addition - and this is what health care is all about - between 1988, when the coalition parties came to office, and 1991 \$18 million has been

Page 4412

invested in high technology enhancements. This is an underfunded hospital? This hospital gets \$193 million a year. It got \$36 million to \$38 million worth of investment in new technology and upgraded buildings. How do the staff of hospitals, especially in the west, the southwest, the North Coast and the Central Coast, where people are calling out for services, feel about the doctors at RPA saying that they want more money? We would all like to increase health funding but we are in a recession. The budget for RPA went up. Last year that hospital went \$3.6 million over budget. People at that hospital had been warned in advance - I have enforced that advice - that today if a hospital or, more importantly, an area goes over budget -

Mr Mills: Yes, you sack the chief executive officer and close the hospital.

Mr PHILLIPS: That is nonsense.

Mr SPEAKER: Order! I call the honourable member for Walsend to order.

Mr PHILLIPS: If they go over budget they have to find ways of adjusting their performance in accordance with the budget. If they make savings, they can keep those savings and invest them in new services or any other area. That is what is happening at RPA. I explained this and asked what the position was regarding the hospital going over budget. Their words to me were: "We do not care. The budget is your problem. Our problem is that we want to put more patients through".

[Interruption]

Mr SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr PHILLIPS: I have clearly demonstrated with the figures that the number of patients being treated at RPA has been going up. The level at which the staff will be asked to work this year will represent a 2 per cent increase on two years ago. Last year they went past their budget, so they have created a bubble, but they are still having growth. They want me to fund more and more growth for them at that hospital. I have to say to the doctors at Royal Prince Alfred Hospital that they have a responsibility, like the doctors at every other hospital in this State, to live within the budget they have. I want to know from those doctors, from Opposition members and from the Leader of the Opposition what hospital they want me to take the money from. That is the bottom line.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Coogee to order.

Mr PHILLIPS: The question of Eastern Creek Raceway has been raised. Opposition members are obviously concerned about alternative sources of funding. Let us look at what the Federal Government has been doing on health funding. I will be brief on this.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Broken Hill to order.

Mr PHILLIPS: Mr Speaker, I do not think this is a laughing matter. This is
Page 4413
an important issue. This is an argument between doctors in the west and doctors in eastern Sydney. It is about what has stalled the restructuring of health services in this State for many years.

[Interruption]

Mr SPEAKER: Order! There is too much interjection.

Mr PHILLIPS: If the Commonwealth Government had fulfilled the share of the New South Wales health budget that it fulfilled in 1985, I would have an additional \$250 million to spend on health. I did not want an increase; I just wanted the same proportion we had in 1985. The Federal Government's funding of this State has been falling. There has been a decrease in the Commonwealth's proportion of total health expenditure from 40 per cent in 1985 to 34 per cent in 1991-92. I have also demonstrated in the past that the health budget in New South Wales has been increasing. Who has been topping it up? The New South Wales coalition Government. We have nailed our flag to the pole.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Londonderry to order for the third time.

Mr PHILLIPS: We have shown clearly our priority for health care in New South Wales. The Federal Government has clearly indicated where it sits on health funding in New South Wales.

Mr Whelan: On a point of order. Mr Speaker, I do not think there is any need for me to draw your attention to the fact that the Minister has now been replying to a single question for 15 minutes. In view of the comments that have been made in this House on prior occasions -

Mr Peacocke: Barrie Unsworth used to go for 45 minutes.

Mr Whelan: If you want to go back to -

Mr SPEAKER: Order! The honourable member for Ashfield will direct his attention to the point of order and ignore the interjection.

Mr Whelan: The Minister has been on his feet for a considerable time. If this is a precedent, there will be time for only three questions and answers during question time. It is grossly unfair. Although it is not a ministerial statement, in view of the time that the Minister is taking to answer the question I ask that he conclude his answer to enable bona fide questions to be asked.

Mr SPEAKER: Order! I have no authority to take that action, although I am concerned about the length of the answer. I remind members of the Opposition that their interjections have led to the answer being lengthened. I caution them to listen to answers in silence so that many more questions may be asked. I ask the Minister for Health Services Management to draw his answer to a conclusion very quickly.

Mr PHILLIPS: Mr Speaker, I take careful note of your ruling. The question is obviously important and it needs an important answer.

Page 4414
[Interruption]

Mr SPEAKER: Order! I remind Opposition members that the very behaviour they have just displayed prolongs answers to questions. They should bear that in mind or stop complaining about the number of questions able to be asked.

Mr PHILLIPS: Mr Speaker, I wind up with this message: I have clearly demonstrated over the past four or five months that I will do what is necessary to restructure the health system to get the efficiencies that are necessary in the system. I will work with the Premier, Treasurer and Minister for Ethnic Affairs, who has clearly shown his priority to get as much money for health care funding in New South Wales as is necessary. I will work to get a fair distribution of that funding throughout New South Wales. I give the message to the doctors at Royal Prince Alfred Hospital to doctors and other people in the health industry everywhere that I am happy to have arguments and fights over what the level of their budget should be. They are looking at their little hospital, their home, their place of work, but the Department of Health and I have to consider our responsibility for all the State and we will make decisions accordingly. When we decide the budget, the area board, in conjunction with the doctors, determines how to spend that money through the hospitals. They determine it; I do not - they are required to live within that budget. If they do not do so, other hospitals must miss out. That is not fair and I will not stand for it.

SYDNEY (KINGSFORD-SMITH) AIRPORT THIRD RUNWAY

Mr SCHULTZ: Is the Minister for State Development and Minister for Tourism aware of speculation that Federal Cabinet will today approve the construction of a third runway for Sydney's Mascot airport? If so, how will the New South Wales Government fast track the infrastructure program associated with the project to create jobs?

Mr Whelan: On a point of order. The question is based on speculation.

Mr SPEAKER: Order! I do not uphold the point of order.

Mr YABSLEY: The honourable member for Burrinjuck and other members will be aware of this Government's strong support for an early start to the construction of the third runway at Sydney airport. We want this third runway; the State needs it; the entire Australian nation needs it. In fact, we needed it more than 20 years ago. Back in the early 1970s former Prime Minister Gough Whitlam acknowledged the urgent need for extra airport capacity for Sydney. Finally, in 1991, it looks as though the decision will be taken. It may be late - it is extremely late - but it is certainly very welcome. It is better late than never. The sooner the formal announcement is made the sooner we can get on with the job of building the third runway. Canberra may have trouble making decisions, but the New South Wales Government certainly does not. Canberra was big on words but small on action. The Government is ready to go ahead with the third runway, and it cannot afford to fool around any longer, as has been the case for the past 10 years.

Though we are in the midst of a recession and this project worth hundreds of millions of dollars will generate thousands of jobs, boost business and tourism returns, there are still those who are determined to stand in the way of progress. These people who talk about job creation and fast tracking are trying to prevent what is certainly the most important and economic job-creating project for decades. It is most interesting to discover who are these twentieth century Luddites. The twentieth century Luddites are

the right-wing of the New South Wales Labor Party. Three factors link the elements at work against the third runway. The first is the ruling faction of the New South Wales Labor Party head office. The second is Botany council and the third is Paul Keating. We have the Leo McLeays, the Gary Punches and other favourite sons or former employees of Sussex Street, the Botany council mayor and the man who defeated him for the Federal seat of Kingsford-Smith, Laurie Brereton, who, of course, knows Botany council inside out. The third feature linking the opponents of this job-creating project is that they are all Keating supporters.

[*Interruption*]

Mr SPEAKER: Order! There is far too much conversation in the Chamber.

Mr YABSLEY: It is all part of the complex series of political dynamics going on behind the scenes to support the Keating push for leadership. Their opposition to this project can be seen in the attempt to frustrate the Prime Minister's job statement tomorrow. The local member of this Canberra-led group, the man who wished he had won the seat of Kingsford-Smith, sits opposite, the one for whom the A factor is now near and dear - the Leader of the Opposition. He has been like a Buddhist monk in support of these job-creating projects. It is becoming a very popular theme in New South Wales politics and it is typical of his attitude - frustrate the State. The Leader of the Opposition is the only person enjoying the recession that Australia is experiencing. In marked contrast to Canberra's prevaricating and the New South Wales right-wing and Neanderthal attitude to progress, the New South Wales Government has in place an action plan to expedite the provision of access roadways, the supply of water and other infrastructure needs. It provides an interesting insight into the level of appreciation by the Leader of the Opposition of how important this project is and what is necessary to bring it on line to read a transcript of a radio interview this morning when he said, "... they weren't given the full story about the third runway. For example where is the fill going to come from?" It could be collected from between the ears of all honourable members sitting opposite and there would be sufficient fill to build three runways.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Burrinjuck to order.

Mr YABSLEY: Another profound point was made by the Leader of the Opposition when he was asked how long it would take to build Badgerys Creek and he said, "You'd have to ask an expert about that ...".

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Coogee to order for the second time.

Mr YABSLEY: The Leader of the Opposition said also, "... I wouldn't like to quote a misleading figure". That has never stopped him in the past. All we await is the announcement of the Federal Government's decision to appoint contractors. The flow through of benefits from the construction of the third runway will be immediate and long term. It is estimated that the project is capable of attracting direct and indirect benefits to the nation through increased business travel, tourism and freight handling in excess of \$1.7 billion. The thousands of construction jobs will reduce our unemployment figures. By the year 2000 the flow on benefits from the expanded airport will mean about 8,500

additional jobs in the Sydney region. It will also generate an additional output of about \$670 million. If that is projected another 10 years to the year 2010 it will mean an additional 28,600 jobs. It has been estimated that these jobs will come from within the Sydney airport industry

and that the rest will be supportive flow on jobs. The annual output will be about \$2 billion. These are benefits for New South Wales, true enough, but they are also benefits for the entire Australian nation. At present no project is more important to the well-being of New South Wales, to the well-being of the future of Australia and the future of Australians than the third runway. It is a sick Luddite Neanderthal approach from some members opposite who seek to stand in the way for one reason and one reason alone, that is, their little power games within the right-wing of the New South Wales Labor Party.

NORTHCOTT COMMUNITY CENTRE

Ms MOORE: My question without notice is addressed to the Minister for Housing. Will the Minister inform the House when the Northcott Community Centre, Surry Hills, which was closed 11 weeks ago, will reopen as a service to Department of Housing tenants? In the light of the Clisdell Street shootings a year ago and the recommendations from the parliamentary gun law reform committee, will the Minister's department arrange funding for a community worker?

Mr SCHIPP: The honourable member for Bligh has been kept fully informed about this particular issue. The local tenants association was in touch with her office only a week ago to invite her to comment on its proposal to occupy the Northcott Community Centre hall.

Ms Moore: That is not true.

Mr SPEAKER: Order! I call the honourable member for Bligh to order. She asked the question and she should listen to the answer in silence.

Mr SCHIPP: The honourable member can call the local tenants association a liar if she wishes but that association told me that it had sought consultation directly with the honourable member. Late last week or early this week the association asked the tenants for their concurrence.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Port Jackson to order for the second time.

Mr SCHIPP: As the honourable member for Bligh knows, that community hall was closed because there was no effectual organisation to continue its operation.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Bligh to order.

Mr SCHIPP: The honourable member knows that there is another community room available within 150 yards at the Pottery. She also knows that within the parameters that have been offered to her by the association she would be able to use that room as an interview room.

Page 4417

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Drummoyne to order.

Ms Nori: On a point of order. The Minister has it wrong.

[Interruption]

Mr SPEAKER: Order! The member for Port Jackson well knows that she has taken a spurious point of order and I call her to order for the third time.

Mr SCHIPP: The honourable member for Port Jackson also may take issue with the local tenants association. The answer so far as the community worker is concerned is no, the Department of Housing is not in the business of providing that sort of resource. That is a Department of Community Services function. So far as the room is concerned, the Department of Housing will make it available to an effective organisation. The tenant participation scheme will make proper use of that function room and I have been assured that the honourable member for Bligh will be able to use the accommodation as an interview area if she is willing to pay the appropriate rent.

SYDNEY (KINGSFORD-SMITH) AIRPORT THIRD RUNWAY

Mr GLACHAN: My question is directed to the Minister for Transport. In view of the pending approval for a third runway at Sydney airport, what action will the Government take to ensure that there is an adequate transport system for the increased number of passengers arriving in Sydney?

Mr BAIRD: I thank the honourable member for Albury for his question and for the outstanding job he has done as chairman of the backbench committee. The honourable member for Albury, as a regular airline passenger, obviously appreciates the benefits of a third runway and what it will do for New South Wales. Earlier the Minister for State Development and Minister for Tourism said that finally the third runway will be a reality and Sydney will become the true international gateway for Australia. It is important that an effective and efficient transport system links the airport with the city. Recently my department examined several proposals for a privately built rail system from the airport to the city. Last week the Premier explained that both proposals exposed the Government to too much financial risk. However, the matter is far too important to shelve. Therefore, I instructed my department to arrange further discussions with the two consortiums involved in the proposals to ascertain whether a viable project could be put forward. The two bidders headed by Transfield and CRI came up with promising ideas that may be able to be developed further. Because of the importance to the city of a first-class transport link it would be a tragedy if both concepts were wasted.

To put the project in perspective it should be noted that Kingsford-Smith airport caters already for 14 million passengers annually. It is estimated that by the year 2000, 24 million people will visit Sydney each year. About 42 per cent of passengers arriving in Sydney use taxis. A similar number use private vehicles. The remainder - about 16 per cent - use bus or coach services. In all, 82,000 vehicle trips are made each day to and from the region. It is important, therefore, to alleviate congestion for vehicles travelling to the airport that an airport link be established. As a colleague in another place said recently, the Government is eager to outline a major program of urban consolidation in the area between Sydney airport and the city. The Government wants to bring this rundown area back to life. Any transport system that would service medium

Page 4418

density housing estates along the route would be welcomed. I make it clear that the Government is not willing to take all the risks involved in such a venture. It simply does not have the financial resources to go it alone with an airport link. However, given the importance of the project it is willing to examine the possibility of a joint venture with the private sector.

Early advice is that it may be possible to link any rail line from the airport to the existing heavy rail network. That would give immediate access to the whole of CityRail's network.

Honourable members may be aware that the Tube in London provides a service to the centre of London directly from the airport. The service takes one hour. A new service, for which a line is being constructed at the moment, will take 15 minutes. Obviously if something is not done, New South Wales will be left behind most major cities of the world, which provide a direct link between the airport to the central business district. Airport travellers must have a safe and reliable system to transport them between the airport and the central business district. The establishment of such a system will be important for tourists, airport employees and local residents. It will also be an invaluable asset in our bid for the year 2000 Olympics. The project is being put firmly on the agenda. With the assistance of a number of colleagues I shall press on with this most important matter.

LENNOX BRIDGE DEMOLITION

Mr ZIOLKOWSKI: I direct a question without notice to the Deputy Premier, Minister for Public Works and Minister for Roads. Has the Minister given higher priority to the demolition of Parramatta's historic Lennox bridge than to the dredging of Parramatta river, which will be necessary for the operation of the long-awaited Parramatta ferry service?

Mr W. T. J. MURRAY: Debate about Parramatta's Lennox bridge has been with us for some time.

[Interruption]

Mr W. T. J. MURRAY: Never a truer word was spoken. A number of problems are associated with this issue. The bridge is of significant heritage importance; it creates difficulties for the flood-prone areas of Parramatta; and it is responsible for a deal of debate within the local community. Quite frankly, as yet no one has come up with a solution with regard to it. The matter is at present being considered by the local council. It has put forward a number of propositions, and they have been opposed by many people in the community. I do not intend to make a decision about the matter until such time as I receive sensible responses from those within the community of Parramatta whose responsibility it is to find a solution to the problem.

TAFE VOCATIONAL COURSES

Mr TINK: I direct a question without notice to the Minister for Industrial Relations and Minister for Further Education, Training and Employment. Is TAFE predicting that the national recession and high unemployment will lead to a boom in demand next year for places in technical and further education? If so, what action is the Government taking to ensure that available resources will be directed towards improving employment prospects?

Mr FAHEY: The honourable member for Eastwood is a keen supporter of the development of vocational education and training, which is of extreme importance to the
Page 4419

future of New South Wales. The Keating recession has placed unprecedented strain on the resources of technical and further education. There has been a boom in demand for technical and further education because of unemployment, as people who have been deprived of a job by the economic mismanagement of Federal Labor Government seek vocational training to assist them to find employment or to improve their job situation. If anything good has come out of the recession, it must be that all members of Parliament accept the fact that the TAFE system should give priority to vocational education and training and to second-chance education. TAFE must be about jobs, developing job skills and creating a smarter and more competitive work force with better paid and more secure jobs. The New South Wales Government has played its part in meeting this year's unprecedented demand for places in TAFE. By all indications that demand will be repeated next year.

This year of the order of 60,000 places have been found in TAFE over and above the number available last year. There is absolutely no doubt that as the recession continues many more people will be looking for places in TAFE next year. Estimates coming out of Canberra suggest that an additional 50,000 students will require places in TAFE next year. For some weeks we have been hearing speculation about what the Federal Government will do to assist TAFE and what it wants in return for that assistance. The reality is that at two meetings that the Minister for School Education and Youth Affairs and I have had with the Federal Minister for Employment, Education and Training, Mr Dawkins, no money has been offered, and no conditions have been placed on funds whether offered or not. Therefore, the provision of an additional \$1 billion for TAFE Australia-wide has never arisen. At the same time, last Friday in Melbourne the Federal Minister said that some assistance would be provided to vocational education and training. He said the announcement would be made tomorrow by the Prime Minister as part of his jobs statement. Any additional assistance provided to New South Wales will be welcomed. That vindicates the stand that has been taken by me and the Government. I have said, "You can talk about long-term conditions if you wish, but in the short term the Federal Government has created high unemployment and is responsible for the increased demand on TAFE. It should do something in terms of providing funds for next year and not in the longer term. That is for another time".

I welcome the support of State Labor Ministers. They have consistently supported my attempts to get assistance for New South Wales and other States for 1992. I look forward to hearing the Prime Minister's statement on jobs tomorrow. I hope it will assist New South Wales to meet the demands being placed on TAFE. It is one thing, however, to ask the Federal Government for additional funds. New South Wales has an obligation also to look at its own system. Interestingly, when I asked for specifics about leisure and recreation courses available in TAFE in New South Wales I was informed that only 2 per cent of TAFE courses were of that type. I thought at the time that that was somewhat strange. On the occasions that I examined the 1,200-odd TAFE courses it struck me that many had to do with leisure and recreation. A review of TAFE courses identified 170 such courses, not merely the 30 courses that were mentioned in the material made available to me initially. There are 170 courses that could well be designated as non-vocational. They are not directly employment related and are not intended to be so by the majority of students undertaking the courses.

The overwhelming majority of those 170 courses - about 140 of them - were in an educational or training stream, not in the leisure and recreation stream, which attracted exemptions. That fair policy now applies in New South Wales and has attracted no complaints. The so-called vocational education and training courses included bonsai styling practices, wine appreciation and gifts-Christmas planning. How could those

Page 4420

courses lead to a job? It is improbable that a wine appreciation course would lead to a vocational or employment outcome. Many resources are devoted by TAFE to this particular area. A decision has been made to continue such courses next year but to take them out of the vocational education and training stream next year and place them in the stream 1000. Exemptions will not be applicable, and they are not applicable now, to the stream 1000 courses. During next year a full evaluation will be done with the assistance of a consultative process. I invite all honourable members on both sides of the House to look closely at the list of courses. I am happy to hear any suggestions from honourable members that courses have been categorised wrongly and placed into the leisure and recreation stream that should otherwise be in an area that could be described as vocational education or training.

I have absolute respect for the students who do those courses. Much self-fulfilment is gained and self-confidence is developed from such courses. The question must be asked, however, when \$22 million is being devoted to courses that will not lead to employment opportunities during this recession, whether New South Wales can afford to maintain those courses at taxpayers' expense in the face of an unmet demand especially by school leavers who are not as able as they would like to go to college to gain skills to assist in obtaining jobs.

Priority must be given to vocational education and training and to the area of second-chance education. By 1993 it is appropriate to ensure that these courses be conducted in TAFE in the leisure and recreation area on a cost recovery basis, and that students attend these courses at evening colleges if that facility is available locally. In many instances these courses are already being conducted in evening colleges. TAFE is about making New South Wales and Australia a clever State and a clever country. This year we have more than played our part by finding places in TAFE for 60,000 additional students. We will continue to play our part by providing the absolute maximum, or optimum, return through the TAFE system by way of vocational education and training. Any additional assistance that may be announced tomorrow - such assistance has been called for by me with the support of Labor Ministers from other States - to meet the massive unemployment challenge faced throughout Australia will be welcomed by me and by all honourable members. I look forward to the announcement tomorrow.

EASTERN CREEK RACEWAY MOTOR CYCLE GRAND PRIX FUNDING

Dr REFSHAUGE: I direct my question without notice to the Premier, Treasurer and Minister for Ethnic Affairs. Is rebel motor cycle race promoter Bernie Ecclestone seeking an amount of \$US1 million as a personal fee and a further \$1.5 million to meet associated costs to stage a grand prix at Eastern Creek? Will Mr Ecclestone be paid, or does the Premier stand the commitment given by the Minister for Sport, Recreation and Racing and Minister Assisting the Premier of 3rd November that neither Mr Ecclestone nor anyone else will receive any State Government payment for staging a race at Eastern Creek?

Mr GREINER: The Minister for Sport, Recreation and Racing and Minister Assisting the Premier will answer the question later.

Later,

Mr SOURIS: I wish to reply to the question asked earlier by the Deputy Leader of the Opposition. The Government and I are completely without knowledge of any request in respect of either of the suggestions made. I have no idea whatever where the Deputy Leader of the Opposition might be hearing such dreamtime rumours.

Page 4421

LIVERPOOL CITY COUNCIL F5 TOLLWAY BROCHURE

Mr BECK: I direct my question without notice to the Deputy Premier, Minister for Public Works, and Minister for Roads. Has the Minister read the expensive brochure prepared by Liverpool City Council which is being distributed as part of the council's campaign against the F5 tollway? If so, is the brochure accurate and factual?

Mr W. T. J. MURRAY: I have read Liverpool City Council's anti-F5 tollway brochure. It is a heavily biased political document which contains totally misleading and untruthful information.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Blacktown to order.

Mr W. T. J. MURRAY: Residents of the Liverpool area must seriously question the integrity of a council which wilfully spends ratepayers' money on a campaign designed to distort and deceive. It comes as no surprise that a Labor controlled council headed by a mayor who trades tricks with the Leader of the Opposition is involved in peddling once again the big Labor lie. His brochure says, in part:

The F2, from Naremburn to Lane Cove, is a freeway. Tom Ugly's Bridge, the Roseville Bridge and the new extension at Wahroonga onto the Newcastle freeway were all paid for by the 3 x 3 fuel levy and registration fees.

[*Interruption*]

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. Members wishing to converse should do so outside the Chamber.

Mr W. T. J. MURRAY: Alderman Latham, the western suburbs mayor who advocates a capital gains tax on the family home to discourage people from settling in the western areas of Sydney, is telling some whoppers in his brochure. Tom Ugly's bridge, he says, was funded by the 3 x 3 levy. For the information of Alderman Latham and the people of Liverpool, I point out that Tom Ugly's bridge was officially opened by former Premier Barry Unsworth on 17th October, 1987, well before the introduction by the Government of the 3 x 3 fuel levy. Roseville bridge, he says, was also funded by 3 x 3 money. Roseville bridge has been around for a long time. In fact, it was officially opened by Premier Bob Askin in the 1960s. The brochure says that the Wahroonga freeway extension to Berowra was funded by 3 x 3 money. Except for the noise barriers, the extension was fully funded by the Federal Government, and no 3 x 3 money was used by the Government in constructing the sound barriers.

[*Interruption*]

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. The Minister for Justice, the member for Eastwood and the honourable member for Ermington should conduct their conversation outside the Chamber.

Mr W. T. J. MURRAY: Three lies in one hit by Alderman Latham and his deliberately deceitful campaign against the F5 tollway would make Bob Carr proud of him. Surely he and his counsel must be held to account for their extravagant and untruthful campaign. I wonder whether Alderman Latham will distort the fact that in its

Page 4422

first three years the 3 x 3 fuel levy has provided an extra \$80 million to western Sydney roads. Will he deny the fact that during the last financial year in office of the former Labor Government \$79 million was spent on roads in western Sydney and that this year, under a Liberal Party-National Party Government, \$103 million is being spent - an increase of 34 per cent? Alderman Latham and his council should acknowledge the merits of the F5 tollway, the jobs it is providing for the area and the fact that the provision of a privately funded tollway will free up funds for other much needed roadworks in western Sydney.

BUSINESS OF THE HOUSE

Printing of Reports

Motion by Mr Moore agreed to:

That the following reports be printed:

Premier's Department, for the year ended 30th June, 1991.

Department of Business and Consumer Affairs, for the year ended 30th June, 1991.

Crime Commission, for the year ended 30th June, 1991.

Law Foundation for the year ended 30th June, 1991.

Legal Aid Commission, for the year ended 30th June, 1991.

Victims Compensation Tribunal, for the year ended 30th June, 1991.

Dairy Corporation, for the year ended 30th June, 1991.

M.I.A. Citrus Fruit Marketing Committee, for the year ended 30th June, 1991.

Processing Tomato Marketing Committee, for the year ended 31st May, 1991

Ministry for the Environment, for the year ended 30th June, 1991.

Environmental Trusts, for the year ended 30th June, 1991.

Gas Council, for the year ended 30th June, 1991.

Namoi Valley County Council, for the year ended 30th June, 1991.

National Parks and Wildlife Service, for the year ended 30th June, 1991.

Northern Riverina County Council, for the year ended 30th June, 1991.

Southern Mitchell Electricity, for the year ended 30th June, 1991.

Southern Riverina County Council, for the year ended 30th June, 1991.

Southern Tablelands County Council, for the year ended 30th June, 1991.

Valuer-General, for the year ended 30th June, 1991.

State Rail Authority, for the year ended 30th June, 1991.

Bathurst-Orange Development Corporation, for the year ended 30th June, 1991.

Macarthur Development Corporation, for the year ended 30th June, 1991.

Avondale College, for 1990.

Page 4423

Coal and Oil Shale Mine Workers Superannuation Tribunal, for the year ended 30th June, 1991.

Sporting Injuries Committee, for the year ended 30th June, 1991.

Superannuation Office and the Building and Construction Industry Long Service Payments Corporation, for the year ended 30th June, 1991.

WorkCover Authority, for the year ended 30th June, 1991.

Coal Compensation Board, incorporating the Coal Compensation Review Tribunal, for the year ended 30th June, 1991.

Dams Safety Committee, for the year ended 30th June, 1991.

Science and Technology Council, for the year ended 30th June, 1991.

Department of State Development, for the year ended 30th June, 1991.

SEARCH WARRANTS (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [3.2]: I move:

That this bill be now read a second time.

Until the enactment of the Search Warrants Act in 1985 the laws regulating the search of property by police and other authorised statutory officers were a mixture of common law and statute. There was little coherency or consistency in the various powers of search that police then had. The Search Warrants Act 1985 provided for the first time in Australia a comprehensive and codified statement of the law. The Act has generally worked well, and in recognition of this, litigation over the Act has been minimal. Nevertheless, this is not to say that it is incapable of improvement. Various suggestions for reform were made, particularly following the Gundy and Brennan cases. My predecessor, the Hon. John Dowd, Q.C., ordered a review of the operation of the Search Warrants Act 1985. Representatives of the Attorney General's Department, the Police Service, the Director of Public Prosecutions, the Legal Aid Commission and a clerk of the court participated in that review.

I move to the provisions of the bill before the House. One criticism of the Act is that it allows too many people to issue search warrants. At present the Act allows an authorised justice to issue a search warrant. Authorised justice is defined to be a justice of the peace employed in the Department of Courts Administration. In theory this would allow a person with no experience of the Act to issue a search warrant if he or she were a justice of the peace who happened to be employed in that department. In practice this would be highly unlikely to happen, but nonetheless the Act authorises it. The proposed new definition of authorised justice will limit the categories of persons who may issue search warrants to magistrates, clerks of the court who are justices of the peace and justices of the peace employed in the Department of Courts Administration who are authorised by the Minister administering the Act. The latter category is necessary because of the volume of applications for warrants under the Act. It will allow experienced officers, such as assistant clerks of the court, to be empowered to consider

Page 4424

applications. This is important in smaller court registries and when clerks of the court are not available, especially in urgent circumstances. It will also allow certain other experienced officers to be empowered to issue search warrants.

Another significant reform contained in the bill is to allow police to apply for a warrant up to 72 hours before the proposed search. This will be of particular significance in drug matters. At present police must wait for the drugs to be delivered to the premises before an application for a search warrant can be made. If the police can satisfy the justice on reasonable grounds that drugs will be on specified premises at a certain time, the amendment will allow the police to apply for the warrant in advance. The bill also improves procedures for search warrant applications by telephone, providing that such applications should be made with the assistance of a facsimile machine if the facilities to do so are readily available for that purpose. It will be incumbent on the applicant to ensure, where possible, that the application is made from premises equipped with facsimile facilities. Of course if the machine is not working, or if the application is so urgent that it is not possible to make the application with the aid of a facsimile machine, or if the applicant is in a remote area where there is no facsimile facility, a telephone application can be dealt with as it is at present by the authorised justice orally communicating the terms of the various documents to the applicant, who must then complete the documents in those terms. I wish to make it clear, however, the legislation envisages that it will be usual for telephone applications to be made with the assistance of facsimile machines. To this end, justices on the telephone roster will be provided with portable facsimile machines. It is, of course, not possible to administer an oath over the telephone. To cover false or misleading telephone warrant applications, a new offence of knowingly giving false or misleading information in a material particular has been created in the new section 12B.

I turn now to proposed new section 12A. The Act in its present form does not give sufficient guidance to applicants and justices as to the requirements which must be met before a warrant may be issued. Proposed new section 12A(1) specifies the information that an application must contain before a warrant can be issued. This is essentially a checklist of procedural requirements, such as the authority of the applicant, the grounds on which the

warrant is being sought, and a proper description of the premises and the item sought. Once the justice is satisfied that these procedural requirements have been complied with, he must then consider whether or not there are reasonable grounds to issue a warrant. Though this is a matter for the justice's discretion, new section 12A(2) gives the justice some guidance in determining whether or not there are reasonable grounds. The justice is to consider firstly the reliability of the information on which the application is based, and secondly whether there is a sufficient connection between the thing sought and the offence to justify the issue of a search warrant. These two matters must be considered by the justice, but are by no means definitive. Each application must be considered on its merits.

An important proviso to section 12A, is that an applicant does not have to disclose the identity of a person from whom information was obtained if the applicant is satisfied that this might jeopardise the safety of any person. There are also provisions in this bill dealing with further applications for a warrant following refusal. The present Act allows unlimited applications for a warrant to any justice on the same information. Proposed new section 12C will ensure that this cannot occur. Generally only one application to an authorised justice will be allowed. If the application is refused, a new application will only be accepted if the applicant provides additional information. Where an authorised justice wrongly refuses an application, there will be a limited right to make a further application to a magistrate. It is expected that such cases would be rare. Such

Page 4425

cases would not simply constitute a review of the authorised justice's decision, and the magistrate would consider the matter afresh. There will thus be no onus on the applicant to show that the authorised justice was wrong in refusing the application.

A further important amendment is that police will now usually be required to make an announcement before entering premises, thereby providing the occupant with an opportunity to allow entry without force. Police rules already include a similar requirement, but it is appropriate that this be given statutory force. There are circumstances in which an announcement will not be required, which are specified in section 15A(2). It is not envisaged that there would be many instances of entry without announcement. Night searches are more intrusive than searches during the day. For this reason the current Act requires that a night search be specifically authorised. The proposed amendment to section 19 gives guidance to the authorised justice as to whether he or she should authorise the execution of a search warrant at night. Law-abiding citizens will be protected by another important amendment to the Search Warrants Act 1985 with which I shall now deal.

At present a warrant - other than a telephone warrant - can be executed up to one month following its issue. Experience has shown that this period is too long and there have been instances where police have executed a warrant only to discover that since the warrant was issued the old residents have changed. In such cases the warrant was executed in the right premises but the objects of the search had gone together with the previous occupants. This could be a very frightening experience for the new residents, especially if the warrant was executed by force. Section 20 of the Act will therefore be amended so that the warrant expires, in most cases, 72 hours after its issue. This will minimise the possibility that the objects of the search have been moved by the time the warrant is executed. In some cases 72 hours will not be enough. This may be apparent at the time of the original application, or become apparent after the warrant is issued. In such cases the warrant may have a longer life, up to 144 hours, or six days. The amendments I have outlined are necessary to ensure continued public confidence in the application and execution of search warrants. As former Attorney General the Hon. T. Sheahan said when introducing the original Act:

The law relating to search warrants is, and always has been, a complicated area of civil rights and public policy. On the one hand, our society places a very high value on the protection of a person's home from intrusion and search. On the other hand, it has always been accepted that there are circumstances in which this protection must give way to the public interest in ensuring that law enforcement agencies can properly enforce the law.

I am confident that the reforms contained in this bill achieve a proper balance between those two competing requirements. Accordingly, I commend the bill.

Debate adjourned on motion by Mr Langton.

DIVIDING FENCES BILL

Bill introduced and read a first time.

Second Reading

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [3.22]: I move:

Page 4426

That this bill be now read a second time.

The object of this bill is to reform the law for determining the contributions of adjoining landowners to the cost of a dividing fence. A dividing fence is, of course, a fence that separates adjoining lands. Disagreements concerning dividing fences are a frequent source of conflict between neighbours, and the existing legislation often only exacerbates such conflict. The original Dividing Fences Act of 1828 was the first in the colony and was consolidated without amendment into a 1902 Act. This Act generated much dissatisfaction because of lengthy delays in attempts at enforcement and its unsuitability to urban areas. In response to this, the then government introduced the Dividing Fences Act 1951, which was largely based on the South Australian Act of 1924 and the Victorian Act of 1928. Both of these Acts have subsequently been replaced. The current Act therefore contains many confusing provisions and reflects the philosophy of an era that is behind us.

The Dividing Fences Bill before the House provides a modern and more flexible framework in which owners of adjoining lands may conduct matters relating to dividing fences. The essential features of that framework are a more equitable principle for determining liability, a single set of procedures applicable to all fencing work, and expanded and more effective avenues for settling disputes. I must emphasise here that it is not the intention of this legislation to intrude into areas that have long been outside the area of statutory control. For example, there has never been, and this bill does not include, a general requirement on an owner to divide his or her land from the adjoining land. Similarly there will continue to be no interference with private arrangements such as fencing covenants. Instead the bill addresses those situations where adjoining owners are involved in decisions about the kind of dividing fence that is to separate their lands and the sharing of the costs of that fence.

The New South Wales Law Reform Commission was given a reference to inquire into the law relating to dividing fences just over five years ago, in November 1986, and handed down its report highlighting the need for change in December 1988. The commission identified major deficiencies in the existing legislation such as the artificial distinction between construction and repair of fences, the inequity of cost apportionment in relation to better quality fences, confusing jurisdictional and procedural matters, the lack of flexibility of tribunals in dispute resolution, and the extent of the exemption of government bodies from liability. A number of the commission's proposals for reform generated much comment and required further examination and analysis. The content of this bill therefore is a product of that extended review process. Any legislation which seeks to apportion financial liability must have an underlying philosophy and in the current Act that philosophy is the equal sharing of costs. Perhaps in a less sophisticated age of simpler lifestyles and fencing materials this approach was equitable. It is much less applicable today with the greater variety of land uses, the

increased enjoyment of backyard leisure activities and the many types of fencing materials available.

This bill importantly recognises that one adjoining landowner may have a need or desire for a better quality fence than the other and may receive more use or benefit from that fence. Accordingly, the new philosophy for apportioning liability is that equal contribution is required towards the cost of fencing work necessary to provide a fence sufficient for both adjoining owners. Any additional cost involved in a better quality fence is to be borne by the owner seeking that higher standard. This principle is contained in clause 7. Under clause 6, that liability only arises where the adjoining lands are not separated by a sufficient fence. The term "sufficient fence" does not have a single meaning in the bill. Rather, an inexhaustive set of criteria is provided in clause

Page 4427

4 for determining its standard for each particular situation. For example, account may be taken of land use, privacy or other owner concerns, an existing fence, local council policy and any relevant planning instrument. By way of illustration, a simple paling fence may be sufficient where the needs of adjoining owners are minimal, but where both owners want to ensure a more private aspect a Colourbond or brick fence may be the standard.

At this point I want to emphasise that the bill imposes only the minimum level of liability. Adjoining owners will always be free to agree on a fencing arrangement that is above the minimum requirements. To support the more flexible approach, the limited definition of "fence" in the existing legislation has been replaced in clause 3 by a much wider definition that incorporates any structure, ditch, embankment or vegetative barrier enclosing or bounding land. As at present, and as supported by the Law Reform Commission, it does not, however, extend to retaining walls or walls that are part of buildings. The intervention of a road does not currently prevent a fence, in certain situations, from being a dividing fence and in clause 5 this concept is extended to also include a watercourse. The restrictive and confusing terms of "construction" and "repair" have been replaced by a single concept of "fencing work" in clause 3. This concept extends to the design, construction, replacement, repair or maintenance of fences, and includes particular reference to activities related to fences that are vegetative barriers or watercourses.

The general principle of liability for contribution to fencing work that I have just outlined is displaced in two special situations. First, the existing ability of an adjoining owner to carry out urgent fencing work to restore a fence that has been damaged or destroyed is preserved in clause 9. This may be required, for example, to prevent stock loss or where safety or security are concerned. In that situation the other adjoining owner is liable for half the cost of the urgent fencing work. An important new proviso is the inclusion of an avenue for judicial review so as to balance the interests of both owners. Second, the liability of an owner to restore a fence that is damaged or destroyed through negligence continues in clause 8. Here also there are significant reforms.

Liability will be broadened from simply that related to an owner causing damage by fire or falling trees to any negligent or deliberate act of the owner, or a person on the owner's land with permission, that results in the dividing fence being damaged or destroyed in whole or in part. It is interesting to note that during the debate on the current Act in this Chamber just over 40 years ago the then honourable member for Tamworth unsuccessfully moved an amendment which suggested as much. As the honourable member intimated at the time, a variety of acts may trigger this liability, such as trees falling, cars being backed, heavy objects being hung, or even soil being backed up against a fence. An act may only contribute to, rather than be the complete cause of, the damage or destruction of the fence. To cater for the range of possible situations liability will accrue for up to the whole cost of restorative fencing work. The procedures by which an owner seeks to claim contribution from an adjoining owner under the existing legislation vary according to whether the fence is being constructed or repaired. This has caused untold confusion, particularly when a dividing fence is being replaced. Is it one or

the other? To overcome this persistent source of frustration, which has deprived many owners from effectively claiming contribution from a neighbour, the bill contains one simple procedure. Under clause 11 an owner wanting the adjoining owner to contribute to the cost of fencing work is to serve on that other owner a notice to fence.

The notice is to specify the line on which the fencing work will be carried out - usually the common boundary - the type of fencing work proposed, the estimated cost

Page 4428

and, if it is not to be shared equally, how that cost is to be apportioned. I intend to have my administration provide a sample notice to fence, however any document that contains those elements will suffice. The owner receiving the notice is liable to contribute only when agreement is reached or an order is made concerning the matter. I want to emphasise the significance of this point in relation to the repair of dividing fences. Under the current provisions the owner served with the notice is automatically liable to contribute. That is, there is no requirement for the adjoining owners to agree on the work. Many neighbours will reach an amicable agreement at this point and the fencing work can be arranged and completed with no interference from third parties. In other instances agreement may not occur so readily. Neighbours may be assisted in this process by attending a community justice centre. If there is no agreement within one month of serving the notice, one of the parties may, under clause 12, apply to a Local Court or local land board to have the matter determined. Local courts and local land boards each have certain jurisdiction under the existing legislation, according to whether or not the fence is proposed for construction on the common boundary line. This division has proven to be largely artificial and unnecessarily restrictive.

Clause 13 of the bill will provide both local courts and local land boards with the jurisdiction to hear and determine any matter arising under the bill. Further, to maximise the considerable expertise of these tribunals there is provision to allow a pending matter to be transferred from one type of tribunal to the other. This will result in the more effective utilisation of resources, particularly in rural communities. Also included for the first time is a provision to enable local courts to refer dividing fence matters to arbitration. The broad powers to make orders under clause 14 of the bill are similar in many respects to those currently available. Important additions are an order as to the manner in which the contributions for the fencing work are to be apportioned and an order that no fence is to be built in situations where such an order is appropriate. For the first time this bill, in clause 19, will provide a right of appeal to the Supreme Court on dividing fence matters. This provision, which is limited to appeals on errors of law, will address instances of injustice highlighted by the Law Reform Commission whilst at the same time achieving the general desirability of finality to proceedings.

A further area of injustice arose because of the proliferation of statutes dealing with dividing fences. Much of the problem was resolved when this Government, in 1989, removed the fencing provisions from Crown lands legislation. However, specific fencing provisions relating to matters other than the separation of adjoining lands will continue. One such example is that of vermin-proof fencing which is appropriately located in the Rural Lands Protection Act. In recognition that genuine mistakes as to the correct statute may still occasionally occur, a remedy is provided in clause 22 of the bill. The framework of the bill is completed by a transfer, in essentially the same form, of the procedural provisions of the existing legislation. Minor changes have been made to some provisions, including service of notice, clause 21, and procedure in the absence of adjoining owner, clause 17. Substantial compliance has been clarified in clause 16. One further matter that has not been altered is the group of exemptions from the liability for dividing fence costs. Those to whom the exemption under the legislation applies are the Crown, local councils or other trustees in respect of public parks and public reserves and councils in respect of roads. It was superficially attractive to consider implementing the Law Reform Commission's recommendation to remove the exemptions in relation to all lands except the larger rural holdings. However, the commission did not have access to the cost of its proposal.

Estimates provided by those authorities that would be most affected are very substantial - for example, the National Parks and Wildlife Service at least \$18 million; the State Rail Authority \$23 million; the rural lands protection boards \$11 million; and many local councils over \$250,000 each. It would be economically irresponsible to fix
Page 4429

liability on such government authorities, most of which hold large tracts of land that generate no income. I should point out to honourable members that in the process of collecting those estimates it was revealed that many authorities do in fact make payments in respect of dividing fences, including the Police Service, the Department of School Education, the State Transit Authority and the Department of Corrective Services. As I said earlier, this bill prescribes only the minimum liability and would in no way interfere with these arrangements. Savings and transitional and consequential provisions are included in schedules 1 and 2 to facilitate the smooth implementation of the bill. There are almost as many different dividing fence situations as there are dividing fences. Accordingly the goal has been to draft a bill that is sufficiently flexible to be relevant to situations occurring in cities, in towns and in rural areas. What has been achieved is an equitable basis for attaching the liability for fencing costs, through a single procedure, supported by effective dispute resolution mechanisms. I commend the bill to the House.

Debate adjourned on motion by Mr E. T. Page.

EXOTIC DISEASES OF ANIMALS BILL

Bill introduced and read a first time.

Second Reading

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [3.40]: I move:

That this bill be now read a second time.

This bill provides for emergency control measures to be taken in the event that an outbreak of an exotic animal disease occurs in or near New South Wales. Australia is fortunate to be free of some 80 serious diseases, which affect animals in other parts of the world. Because this country is free of those diseases the livestock industries of Australia enjoy the advantage of access to world markets which are unavailable to disease affected countries. Should any of these foreign or exotic diseases reach our shores they will have the potential to devastate our State economy and dramatically affect our way of life. Foot and mouth disease is the most feared animal disease throughout the world. The virus affects pigs, cattle, sheep and a wide range of other cloven-footed animals. It is highly contagious and can spread explosively over great distances in a very short period of time. Affected animals develop painful vesicles in the mouth and on the feet, resulting in considerable suffering and loss of production. Most importantly, the products from these animals become contaminated with the virus and are virtually worthless on the world market. The resultant loss in export trade could cost this State up to \$2 billion annually and cause massive unemployment and hardship in rural communities. The social and economic consequences of this disease would make the current recession pale by comparison.

Rabies is another exotic disease which is equally feared. All animal species as well as humans are susceptible. The virus is spread through the bite of carrier animals such as foxes, bats and dogs. The virus attacks the nervous system of its victims, causing paralysis, convulsions and ultimately death. Once signs develop, there is no known cure and the disease is invariably fatal. The effect of an outbreak of rabies in Australia is difficult to comprehend, but would undoubtedly cause widespread public hysteria and result in a radical change in attitudes towards pets and wildlife. If the disease became established in wild animal populations, it would be impossible to

Page 4430

eradicate. Several other exotic diseases could cause substantial losses to animal owners and the community as a whole. Fowl plague has the potential to kill virtually every chicken in an infected flock - tens of thousands of them, overnight. African swine fever can be almost as devastating in pig herds. An outbreak of equine influenza would cause major disruptions to horse racing and other equestrian events, depriving many people of income and recreation. These threats are very real. Fowl plague broke out in Victoria in 1976 and again 1985. Classical swine fever took hold in the Sydney region in the early 1960s and took over two years to eradicate. In all, there have been some 25 outbreaks of exotic animal disease in Australia this century. Fortunately, most have been relatively mild and were successfully eradicated, but often with considerable difficulty and at substantial cost. The longer an outbreak of exotic disease continues, the greater is the economic detriment to this country and the longer it will take to regain lost overseas markets. It is vital that we have adequate powers to respond to such an emergency.

This bill contains those powers. It is based largely on a model bill that was drafted for the Australian Agricultural Council together with some of the existing provisions of the Stock Diseases Act 1923. The Australian Agricultural Council supports the principle that each of the States of Australia should have substantially uniform legislation covering possible outbreaks so that a common approach can be taken to the mutually beneficial eradication of an exotic disease. A central provision of this bill is the compulsory reporting of disease outbreaks. Persons who own or are in charge of animals, or who are consulted in relation to animals, will be obliged to report promptly their suspicions of the existence of an exotic disease. The sooner the problem is notified, the better are the chances of eradicating the disease with minimum damage to the economy and to the community. Exotic disease agents could become a weapon of biological warfare in the hands of the wrong persons. This bill contains provisions to ensure that only authorised people should have access to exotic disease agents. Once it becomes apparent that there may be an exotic disease emergency in New South Wales or near its borders, it is vital that the safety of other animals and property is protected. For this reason the bill provides for movement restrictions to be imposed by ministerial order. There are four types of ministerial movement orders in the bill which can control people, animals, animal products, and items associated with animals, depending upon the seriousness of the threat of infection.

The sombre duty of eradicating the disease will be conducted by the chief veterinary officer and inspectors appointed under the bill. In many cases of exotic disease this may well mean the destruction of animals and the disposal of the carcasses. Where disease is present in a building, or other item, disease eradication may require disinfection or fumigation, or in some cases destruction of the item. Where there is no alternative but destruction, such destruction can be enforced upon the owner by ministerial order, or an inspector or authorised person may destroy the animal or item. The chief veterinary officer will be the central co-ordinator of the control programs instituted in an outbreak. Inspectors are to be given certain powers in order to execute their functions as disease preventers, locaters, controllers and eradicators. Because an inspector may be the first on the scene of a suspected exotic disease outbreak, the power is to be given to an inspector to quarantine a premises, place or vehicle. Inspectors are also to be given the power to order disinfection of a premises, place or thing and to seize and impound an animal, animal product, fodder or fitting reasonably suspected to be infected. On approval of the chief veterinary officer, and in order to avoid risk to life and property, the animal or thing may be destroyed. The inspector will have the power to require information and to enter and search premises other than dwellings. These

Page 4431

powers are vital to the swift location of disease.

A search warrant is required to search dwellings where the occupier has not given his or her consent. An inspector may also request assistance in the execution of his or her duties from a police officer, or other person capable of rendering assistance. This power is important where the control program is of great proportions, as it is expected to be in the case of an outbreak of rabies or foot and mouth disease. The penalties that apply under this bill reflect the

seriousness of an outbreak of exotic disease and its far-reaching consequences. They have been imposed as a deterrent factor against concealing the existence of disease or failing to do all that is reasonably in a person's power to curtail the spread of disease. These high penalties have the support of the rural sector. Two other important aspects of the bill are compensation to owners of property and animals which die or are destroyed as a result of exotic diseases, and the protection of disease control programs from interruption by persons seeking injunctions. These aspects will be covered by my colleagues. The people of New South Wales need the strong measures which this bill contains to prevent the devastating financial and social consequences of an exotic disease emergency. I commend the bill to the House.

Debate adjourned on motion by Mr Martin.

NATIONAL RAIL CORPORATION (AGREEMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr BAIRD (Northcott), Minister for Transport [3.48]: I move:

That this bill be now read a second time.

It is with great pleasure that I bring this bill before the House. Honourable members should be aware that this legislation will mark a major turning point in the operation of interstate rail freight not only in New South Wales but also nationally, because this State is so pivotal to the interstate rail network. It brings the opportunity to achieve the type of microeconomic reform that this Government has supported consistently and sought to implement. At the July Special Premiers Conference, the Premier on behalf of New South Wales signed an agreement between this State, Victoria, Queensland, Western Australia and the Commonwealth to form a national rail corporation to take over the running of all interstate rail freight. The object of this bill is to ratify and implement the participation of New South Wales in that historic agreement.

The need for change in the rail transport industry has been long recognised. However, it has only been in the past few years that State governments around Australia have had the political will to act to rectify the gross inefficiencies caused by political interference in the management of railways and underinvestment over decades by previous administrations. When this Government came to office it found the State Rail Authority had been allowed to become so run down that substantial funds for capital had to be allocated quickly and significant organisational changes made to overcome the fundamental, underlying causes of its poor performance. Honourable members will recall that the Greiner Government moved quickly to reorganise the State Rail Authority. This was achieved through the 1988 Transport Administration Act, which clearly made the State Rail Authority board responsible for getting the SRA on to a sound commercial footing. As a result there have been major improvements in the performance of the SRA

Page 4432

because of cost reductions and productivity improvements. However, despite reform in our own backyard the SRA's interstate freight operations have continued to sustain losses partly because of structural inefficiencies inherent in five rail systems trying to focus their services nationally. It is difficult to achieve the level of efficiency required to be competitive with other transport services, particularly road transport, when there are five rail systems operating under five different engineering standards, with five administrations with different priorities which, in some cases, are not commercially oriented.

Collectively, these factors have acted as barriers to the introduction of more efficient operations and, collectively, the value of interstate rail freight business without reform is estimated to have a negative net present value of about \$2.2 billion. For that reason industry restructuring through a single organisation with sole responsibility for interstate rail freight is so

necessary. During the negotiations for the agreement the New South Wales Government insisted that the organisation be established and operated from the outset on a commercial basis. I am pleased that our sensible approach has prevailed and is reflected in the agreement. The National Rail Corporation will, to the maximum extent possible, be structured and managed on commercial lines subject to the corporations law and other standard commercial legislation. This approach is also reflected in the bill, which makes it clear that the corporation is not an agent of the Crown and that there is no government guarantee. There are a number of features about the agreement that I wish to bring to the attention of honourable members to further drive home this point. The New South Wales Government was conscious that unless there was an agreement that bound the parties as tightly as possible there remained a risk that the viability of the National Rail Corporation could be undermined by short-term political expedencies at the Commonwealth or State levels. The Government was conscious also that the corporation could be crippled either by lack of funds, by vague or open-ended arrangements for the transfer of interstate rail freight operations, by the imposition of debts or other costs from existing interstate rail freight businesses, or by the dominance of one shareholder.

Under the agreement there is to be a five-year establishment period designed to lock in shareholders during the time estimated as necessary to turn the business around to become self-funding. Shareholders will not be allowed to dispose of their shares during this time. During the first three years, which is referred to in the agreement as the transition period, the corporation will, first, take over responsibility for all interstate rail freight revenue and progressively take over the rest of the functions associated with the business. This shorter time frame will ensure that microeconomic reform is achieved early and the transfer of functions is not dragged out for political purposes. To prevent the financial viability of the corporation being undermined it will have substantial shareholder cash equity contributions of \$412 million accumulated by the end of the establishment period. Any borrowings by the corporation will be for its own capital works programs rather than to cover debts or other costs such as redundancies inherited from existing interstate rail freight businesses. A massive investment program is required and an estimated \$1.2 billion is to be spent in the establishment period. This will result in significantly upgraded rail infrastructure which will have spin-off benefits for passenger and interstate services of the State Rail Authority.

As I have said already, shareholdings will be fixed during the establishment period. Following the establishment period shareholders will be allowed to act in relation to those shares in the normal manner, subject to certain conditions that will be stipulated in the articles of association of the corporation. Among the articles will be a provision that requires any shareholder who wishes to take a shareholding above 49 per cent of all shares to also offer to purchase the shares of the other shareholders. This safeguard will

Page 4433

prevent shareholders from being locked into a minority position. The agreement will allow the corporation to commence operations with certainty about its financial base so it can focus on one objective: a profitable national rail freight business. This will require, among other things, the elimination of inefficient work practices through the introduction of a single enterprise industrial award. Agreement on a new award will be a high priority for the corporation as it is a condition of the agreement that shareholders will not approve commencement of its capital works program until such an award is in place.

Another important initial task for the corporation will be to develop a corporate plan that will be subject to the approval of shareholders. The plan is to include individual strategies and timetables for the progressive takeover of interstate rail freight operations from existing rail authorities, its capital works program, its borrowing requirements, and its financial projections. The corporate plan will be the major means by which shareholders can supervise closely the initial and planned activities of the corporation, which will be so crucial to its success in achieving much-needed microeconomic reform. New South Wales, through its shareholding, will be able to ensure that the corporate plan reflects this objective. The corporate plan will be,

by its nature, a commercially sensitive document not suitable for public distribution. However, on the initiative of New South Wales, provision has been made for the corporation to produce a statement of corporate intent. The statement will include information about corporate objectives and activities, accounting policies, and information on corporate performance. The statement of corporate intent and information provided under its requirements can be published by shareholders. It is the intention of the Government that, in the public's interest, this should occur as a further means of having the corporation held accountable for the achievement of commercial operations.

Based on projections undertaken by the task force established by the Australian Transport Advisory Council to investigate the feasibility of forming a national rail corporation, it is expected that New South Wales will hold eventually about 28 per cent of the shares in the corporation. The shares will be gained by two means. First, by equity contributions totalling \$75.6 million, which will be spread over four years commencing in 1993-94 and will be fully funded by the savings made in transferring the SRA's interstate rail freight business to the corporation. Any funds for equity contributions will be subject to the usual budgetary processes and parliamentary appropriation. The second means to gain shares is by transferring assets, such as locomotives and other rolling-stock that are used at present for interstate freight operations, or by granting long-term leases to the corporation over fixed assets such as terminals and such rail infrastructure as track. Shares will be allotted in accordance with valuation principles contained in the agreement, which are designed to ensure that each shareholder's contributions are treated equally. Some assets will be used by the corporation but will not be transferred or leased to the corporation, because it is important for the SRA to retain primary control. An example is the metropolitan City Rail network. In such circumstances the SRA will provide access by long-term contractual rights, structured on a commercial basis, which will ensure no inconvenience to CityRail customers.

It is projected that an additional 600 SRA employees will be made redundant by the establishment of the corporation. The redundancies will be over and above the reduction of 1,200 freight rail positions under the SRA's own plans. Redundancies will be spread over seven years commencing this financial year and are expected to peak between 1994-95 and 1996-97. All affected employees will be entitled to the standard redundancy package that has in other cases averaged out at about \$80,000 per

Page 4434

employee. It is expected that by 1996-97, which marks the end of the five-year period, the benefit to New South Wales through savings on SRA costs will be about \$140 million, after allowing for both redundancy payments and New South Wales cash contributions with ongoing savings of perhaps \$100 million or more in each subsequent year. The financial gains will far outweigh the level of investment required of this State and there is potential for New South Wales to reap a dividend stream and capital gain from its investment. Even if the corporation were only to break even, New South Wales would still be better off than if the present situation remained and the SRA's planned cost containment programs were fully implemented. It is difficult, of course, to project what the likely indirect benefits in dollar terms will be from a commercial and national rail freight organisation.

However, the Industry Commission has estimated that the national benefit of reform in GDP terms will be about \$1.2 billion per year in the long term. During the five-year establishment period New South Wales is entitled to have two directors on the board of the corporation. The Government has nominated as a director Mr Max Moore-Wilton, Director-General of the Department of Transport. Mr Moore-Wilton represented New South Wales on the task force which examined the corporation's feasibility and he played a significant role in shaping and negotiating the agreement. In addition to this experience he will bring to the board his extensive knowledge and experience at executive and board levels in the shipping and air transport industries. The other New South Wales director is Mr Peter Young, the managing director of Burdett Buckridge and Young Limited, stockbrokers and investment bankers. Among other talents, he will bring extensive commercial experience to the finance sector of the

board. Honourable members will note that the bill provides for limited referral of power to the Commonwealth to allow it to hold shares in a company which engages in intrastate rail operations. While it is not expected that this will occur in the short term, it provides the flexibility for the State Rail Authority, for example, to contract with the corporation to undertake haulage work for it. The corporation will need the approval of the Minister responsible before it can undertake any intrastate services.

The bill contains a number of other detailed machinery provisions required to meet the obligations of New South Wales under the agreement. These include minor amendments to the Transport Administration Act to take account of a new major operator on main line rail track. As I said at the outset, the National Rail Corporation will be a major step towards the achievement of microeconomic reform in land transport, which in turn will make a significant contribution to Australia's economy and our international competitiveness. I commend the bill.

Debate adjourned on motion by Mr Shedden.

MARINE POLLUTION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr BAIRD (Northcott), Minister for Transport [4.2]: I move:

That this bill be now read a second time.

It is with great pleasure that I introduce this legislation, which is the result of detailed
Page 4435

investigations by the Maritime Services Board of New South Wales and the Department of Transport into comparable legislation of leading maritime nations. The object of the legislation before the House is to provide for the detention of a vessel when there is reasonable cause to believe that it has caused pollution in State waters until an acceptable form of security to cover the estimated clean-up costs, expenses and a penalty is lodged with the Maritime Services Board. The Marine Pollution Act authorises the Maritime Services Board to take necessary action to prevent, minimise or clean up any pollution caused by the discharge of oil or noxious liquid substances from a vessel in State waters. Clean-up costs and expenses incurred in taking such action are recoverable from the owner or master of such vessel, and the vessel may be detained until these costs and expenses are paid, or security in lieu thereof is provided to the satisfaction of the board. However, at present, clear evidence of pollution must be available. In other words, under the existing legislation the polluting vessel must be identified and clean-up costs and expenses must have actually been incurred before detention for security can be enforced.

There are sometimes circumstances, however, where the board has reason to believe that a vessel has caused pollution but, under the existing legislation, cannot detain the vessel. First, it might not have positively identified the vessel because clear evidence of its responsibility for the pollution is not available and, second, clean-up costs and expenses might not yet have been incurred. Clear evidence of a vessel having polluted takes a few days to establish since it involves analysing samples of the pollutant against samples from the suspect vessel. By the time the analysis is complete, the vessel will usually have sailed from port. More important, the fact remains that, even after evidence of pollution by a departed vessel is finally available, it is possible that this vessel may never return to New South Wales, thereby frustrating all hope of recovering the clean-up costs and penalty.

The aim of the bill is to amend the existing Act and set enabling mechanisms in place whereby the Maritime Services Board is authorised to detain a vessel which it believes to have

caused pollution, without clear evidence being available at the time, without necessarily having incurred any clean-up costs and expenses. Such vessels will be released after the owner lodges security in a form acceptable to the board to cover the estimated clean-up costs, expenses and the maximum penalty recoverable under the Act. The bill will have a two-fold effect. First, it will overcome the deficiency in the existing legislation which effectively precludes the Maritime Services Board from detaining a suspect vessel only because clear evidence of pollution is not available at the time. Second, it will act as a deterrent to negligent shipowners who, until now, may have taken it for granted that their vessels can pollute State waters with a degree of impunity, only because the legislation is deficient in this area.

Honourable members will be aware of the Government's commitment to the protection and preservation of the coastline and waterways of New South Wales. Honourable members will also recall the incident involving the *Iran Afzal* which was suspected of causing oil pollution off Bondi Beach in March last year. Following that incident, the vessel was able to sail from port without lodging security for the estimated clean-up costs and penalty because, as I have already stated, the existing legislation requires clear evidence of pollution before security can be demanded. At this time I wish to emphasise that the Maritime Services Board did eventually recover clean-up costs, expenses and a penalty from the foreign owners of the *Iran Afzal*, as they chose to respond positively when charged with the pollution offence. However, a less responsible owner could have decided to ignore it.

Apart from the above incident, the people of New South Wales have been fortunate inasmuch as there have been no major marine sourced pollution incidents in recent times. This is largely due to combined initiatives by the State and Federal

Page 4436

authorities involving constant vigilance of maritime traffic along our coastline and ensuring, as far as possible, that vessels visiting our ports maintain high standards of operation. The Marine Pollution Act provides for penalties of \$250,000 for a body corporate and \$50,000 for an individual plus unlimited costs associated with clean-up operations. Whilst the penalties in themselves ought to act as a deterrent against pollution, the Government believes it should send a clear signal to would-be polluters that it is absolutely determined in its commitment to protect the coastline and waterways from unscrupulous or negligent shipowners. The proposed legislation before the House reinforces this commitment.

The proposed legislation will introduce a much more positive element into the existing legislation, enabling authorities to respond to a pollution incident involving a suspect vessel, without requiring evidence of pollution. The bill strengthens the existing legislation and is indicative of the Government's resolve in ensuring that its pollution legislation is able to react to pollution incidents in a timely manner. The bill has been carefully drafted to ensure that shipowners' rights are recognised and preserved at all times. This has been achieved by stipulating in clear and concise terms the conditions under which a detained vessel must be released. One condition is when acceptable security is lodged with the Maritime Services Board; another is when reasonable cause for suspicion ceases to exist. The bill also ensures that the security will be applied only towards the purposes for which it was intended. On the other hand, however, the bill makes it an offence for a vessel to leave State waters while under detention.

The bill does not impose onerous financial conditions. It is envisaged that the security which will be offered by a shipowner will take the form of a letter of undertaking issued by a protection and indemnity association of which the shipowner is a member. There are about 16 such associations or clubs, as they are referred to in shipping parlance, constituting the international group agreement, which operate on a mutual insurance basis. They offer their shipowner members unlimited liability for various risks associated with shipping operations, except that a club's liability for an oil pollution incident is normally limited to about \$625 million, extendable to about \$875 million upon payment of an additional premium by the shipowner. The club provides security at no additional cost to the shipowner, and payment against this

security is made only after the shipowner is found liable and the amount of clean-up costs, expenses and penalty has been quantified.

Over 90 per cent of the world's shipping fleet is covered by protection and indemnity clubs belonging to the international group agreement. These clubs are highly regarded as bondsmen of total integrity. Consequently no additional burden, financial or otherwise, will fall on the shipowners who are well accustomed to the system of club security in their normal operations. Shipowners without membership of a club belonging to the international group agreement will need to provide alternative security acceptable to the Maritime Services Board such as a bank guarantee from a prime bank in Australia. The legislation proposed by the bill will bring the New South Wales legislation in line with that already existing in other leading maritime countries including the United Kingdom, the United States of America, Canada and The Netherlands. The Government has always endeavoured to be at the forefront in matters of significant reform in all areas affecting the public interest, and it gives me great pleasure to advise the honourable members of this House that New South Wales is the first State to introduce this legislation into Australia. I am sure this legislation will be welcomed by those who value the unpolluted beauty of the beaches and waterways of New South Wales and will be recognised for what it is - a reaffirmation of our commitment to the continued protection and preservation of our natural heritage. I commend the bill.

Debate adjourned on motion by Mr Shedden.

Page 4437

GOVERNMENT INSURANCE OFFICE (PRIVATISATION) BILL

Second Reading

Debate resumed from 12th November.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.11], in reply: It is with great pleasure and pride that I conclude the debate. This is first of the major privatisations that this Government will undertake. It represents the first 100 per cent privatisation of any government instrumentality in Australia. At the outset I wish to thank and congratulate the many honourable members who have spoken to the bill, particularly, from the Government side, the honourable member for Pittwater, the honourable member for Northern Tablelands, the honourable member for Lane Cove, the honourable member for Eastwood, the honourable member for Murrumbidgee, the honourable member for Monaro, the honourable member for The Hills, the Independent member for Manly and 24 members of the Australian Labor Party. I understand and appreciate the commitment the Australian Labor Party has made to the debate on this measure. I fully understand, appreciate and accept that that commitment is a major philosophical one for the Australian Labor Party and represents a major change in philosophy for certain members of the party. I thank the Leader of the Opposition for the in principle support that he has given the measure which proposes the privatisation of the GIO, though that support was not given without the suggestion of numerous amendments.

In summing up briefly on behalf of the Government I should like to point out the reasons for the proposed float. The GIO is no longer performing as a core item of business its original social obligation - in fact, it was the reason for its formation in 1926 - of providing workers' compensation insurance at the time of its introduction by the government of the day as a compulsory measure, as such insurance cover would not have been met by any other insurance company. However, over the years, with the increase in competition and the increase in the number of insurance companies in the market, that obligation has diminished. The GIO's monopoly in the workers' compensation field disappeared some time ago. Now the business is conducted openly, competitively and in the normal market-place. The question of

the GIO expanding interstate and internationally should be considered at this time at the threshold of such expansion, which will require a considerable amount of capital and require the GIO to retain considerable earnings to fund such expansion. That question strikes at the very core of the reason for a government to be involved and to cease being involved in the GIO.

The question may be asked why New South Wales taxpayers should be obliged to fund and commit earnings, and therefore retained earnings, to enable the GIO to expand interstate and internationally and to write policies and provide classes of insurance that bear no resemblance to the social obligations that may or may not be conceived to exist for New South Wales? For the GIO to continue on that expansion path the Government must ask whether it wants to be and ought to be involved in such expansion. If the answer is, no - and it is, rightfully, no - the question that then faces the Government is whether the GIO should be required to contract its operations, stay within the existing State boundaries and carry out only standard classes of business. That would undoubtedly be to the detriment of the GIO and could subject it to blows from which it might not recover. That it could contract its operations and restrict its activities to New South Wales and standard classes of business is a ridiculous suggestion to make about a well-managed business that is expanding, growing strongly, and seeking to introduce new classes of business well beyond State boundaries.

Page 4438

One must ask whether the GIO has matured and whether its vision has extended to a point where it should be released from government ownership to enable it to enter the market-place, become owned by the people of New South Wales and conduct its operations as a normal market player in a normal market environment. At present the GIO makes a minimum return to the taxpayers of New South Wales when one has regard to its capital. One of the features of the privatisation will be the Government's receipt of capital proceeds. That will enable the Government to retire debt of the order of more than \$1 billion, which will have the effect of relieving the taxpayers of New South Wales of at least \$100 million a year in debt servicing expenditure. That will give the Government the ability to fund other priority areas of its administration, the high profile ones being health, education, police, roads and other worthwhile projects.

The present Budget shows the proceeds of the privatisation of the GIO below the line. Therefore, it is a most important budgetary consideration for the Government. It is important that the GIO be privatised in a relatively short period so that the proceeds will be received either before or soon after the close of this financial year. The Government considered at great length whether to put the privatisation of the GIO out to tender to specific potential buyers in the market-place or whether to undertake a full public float. It is right to say that the Government's advisers and the New South Wales Treasury advised that there is a greater potential to maximise the proceeds of the privatisation of the GIO by tender rather than by public float. However, the Government has adopted the philosophical position that it would prefer to float the GIO so as to place its ownership in as many public hands as possible - to achieve the widest public shareholding it is capable of achieving.

At this point I must make a comparison between the GIO and the only other government instrumentality to be privatised - the Commonwealth Bank. I wish to refer to the Commonwealth Bank's activities and intended activities following privatisation. In fact, the Commonwealth Bank float was only a partial float involving only 30 per cent of its capital. However, it is common knowledge that the prospective privatisation of Qantas Airways Limited and Australian Airlines will take place by tender. But this Government has decided to proceed by way of public float. The proposed legislation therefore contains no reference to the possibility of 100 per cent of the GIO being put out to tender in the market-place.

Much has been said during the debate about the 10 per cent shareholding restriction at the time of the initial float. The Government has devoted a considerable amount of time to a consideration of that issue. That restriction is contained in the bill to protect the GIO at the time of the float or in the immediate future from an easy takeover by any person or company in the market-place. Though there is virtually no chance of any one shareholder reaching the 10 per cent limit - in fact the Government expects that any individual shareholding will be far lower than 10 per cent - the bill contains the restriction to prevent any individual shareholder acquiring a large block of GIO shares and therefore being in a position to mount an early takeover. In any event, a shareholding of more than 10 per cent is prevented by Commonwealth legislation which is at present before the Federal Parliament. Some days ago I received a letter confirming that the Federal Government is to proceed with the Commonwealth insurance takeovers legislation. The bill is expected to pass through the Parliament by the end of this month and will be proclaimed well before the float of the GIO. That bill provides that no individual may hold more than 15 per cent of the shares in any insurance company. The Government believes that legislation will provide permanent protection against any potential takeover of the GIO.

Members of the Opposition have suggested that that protection should be enshrined in this bill for ever. However, the Federal legislation, which will limit any shareholding to 15 per cent without reference to the Federal Treasurer, will provide that

Page 4439

protection. I repeat that it is the intention of the Government to have the widest possible public shareholding in the GIO, and that will be the greatest protection against any individual shareholder accumulating a 10 per cent share or anything close to it. The bill contains a requirement that there must be a minimum of 300 shareholders for the GIO to be listed on the Australian Stock Exchange. It is likely that individual shareholdings will be similar to those in the recent partial Commonwealth Bank float. In that float 280,000 shareholders purchased shares in 30 per cent of the Commonwealth Bank. The 1.25 million GIO policyholders and the number of staff, which is almost 3,000, together with members of the general public will provide the wide base the Government is seeking for a successful privatisation.

I shall refer to the prospectus obligations when the Opposition amendments are dealt with. Suffice it to say initially that under sections 995 and 996 of the Corporations Law, a considerable obligation is imposed on directors, underwriters, investigating accountants or anyone associated with the preparation and public distribution of the prospectus. There is an obligation for complete accuracy and probity in the preparation of the prospectus so that it can be relied upon totally by the public as the document upon which to base a decision to purchase shares in the privatised GIO. Reference has been made to the continuation of the government guarantee. The legislation provides for the government guarantee which applies at present to all classes of insurance to continue to apply to all issued policies. Therefore all existing life policies will continue to carry the Government guarantee for the term of the policy. Other general insurance policies - whether they be for one year or five years - will carry the government guarantee until they expire.

I should like to respond particularly to a question asked by the honourable member for Waratah about whether other investments of the GIO such as rollover funds will continue also to carry the Government guarantee. That is in fact the case. All investment policies with the GIO at the time of conversion will continue to carry the Government guarantee. I should point out also that the reason for the doubt about the continuation of the government guarantee is because the GIO will obviously pass from State ownership to public ownership and will be subject to the Corporations Law and the guidelines of the Federal Insurance and Superannuation Commissioner. The GIO will therefore be directly under the control of Federal Acts and guidelines. At present those guidelines prescribe certain capital preserving ratios and the protection which is understood to apply as a result of the State Government's guarantee will be transferred as a result of the privatised GIO coming under the auspices of the Federal Insurance and Superannuation Commissioner. I should say also that the GIO enjoys excess

reserve ratios well beyond any minimum requirements imposed on any other insurance company. Though the guidelines of the Federal Insurance and Superannuation Commissioner do not apply to the GIO, it adheres strictly to them. It is worth while commenting that the government guarantee has never been called upon since the GIO was established in 1926.

Many honourable members referred to surplus assets or surplus shareholder funds. The Government has not withdrawn any surplus capital or any form of shareholders' funds from the GIO preparatory to the float. It does not intend to proceed with the float of the GIO by the withdrawal of any capital. The amendments proposed by the Opposition will be opposed by the Government. I point out that the only recent privatisation legislation is the Commonwealth Bank legislation which was passed by the Federal Government and the recent legislation to privatise the State Insurance Office of Victoria. Those two pieces of legislation do not contain any of the provisions envisaged by the proposed amendments. The Federal and Victorian State governments did not consider it necessary, either philosophically or for technical reasons, to include any of the provisions in the proposed Opposition amendments in their privatisation legislation. Those two jurisdictions are both controlled by parties of the same political persuasion as
Page 4440
the Opposition.

The Opposition amendments strike at the very heart of the whole question of privatisation. They attempt to destroy the float through the back door. The controls that have been suggested would apply for ever in a rule from the grave approach to the future GIO and would deny a clear and genuine float. Each amendment individually would devalue the GIO in the market-place and would have an adverse impact upon the future share value for members of the public who invest in the GIO. Obviously, anything other than a genuine, clean float would devalue the GIO and will be opposed. Some of the legislative restrictions which are being suggested would require a future State Parliament long into the future - perhaps 50 years away - to consider the privatisation which occurred a long time beforehand to enable the organisation to conduct business in what is considered to be an appropriate fashion at that time. It is clearly ridiculous to write such a provision into the legislation at this stage.

The amendments would impose restrictions on the ability of the GIO to operate fully in a market environment. Apart from devaluing the float, the amendments would hamper the GIO in maximising the return to members of the public in this State and in other States. The GIO must have a complete and clean float. Therefore, it must be allowed to compete equally in the market-place. That will give it its best chance for survival, not the lifetime protective measures being suggested by members of the Opposition. The amendments concerning the composition of the board are politically motivated and have no place in this legislation. No major Australian company has such a restriction as to size and individual composition of the board. The acceptance of the amendments would clearly be a wrong market signal which would devalue the GIO.

The amendment relating to the Auditor-General I will deal with at greater length in Committee, but suffice it to say now that the Auditor-General has written a letter to the Premier, Treasurer and Minister for Ethnic Affairs suggesting that the amendments proposed by the Opposition are not supported by the Auditor-General - although of course he would do whatever is required of him by this Parliament. He has expressed reservations concerning the amendments. He has confidence in the two investigating accountancy firms - Ernst and Young and Coopers and Lybrand - as being independent and capable investigating accountants. He has suggested that their role as investigating accountants in relation to the prospectus would be totally reliable and indeed preferred. The role proposed by the Opposition for the Auditor-General would be extremely costly and delay the float in a way that could be fatal to the float, and indeed it would add absolutely nothing to the float process. The Auditor-General's correspondence is clear proof that he does not agree with the intent of the proposed Opposition amendments in relation to the Auditor-General.

In conclusion, I say with great pride that this is a most important privatisation. It is a precedent. It is landmark legislation in this State. It is the first 100 per cent privatisation in Australia. We will ensure that it is conducted in the best possible way to achieve the widest public participation in the float. I place on record my thanks to the members of the GIO task force: the chairman of the board, Mr Stan Howard; the managing director, Mr Bill Jocelyn; the deputy secretary of the New South Wales Treasury, Mr Michael Lambert; and all the people associated in one committee or another with the work of the task force on the privatisation. There are far too many to mention. My policy adviser Mr Joe Hockey has been involved from the start. All the advisers for both the GIO and the Government should also be mentioned. I thank Government members and Independent members for their involvement in the lead up work and the preparation of the legislation. I am particularly thankful of the input from Independent members. A lot of time has been put in to briefing sessions and negotiation sessions so that Independent members could assess the legislation and decide on their support for it.

Page 4441

I congratulate them on their willingness to devote the time required to assess this most important piece of legislation. I support the bill.

Question - That this bill be now read a second time - put.

The House divided.

Ayes, 52

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins
Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths
Mr Hatton

Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Ms Machin
Mr Merton
Dr Methereil
Mr Moore
Ms Moore
Mr Morris

Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips

Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit

Tellers,
Mr Beck
Mr Hartcher

Noes, 46

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina
Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Mr McManus
Mr Markham
Mr Martin
Mr Mills

Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman
Ms Nori

Mr E. T. Page
Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski

Tellers,
Mr Beckroge
Mr Davoren

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Page 4442

In Committee

Clause 9

Mr J. H. MURRAY (Drummoyne) [4.43]: I move:

Page 6, clause 9. Omit clause 9(4)(a), insert instead:

- (a) are to provide that the first directors of GIO after the conversion are to be appointed by the Minister, including the persons holding office as full-time directors of the GIO Board immediately before the conversion if those persons agree to their appointment; and

The Opposition has proposed a number of amendments to ensure that the long-term interests of the GIO and the taxpayers of New South Wales are protected. This amendment provides for continuity of the board of directors. As members of the Government have learned from the contribution of the Leader of the Opposition to the second reading debate, there is scuttlebutt that a number of jobs for the boys as board members are being proposed. At present the GIO is a profitable, viable and well-run organisation. Its board members have a wealth of experience and, more importantly, they have corporate continuity. The Opposition believes that the board members who have served the State well in the period since their appointment should be given the opportunity to be re-appointed to the board. The present board has a worker-elected representative. On occasions worker-elected board members have not been as successful as one would have wished them to be but the worker representative on the GIO board has an outstanding record. Once the public float has been undertaken some board directors may believe that in the interests of the organisation or in their own interests they

should step down. That is fair enough but any current director of the board should be given the opportunity to be re-appointed to the new board.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.46]: The amendment is opposed for the reason that the GIO should compete in the market-place on a basis equal to that of any other publicly listed company. It is ridiculous to put forward a legislative restriction that would apply for the life of the GIO. Such a restriction does not apply to any other public company, and if it were applied to the GIO it would have a detrimental effect, be an impediment and devalue the organisation. The board of the GIO should be appointed by the shareholders. This amendment does not address the question of the board that will take the GIO through to conversion. Obviously the Government has the right to appoint the present board. The board appointed to see the GIO through to conversion does not necessarily mean that it will be the board for all time. The shareholders are the only people who have the right to select that board. That will be their responsibility and not the Government's responsibility. It would be wrong to enshrine in legislation the existing GIO structure - after there having been a public float - for a long time in the future.

The board of a public company is responsible for the appointment to the board of an ex officio chief executive officer and deputy chief executive officer. It is not the Government's prerogative or responsibility to say who will be the future chief executive officer or the deputy chief executive officer when the public shareholders own the GIO. The present chief executive officer of the GIO, Mr William Jocelyn, has indicated that he considers the new chief executive officer should be appointed by the board and not by the Minister. I agree completely with him. It is entirely appropriate that immediately after conversion the board and not the Minister be responsible for the appointment of the chief executive officer. I suggest that the Opposition's amendment would give far greater

Page 4443

scope for political interference than if the appointment of the two ex officio members, the chief executive officer and the deputy chief executive officer was left in the hands of the board. Obviously that would not lend itself to political interference in the future. That is not only the correct way but also the well-established way that public companies operate in the market-place.

The market does not want the protections that are proposed in this amendment. Its preference is for senior management to stand on its own feet, to be accountable to the board and the shareholders. Senior management should justify the position it holds. It should not be dictated to by any Minister or Government prior to the point of conversion of the organisation to a private company. The GIO must be privatised with an unequivocal indication to the market that the board and not the Minister is responsible for senior management appointments, and that shareholder - not the Minister or the Government - are responsible for board appointments.

Mr J. H. MURRAY (Drummoyne) [4.51]: The Minister has gone off on a tangent. He referred to the positions of chief executive officer and deputy chief executive officer. The amendment does not allude to such positions. It refers to members of the board. The Minister asked honourable members to believe that this situation is normal in any private enterprise association. That may be so when an organisation has been privatised, but we are talking about a situation in which, because of budgetary constraints, the Government is selling off a viable and profitable organisation. That is different from the normal situation. New South Wales is broke, and to meet that difficulty the Government wants to sell off the GIO. If that has to be done, the Government should at least endeavour to look after those who have developed an organisation that has been able to compete profitably and equitably throughout New South Wales, Australia and the world. The board is a proven entity -

[Interruption]

Mr J. H. MURRAY: If members on the Government side of the House wish to contribute, they may do so when I have concluded my contribution. The dismissal of board members as a result of this proposal will reflect on the organisation throughout the business world. It will be perceived as not being good enough. Such people are worthy of some additional consideration. The Minister said correctly that they are not appointed for life. The new shareholders may change the rules. The Opposition does not suggest that board members should be appointed in perpetuity. Its contention is that they should be members of the first board and if they do not perform, they should go. This legislation offers little opportunity for the present board members to be members of the new board. I do not regard that as the Australian way of going about things. It is not equitable. Though the Minister is honest in his considerations, he has lost sight of the fact that the Parliament should, in specific circumstances, look after those public servants who have done the right thing by the Parliament and the people of New South Wales during their terms as board members.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.54]: I reject the response of the honourable member for Drummoyne. The Opposition has presented a pedantic, backdoor argument, suggesting that the full-time directors have equal standing with the chief and deputy chief executive officers. Clearly that is not the case. The amendment suggests that after conversion, in other words from the moment shareholders rather than the Government have responsibility, the first directors will be appointed by the Minister. Reference is made also to persons holding office as full-time directors. Only the chief executive

Page 4444

officer and the deputy chief executive officer will be full-time directors; all other directors will be part-time directors.

Mr HATTON (South Coast) [4.55]: I am having difficulty understanding the attitude of the Opposition. Its position has changed from selling off to being implacably opposed to supporting the proposal, and then voting against the bill's second reading. If this Government asset is to be sold, the maximum amount of money possible must be realised once the public float situation is arrived at. I do not see how that is possible if a restraint is being imposed, by legislation, on the appointment of the interim board. The investing public must be confident that the float will stand on an equal basis with those of other companies that go public. The Minister said that when the directors are appointed the present full-time directors will be eligible for appointment. I ask the Minister to consider whether that matter should be left until after the public float. I ask him also whether when the public float is completed and the shareholders have elected the board members, the fact that a person is a member of the board prior to the completion of the public float will be advantageous to that person. That is the situation, for instance, in the National Roads and Motorists Association, because a candidate in a ballot could have some standing before the shareholders. This is particularly important if the spirit of the bill is to be carried through. It is proposed that shareholdings will be limited to 10 per cent or less. The vast majority of shareholders will be voting as individuals and they will be looking for guidance from experienced persons. Obviously, when they learn that a person has been appointed by the Government to the board, they may be guided about whom they should vote for. These matters should be clarified.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.57]: I thank the honourable member for South Coast for his contribution and for posing a specific question that I am happy to answer. The present full-time directors are eligible to serve on the board through to conversion, and it is the intention of the Government that the present full-time members of the board will remain members through to the point of conversion. Beyond that time, that will be the responsibility of others, not the Government.

Question - That the words stand - put.

The Committee divided.

Ayes, 50

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins
Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths

Mr Hatton
Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Mr Merton
Dr Metherell
Mr Moore
Ms Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips

Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit
Tellers,
Mr Beck

Mr Hartcher

Page 4445

Noes, 46

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina
Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Mr McManus
Mr Markham
Mr Martin
Mr Mills
Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman
Ms Nori

Mr E. T. Page
Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski

Tellers,
Mr Beckroge
Mr Davoren

Question so resolved in the affirmative.

Amendment negatived.

Mr J. H. MURRAY (Drummoyne) [5.5]: I move:

Page 6, clause 9. After clause 9(4)(a), insert:
(b) are to provide for not more than 9 directors of GIO, one of whom is a staff-elected director; and

The proposed amendment will strengthen the bill, which is silent about the numbers of board members. It is incumbent on the Government to give the board some direction if the GIO is to continue to provide a service to the community. The amendment moved by the Opposition seeks to provide for not more than nine directors of the GIO, one of whom is a staff-elected director. The Minister may ask why the Opposition has selected nine rather than any other number. In most reliable insurance companies in New South Wales and other similar types of financial organisations nine directors have proved to be the optimal number. Another factor is that future private enterprises, like successful private enterprise companies in many European jurisdictions, will have staff-elected directors. The proposed amendment will give necessary direction for the GIO that may be adopted by other companies in New South Wales. Staff-elected directors have proved to be a successful innovation. The proposed amendment will offer a direction that other companies may follow and, most important, will allow a more viable GIO float.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [5.7]: The Government opposes both aspects of the proposed amendment. First, the suggestion about limitation of size has no genuine philosophical basis. It is ridiculous and fanciful to contemplate that the Government could possibly interfere with the GIO by increasing the size of the board after the float in a way that would offer political appeasement to Government supporters. The GIO must be exactly like any other genuinely floated public company in New South Wales. It must not be impeded in any way that restricts its operations or devalues them. The GIO must be on an equal footing with every other public company in New South Wales and Australia. It would be totally inconsistent with the policy of privatisation to

Page 4446

legislatively impose special restrictions on the GIO after privatisation. No general legislation restricts the size of company boards or requires staff-elected company directors. The GIO would be the first and only company to re-enter the market with such impediment and restriction. A restriction of nine directors is completely unacceptable.

The existing board comprises nine members but considerable additional duties will be placed on all members as a result of the new requirement to comply with corporations law. By placing a limitation on the size of the board, therefore, more onerous conditions and obligations would be imposed on board members. This issue should not be decided by the outgoing GIO. The future GIO will be quite capable of deciding whether it needs 10 or more board members. Indeed, the Commonwealth Bank at the time of its privatisation had 11 directors on its board, and since that time an additional director has been appointed. The reason for appointing directors is clearly consistent with devolution of duties on a board. Expansion in a particular direction might find the board inadequately represented in terms of the technical expertise required. The GIO board will be stifled if it is restricted and not able to appoint an additional board member with particular expertise in new business that a future GIO company would wish to embark upon.

It may be that at some future time a board might enter a business joint venture or some sort of partnership with a particular line of business, and it may be part of that commitment that a one for one exchange of directors should take place. That, clearly, would prevent the partnership being able to appoint a member to the board of the GIO in a partnership

arrangement. The second limb of the proposed amendment, which deals with the appointment of a staff-elected director, is completely wrong and would be alone in the corporate world. The composition of and the qualifications and requirements for appointment to the board are clearly matters for the shareholders and not for the Government. It is entirely a matter for the shareholders to determine, in accordance with corporations law, market practice and their own view of the requirements of the board. None of the boards of Australia's top 50 publicly listed companies has a staff-elected representative. That includes the Commonwealth Bank. It is inconsistent with the Corporations Law, as I have said, for a director to be elected by anyone other than shareholders of a company.

The application of corporations law to the GIO also would pose fundamental legal problems for any board member elected to represent the interests of employees. Company directors have a fiduciary duty to act in the best interests of the company as a whole, and directors act wrongly if they consider the interests of the employees in priority to the overall interests of the company. Under the Corporations Law a director who breaches his or her duties as a director may be exposed to criminal sanctions. Therefore, it is completely unrealistic to expect that a staff-elected director would pay sole regard to the interests of the company as a whole. This would create a situation under the corporations law, therefore, of the potential imposition of significant barriers to the introduction of an employee representative on the board. A staff-elected director would be put in an invidious position on the board, risking criminal sanctions if he or she acted in the interests of the employees in preference to the interests of the company overall, and ultimately of the shareholders.

Question - That the words be inserted - put.

The Committee divided.

Page 4447

Ayes, 46

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina
Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Mr McManus
Mr Markham

Mr Martin
Mr Mills
Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman
Ms Nori

Mr E. T. Page
Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski

Tellers,
Mr Beckroge
Mr Davoren

Noes, 51

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins
Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths
Mr Hatton

Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Mr Merton
Dr Metherell

Mr Moore
Ms Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips
Mr Photios

Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit

Tellers,
Mr Beck
Mr Hartcher

Question so resolved in the negative.

Amendment negatived.

Mr J. H. MURRAY (Drummoyne) [5.20]: I move:

Page 6, clause 9. After clause 9(4), insert:

- (5) The proposed memorandum and articles of association are also to include provision to the effect that a shareholder (other than the State of New South Wales) may not have a relevant interest in GIO (within the meaning of section 31) that is more than 10 per cent.

Page 4448

I believe this is the most important of the Opposition's amendments. Had it not been for the pressure upon this legislation which has been brought to bear by the Opposition, certainly by the Leader of the Opposition, the GIO would have been sold off at much less return to the taxpayers of New South Wales. The bill contains one key deficiency; it provides that the maximum shareholding of any one person or body in the initial offer only of shares in the public float is limited to 10 per cent. It does not provide an ongoing guarantee that the voting rights of any one individual will not exceed 10 per cent. Members will recall that in his second reading speech the Minister said that ongoing restrictions have not been included in the bill because they would be impossible to police. That argument has no technical or economic validity and is rejected by the Opposition. The amendment proposed by the Opposition will change the articles of association to provide that after the float no individual or body is to control voting rights of more than 10 per cent of the total shares in the company. That will make it difficult for

a competitor to take over the GIO because a change in the articles will require a 75 per cent majority vote.

That is where the difficulty lies. If the proposed subclause is inserted into the bill, it will be difficult to circumvent the articles of association because, as I have said, a change in the articles of association will require a 75 per cent majority vote at a shareholders' meeting. Were the GIO to allow any shareholding to exceed the 10 per cent limit, it would be in breach of its own articles of association. Contrary to what the Minister said in his second reading speech, there would be provision to police the restriction if this subclause is inserted into the bill. The clear economic argument for limiting any individual shareholding to 10 per cent in the initial float is accepted by the Government, which agrees that there should be as wide an ownership as possible and to that end has inserted a 10 per cent limit in the bill. The Government agrees with that principle and it is embodied in the bill. The amendment seeks to provide that the restriction should be permanent and that the original intention of the bill will remain with the GIO ad infinitum unless 75 per cent of the shareholders wish to change the articles of association.

There is an obvious need to eliminate any capacity for the GIO's competitors to take large shareholdings of the company and thus reduce competition in the insurance industry. Members should realise that in the United Kingdom under Prime Minister Thatcher a mistake was made. During its privatisation process, the Thatcher Government inserted similar provisions in legislation but as soon as the organisations were established with their new boards, competitors within the particular industry bought up the interests of the privatised body after the initial public float. The purpose of this amendment is to prevent the GIO being cannibalised by other big insurance companies. That problem has faced members on both sides of the Chamber. No one wants the GIO to be privatised and then taken over by another organisation and thus reduce competition in the market-place and the industry. Under the existing legislation, that can happen. If the amendment is accepted, the mums and dads who own the GIO will continue to own it and have some say in its future direction. The amendment will ensure competition in the industry and is a safeguard which the Committee should examine closely. The Minister believes there could be a problem in policing the proposed restriction, but because the articles of association may be changed only with the agreement of 75 per cent of the shareholders, that particular objection is eliminated.

Ms MOORE (Bligh) [5.26]: It seems to me that this is the most important of the Opposition's amendments. I should like to place some important matters on the record and I would welcome the Minister's comments on them. The amendment is a difficult one for me. As presented by the Opposition, it seems that the articles of

Page 4449

association will include the provision of a 10 per cent limit in perpetuity, not merely initially. That will prevent large firms from buying up the shares. The Government has argued that such a restriction would put the GIO on an unequal basis in the private sector and that the new Federal insurance acquisitions and takeovers legislation will deal with the problem and require a person who acquires a 15 per cent interest or more in a licensed insurer to notify the Federal Treasurer. Although the Treasurer must consider the investment under a number of public policy tests, including the concentration of economic power in the insurance sector and the national interest, the legislation does not contain an absolute prohibition against the takeover of the GIO. That is of concern to me. The legislation does not contain a failsafe guarantee against a takeover. However, a continuing restriction of 10 per cent after the initial float will provide security and protection to the small investors who have been talked about so much in this debate, the mums and dads who are concerned about the results of privatisation and the possibility of other insurance companies picking up large individual shareholdings. I would welcome the Minister's comments before I make my final remarks on the amendment.

Mr SCULLY (Smithfield) [5.28]: This amendment is about competition. I seek an assurance from the Minister that if he opposes this amendment, he is still in favour of competition. If he asserts that, he is a hypocrite.

Mr J. H. Murray: He should resign.

Mr SCULLY: And he should resign. He should be ashamed of himself as well. We all know the Minister is an opponent of competition. The Opposition wants to ensure that other big insurance companies do not gobble up the GIO, which is one of the most important assets of New South Wales. The amendment seeks to ensure that competition in the insurance industry is not reduced. I will be surprised to hear the Minister's justification for his opposition to this amendment, which should be supported by all members of the Committee.

Progress reported and leave granted to sit again.

PRIVATE MEMBERS' STATEMENTS

LUCAS HEIGHTS WASTE DEPOT

Mr DOWNY (Sutherland) [5.30]: I bring to the attention of the House tonight a decision that was made by Sutherland council last Monday night to oppose the extension of the boundaries of the Lucas Heights waste depot and to organise a campaign against the extension. Recently in the local newspaper, the *St George and Sutherland Shire Leader*, there was an article headed "Liberal MPs snipe at council". After reading of the decision made last Monday night I do not wonder that local Liberal members of Parliament have sniped at the decisions made by Sutherland Shire Council in recent weeks. I do not question the right of the council to object to the Waste Management Authority proposal for the Lucas Heights tip; however, I do question the way in which the council has gone about it. In reporting on the decision an article in the local newspaper states:

Shire President Ian Swords said the council recognised the potential criticism in taking the initiative before the environmental impact statement into the extension had been released.

Page 4450

That is 100 per cent correct. Proper processes should be followed. The council will be the determining authority in the planning process. Yet before it has seen the development application or the environmental impact statement it has already made a decision not only to oppose the Waste Management Authority proposal but also to organise a campaign against it. A press release from the Waste Management Authority maintains that some of the information used in the debate on Monday night is incorrect. For a start, Lucas Heights is not Sydney's largest tip; Castlereagh depot in Sydney's west occupies twice the existing area of Lucas Heights. The Waste Management Authority also claimed that improved recycling and waste processing practices and progressive revegetation will mean that the operational tip area at Lucas Heights will be cut almost in half. The authority also said that the percentages used in the debate at the council meeting on Monday night are incorrect. One councillor stated that Lucas Heights receives more than half of Sydney's waste. The Waste Management Authority says that the true percentage is 36 per cent but the tonnages are expected to fall over time as wastes which would have gone to Lucas Heights are diverted elsewhere. The authority says that assertions made at the council meeting that all Sydney's waste will end up at Lucas Heights by 1997 are not correct and not a true representation of the facts.

The Lucas Heights proposal involves three elements. The Waste Management Authority proposes to construct recycling and materials recovery industries at Lucas Heights in a waste recycling park. The authority is also proposing to extend the boundaries of the waste depot but, most important, the authority proposes the development of a golf course and playingfields at the site. I cannot but emphasise the importance of this aspect. Sutherland council in recent years has ignored the needs of the residents of the Menai area for playingfield

facilities. The council decision on Monday night jeopardises the development of the playingfields and golf course, which are sorely needed in the Menai area. An issue about which I have concerns relates to roads into the area. The Waste Management Authority must address in its application the issue of adequate road access to Lucas Heights tip. Residents are continually complaining about the number of garbage trucks that use the roads in the area and the destruction they cause to the roads. The authority has a duty to provide financial input to upgrade the roads in the area. It should also provide financial incentive to the council to employ gangs of rangers to clean up the roads in the area. I want rational debate on this issue. Information should be disseminated in a rational way. That is why I have taken it upon myself to organise 10 public consultation meetings between now and the end of February next year. I hope that the council will approach the issue in the same way. Obviously it has not started in the right way.

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member's time for speaking has expired.

MOUNT DRUITT HOSPITAL SERVICES

Mr GIBSON (Londonderry) [5.35]: I raise a matter that has arisen in my electorate. We hear a lot in this Chamber, particularly from the Minister for Health Services Management, about facilities being closed in the inner city and being moved out to western Sydney. Members on this side of the House support the transfer of facilities, but it is just not happening. An example concerns Mount Druitt Hospital. Its budget this year has been slashed by almost \$2 million. The cut in money terms is \$1 million. There is the 1.5 per cent productivity cut, but if the inflation rate is added the real shortfall is just under \$2 million. The situation has become so serious that such things as flavoured milk and pineapple juice have had to be taken off the patients' menu. Tissues, soap and toothpaste have been rationed. The situation makes it nearly

Page 4451

impossible to give the proper medical care that hospitals anywhere should be able to give. The claim that facilities are being moved to Sydney's west is a furphy: it is just not happening.

There is a crisis in the area. Unless the Government does something about Sydney's west I am certain that people will die unnecessarily. A constituent of mine, Mr Pat Leahy, suffered a massive heart attack. Fortunately he survived, but he has been told that he will never work again and he is now on a pension. Mr Leahy also suffers from spondylitis. Because of the severe pain from the spondylitis it is hard for him to tell whether he has heart pain or pain from the spondylitis. A few weeks ago his doctor told him that he needed physiotherapy. He was given a referral and sent to Mount Druitt Hospital. Mr Leahy was a patient at Mount Druitt Hospital on three occasions last year so he was not a patient new to the hospital. Last week the hospital told him that because he was referred to the hospital by a doctor he was classified as a new referral. Therefore he was a new patient as far as the hospital was concerned. The hospital told him that it was not accepting new patients.

Mr Leahy had to find another hospital and it was suggested that he go to Blacktown District Hospital. His family took him to Blacktown District Hospital, where he was told that he could not be treated because he does not live in the area. He was referred back to Mount Druitt Hospital. When he went back to Mount Druitt Hospital he was referred to the Nepean Hospital. At Nepean Hospital he was told the same story: he was from out of the area and could not be treated. What could he do? He went back to Mount Druitt Hospital. If that is the Government's idea of medical care and facilities moving to western Sydney, I think it is in for a hard time at the ballot box. This fellow is entitled to better treatment than he has been getting. He has been tossed from pillar to post. He definitely needs medical treatment today. He does not need it next week or in two months' time.

Mr Phillips: What does he need it for?

Mr GIBSON: He has had a massive heart attack and he is suffering from spondylitis. He is getting no treatment at all. The hospital has been very good about it. It has virtually said that it does not have the money or the facilities. It got back to me only about half an hour ago. The hospital will reassess this person's case to see whether he can be fitted in for physiotherapy. Even if he is reassessed, he cannot get in for physiotherapy for between three and six months. The Minister has been running around the State telling us all that the facilities are being closed down in the inner city and moved out to western Sydney. We are not getting them in western Sydney. If they are being sent out there, they are fairly well hidden. The hospitals are not getting them. People there have received no result from all the closures in the inner city.

Mr PHILLIPS (Miranda), Minister for Health Services Management [5.40]: The hypocrisy of the Labor Party on the issue of health services staggers me. During question time today the Leader of the Opposition asked me a question on which he was clearly briefed by the doctors at Royal Prince Alfred Hospital, who were pushing their own barrow for additional funding. They are opposed to this Government's policy of moving resources to the west, the southwest, the Central Coast and the North Coast. Under the former Labor Government's administration there were 12 years of delay. When this Government came to office it embarked on major projects. It was this Government that determined that Liverpool Hospital would be a teaching hospital and got that \$200 million project up and running. It was this Government that allocated \$100 million to the Nepean Hospital, and made the decision to move the Royal Alexandra

Page 4452

Hospital for Children from Camperdown to Westmead - a \$300 million project. In the time that this Government has been in office recurrent funding for Wentworthville rose by 20.7 per cent over and above the rate of inflation.

Mr Gibson: Does that include the Hawkesbury Hospital that is yet to be built?

Mr PHILLIPS: I am talking about recurrent funding. Western Sydney has received increased funding as well. I cannot change the world overnight. If the honourable member for Londonderry is genuine about health care he should speak to his Federal colleagues and ask them why they are reducing funding for New South Wales. He should speak to them about getting more money for this State. The Federal Government has cut my budget by \$230 million. The State Government has had to top up the State's health budget year after year. The honourable member is grandstanding. You want two bob each way. You voted for the moratorium on the proposed changes to Sydney Hospital. You voted to stop funds going to the west.

[*Interruption*]

Mr ACTING-SPEAKER (Mr Chappell): Order! The Minister will address his remarks to the Chair. The honourable member for Londonderry will cease interjecting.

Mr PHILLIPS: The honourable member should ensure that he sends a copy of my remarks to his constituents so that they are aware of both sides of the argument. The honourable member knows as well as I that if he raises his constituent's concern with the appropriate area health service or with my office the matter will be investigated and appropriate action taken. He should not grandstand and be hypocritical. He wants to vote one way on a moratorium, he wants to back the Royal Prince Alfred Hospital doctors and at the same time he wants money allocated to the west.

ABALONE FISHING INDUSTRY

Mr COCHRAN (Monaro) [5.43]: I speak on behalf of abalone divers, in particular those divers located in the southern fishing town of Eden. I do so after a long period of negotiation not only with those divers but also with the Minister for Natural Resources. The matter that I draw to the attention of the Minister is that of zoning in respect of abalone fishing. The present situation is that abalone divers licensed in New South Wales have the right to operate along the entire coastline of New South Wales. Until recently that may have been the appropriate way to approach the issue but apparently the diminishing resource on the New South Wales coastline has brought about the need for the introduction of zonings. Recently I managed to obtain a copy of a draft report from a Mr Warwick Nash of the Tasmanian fisheries. Mr Nash, who is a senior fisheries scientist specialising in the abalone industry, reports that there is much merit for the introduction of zoning in respect of the New South Wales abalone industry. His report is specifically directed at the resource security of that industry in New South Wales. In his report he said:

Growth overfishing can be remedied by a reduction in fishing mortality. Given the knife-edge selection (i.e., harvesting of the Abalone as they recruit through the size limit) that is occurring in all areas of NSW surveyed, the response to a reduction in fishing pressure would be fairly rapid. Fishing pressure in the area surveyed can be effected by several means, including (i) a reduction in the total catch (operating through a reduction in individual quotas), and (ii) implementation of a zoning scheme. A reduction in total quota will not necessarily alleviate fishing pressure in the southern region sufficiently, unless it is a large reduction, because of the increasing trend of the majority of NSW divers to concentrate their fishing in this region. The advantage of zoning is that

Page 4453

it maintains a spread of effort throughout the NSW fishing zone. Since the available scientific evidence suggests that larval dispersal is limited, localised intensive fishing is a bad strategy, since the ability of a heavily depleted population to be replenished by larval recruitment from distance away is limited.

Significantly that has been the nub of the argument put forward by the southern abalone divers for quite some time. I have been dealing with them since 25th May and they continually put forward the argument that the intense concentration of divers in the selective areas over a period of time will diminish the available resource to the abalone industry, which is a multimillion dollar export industry for New South Wales. I call on the Minister to look seriously at the introduction of zoning in New South Wales in order to reduce the friction that now exists between divers. They are divided on the issue; and it is only in recent days that there has been a clear indication that 60 per cent of divers in New South Wales are in favour of the introduction of a zoning system. I call on the Minister to examine seriously the option of zoning.

I thank the Minister for his considerable patience in respect of this matter. It has been a vexed issue within the industry for some time. Only a degree of tolerance and lengthy negotiations will provide us with the right outcome. The draft report of Mr Warwick Nash is a clear indication that zoning is an option that should be seriously considered by New South Wales fisheries. I wish to pay tribute to the divers involved in the abalone industry. Though there has been a considerable degree of friction between the different groups, they have adopted a mature attitude in their representations both to me and to the Minister. I pay tribute in particular to Michael Harper and Dita Ritzy who have been the prime negotiators on behalf of the industry.

Mr CAUSLEY (Clarence), Minister for Natural Resources [5.48]: I am pleased to reply to the honourable member for Monaro on this subject. I acknowledge the fact that he has been a prime mover in the efforts to try to find a rational and commonsense approach to this issue. It seems to me that in dealing with all areas of fishing, whether it be abalone, oysters or fish, I was born after my time. I should have been born Solomon if I am to resolve some of the issues. Nevertheless, as the honourable member said, there seems to be considerable support at present for the introduction of a zoning system. I have read the report by Mr Nash, which tends to backup reports from my own department and reports I have received from my officer, Garry Hamer, about the problems in the abalone industry. I have asked the Solicitor General to advise me whether it would be legal for me to introduce zones. The divers are issued with a State license; and whether that license entitles them to fish up and down the coast will have to

be ascertained. Another complicating factor is the amalgamation of industry quotas. Some people who do not live in Eden have purchased quotas at that port. If the area were zoned residential, they would be disadvantaged. I realise there are problems involved and I undertake to try to resolve them.

It may be possible for such people to manage their own affairs. For example, the divers at the port of Eden may wish to take over the area from the State on a resource rental basis. They may choose to manage and maintain the area as a farming enterprise so far as abalone is concerned. I have put this proposition to the divers at Eden as a basis for addressing their concerns. Divers have expressed concern about poaching, particularly on the North Coast. Those who are not in agreement with the present zoning are those who say they are being disadvantaged, because the population base close to the city enables poachers to operate openly. The judiciary has adopted a somewhat weak-kneed approach to those who commit this offence. When people are convicted of the offence of poaching the fines imposed, generally speaking, are usually light. As the

Page 4454

honourable member for Monaro said, abalone is a valuable resource and is no doubt sought after by restaurateurs throughout Sydney, particularly in Chinatown. It may be that the Opposition would support legislation introduced by me to increase penalties for poaching offences. The act of poaching is a crime against the environment, and that is a matter of interest to all members of this House.

FEMALE TEACHER SUPERANNUATION

Mr DAVOREN (Lakemba) [5.51]: I seek to present a case for female teachers who decided to pay into the superannuation fund prior to 1985. When female teachers joined the fund they were asked to nominate whether they would retire at age 55 or 60. Often circumstances change from those that exist when the decision is made in one's early 20s to retire at the age of 55. It is conceivable that at age 55 a teacher may wish to continue in the service. I should imagine that in most instances at that age such persons would be either senior teachers or principals and, therefore, valuable assets to the service. It is only natural to assume that the service would not want to lose people of such experience. The problem is, however, that if they choose to remain in the service, they are faced with a monetary penalty. Their lump sum factor is reduced by 2.4c daily for the time they remain. Of the order of \$40,000 is involved in the case of a constituent of mine who approached me about this matter. That is not an inconsiderable amount for someone who has worked and paid superannuation all one's life.

I realise the fault does not lie with the superannuation board. In response to letters written by me the board has informed me that though it is extremely sympathetic to the situation in which these female teachers find themselves, it suggests that the problem is a legislative one. The board offered a number of suggestions that, in my view, are not feasible. It suggested that the teacher involved may decide to retire at 55 years of age and then return to the teaching service or gain other employment in the public service. I suggest, however, that in such an instance a teacher who had been a principal for some time would be severely disadvantaged. The service certainly would be disadvantaged if a decision was made by a senior teacher to retire at age 55, to take the lump sum that is available on the commutation basis, and then to return as an ordinary teacher. I imagine such a teacher would not be re-employed as a principal. Though the board was kind to respond to my correspondence, its suggestions were not of much value. I suggest that legislation be introduced to permit a female teacher who has resolved to retire at 55 years of age to pay her lump sum payout into a rollover fund administered by the superannuation board. She would pay no further contributions, and when she decided finally to retire, between the age of 55 and 60, she would receive her lump sum payment plus interest. Apparently a problem does exist legislatively in this regard. I acknowledge that there would not be many female teachers affected. Nevertheless the availability of such legislative arrangements would be a just reward for their

years of service to the teaching profession. Legislation could be drafted or regulations adopted to incorporate the sensible solution I have offered. Those affected would receive a lump sum payment plus interest and not be penalised.

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member has exhausted his time for speaking.

MURRAY REGION ENVIRONMENTAL PLAN No. 2

Mr SMALL (Murray) [5.56]: I express concern about the draft Murray region environmental plan No.2, which was published early this year by the Department of Planning after consultation with councils in the Wentworth, Deniliquin and Corowa
Page 4455

regions. Landholders throughout those shires and particularly along the Murray River are extremely concerned about this plan. It refers to land in my electorate, in the electorate of my colleague the honourable member for Albury through to the South Australian border, and along the Murray River boundary on the New South Wales-Victorian border. The plan will affect many people. It refers to a setback provision of 60 metres for commercial developments. That in itself is not a problem. However, reference is made to a setback of 100 metres for the building of homes. Should any home on a property bordering the Murray River, constructed within 100 metres of the river, be destroyed by fire, it could not be rebuilt on the same site. It would have to be built beyond the 100 metre setback. The Minister for Planning and Minister for Energy has listened favourably to the matters I have raised with him in this regard. He has assured me that to the best of his ability he will ensure that the plan will be finalised in a responsible way. He assured me further that he will consider any matters that I put to him. I thank him for that. Within the enormous flood plain catchment area of the Murray, farmers may wish to undertake landforming. The plan relates to some of that area.

The environmental plan covers some of those catchment areas and could cause great restriction to development of land beside or close to a river or extending back a kilometre or more to a flood plain river levee. The plan will require farmers to use restrictive land management practices. Most farmers these days are conservationists who are conscious of the environment and wish to do no harm or damage to the land, especially to any river frontage. However, farmers with pumping licences on land suitable for irrigation should be entitled to landform their property to assist its water ability and drainage, and lessen water usage and soakage into the soil. Farmers should be allowed to continue those excellent practices. The Department of Lands honoured a commitment to visit the landholders and speak with them about their farming requirements. The environmental plan, however, requires major changes before it can be finalised. In addition, time for submissions was extended from August until 1st September. I am pleased that the Department of Planning will be able to discuss needs with landholders all along the river. The Minister for Planning and Minister for Energy and his department should be able to resolve the issue. I appeal to the Minister and his department to ensure that landholders, water users and everyone affected in the Murray electorate by the plan are considered in a manner that respects their needs, water usage, farming practices and income.

Mr YABSLEY (Vaucluse), Minister for State Development and Minister for Tourism [6.2]: I will ensure that the concerns of the honourable member for Murray are conveyed to the Minister for Planning. These issues are of great concern to the honourable member for Murray. The honourable member has already taken up those matters with the Minister for Planning and Minister for Energy and is acting in the best interests of all his constituents. I am sure that he will continue to receive every co-operation from the Minister for Planning and Minister for Energy.

Private members' statements noted.

[Mr Acting-Speaker (Mr Chappell) left the chair at 6.4 p.m. The House resumed at 7.30 p.m.]

GOVERNMENT INSURANCE OFFICE (PRIVATISATION) BILL

Page 4456

In Committee

Consideration resumed from an earlier hour.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [7.30]: The amendment is opposed. I should like to address one or two opening remarks to the honourable member for Bligh, who raised questions about the 10 per cent perpetual ownership suggested in the amendment. The honourable member said that perhaps the amendment might provide the GIO beyond conversion and long into the future with greater safety against the possibility of a takeover. The Government opposes the amendment for philosophical and technical reasons. The privatised GIO must be treated on the same basis as other private insurers. It is not just a question of the GIO being treated on the same basis as other public companies because public companies do not have a perpetual share ownership restriction, though other insurers do. Once the Federal insurance takeovers legislation is passed, there will be a 15 per cent limit on perpetual ownership of shares except by special leave of the Federal Treasurer. Potentially, there are reasons why the Commonwealth Treasurer might be attracted to agree to such a request.

Honourable members should bear in mind that such requests could well come from the GIO board in the interests of its shareholders. Twenty years into the future it may be in the interests of the GIO and its shareholders - and the absolutely correct and prudent thing for it to do - to enter into a joint venture with another company. Such a joint venture might require 20 per cent cross-ownership. The GIO might be facing bankruptcy. Who would know? It must have the ability in the future to make that decision, and the decision will rest in the hands of the GIO. It will not be a decision this Parliament will make in 20 years time. The Parliament cannot rule perpetually from the grave, as it were. It may be in the best interests of the GIO and its shareholders for it to have a perpetual shareholding limit greater than 15 per cent. Under the proposed Federal legislation the Commonwealth Treasurer will be required to consider the matter. That legislation is expected to be completed and proclaimed by the end of this month - well ahead of the proposed privatisation of the GIO, which will occur in the time frame of about April, May or June.

The proposed Federal legislation will require consideration of the prudential conduct of the company's affairs, the suitability of any other potential owner in excess of 15 per cent of the shareholding, any resultant concentration of economic power in the insurance or finance sectors of the Australian economy, and essentially the national interest. Other Federal Acts will come into play to control the GIO. Honourable members must understand that after privatisation the GIO will cease to be owned by the State. Therefore, it will not be bound by State legislation; it will not be governed by New South Wales law, but by Federal law. Apart from the Insurance Takeovers Bill, other legislation that will bind the GIO includes the Trade Practices Act, the Foreign Investment Review Board requirements and those of the Insurance and Superannuation Commission. For many years the GIO has complied with and operated within the guidelines of the Insurance and Superannuation Commission. There are many other provisions that will offer protection for the GIO. But its best protection will be afforded by the broadest possible shareholding.

In response to the honourable member for Bligh and for the record, I can say that the Government does not intend to go anywhere near a figure of 10 per cent - again without being

prescriptive. The figure is more likely to be 1 per cent or below 1 per cent for a large number of institutions, comprising perhaps 25 per cent or 30 per cent of the total ownership. In the float of the Commonwealth Bank 60 per cent of the shares went to institutions with an average of below 1 per cent for any individual institution. The Government proposes a ratio more like the reverse of that in terms of individual or public

Page 4457

shareholders versus institutional shareholders. A wide shareholding will be in the best interests of shareholders who hold shares for long-term investment and do not trade them frequently. After the float, that will allow an active institutional market to develop on the stock exchange. Only as institutions compete against each other to increase their shareholding from 0.5 per cent to 1 per cent or 2 per cent will there be buoyancy in the market that will increase the value of the shares. That will benefit the silent majority of individual public shareholders. That is exactly what occurred with Commonwealth Bank shares, and the Government expects the same thing will occur following the GIO float. The Government intends to ensure that there will be a large number of public shareholders and a relatively equally large number of institutional shareholders at the point of the float.

The Government does not expect that the 10 per cent limitation will produce three, four or five 10 per cent shareholders. I undertake that that will not occur because the Government will give instructions that there be the broadest possible shareholding both institutional and public. That will be the best protection for the continuing entity of the GIO long into the future. Nevertheless, future shareholdings will be limited to 15 per cent except where the Commonwealth Treasurer is persuaded that a higher than 15 per cent requirement would be in the best interests of the company. Legislation that has preceded this bill - both federally for the Commonwealth Bank float and in Victoria for the State Insurance Office proposed float, which the Victorian Parliament finalised only this week - contains no perpetual ownership restriction. None of the provisions in the Opposition's proposed amendments is contained in either of those pieces of legislation. It comes down to ensuring that the Government has the cleanest, most genuine float possible, because every impediment devalues the price. If the 10 per cent perpetual limitation amendment succeeds, I have no doubt that it will adversely affect the future value of shares purchased by members of the public. A restriction of that nature would be an impediment and cause the shares to have a lower value long into the future.

Another matter to be considered in respect of the amendment is the performance of the GIO. When it is privatised, the GIO will be the largest publicly listed insurer in Australia. It will be difficult indeed for any individual to obtain a 10 per cent shareholding - which after all represents approximately \$100 million of the net anticipated sale price - let alone 15 per cent. The first protection is the broadness of the institutional and public shareholding. The second protection is the strength of the GIO and its strong performance. It is a large well-managed diversified institution which achieves a good rate of return. The present management will continue after the conversion. The buoyancy of the company and its strong performance is its best protection in the market-place. We are not dealing with the usual type company in the world of the stock exchange. Normal companies do not have perpetual shareholding restriction. Only three categories have such a restriction. With regard to finance, there is a restriction of 10 per cent without permission and 15 per cent with the permission of the Commonwealth Treasurer. With regard to broadcasting, there is a 15 per cent perpetual limit. The Federal insurance takeovers legislation will impose a 15 per cent limit. It will be 15 per cent for broadcasters and insurers and 10 per cent without permission and 15 per cent with permission for banks.

In addition to its size and diversity, its strong performance, its market penetration, its branch network, and the fact that it is the largest player in the market, the GIO will be protected by the Federal legislation under which it will operate. It is unrealistic to expect pre-float State Government legislation to have a meaningful long-term benefit to the company. I am speaking of 20, 30, 40 or 50 years time when the GIO will need to be a strong, vigorous, healthy insurer in the market-place to survive, let alone to ward off an increased shareholding of up to 15 per

cent or more if that is justified. If the Government amendment is agreed to the Government could impose criminal sanctions under clause 31 of the bill for any breach of the shareholders' Page 4458

restrictions. That would place the GIO in a position totally different from that of any other insurer in the public sector. The Government has received strong advice that the imposition of criminal sanctions against any shareholder by a State government in a market regulated by the Federal Government is totally unprecedented; it would completely corrupt the float and not be in the best interests of the perpetuation of the GIO and the many shareholders the Government is seeking to attract to it.

Mr YEADON (Granville) [7.44]: The Minister's response to the amendment moved by the Opposition is not sufficiently convincing to give the guarantee sought by the Labor Party that the GIO at some future time will not be taken over by other vested interests in the insurance industry or, indeed, the larger institutional investors who could capture the GIO and produce a public company that would not perform effectively in accordance with the desires of the people of New South Wales. The Opposition believes that a 10 per cent perpetual ownership clause will give far greater safety to the operation of the GIO in the future. The Minister has said that he has philosophical objections to the amendment. He claimed that equal treatment should be afforded to all insurance companies including the GIO when it is floated. That is all right so far as it goes but the Government Insurance Office was set up many years ago to protect the people of New South Wales from other insurers who sought to exploit them. This Parliament has the opportunity to ensure that when the GIO is publicly floated - to rescue the Government from its economic woes - the protection of the people of New South Wales will be served by ensuring that no particular group or institution captures the GIO in the future.

The Minister has referred to imminent Federal legislation. However, he has admitted that the 15 per cent ownership clause will be on the basis of the Federal Treasurer's assurance and will not be automatic. As a result the 15 per cent ownership clause could remain open. Therefore not too much weight can be placed on that part of the Minister's argument. He stated also that once the company is floated, it will be beyond the control of this Parliament as it will be a public company. It could go bankrupt in the future. The Minister claimed that Parliament cannot foresee that far into the future and cannot make the type of provisions sought by the Opposition. On the one hand he claims that the amendments should not be agreed to because of the possibility of bankruptcy and on the other hand he uses exactly the opposite arguments. He says that the performance and strength of the GIO over time will ensure that its shareholdings will be diverse, that the shares will rise in value, and as a result of that the valuable share base will not be readily sold off or concentrated in a particular institution or institutions. On the one hand he is using possible problems the GIO may have as a public company to claim that the Parliament does not have a legitimate role in legislating to limit shareholding. On the other hand he argues that it is in such a strong and viable proposition that the problems will not occur. The two arguments are contradictory.

The Minister has admitted that institutional shareholders will form the majority of shareholders when the company is floated. Clearly the fortunes of institutions change over time and large blocks of shares, 10 per cent or 15 per cent, can be sold. Such sales will allow any institutional investor who holds 10 per cent of the shares in the GIO and bought 10 per cent of the shares from another institutional shareholder to own 20 per cent of the company. An escalation of that type of activity could quickly see the ownership of the GIO concentrated in very few hands indeed. The arguments put forward by the Minister in opposition to the amendment do not hold water. I implore the Minister to accept the amendment.

Mr J. H. MURRAY (Drummoyne) [7.50]: I rise to rescue the Minister and enable him to marshal his thoughts. It is obvious from the Minister's earlier reply that he and the Government - I might even get a vote out of the Minister if he keeps this up - believe philosophically that

there should be competition with the GIO. He said in the Chamber this evening that he will ensure that there will be only a limited number of
Page 4459

parcels of shareholdings of 10 per cent. In other words, one can glean from what the Minister said that fewer than 50 per cent of the shares will be held in parcels of 10 per cent. I do not know the precise number but there would be probably three - or at most four - with the maximum shareholding of 10 per cent, which would account for 30 per cent of the shares. The balance of 70 per cent or so would be held in a multiplicity of percentages. If the Minister thinks that is a good option, why does he oppose the amendment? If it is good enough to have such a provision now, why should it not be there in perpetuity? The Minister really believes that there should be competition and that if five or six people held 10 per cent each there could be collusion and that would cause difficulties. He knows that this is politically unpalatable. Yet he is willing to allow that situation to eventuate once the GIO is off the Government's hands. That is double dealing.

Mr Harrison: Playing Pontius Pilate and washing his hands of it.

Mr J. H. MURRAY: As the honourable member said, the Minister is playing Pontius Pilate and will wipe his hands of the whole deal. Opposition members know that the Minister is an honourable person. He would hate to be called a Pontius Pilate: he would never be able to kneel in church again. I appeal to the Minister to look seriously at the amendment, which is one of the most important amendments we will move. I ask that the Minister reply to my comments.

Question - That the amendment be agreed to - put.

The Committee divided.

[In Division]

Mr Beckroge: On a point of order. Mr Temporary Chairman, I draw your attention to the fact that the honourable member for Ermington arrived in the Chamber after you had ordered that the doors be locked. He was not in the Chamber when -

[Interruption]

The TEMPORARY CHAIRMAN (Mr Tink): Order! The honourable member for Broken Hill has the call.

Mr Beckroge: The Bar of the House was lifted to let the honourable member for Ermington in.

Mr Hartcher: On the point of order. The Bar had not fallen when the honourable member for Ermington -

[Interruption]

The TEMPORARY CHAIRMAN (Mr Tink): Order! I call the honourable member for Londonderry to order.

Mr Whelan: On the point of order. In the circumstances the most appropriate solution would be to order the attendants to ring the division bells again.

The TEMPORARY CHAIRMAN: Order! Given that there is some doubt about the matter I propose to ask the attendants to ring the division bells again.

Question - That the words be inserted - put.

The Committee divided.

Ayes, 47

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina
Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Mr McManus
Mr Markham
Mr Martin
Mr Mills
Ms Moore
Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman

Ms Nori
Mr E. T. Page
Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski
Tellers,
Mr Beckroge

Mr Davoren

Noes, 50

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins
Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths

Mr Hatton
Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Ms Machin
Mr Merton
Dr Methereil
Mr Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch

Mr Phillips
Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit
Tellers,
Mr Beck

Mr Hartcher

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

Mr Face: Mr Temporary Chairman I invite the attention of the Committee to the fact that past incidents similar to that involving the honourable member for Ermington today likewise involved the former member for Coogee and the former member for Canterbury. On those occasions the members apologised for what had occurred. On this occasion it would be reasonable for the honourable member for Ermington to apologise.

Mr Photios: I should be happy to explain that though the Bar was not down
Page 4461
when I entered the Chamber - and I understand in that respect the circumstances are dissimilar - in the spirit in which the opportunity is accorded me, I am delighted to apologise.

Clause 29

Mr J. H. MURRAY (Drummoyne) [8.6]: I move:

Page 12, clause 29. After clause 29(1), insert:

- (2) However, GIO is not to be sold unless the Auditor-General has certified in writing that he or she is satisfied that:
- (a) the financial information on which the prospectus and other arrangements relating to the sale are to be based represent a true and fair statement of the financial position of GIO; and
 - (b) the total proceeds to the State of the sale (including any residual interests) is likely to exceed the financial value to the State of the retention of the State's ownership of GIO.
- (3) The Auditor-General's certificate is to be tabled by the Minister in Parliament as soon as practicable after it is issued.

This amendment is very close to the heart of the Opposition. Opposition members have always held the Auditor-General in the highest esteem and I know that the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, a former distinguished member of the Public Accounts Committee, would agree wholeheartedly with that assessment. As a consequence, this amendment should be inserted in the bill. One of the important deficiencies of the bill is its silence on the lack of parliamentary scrutiny of the economic and financial assumptions underlying the sale of the GIO. The Opposition has stated consistently that apart from any community service aspect the financial acid test of whether a government enterprise should be sold is whether the revenue generated by the sale exceeds the retention value to the State. I well remember that following the Minister and I making a tour of New South Wales and other States to examine the role of the Auditor-General the Public Accounts Committee brought down a most prestigious bipartisan report on that role. It is not good enough for this Parliament to spend time and effort towards consensus in developing a system of operation for the Auditor-General if on the first occasion we fail to give the Auditor-General a meaty proposition, that is the sale, as the Minister said, of the largest listed insurance company in Australia -

What was the purpose of that inquiry if on this occasion he cannot make an assessment for the Parliament? Government supporters may be wondering why the Opposition is insisting on the involvement of the Auditor-General. The Auditor-General cannot be got at; he is an independent person. The Minister and his advisers know as well as I do that on occasions private sector auditors have not done the right thing. I shall not name them, but it is common knowledge that a number of private sector auditors are before the courts for, after taking instructions from their clients, not having been as independent as they should have been. I realise that the Minister will inform the Committee that he has paid a large sum of money to the best financial experts that money can buy but I remind him that Laurie Connell

told the royal commission in Western Australia a similar story. The Skases of this world paid for the best advice, but where are they now? I am not casting aspersions on the quality of the advice received by the Minister. But do we really know how good that advice is? The only advice that the Opposition will accept is that given by the Auditor-General, who is acknowledged throughout the Westminster system as the premium auditor-general. If the Auditor-General were to report to the Parliament that this is a viable sale, that taxpayers will get value for money, and that the privatisation proposal is being conducted in a proper way,

Page 4462

the Opposition will accept that advice.

The proposal is complex and difficult to assess. It must be watertight, ironclad, and certain. I will not accept that the sale of the GIO is a viable proposition unless it has the imprimatur of the Auditor-General. I acknowledge that the Auditor-General's office is beyond reproach. The Minister must realise also that we parliamentarians are elected to represent the public. Taxpayers and policyholders demand that any such proposal should be accepted without disputation. During a time of economic uncertainty, such as there is at present, the public needs to feel assured that the State is getting value for money. It is important that the Parliament should obtain an up-to-date financial assessment from an independent statutory officer. I hope that one day that statutory officer will be an officer of this Parliament. I give credit to the honourable member for South Coast for his efforts in this regard. An independent statutory officer should be available to guide us as the elected custodians of the public purse. This amendment is one of the most important and essential of the amendments the Opposition proposes to move in Committee. I inform the Minister that a number of my colleagues who did not contribute to debate during the second reading stage of the bill will speak in debate on this amendment. I urge the Minister to pay the utmost attention to everything that they say. The amendment is crucial and I ask the Minister to give it favourable consideration.

Mr McMANUS (Bulli) [8.15]: I support the amendment moved by the honourable member for Drummoyn. New South Wales is in a financial dilemma. Time and again the Government engages independent auditors in an endeavour to convince the electorate that its financial woes are not as problematic as they seem. When a decision is made to sell off a public asset it is imperative that matters involving the finances of the State are given careful consideration. So far as the Parliament is concerned, the Auditor-General is the *el supremo* of auditors. He is independent and unbiased. He will protect the citizens of New South Wales. As parliamentarians we have a responsibility to ensure that this latest flogging off of a public asset is not as disastrous as the sale of the Port Kembla coal loader. We have to ensure that the State receives all it can from the sale, that it is not sold below its market value. I remind honourable members that the consortium that purchased the Port Kembla coal loader is rubbing its hands with glee. It had a financial windfall. At the time the Government sold the coal loader the Opposition warned that the coal loader would experience a financial resurgence. Despite that advice the asset was sold.

The GIO is one of the largest listed insurance companies in Australia. Last year it earned more than \$100 million for New South Wales. In one year the GIO could earn sufficient money to pay for the Eastern Creek fiasco. The Government wants to flog off one of this State's finest financial assets. I warn the Government to be careful how it spends the cup full of gold it will receive for the GIO. I remind the Government that once the money is gone, so too will the Government; the people of New South Wales will monitor closely the Government's actions in this regard. The Minister conceded that the GIO was not being sold because it was inefficient. In fact he said it had reserves. It is being sold because during the past three years, as a consequence of the Government's failed real estate flog-off system, it has failed to balance its budget. That is what this proposal is all about. It is another fire sale of assets. The Government has another think coming if it thinks that the people of New South Wales will agree to the selling off of this asset to private enterprise in this manner.

Mr Cochran: I wager that the honourable member will buy some shares.

Mr McMANUS: I do not have the money to buy shares. That is a luxury
Page 4463

available only to members on the Government side of the House. If I am lucky, I will retire on a pension. Government supporters may be able to buy shares but I suggest they may not still have them in 10 years time. The market value of the GIO, if it is to be sold, must exceed its retention value. The sale of the GIO must not be a rerun of what happened in respect of the Port Kembla coal loader. The Government should not sell off the GIO to its friends and mates in business to the detriment of the taxpayers and finances of this State. The Minister should pay close attention to the proposed amendment because it is crucial. The Auditor-General is the only authority responsible to the Government who can guarantee to the people of New South Wales that the sale of the GIO is fair. I warn the Government that in this matter it will stand or fall on its merits.

Mr SCULLY (Smithfield) [8.21]: The proposed amendment goes to the heart of the rationale of the sale of the GIO. From March 1988 when the unfortunate happened and this miserable Government was elected -

Mr Rumble: By trickery.

Mr SCULLY: By trickery, although back in 1988 it did not use ticks and crosses. From that time the Government has carried the philosophical baggage of "let her rip, sell everything, sell the GIO or anything we can get our hands on". At that time the Opposition said that was not a good approach to the assets of our State. But things changed. The Government has so wrecked the economy of New South Wales that it has no other choice but to sell them.

[Interruption]

Mr SCULLY: Mr Mogadon, Mr ASIO himself, is awake and listening, and should cop it. Countless times Mr Mogadon would talk with Alby Mangels about the Government's triple-A credit rating. What have the mates of the Government done to that triple-A rating? Earlier in this debate we were told by someone on the Government benches - it may have been the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, though I do not think he has sufficient temerity to make the suggestion - that the GIO had to be sold to protect the triple-A credit rating. We are now told that the triple-A rating will be lost even if the GIO is sold. The Government's philosophical baggage does not help members opposite when they go to the chemist for the valium and mogadon. The Government now has to sell the GIO.

Mr Cochran: Those drugs are subsidised by the Federal Labor Government.

Mr SCULLY: That is right: Labor is looking after the honourable member for Monaro. Thank goodness for the Federal Labor Government. This State has been put in such financially desperate straits that only the honourable member for The Hills is able to understand fully the financial necessity for selling this most valuable jewel in the crown of New South Wales.

Mr Rumble: He is businessman of the year.

Mr SCULLY: Perhaps we should give him that award. The Government cannot be trusted. I do not accept the assurance of the Minister for Sport, Recreation and Racing and Minister Assisting the Premier. Though the Minister has left the table to avoid hearing anything bad about the Government, I will make sure he hears what I have to say. I do not accept an assurance from any Government member about the sale value or the retention value of the GIO. Members opposite have lied time and again about

Page 4464

Eastern Creek, about the budget deficit and now about the GIO. Why should the Opposition believe anything that emanates from the Government benches about figures, budgets or sale prices? If the Minister is decent, which he gives a pretence of being, and if he has the integrity that he tends to suggest he has, he should do the decent thing and come to the Opposition benches. I guess Tolkien would say: "Come back to Mordor. Come to the cracks of doom". The Minister should throw his ring in with our lot, do the right thing and support our amendment. The people of New South Wales are entitled to regard the Government as accountable. We want to know the figures. We do not want to be told merely that the State is crook. We know the State and its finances are crook but we want the figures. We do not accept the assurance of the Minister that the GIO will be sold for \$1.7 billion.

The Government is afraid that the utterance of foul words of opposition will wreck the float and that Opposition amendments may greatly reduce any potential market value. We want the Auditor-General to be involved in this process. What is the Government hiding? How has the Government calculated the present value of the future income stream of the GIO? Has the Minister calculated that or seen the figures? Does the Minister know what those figures are? He is an accountant and knows what present value is, or I hope he does. The Minister used to run his own business and I assume he had to calculate similar figures. Why cannot the Minister say to the Parliament: "We have nothing to be concerned about. We are not ashamed about selling the GIO. We can put on the table the estimated sale price and the present value of the future income stream, and it is X dollars. The Auditor-General is able to present his certificate, and the sale price exceeds the retention value". The Opposition would accept that as being more than reasonable. Why does the Government oppose that? I cannot understand that. I can only assume that the float is a fire sale. Who will the Government sell the GIO to?

Mr Crittenden: Alan Bond, Kerry Packer or Christopher Skase?

Mr SCULLY: Perhaps the Minister wants to sell shares while on a Spanish holiday. I hope the Minister in reply will give the Opposition due credit. The Opposition will attain office next year after the imminent Maitland and The Entrance by-elections. I understand that the pay of the honourable member for The Entrance and the honourable member for Maitland will be cut from Monday when their seats are declared void. After the by-elections for those seats are held Labor will form a government in New South Wales. Unfortunately, as we take the keys to the Treasury coffers we will find the cupboard is bare. Because the Government has left us no money we will have no choice but to sell the GIO. But give us the figures before we are put in the position of having to sell this State jewel. We want no more nonsense from the Minister. The Minister should be ashamed of himself for what has been done at Eastern Creek. The Minister was given the short straw to try to justify that joke. He should now attempt to justify the Government's opposition to our amendment. The Minister is having a chat with Mr Mogadon. Is it really possible to have an interesting talk with a man like that?

Mr HARRISON (Kiama) [8.29]: I support the Opposition amendment that seeks to have the Auditor-General determine that the GIO retention value does not outweigh its present sale value. The Minister for Sport, Recreation and Racing and Minister Assisting the Premier is an honourable person, and I accept that he believes that his arguments in support of the GIO float are valid. I do not extend the same degree of latitude to some other members opposite. Honourable members should examine closely the reasons for the sale of the GIO. The true reason is evident: the Government is broke and is intent on offloading its assets as quickly as possible to balance its books. Immediately prior to the State elections earlier this year the Premier gave assurances that when the State

Page 4465

Budget for the year 1991-92 was introduced it would be in surplus. That lie has been completely exploded. The Budget not only is not in surplus but the Government is up to its ears in debt and is looking around frantically for something to offload. The first thing that came to mind was the GIO.

Mr Moore: On a point of order. I have been listening to this debate closely on the broadcast system. The honourable member for Kiama is repeating, almost word for word and sentiment for sentiment, the contents of his speech during the second reading debate. He is not addressing the fine detail of the matters before the Committee. I suggest that you call him to order and ask him to address the precise technical merits and content of the clause before the Committee.

Mr Harrison: On the point of order. Obviously the Minister for the Environment, who was ignorantly talking to the Minister for Sport, Recreation and Racing and Minister Assisting the Premier while I was addressing the Chair, has taken umbrage at my stopping and looking at him. I put it to you that everything that I have said in talking to the amendment before the Chair relates specifically to the use of the Auditor-General to determine whether the State is being gyped and whether there will be benefit for the Government in maintaining ownership of the GIO or selling it off. That is what my remarks have related to. Once again I condemn the Minister for ignorantly interrupting this debate, and I take offence.

Mr Scully: On the point of order. The point of order taken by the Leader of the House is the silliest I have ever heard him take. I have never seen a broader amendment to any piece of legislation in my short experience in this Chamber. If the Minister for the Environment does not wish to hear the debate, he can leave the Chamber and play snooker or whatever else he wishes to do. The amendment is broad. It deals with the retention value versus the sale value of the GIO. I cannot understand why the honourable member for Kiama cannot take a broad brush approach to the amendment. It is not a tight amendment relating to a small aspect of the proposed legislation; it is a broad alteration to the bill. The Minister for the Environment yet again has made a fool of himself.

Mr Moore: Further to the point of order. The terms of the amendment, no matter how broad - unless it is to delete everything in the bill - do not permit an honourable member to regurgitate his speech during the second reading debate, no matter how fine or how inarticulate the member may have been on that occasion. The amendment is specific. The honourable member is not permitted to stray outside the terms of the clause to be amended and the amendment that has been moved to it. That does not permit the honourable member at the Committee stage of the bill, particularly when he is merely repeating a number of the processes followed by others of his colleagues on the matter, to make a second reading speech de novo because he failed to impress anyone the first time round.

Mr Harrison: Further to the point of order. I am most pleased that the Minister for the Environment has taken the trouble to listen to everything I said in my speech during the second reading debate. I do not think that is usual, but if he did so on this occasion, I place on record my appreciation. However, he should have listened a little more carefully because, though I mentioned in passing in my speech during the second reading debate this particular clause and my concern about the Auditor-General not being consulted, that does not preclude me from mentioning it again. The Committee is now dealing specifically with the use of the Auditor-General and the bona fides of the financial advice that has been given to the Government. I do not know the source of that advice;

Page 4466

I do not know whether the Government is relying on its own advice. I am addressing my remarks specifically to the amendment before the Chair and I ask you to rule that I am in order in doing so.

Mr Scully: Further to the point of order -

The TEMPORARY CHAIRMAN (Mr Tink): Order! I have heard enough. I remind all members that this clause is quite specific. It relates to the Auditor-General certifying in writing satisfaction about financial information being true and fair and that the total proceeds of the sale to this State are likely to exceed the financial value to the State of the retention in the

State's ownership of the GIO. All members speaking to this clause from now on should confine themselves to that subject-matter.

Mr HARRISON: The sale of the GIO represents the largest single offloading of assets undertaken by this Government. Therefore, it is imperative that it receives the best possible financial advice. The Auditor-General of New South Wales is totally credible, totally objective and totally honest. I do not understand why any member of the Government would object to seeking his opinion prior to undertaking a sale of this magnitude, unless they are frightened that the Auditor-General might conclude that the sale is unwise on the basis that the State would stand to gain more in the long term by retaining ownership. In the past financial year the GIO contributed in excess of \$100 million to the State's coffers. When one considers that that amount will not be received over the next 10 years, one must ask oneself whether the Government is doing the right thing in selling it.

The Auditor-General's advice would be extremely valuable in this circumstance. If he concluded that it was not a wise move to sell the GIO, the Government would be most embarrassed and would have to look around for something else to offload. However, in the light of the attitude Government members are displaying, apparently the State will not get that expert advice that it has a right to expect, that it is paying for and that it knows would be the best possible advice it could seek. It is nothing less than disgraceful that not only is the Government preventing the seeking of that advice from the Auditor-General but that honourable members take frivolous and vexatious points of order. They just blow into the Chamber without bothering to listen to what is going on and take offence because their ignorance has been noted. I rest my remarks with those comments but may speak later in the debate.

Mr RUMBLE (Illawarra) [8.37]: I support the amendment that seeks to ensure that a certificate from the Auditor-General is obtained in respect to the methodology used by the Government in floating the GIO. The Opposition wishes to ensure that the sale price is greater than the retention value. I have received a government publication, which I presume the Minister is familiar with. It has the New South Wales crest on it and is headed "GIO Privatisation: Glossary of Terms". Under the heading "Retention Value" the document reads:

In this case the net value of GIO to the NSW Government. Unless the realisation value is likely to exceed the retention value, the Government will not sell the GIO.

That is what the Government had to say about retention value. From my understanding of that term, it would tie in with what the Opposition is seeking. The bungled sales of government assets by this Government since March 1988 have led the Opposition to require an ironclad guarantee from the Auditor-General. He has been less than impressed by the sale of other government assets. At 30th June 25 government schools had been

Page 4467

closed; four had been sold and four were in the final stages of sale. It has been widely reported that the Auditor-General cast doubt on the effectiveness of the Government's sale of schools program. The sale of the State Office Block has been an ongoing fiasco. In the Illawarra electorate, though the Government had given a commitment prior to 1988 to retain and run as a going concern the Huntley colliery and the Tallawarra power station, the Huntley colliery has been closed and has not been sold by the Government as a going concern; the Tallawarra power station has been closed and \$19 million will be spent on site clearance.

The value of the GIO has been estimated as \$1.75 billion. It has made profits in the vicinity of \$100 million per annum. The Opposition seeks an ironclad guarantee from the Government that this valuable asset will not be flogged off. The Minister has claimed that a consultant's report concluded that the sale price will exceed the retention value. The Curran report, which was presented to the Parliament, urged the Government to sell off many of its assets. It must be remembered that many of these consultants and advisers have vested interests in government assets being flogged off. The Opposition seeks to have the Auditor-

General certify that the sale price of the GIO exceeds its retention value. The Auditor-General does not report to the Government; he reports to the Parliament. I should like to give one or two examples of the financial commitments given to the people of New South Wales by the Government. The Premier stated that the State budgets for the present and preceding financial years would be balanced. That commitment was given prior to the last election. The people of New South Wales were told also that the cost of establishing Eastern Creek would be \$2 million. That figure has now blown out to \$90 million. The Opposition now seeks a guarantee from the Government that the proceeds of the sale of the GIO tie in with the publication that has been issued.

Mr Souris: I sent it to you.

Mr RUMBLE: It ties in with what the Opposition is saying. The critical test of sale value versus retention value can be satisfied quickly and confidentially by the Auditor-General. The Government has given many financial assurances to the public which have been breached. Millions of dollars will be potentially lost each year if the GIO is undersold merely to plug a budget deficit this financial year. It would be remiss of the Parliament not to require an independent assurance that the State will not be the long-term loser in the deal. The Opposition seeks also that the Auditor-General's certificate be tabled in Parliament as soon as practicable after it has been issued. This amendment has been moved because, as has been stated previously, the GIO is one of the prime assets to be sold by the Government. Many previous assets sales have been bungled. The Opposition wishes to ensure that a fair price is obtained for the GIO for the benefit of the people of New South Wales. That is why we are asking that prior to the float the Auditor-General certify to the Parliament that he is satisfied that the accounts relied upon for the prospectus represent a true and fair statement of the financial position of the GIO and, as I said previously, that the proposed sale price of the GIO exceeds its retention value.

Mr MOORE (Gordon), Minister for the Environment [8.44]: I speak in opposition to the amendment and wish to make two things abundantly clear to the Chamber. In his comments on the proposed amendment, the Auditor-General has stated in writing that it is not appropriate for him to do what is required of him under the amendment. He believes that as well as it being inappropriate for him to do it, he is unable to do it.

Page 4468

Mr Rumble: Why has he told you that?

Mr MOORE: For the information of honourable members, I propose to table a letter signed by the Assistant Auditor-General who confirms a verbal request made by the Deputy Secretary of the Treasury of the Auditor-General's Office. The Assistant Auditor-General contacted the Auditor-General, who was overseas, because he considered it sufficiently important to obtain the comments of the Auditor-General on this matter. The Auditor-General makes it abundantly clear that in respect of the first part of the amendment moved by the Opposition, he would be required to undertake a due diligence audit of the investigating accountants' report. In essence he believes that the amendment requires him to certify the accuracy of that report. I suggest to honourable members that that places the Auditor-General in a position of potential conflict of interest, and he has recognised that.

Mr Nagle: How?

Mr MOORE: I will table the letter for the honourable member.

Mr Nagle: How does it put him in a situation of conflict?

Mr MOORE: The honourable member can read the advice.

Mr Nagle: You are speaking, you tell us.

The CHAIRMAN: Order! The honourable member for Auburn and the Minister will cease conversing across the Chamber.

Mr J. H. Murray: You cannot table it, you have to put it into *Hansard*.

Mr MOORE: The honourable member for Drummoyne will discover, if he ever becomes a Minister, that Ministers can either table a document or incorporate it in *Hansard*.

Mr J. H. Murray: You are not the Minister at the table.

Mr MOORE: A Minister, any Minister.

The CHAIRMAN: Order! I call the honourable member for Drummoyne to order.

Mr MOORE: The Auditor-General has indicated also that for a variety of reasons he does not believe that it is either appropriate or possible for him to do what is required of him in the amendment before the Chamber. He states further that if the Parliament insists on him doing it, he will comply with the wishes of the Parliament.

Mr Harrison: That is what we want.

Mr MOORE: I am endeavouring to explain to the honourable member for Kiama and his colleagues why the amendment should not be agreed to. It will impose on the Auditor-General a duty which he clearly believes it is not desirable for him to have in the context of the bill. In the 15½ years that I have been a member of this Chamber -

Mr J. H. Murray: How often have you worn badges during that time?

Page 4469

Mr MOORE: On a number of occasions.

Mr J. H. Murray: What does the badge you are wearing now say?

The CHAIRMAN: Order! I call the honourable member for Drummoyne to order for the second time. If he wishes to remain in the Chamber and continue to take part in the debate, he will cease interjecting across the table. The Minister has the call.

Mr MOORE: The purpose of my statement is to indicate that the Auditor-General, who holds a statutory office independent of the Parliament, an independence which members on both sides of the House have frequently said they wish to maintain, has said that he does not believe these amendments are appropriate. I table the letter from the Auditor-General's Office which is signed by the Assistant Auditor-General, Mr R. K. Dunn. Copies will be provided to honourable members in a few minutes' time.

Mr CRITTENDEN (Wyang) [8.49]: This amendment relates to public accountability. The Opposition is endeavouring to ensure that everything is open, above-board and clearly set out. The Greiner Government was elected in 1988 on a platform of open government. So far there has been precious little evidence of that. Recently a coalmine was sold in the Hunter Valley -

The CHAIRMAN: Order! Earlier the Temporary Chairman reminded members of the specific terms of the clause. I draw the honourable member for Wyong back to the amendment before the House, which deals with certain undertakings the Auditor-General should give prior

to any sale of the GIO. I ask him to address his remarks to that amendment and not make another contribution to the second reading debate.

Mr CRITTENDEN: I did not make a contribution to the second reading debate. However, I defer to your infinite wisdom, Madam Chairman. As I said, this amendment relates to probity in government. I like to think that the GIO belongs to every resident of New South Wales. The first part of the amendment will give the existing shareholders of the GIO, that is every resident of New South Wales, the value of the asset they presently own. I cannot see what the problem is in people establishing exactly what is the value of an asset that they own before it is privatised. As the Minister said in his second reading speech, many employees of the GIO may wish to gain an equity share in the company if it is privatised. Presently only 4 to 5 per cent of Australians own shares. I certainly do not and the vast majority of my colleagues do not. People do not own shares because they do not have faith in the value placed on shares. The value of many shares has plummeted and some shares no longer pay dividends. People expect that the Government will give a realistic assessment of the value of an enterprise that is to be privatised. They want a realistic assessment of what the dividend yield will be.

The previous amendment related to limiting shareholdings to 10 per cent. Unfortunately, the Government rejected that amendment. As a result, it is more imperative that this amendment be accepted. Basically two financial issues are involved. Existing shareholders, by virtue of the fact that they own the GIO, have a right to know exactly the present value of the GIO. On the other hand, people who may wish to gain an equity share in the company upon its privatisation should have accurate financial indicators so that they can determine whether they should spend their money buying shares in the company. The obvious course of action for existing shareholders is to obtain the net present value of the GIO. The Minister is an accountant. He knows about a discounted cash flow model. Based on some future earnings period the model could be used to assess the present value of the GIO according to the income stream into the future. The Parliament would then be able to make a realistic assessment of the value of the GIO to the people of New South Wales.

Page 4470

In the case of people who may wish to buy shares in the GIO after its privatisation, other financial indicators are much more important. For honourable members opposite who have many shares - I am sure the honourable member for Lane Cove is one of them - a price-earnings ratio is very important. I do not know what the price-earnings ratio of an insurance company is; I do not know what the price-earnings ratio of the GIO is. It may be eight or nine. Those are the indicators used by people who invest in shares on the stock market. The other important indicator is the dividend yield. People may wish to calculate exactly what sort of dividend they will receive from shares in the company. It is not unreasonable for people in this State to be given upfront information.

This Government masquerades as a government of free enterprise. It should allow the ordinary people of this State to make a realistic assessment of how safe it would be to invest in such a privatised company. That is not pie in the sky; it is giving people a fair go. This Government that crows about free enterprise and helping the individual should come clean about what it is really on about by not providing all the information that is needed for the making of a realistic assessment. I understand that the Minister is a very good accountant. One does not have to be a Harvard Master of Business Administration to realise that the Opposition is not asking for the world. All we are asking for is a fair go. This amendment is even more important now that the previous amendment has been rejected by the Government. I urge every member to vote for this amendment.

Mr NAGLE (Auburn) [8.55]: The amendment is most important. Some people estimate that the true worth of the GIO could be approximately \$1 billion, in view of its current assets, its

current liabilities, its current income and its potential income. The Government has said that it will rely on Coopers and Lybrand and Ernst and Young to give an assessment of the company in the market-place. The Minister for the Environment has reminded us of our obligations. The Public Finance and Audit Act of 1983 provides in section 438(1):

The auditor shall inspect and audit the books and accounts relating to the administration, during the financial year in respect of which the auditor is appointed, of the Auditor-General's Office.

Section 49(1) states:

The Auditor-General shall examine the Public Accounts transmitted to the Auditor-General by the Treasurer in accordance with section 6 . . .

Such provisions are inserted for the purpose of allowing government enterprises and government departments to be audited. The Minister for the Environment has just tabled a letter under the hand of R. K. Dunn, Assistant Auditor-General. Examination shows that in some respects the document does not hold. In the second paragraph it states that Mr Lambert, communicating from overseas, considered that he would be required to undertake a due diligence audit of the investigating accountants' report. It says that in essence he believes that the proposed legislation would require him to certify in regard to accuracy. Indeed, the amendment would require that. That is its purpose. I, as a member of the State Parliament, want to know the true worth of the GIO. How much will we sell it for at the public float? Exactly what is the value of it? What are its potential liabilities? What is its current income. The citizens of New South Wales should get true value through the sale of this important government enterprise. We will have to justify to our constituents the price at which we sell this enterprise and whether we realised its true value. No one is throwing aspersions on Ernst and Young and Coopers

Page 4471

and Lybrand, but time and again the Government has come forward with numerous consultants' reports - including the Curran report - which, when analysed have shown great defects in their organisation. The third paragraph of the letter states:

As the Auditor-General understands the situation, the investigating accountants' report will be jointly prepared by Ernst and Young . . . and Coopers and Lybrand . . . Both of these organisations are reputable and are widely recognised as acceptable professional accounting firms.

Why do we need them when we have the Auditor-General, who is more accepted? Why can we not get him to tell us what the situation is? The fourth paragraph states:

The Auditor-General believes that the provision of such a certificate, while well within the capabilities of this Office, would require considerable input from his Officers and, as a consequence, prove to be fairly costly.

We are dealing with the sale of an asset valued at \$1 billion, according to some people. Yet the Auditor-General is telling us that we can rely on outside bodies to tell us what it is worth because if the Auditor-General's Office had to do it, it would take considerable time and be at considerable cost. Let that time and let that money be spent because in the final analysis it is the people of New South Wales who will lose every dollar from Ernst and Young making a mistake, as has been known before. The great Pacific Acceptance Corporation case is an example of millions of dollars being lost by shareholders because of a mistake. The letter does not hold up. In the fifth paragraph, referring to the Auditor-General, it states:

His officers will also be liaising with the investigating accountants' staff to assist them as they work towards finalising their (investigating accountants') report.

The Assistant Auditor-General stated that it would take considerable money and input; but we are going to keep an eye on the buggers anyway and check out these two firms of accountants that are said to be reputable and are widely recognised as acceptable professional accounting firms. The telling paragraph is the third last paragraph of the letter which reads:

. . . Firstly, the net worth of the GIO (as at sale date) would need to be determined.

I have been saying that it does need to be determined. That is what this debate is about. The true value of the GIO is not known. The letter continues:

This would require the GIO to prepare a set of financial statements as at the date of sale . . .

It is a scandal that we are not told what the exact value of the GIO is; what its income, expenditure and liabilities are; and what its potential sale value is. Honourable members would be more confident having the Auditor-General's signature on a document stating the worth and viability of the GIO, its true income and expenditure. The letter continues:

The Auditor-General envisages that this process could take several months (the Auditor-General estimates 4-5 based on past experiences) -

The Government proposes to sell an asset estimated to be worth \$1 billion. It might be worth more or the Government may only realise \$500 million for its sale. The Opposition wants to know what it is worth. If it takes the Auditor-General four months to value it, then so be it. The Minister for Sport, Recreation and Racing and Minister Assisting the Premier cannot tell us what the GIO is worth and what he hopes to realise

Page 4472

from its sale. He cannot do that because he does not know. The letter further states:

- and as it appears from the proposed legislation that the sale cannot proceed until the aforementioned process is completed, the information in the financial statements would have to be re-assessed to bring it into line with the "new" date of sale.

This letter is alleged to be non-political and was written for the purpose of advising the House of the situation. The last paragraph reads:

If the amendments proceed as drafted, the Auditor-General would obviously comply with the wishes and directions of Parliament.

It would be a scandal if the Auditor-General defied the Parliament. Of course he would have to do what the Parliament directs because this Parliament is the supreme power in regards to this matter and other matters. The paragraph continues:

However, the process of compliance would be lengthy and obviously conversion could not take place until the requirements of the draft legislation are met.

Members of the Opposition are more responsible than members on the Government side of the House. Opposition members want to know what is being sold and the worth of what is being sold. They do not want assumptions. They want to know what the Auditor-General has to say. An Act of Parliament, which was passed in 1983, dealt with the issue of public administration and public finance. Honourable members have heard about the allegations of total mismanagement of finances. Section 52 of the Public Finance and Audit Act requires the Auditor-General to report to the Parliament. The Public Accounts Committee reports to the Parliament, but the Government seeks to disregard the provisions of that Act and that committee and relies on two accounting firms to provide information about the true value of the GIO. Why is this legislation being rushed through? I realise that New South Wales is on the verge of bankruptcy and is \$2 billion in debt. I know also that the Government wishes to sell the GIO as quickly as it can so that the Government does not go under. Government supporters know that that is the truth. They lied before the last State election and the Government is lying now.

Mr Morris: You are the one who is lying.

Mr NAGLE: The people of the Blue Mountains will know about the honourable member's participation in this debate because -

[Interruption]

The CHAIRMAN: Order! I call the honourable member for Blue Mountains to order for the second time. I ask him not to behave in this Chamber in the manner that he has. The honourable member for Auburn has the call and I will hear him in silence.

Mr NAGLE: The GIO does not belong to the State Parliament, to the members of this Chamber or to the members of the other place; it belongs to the people of New South Wales. Honourable members should have some idea of the true value of this great asset so that they can inform their constituents. Eventually the State Bank will be sold and we will want to know what its true value is. If in private enterprise an asset were to be sold, the persons involved would want to know what it is worth. When assets are sold below their true value people litigate the matter if there is negligence. The value of

Page 4473

the GIO must be ascertained. The letter of the Assistant Auditor-General cannot be relied upon. This all presupposes that the Auditor-General has been given the correct information about the Opposition's amendments. It concerns me that this letter, produced at this late hour, states that the sale should be left in the hands of two independent accountants. I have no idea what the discussions were, nor do I know about the verbal request from Mr Lambert. Therefore I can pay little heed to this letter, which was tabled by the Minister for the Environment. I ask the Parliament to support the Opposition's responsible amendment, which seeks to elicit the true value of a government enterprise estimated to be worth \$1 billion.

Progress reported and leave granted to sit again.

ELECTRICITY AND OTHER LEGISLATION (AMENDMENT) BILL

Second Reading

Debate resumed from 22nd October.

Mr ROGAN (East Hills) [9.10]: I advise the House that I lead for the Opposition in debate on this bill. Though there is no significant disagreement between the Opposition and the Government about this legislation, the Opposition will move an amendment in Committee in relation to which a division will be necessary, as it was when a similar amendment was moved in another place. My contribution to this debate will not be lengthy. I wish to place on record the Opposition's view about this proposal. In another place the Minister for Planning and Minister for Energy described this as a machinery measure to amend the Electricity Act and to bring into operation certain provisions relating to such items as the responsibilities of consumers, the safety of electrical installations, the theft of electricity, and the rendering of accounts by electricity councils for the payment of interest on overdue accounts. Other matters are detailed in the explanatory notes to the bill.

I wish to deal first with the proposed abolition of electricity area boards, which were established in a package of legislation introduced by Minister Peter Cox in the Wran Labor Government. They were designed to maximise co-operation between member councils. They were established to formalise existing regional groupings of county councils. They were organised within the Local Government Electricity Association, as it then was. Each board dealt with issues relevant to its region. The issues included information sharing; the exchange of the latest ideas and practices; the sharing of specialist personnel and equipment; the standardisation of policies; the bulk purchase of equipment and stores; co-ordinated marketing activities; and the pooling of emergency backup resources.

Electricity area boards were established also to facilitate the airing of views on policy matters and the consolidation of such matters for presentation to the Minister or electricity councils. The concept of area boards was sound. Unfortunately, county councils, for reasons

they believed were inherent in the legislation, considered that the establishment of area boards was the thin end of the wedge so far as the amalgamation of county councils was concerned. That was not the intention at the time or at any time. County councils, however, failed to co-operate; they did not enter into the spirit of the establishment of area boards. Therefore, area boards simply did not function. Many of the tasks intended for area boards were undertaken by the electricity councils - forums for the exchange of ideas between county councils. Only major county councils, however, are represented on area boards. This legislation seeks to abolish the electricity

Page 4474

area boards. Though the Opposition believes this is a regrettable provision, it does not oppose it. Had county councils entered into the spirit of the legislation introduced by former Minister Cox, they would have realised that it was not the thin end of the wedge towards amalgamation. County councils would have benefited considerably from the sharing of knowledge.

I now deal with the application of performance agreements to electricity councils. On a number of occasions in other debates in this House I have said that the Opposition does not disagree with the concept of performance agreements. The Opposition contends, however, that such agreements should not be prepared and signed in secret. All consumers of electricity should be aware of the nature of a performance agreement. Performance agreements originated also in the package of legislation introduced by former Minister Cox on 26th May, 1987, following an inquiry by Peat Marwick Mitchell into the electricity distribution industry. As honourable members know, that was a fragmented industry and the Minister and Government at that time believed it was not meeting the requirements of modern commercial practice and so-called social priorities. The Government of the day required county councils to monitor and improve their performances. Therefore, performance agreements are a logical extension, though formally structured, of the intent of the original legislation. This bill puts in legislative form a directive given to county councils in previous legislation. Therefore, the Opposition does not oppose the provision for performance agreements in the Electricity Act 1945.

The legislation will establish subsidiary companies of electricity councils for the purpose of carrying out joint enterprises. As my colleague in the other place said, one could call this provision the 132kV amendment. That is, county councils have been directed by this Government to take over from the Electricity Commission the 132kV system, because the smaller rural county councils, with their existing resources, cannot afford to maintain the lines. It has been said to be necessary to form subsidiary companies to maintain the 132kV system. By forcing county councils to accept this provision the Government has shuffled the books and passed on the debt of the Electricity Commission to county councils. Under the present Act county councils are not permitted to form subsidiary companies. This legislation will introduce such a provision. I ask the Minister in his reply to address the genuine concerns of unions whose members will become employees of subsidiary companies. What conditions will apply to them? Subsidiary companies will be separate entities from county councils. Will the employees of subsidiary companies work under provisions of existing awards that apply to employees of county councils, or will different conditions apply?

The item also deals with the abolition of the industrial development assistance fund. That fund was established as part of the 1987 package of legislation to divert money to benefit industrial users of electricity. It is said that the fund has never been used by the Government though it was used by the former Government, that the fund has gone into disuse and should be abolished. The 1989-90 annual report of the Department of Minerals and Energy states that the industrial development assistance fund provided \$4,920,991 for industrial projects such as marine studies, safety management strategies, redevelopment of the Mining Museum, and a grant to the Tallawarra power station workers, presumably for retraining following the Government decision to close down the power station; the report lists other grants. The fund has been used but the Government has decided that it is to be closed down. Though the Opposition sees merit in the fund, it will not seek to prevent its closure as provided in the bill.

The next item concerns prohibition of the sale of certain specified electrical
Page 4475

items. No one would seriously oppose any measure to render electrical items safer. I understand that a whole range of electrical appliances must conform with safety standards and be so labelled but a number of other electrical appliances do not fall within those categories and currently are not required to be so labelled. Many of those appliances come within the general category of hi-fi electronic equipment, radios and so on. The Opposition believes that electrical appliances not now covered should be covered, as provided in the proposed legislation. Theft of electricity is dealt with by item 12 in schedule 1 which seeks to insert proposed section 30. At present theft of electricity is dealt with by section 154C of the Crimes Act 1900, by part 23 and ordinance 54 of the Local Government 1919. This measure is designed to consolidate those provisions in the proposed legislation. The Opposition sees merit in moving along those lines and will not oppose that measure.

The provision about interest on overdue accounts has caused concern to the Opposition. The present procedure is that on the expiry of a nominated period Sydney Electricity personnel go out to cut off the power to the home of a consumer, including industrial and commercial consumers. I am informed that Sydney Electricity has found that disconnection is expensive because reconnection is required, even though for a fee. Henceforth Sydney Electricity personnel will not cut power from the premises of a customer who is not able to pay an electricity account. Provisions similar to those in the Local Government Act and used by water supply authorities and water boards will be invoked so that an overdue account will attract an interest charge. In the upper House the Opposition moved an amendment to this proposal which the Government in that Chamber accepted. Under the Local Government Act, consumers who are not able to pay rates within the prescribed time pay interest rates of 19 per cent or 20 per cent. As a result of the Opposition amendment the interest charge levied will be a percentage point or so above the current bond rate. Nevertheless, such an interest charge will be a severe imposition on many people. Recent media reports highlighted that in one section of Sydney in particular a significant number of domestic electricity consumers were not able to pay their electricity accounts and were relying heavily on the voucher account payment system.

In the current recession the price of electricity is a severe impost for many people. Though the bill provides some limitation of interest charged on overdue accounts, the Government should consider providing funds to pay the electricity accounts of people in need and to extend the voucher system to provide as much assistance as possible to them. The Smith Family, St Vincent de Paul and other organisations have run out of the vouchers early and have been unable to assist people who have sought vouchers for the payment of their electricity accounts. This difficulty is causing great hardship to many people. I hope that the Minister in reply will indicate any measures to be undertaken by the Government, in view of the amendment incorporated in the proposed legislation, to assist those people throughout the Sydney area and New South Wales who are finding it so difficult to pay their electricity accounts. Honourable members would be aware of the significant increase in the price of a range of commodities under the control of this Government - not only electricity, but water, transport and all the other areas of Government administration that compound to make life so much more difficult for people in these greatly stressed economic times. I have foreshadowed that at the Committee stage I shall move an amendment to the provision in the bill relating to the County Districts Reconstitution Act 1979. I refer to schedule 2 to the bill where section 8 of the County Districts Reconstitution Act 1979 is to be amended by omitting the section and inserting instead:

The employment of a person who on the appointed day for a reconstituted county district was, or who pursuant to Part 29 of the Principal Act on that day became, a servant of the county council for that county district may not be terminated on the ground of redundancy arising from the

Page 4476
operation of this Act.

That provision will protect the person's employment from being terminated on the ground of redundancy but goes counter to the commitment given to employees of the county councils that were amalgamated 12 years ago. The County Districts Reconstitution Act 1979 made special provision for those employees in as much as it gave them a protection from being required to move from one area to another where the county councils had been amalgamated. That Act provided that protection for those employees, but now the Government is proposing by this amendment to remove that protection. The Opposition believes that is unfair because a commitment was given to those people. Though the Minister in the other place has said that after the passage of 10 or 12 years the measure should not be needed, I emphasise that it applies only to those employees who were covered at the time. It does not apply to people who became employees of a county council subsequent to that time. It seems to me only reasonable and proper that the protection should be retained and should not be removed by the proposed legislation. It is not up to me to suggest there is a secret agenda, but I believe this amendment arose following a decision by Prospect County Council, which has moved its Springwood depot to the Penrith region. That has caused a great deal of concern. I believe my colleague the honourable member for Penrith will be speaking to the amendment, and I am pleased that she has become a member of the Prospect County Council.

The board of Prospect County Council has changed following the last local government election. Its members now comprise more enlightened people, such as the honourable member for Penrith. I know she will have something to say on the amendment. I refer simply to the principle of the provision. I believe that on the basis of the principle enshrined in the provision employees were given a guarantee when the county councils were amalgamated, and the Government should not seek to remove that guarantee by legislation. Accordingly, at the Committee stage the Opposition proposes to move an amendment to that clause. With the exception of the last point I have made, the Opposition has no serious opposition to the proposed legislation. It does not understand why some of the measures need to be taken, particularly the abolition of area boards and the industrial assistance fund. The Opposition sees great merit in the safety provisions for electrical appliances and the common sense in consolidating the penal provisions that exist for the theft of electricity, but does not see any reason to amend the County Districts Reconstitution Act. The Opposition does not oppose the proposed legislation but will move an amendment in Committee.

Debate adjourned on motion by Mr Beck.

BUSINESS OF THE HOUSE

Sessional Orders

Mr MOORE (Gordon), Minister for the Environment [9.37]: I seek the leave of the House to amend the portion of my notice of motion which deals with routine of business to add the item "Ministerial Statements" immediately before the item "Questions" on each sitting day. Ministerial statements would become items numbered 1 and 5 in the routine for days other than Thursday and items numbered 6 and 11 in the routine for Thursdays. Notice has been provided to the Opposition.

Leave granted.

Page 4477

Mr MOORE: I move:

That the following Sessional Orders and amendments to Sessional Orders be adopted by this House:

ROUTINE OF BUSINESS

That during the present Session, unless otherwise ordered, Standing Order 74 be amended to read -

74. The House shall proceed each day with its ordinary business in the following routine. 1. Questions. 2. Ministerial Statements. 3. Presentation of Petitions. 4. Notice of Motions. 5. Ministerial Statements. 6. Placing or Disposal of Business. 7. *Formal Business. 8. Presentation of Committee Reports. 9. Matters of Public Importance. 10. Motions and Orders of the Day or vice versa, as set down on the Notice Paper or as provided by Sessional Orders, provided that on Thursdays business shall be proceeded with in the following routine.

1. Consideration of General Business Notices of Motions for Bills (concluding not later than 10.00 a.m.).
2. Suspension of Standing Orders for precedence of Orders of the Day for Public Bills introduced by Private Members.
3. Consideration of General Business Orders of the Day for Bills (concluding not later than 1.00 p.m.).
4. Consideration of General Business Notices of Motions or Orders of the Day (not Bills). Items of business commenced but not concluded at 1.00 p.m. shall lapse.
5. Consideration of Committee Reports presented (from 1.00 p.m. to 2.00 p.m.).
6. Ministerial Statements.
7. Questions (2.15 p.m.).
8. Papers.
9. Petitions.
10. Notice of Motions.
11. Ministerial Statements.
12. Placing or Disposal of Business.
13. Formal Business.
14. Matters of Public Importance.
15. General Business Notices of Motion (not Bills) or Grievance debate (rotating on successive sitting Thursdays, two Notices days followed by a Grievance day).

Provided that:

- (a) If no General Business is able to be proceeded with under any provision of this Sessional Order, Government Business shall be entered upon pursuant to Standing Order 125.
- (b) General Business shall be interrupted at 4.15 p.m. - whereupon:
 - (i) any Notice of Motion moved but not concluded shall lapse; or
 - (ii) the Question "That Grievances be noted" shall be put forthwith.

SUSPENSION OF STANDING ORDERS

That during the present Session, unless otherwise ordered, Standing Order 395 be amended to read -

395. Any Standing Orders of the House may be suspended by any Member, by leave,

Page 4478
provided that -

- (i) the mover and one member shall be limited to five minutes each.
- (ii) when the mover is a member not supporting the Government, the reply shall be by a Minister and, when the mover is a member supporting the Government, the reply shall be by the Leader of the Opposition or a member deputed by him.
- (iii) such motions shall not be entertained during the time set aside for the taking of questions without notice.
- (iv) the provisions of Standing Order 175 shall not apply.

- (v) such motions shall not be permitted on sitting Thursdays.

DAYS AND HOURS OF SITTING

That during the present Session, unless otherwise ordered, the Sessional Order dealing with "Days and Hours of Sitting" be amended to read -

40A. Unless otherwise ordered, the House shall meet for the despatch of business at 2.15 p.m., on Tuesday and Wednesday and at 9.00 a.m. on Thursday in each week.

MATTERS OF PUBLIC IMPORTANCE

That during the present Session, Standing Order 49 be amended to read -

49. Any Member, may propose in writing to the Speaker that a definite matter of public importance be submitted to the House for discussion provided that -

- (a) such matter is submitted to the Speaker no later than 1.00 p.m. on any sitting day.
- (b) the Speaker in the event that more than one proposition is submitted shall determine which matter is of the greatest public importance.
- (c) at least 30 minutes prior to the time for Questions without Notice -
 - (i) the Premier, the Leader of the Government, the Leader of the Opposition, the responsible Minister in the House, Members submitting notices and the Independent Members shall be informed in writing by the Speaker of the matter determined by the Speaker to be discussed.
 - (ii) the Speaker shall by general notice also inform Members of the matter.
- (d) if the Speaker determines that any matter proposed is in order it shall be announced to the House by the Speaker before the calling of Questions.
- (e) at the conclusion of formal business as provided for in Standing Order 74 the Speaker shall call the Member concerned to move the motion as submitted. Such motion shall not be open to amendment.
- (f) the mover of the motion and the Member first speaking may speak for up to 15 minutes each, four other Members may speak for up to 5 minutes and the mover in reply may speak for up to 10 minutes.
- (g) Standing Order 175 shall not apply to this Sessional Order.
- (h) there shall be no dissent from the ruling of the Speaker in relation to the operation of this Sessional Order.

CONSIDERATION OF PUBLIC BILLS INTRODUCED BY PRIVATE MEMBERS

That during the present Session, unless otherwise ordered -

- (1) On sitting Thursdays from 10.00 a.m. any two Private Members may move to suspend Standing and Sessional Orders to permit the Order of the Day for the resumption of debate on the Member's Bill to be granted precedence on sitting Thursdays pursuant to Standing Order

Page 4479
74.

The carrying of one such motion precludes another Member moving a subsequent motion to suspend Standing and Sessional Orders for the purpose of this Sessional Order.

- (2) On any such suspension motion, the Member proposing the legislation shall be permitted to make a statement limited to 3 minutes and one other Member may reply for 3 minutes.
- (3) At 1.00 p.m. on sitting Thursdays, any interrupted General Business Order of the Day for Bills shall stand adjourned and be set down as an Order of the Day for tomorrow.

MINISTERIAL STATEMENTS

That during the present Session unless otherwise ordered -

Ministers may, pursuant to Standing Order 74, as amended by Sessional Order, make Ministerial Statements of unlimited duration and the Leader of the Opposition or any Member deputed shall be entitled to respond for the same period of time.

At any other time Ministerial Statements may be made with the leave of the House.

QUESTIONS WITHOUT NOTICE

That during the present session, unless otherwise ordered, Standing Order 79 be amended to read -

79. Questions asked without notice may be read and are subject to the same rules as Questions upon notice, but neither the Question nor reply shall be recorded in the Votes and Proceedings: Provided that no Question shall be asked after the lapse of forty-five minutes from the Speaker calling on Questions or the answering of ten questions whichever is the later: Provided further that one supplementary question may be asked by a member asking the original question.

REPORTS FROM COMMITTEES

That the Sessional Order adopted by the House on 24th September, 1991, on Reports from Committees be amended in paragraph (iv) to read -

"(iv) such Orders of the Day shall have precedence on Thursdays pursuant to Standing Order 74 between 1.00 p.m. and 2.00 p.m."

I indicate that it is proposed at the commencement of this debate to have a global debate on the provisions proposed in the new sessional orders and at the conclusion of those debates to have a series of separate questions put on a number of amendments to be moved by the honourable member for Ashfield. I indicate that I shall be granting leave for the honourable member for Ashfield to table a number of amendments that he proposes to move to enable him to discuss them in globo. On several occasions in this process the House has made significant steps in reforming the operations of the Parliament and in allowing members who are not members of the Executive Government to have greater opportunities to put questions to the House and to have them dealt with and disposed of. This package of measures is, I think, the third in a series of proposals, all on a trial basis. All will be subject to a firm program of review by the Standing Orders and Procedure Committee in February of next year prior to the commencement of the House for the autumn session, as the Parliament will be prorogued and new sessional orders will need to be introduced.

The Government intends to test the flavour of the amendments to the procedure of the House over the next two and a half sitting weeks and to be fair and open minded in a review of the sessional orders in the first half of next year. I would indicate specifically with respect to the time for questions and the number of questions in question time that I have had a meeting with ministerial advisers and have indicated to them that

Page 4480

any answers in excess of four and a half minutes should be regarded in future as being the exception rather than the rule. I am not making public anything that is secret when I say I have told the Minister for Health Services Management of my chagrin at the length of the answer he gave today in question time. I believe that in future we will reach the level of 10 questions per question time provided for in these sessional orders without too much difficulty within the normal 45-minute period.

I know that my colleagues on the backbenches do not look forward with any anticipation to a two and a half hour question time containing only 10 questions and answers. I am sure all honourable members would agree. Although some amendments will be moved by the Opposition to the proposed new standing orders, in the overall process through which we have been moving there has been a generally co-operative and bipartisan approach to making major changes and reforms to the standing and sessional orders of the Parliament. In the longer term, it is the intention of the Government not only to review and fine tune the sessional orders in February next year, but to have a further review of the sessional and standing orders at the end of the autumn session with a view to presenting to His Excellency for adoption a new

set of revised and properly comprehensively and comprehensibly indexed sessional and standing orders for adoption as the permanent standing and sessional orders of the Parliament by the end of 1992.

It is also the intention of the Government to examine the Constitution Act with a view to preventing amendments to any future standing or sessional orders without such amendments having been adopted by a sufficiently large majority of the House that no one party or coalition government will be able to override the rights of the minority. Tyranny of the majority in a parliament that denies the right to be heard, no matter what the result may be of Opposition and Independent members being heard on its merits, is something that I had what might loosely be described as the pleasure of experiencing for 12 years. It is desirable that when the standing orders have been revised no suspension motions will be permitted except by leave of the House and that no sessional order will be adopted unless it is agreed to by something like 75 per cent of the members of the Chamber. If that procedure is followed, none of the rights proposed for honourable members can be taken away from them in the future.

I wish to turn briefly, because it only needs to be dealt with briefly, to the matters provided for in the proposed new sessional orders before the House. The first of those sessional orders provides for a new structure for non-Cabinet day which will be the last sitting day of any sitting week. For the next three weeks, what was traditionally a sitting Thursday will be a non-Cabinet day. This week Thursday will be Friday. In the next sitting week Thursday will be Thursday. In the following sitting week Thursday will be Wednesday, as used to occur in my school timetables when I was younger. The proposals for a sessional order to replace Standing Order 74 are momentous provisions the like of which I have not seen in this House in the fifteen and a half years I have been a member of it. They provide as of right opportunities for private members to introduce a bill and make a second reading speech. I recall the difficulty I encountered when I was in opposition in 1981 when I endeavoured to introduce freedom of information legislation. That was about eight years before such legislation was introduced by this Government. I experienced procedural difficulties in getting my bill before the Parliament.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Kiama to order. I call the honourable member for Ashfield to order.

Mr MOORE: The sessional orders dealing with private members' bills will not
Page 4481

only provide an opportunity for members to introduce bills but will also provide for the resumption of second reading debates on those bills. That will mean of necessity that over time we will deal with, debate and dispose of, in one fashion or another - pass, amend or fail to pass - the 12 private members' bills that are currently on the notice paper of this Parliament. I expect that number will increase as this session progresses, although I doubt that they will all be debated during this session. Certainly there will be more private members' bills next year. The Government acknowledges that some of them will pass, some of them will pass with amendments and some of them will not pass, as will be the case with Government legislation. That is not a bad thing as it might lead to better government of the State of New South Wales. As the Premier has indicated, the Government does not believe that all wisdom lies with Government members or Government Ministers. Amendments have been submitted and have been agreed to by this Government. I have no doubt that practice will accelerate in the future. The proposals for Thursdays provide that guaranteed structure for members. The second major matter is the provision for matters of public importance.

[*Interruption*]

Mr SPEAKER: Order! If members of the Opposition wish to conduct a meeting, they should do so outside the Chamber.

Mr MOORE: That proposal will provide a guaranteed right to move a specific motion. The question will be put at the end of a fixed period of time instead of the present provision where a member seeking to bring an issue before the House under Standing Order 49 is obliged to move the artificial and non-value assessing motion that the House do now adjourn. It is proposed also as part of this structure, which will be reviewed at the end of these sittings, that the possibility of an ambush during question time, which adds nothing to the quality of debate on the merits, will be removed. Members will be obliged to give notice through the Speaker of matters of public importance, which matters will be dealt with immediately after question time. As I have indicated, the operation of that provision will be reviewed at least three times before it is enshrined permanently in the standing orders.

It is necessary also to deal with the days and hours of sitting. The House will sit at 9 a.m. on Thursdays to provide for a full sitting day and a full measure of sitting time to be devoted to private members' matters. The provision will also be made for limited queue jumping of private members' bills. That provision will give a member who believes that his or her bill is more important than other private members' legislation the opportunity to test that. There will be two opportunities for members to test separate bills on Thursdays. Under this procedure a bill does not remain at the bottom of the list if there is a consensual or majority view that it needs to be dealt with as a matter of urgency. The provisions dealing with ministerial statements will provide for the first time in this House, save for the granting of leave a couple of times by this Government during this session, an opportunity for any member deputed by the Leader of the Opposition to reply to a ministerial statement. I undertake that during the summer recess, as part of the review of these items for the first session of 1992, the entitlement of an individual member, in addition to the Minister and the Leader of the Opposition, to speak briefly if the matter of the ministerial statement applies specifically to his or her electorate will be incorporated. That entitlement will be by leave. It was simply not possible to draft that provision this afternoon after it was discussed with the Opposition and Independent members for inclusion in these sessional orders.

The final area of major reform, as I indicated at the beginning of my remarks,
Page 4482

will be a requirement that a minimum of 10 questions be dealt with during question time. For the first time the member who asked the original question will be able to ask a supplementary question, such question to be asked immediately after the primary question has been answered. The provisions foreshadowed by the honourable member for Ashfield with respect to the final amendment that he proposes, to enable Ministers seeking to provide additional information to questions already answered to do so at the conclusion of question time rather than having the opportunity to enter the House and do so at any hour of the day without leave, will be adopted by the Government. We believe that there should be a right to do that only at the end of question time and that if a Minister has a matter on which he wants to provide supplementary information at this hour of the night he should be required to obtain the leave of the House to do so and not be permitted to give such information late in the evening and bury it at a time of the day that would not provide sufficient attention to public information. I commend the measures to the House.

Mr WHELAN (Ashfield) [9.51]: I am sorry that I was not able to hear the original remarks of the Leader of the House. As I have said previously, he has done a marvellous job. But as honourable members would know, he has done a marvellous job for the Government. He has also done a marvellous job, in his own style, to improve the procedures of the House. One must never forget that he is a member of the Government and he is looking after the interests of the Government. He is doing exceptionally well in that regard. Mr Speaker, the reason that you had to call me to order was that I had just received a notice about the change to the Joint Select Committee on Fixed Term Parliaments Bill. My mind immediately flashed

back to a time in this Parliament when we dealt with ticks and crosses legislation. I again feel that the Government is about preserving the right for it to have an early election. That is not for me; our position is very clear. The Minister shakes his head.

[*Interruption*]

Mr SPEAKER: Order! I draw to the attention of the honourable member for Ashfield to the fact that the four-year term select committee has absolutely nothing to do with the question before the House.

Mr WHELAN: I am not talking about the four-year term; I am talking about what will be less.

Mr SPEAKER: Order! That is not within the terms of the motion before the House. We are dealing with amendments to sessional and standing orders. I ask the honourable member to confine himself to that matter.

Mr WHELAN: Earlier I indicated by letter to the Leader of the House the position of the Opposition in relation to the various matters. The Standing Orders and Procedure Committee of this House had a long and serious debate on the matters. With your permission, Mr Speaker - I am sorry that I did not have the opportunity to raise this with you previously - I should like to table the letter that I gave to the Leader of the House. It would not only help *Hansard*; it would accurately reflect the view of the Opposition and save time. The letter is dated 13th November.

Mr Moore: Leave will be granted if the honourable member seeks it.

Mr SPEAKER: Order! There is no provision within the standing orders to do so.

Mr WHELAN: Regrettably, Mr Speaker, I will have to take a little time. As
Page 4483

I indicated to the Leader of the House in relation to the routine of business, I shall move that the matters be dealt with individually because of their complexity. I remind the House that Standing Order 183 provides that the House may by motion without debate order a complicated question to be divided. I do not think I have to spend too much time trying to convince the House that the routine of business has nothing to do with suspension of standing orders, consideration of public bills, ministerial statements or their various interrelationships. It is regrettable that I have to go through this farce but I wanted to point out to the Minister -

Mr Moore: Seek leave again. I indicated earlier that you could have leave to table it.

Mr SPEAKER: Order! There is no provision within the standing orders for a member other than a Minister to table documents. Tedious though it may be, I think it would be preferable to stay within the standing orders of the House. If it has to be read into *Hansard*, it has to be read into *Hansard*.

Mr WHELAN: These are the sort of reforms that Parliament needs urgently. There is a way for it to be done. I do not mind sitting down to enable the Minister to move suspension of standing orders to enable my letter to be tabled and then for me to complete my remarks.

Motion by Mr Moore agreed to:

That so much of standing and sessional orders be suspended as would preclude the honourable member for Ashfield (1) tabling a letter from him to the Leader of the House dated 13th November, 1991 and (2) resuming his remarks to move a series of amendments to the motion on additional sessional orders.

Mr WHELAN: I am pleased that no other member decided that it would not be worth while. In my letter to the Leader of the House I referred to matters concerning private

members' bills. He has said in relation to Standing Order 183 that the matters will be dealt with in globo. Matters of dispute will be dealt with separately. My tabled letter explains in annexure B that certain matters will be divided upon separately. For convenience I refer honourable members to *Notices of Motions and Orders of the Day*. I told the Leader of the House that the proposed change in relation to Thursdays was approved. The Minister and the Government can claim credit for the procedure on Thursday. I applaud what has been done. He cannot get too much credit for what he has done. For the first time private members of Parliament, Government or Opposition, will have the opportunity to introduce bills on matters of concern to them. Unlimited credit should go to the Government and particularly the Minister for what has been done in that respect.

I shall speak first about the agreeable parts of the Government's program and then go on to the disagreeable parts. If this motion is passed, at 10 o'clock on Thursdays any two private members may move to suspend standing and sessional orders to permit the order of the day for the resumption of the debate on a member's bill to be granted precedence. Those members have the opportunity for three minutes to acquaint the Parliament with the virtues of their legislation and to ask for its approval. At one o'clock the Parliament will deal with new matters. I am pleased that something I have always supported has been accepted. For the first time this Parliament, like the Federal Parliament, will have a decent opportunity to debate committee reports. Criticism and dissenting views may be presented. The chairman of a committee will be able to give

Page 4484

a decent analysis of the findings of a report. The Government deserves every bit of credit for that.

I turn now to ministerial statements. I am of the view that a member should be entitled to make a short speech, perhaps of three to five minutes duration, if a ministerial statement relates to his electorate. For argument's sake, if a Minister makes an environmental statement concerning logging or the creation of a national park on the North Coast, the South Coast or in the Cessnock region a member who has a specific interest in the issue should have the opportunity at that time to speak on behalf of his electorate about his constituents' concerns. It is not my intention to divide the House on this issue. The Minister has said that these changes will be on a trial basis but I ask the Government to think seriously about this matter.

Mr Moore: I have undertaken to do that from the beginning of next year.

Mr WHELAN: I accept the Minister's undertaking. I believe my amendment would give both Government and non-government members who have an interest in the ministerial statement the opportunity to make a limited speech in the Parliament. I next deal with questions without notice. The Opposition has no problem with the preparatory words in the motion. However, it is of the opinion that the number of questions are being severely limited during question time. I can give examples of this happening under the Liberal Party-National Party Government, and, regrettably, I can give even worse examples of it happening under the former Labor Government. I feel some constraint about criticising the Minister for Health Services Management. However, today at question time he was asked a reasonable question for which he should have been prepared; but he spent 15 minutes justifying his position. Such action does not assist in making question time sacrosanct in the sense of enabling as many questions as possible to be asked.

Many Ministers of my own political persuasion have filibustered when answering a question. Government and Opposition members are aware that Ministers have spoken for 45 minutes when answering a question. That is deplorable. Question time is being wasted. Mr Speaker, before you attained your august title you were Deputy Leader of the Opposition and you no doubt felt the same frustrations that the present Opposition members feel. I am not suggesting that in any disrespectful sense. I am trying to acquaint the Parliament with the fact that in this first stage of the developmental process we will be instituting a real parliamentary

reform. The essence of this debate is all about accountability of Ministers. It is all about the Government getting stuck into the Opposition when it believes the Opposition has gone too far.

The chairman of the Committee on the Independent Commission Against Corruption will relish the opportunity when tabling reports in the Parliament to make a political statement about what his Government has achieved in creating the Independent Commission Against Corruption. However, the Government's proposals for question time fall short of the mark. The Opposition seeks to amend the Government's proposal by moving that no question shall be asked after the lapse of 45 minutes from the Speaker calling on questions or the answering of 14 questions. The Government's proposal is for 10 questions to be asked and one supplementary question may be asked by the member asking the original question - with which the Opposition agrees. The second part of my amendment is that any answer to a question shall not exceed seven minutes, and that Ministers seeking to provide additional information to questions already answered should do so at the conclusions of question time.

Page 4485

To give a salient example, today the Minister for Health Services Management said he had an important message, but in delivering it he took up 15 minutes of question time. The effect of my amendment would be to restrict a Minister's answer to seven minutes. During those seven minutes he would not be interrupted, members of the Opposition would not take points of order. Although Ministers would be restricted to seven minutes, they may be glad of the opportunity to answer a question without interruption and without points of order being taken. The length of an answer that the Premier gave yesterday must have been a cause of worry to honourable members. The honourable member for Ermington asked him about Government policy and the Premier made what I regard as a ministerial statement. However, I shall not enter into an argument whether it should have been declared a ministerial statement, but the Premier spoke for more than 10 minutes - not once but twice during yesterday's question time. I am not saying that the Premier is the only member of the Government who takes a long time to answer a question. The former Labor Government, of which I was a member, was probably more to blame for the farce that occurs during question time. At present all that the Government is doing is getting even on the scoreboard. It is easier for the Government to get square now that it has a majority. However, that is not the way to approach this problem. When the numbers turn over - and they will - in 10 years or 15 years -

Mr Moore: I will accept 10 years or 15 years.

Mr WHELAN: Perhaps months or shortly - whatever the time is. There is no reason to hold a by-election or any election other than a by-election in the electorates of The Entrance and Maitland. Whatever happens, my amendments should be accepted. Honourable members should understand what I am saying about the Minister for Health Services Management. If he wishes to deliver an answer that will take 15 minutes, he should do so after question time. The culture of answering questions must improve. A Minister should not be permitted to waste question time by delivering lengthy answers, no matter how justified he believes he is. Answers should be given briefly by Ministers and Premiers of all political persuasions. I do not suggest that you, Mr Speaker, should direct Ministers to cut short their answers. However, after seven minutes you should interrupt to say that if the Minister so desires, he may conclude his answer at an appropriate time. As was the case during hearings of the estimates committees, Ministers should be compelled to present an answer to be recorded in *Hansard*. The Minister should be responsible for providing an accurate record of the question. That leads me to the next matter I wish to deal with. This is not a fanciful proposition. I pose a simple question to the House: if a Minister does not know the answer to a question, why should he be permitted to say after speaking for 20 minutes that he will look into the matter? Why should he waste the time of the Parliament?

Dr Metherell: This is a bit of a waste of time. It is a filibuster.

Mr WHELAN: The honourable member may well talk about a filibuster. We spend more time debating matters of little substance than we do debating real issues such as this. Why should Ministers not be directed in this regard? Why does the Government object to this proposition? Surely seven minutes provides a Minister with sufficient time to give an answer to the Parliament. I take the point raised by the honourable member for Davidson: I have laboured on the amendment I have moved. I am pleased that supplementary questions may be asked. The author of that initiative will remain anonymous but I take some credit for it. I wish now to refer to a matter germane to the real grievance of the Australian Labor Party Opposition, the provision relating to the suspension of standing orders. I have been advised that Independent members have

Page 4486

decided to support the Government on this matter. If that is an incorrect assumption, I apologise.

I understand a short-term palliative has been extended to the Government by the Independent members and that the Government's agenda with regard to standing orders and their suspension, and matters of public importance, will be reviewed constantly. I remind honourable members that a day in politics is a lifetime and two and a half weeks is an eternity. I remind the Independent members of this House what it is they are being asked to vote on with regard to this amendment. No longer will it be possible for any member of this House to move the suspension of standing orders during question time. Independent members are being asked to support the new concept of matters of public importance - the old Standing Order 49 - a direct copy of a successful Federal Parliament procedure. Those who understand the workings of the Federal Government will realise that matters of public importance may be raised, and standing orders may be suspended, at any time.

[Interruption]

Mr WHELAN: I will not wait until hell freezes over to make the point.

Mr SPEAKER: Order! The honourable member for Ashfield should direct his remarks through the Chair and cease conversing with the honourable member for Bligh.

Mr WHELAN: I was replying to the interjection.

Mr SPEAKER: Order! The honourable member should do so through the Chair.

Mr WHELAN: It is all very well for Independent members to say that they will vote for the Government with regard to the suspension of standing orders, but I submit I have the right to inform them that they are deluding themselves and denuding themselves of the right to move suspension. I am delighted that the honourable member for Bligh interjected. Recently she moved for the suspension of standing orders to enable this House to debate the administration of hospitals in New South Wales. That procedure will no longer be available to her. Matters of public importance must be submitted in writing to the Speaker no later than 1 p.m. on any sitting day. By 1.45 p.m. you, Mr Speaker, will be obliged to inform the Leader of the Government, the Leader of the Opposition, the responsible Minister and other members of the House of your determination to permit discussion on the matter. You will also be required to publicise that determination. Question time will commence at 2.15 p.m. and, generally speaking, will conclude at 3 p.m. Therefore, Ministers will have one and a half hours, from 1.45 p.m. to at least 3.15 p.m., to have your determination about a matter of public importance announced publicly. Ministers will read prepared speeches on matters of public importance without being subject to critical analysis or accountability of their portfolios. The regime of fundamental analysis will be non-existent.

[Extension of time agreed to.]

For the reasons I have outlined I have moved an amendment with regard to the matters contained in annexures A and B. From 1 p.m. on any day, should a matter of public importance arise suddenly, the Government will be immune from criticism. No provision is available for members to give notice of matters of public interest. I hope that the Minister will not say that the new standing and sessional orders will make

Page 4487

available such a procedure. Only by leave will matters suddenly arising be brought before the Parliament. How will Independent members introduce a matter relating to a vote of no confidence in the Government? How will they bring to the Parliament matters relating to ministerial incompetence or neglect? How will they bring before the Parliament matters of concern to their constituents? How will any member of this House, after 1 p.m. on any day, bring a matter before the Parliament?

The House is considering a proposal that members of Parliament should be mute, deaf and dumb from one o'clock on Tuesdays and Wednesdays and not be able to raise matters on behalf of their constituents. That is the whole issue. Look at the politics behind the proposal. The Government would have traded anything to get rid of the suspension order of standing procedure. Look at the sessional summary from 1986 to 1988 or from 1988 to 1990. Look at the list of members who relied on suspension of standing orders during those periods. From 1986 to 1988 the coalition Opposition, now the Government, was the beneficiary of 67 motions for suspension of standing orders of the Parliament on important issues. No one with any knowledge of political history in New South Wales could disagree with that. The honourable member for South Coast raised such motions in the Parliament but the Independent members of Parliament now tell us that the MPIs - the Standing Order 49 adjournment under the old system - will replace them. Why were there 67 suspensions of standing orders? If this motion is passed no member of this House will be able to consider anything after one o'clock.

The Parliament will be rigor mortis post one o'clock in relation to allegations of ministerial maladministration. The Independent members will vote for the proposal because they believe in it. But the Independents, in giving the Government two and a half weeks while we sit around in Parliament, has given the Government a new lease of life. From 1986 to 1988 Nick Greiner had the benefit of all those motions in the Parliament. Why does he want the procedure changed? The answer is that he now finds them offensive, ministerial responsibility is involved, and he cannot take the heat in the kitchen. No matter what Independent members might say, no matter how bona fide might be their approach to the reform of the Parliament, the fact is that on matters of major importance they have rendered this Parliament nugatory from one o'clock. I look forward to the Independent members standing up in this Parliament and telling me how they will introduce motions of no confidence against corrupt maladministration. Please do not tell me that when we return in February they will move that standing orders be suspended. That would imply that nothing will be wrong with the administration of the Government between now and February. That would imply that after one o'clock on Tuesdays and Wednesdays I cannot raise in this Parliament anything about the hoodlum Raymond John Denning who has been let out by the Minister for Justice, a Minister who will not do a thing to prevent it. That would mean that the Government cannot be criticised except by first giving it all that notice under the MPI procedure. By the time notice of the MPI is given the Minister for Justice will walk up to the table with a typed announcement or speech, or he might get another member to read it while the Premier makes an announcement to the press gallery.

[Interruption]

Mr WHELAN: The honourable member for South Coast is flexing his muscles. He has made his decision: he is going to vote with the Government. I ask him a simple question: why does he want to change the status quo?

Ms Moore: The status quo has been rotten.

Mr WHELAN: The honourable member for Bligh says the status quo is rotten. The status quo has been so rotten that she will agree to change it again if it does not improve in two and a half weeks. The honourable member for Bligh said that she will agree to change in two and a half weeks if it does not work. What sort of stability are we programming in the Parliament from here. Are we looking for something that will assist the long-term future of the Parliament? Will we find that the Government has done a deal? Is some other higher bid or consideration involved in these machinations for changes to the standing orders? Why would we want to change? Allegedly we have two and a half weeks of the Parliament left. Why would anybody want this change? Why not analyse standing orders now for the purpose of discussing them when we come back in February, if we do come back in February? Why not retain what we have rather than go through this change for the purpose of trying to avoid the other system which was rotten, as the honourable member for Bligh has said.

I do not want to say that the honourable member for Bligh is naive but in my lifetime I have not met many people who first sign their name to a contract and then see a lawyer. The honourable member for Bligh has admitted that. I know what the honourable member for South Coast would say. His attitude towards lawyers has not changed during the time I have known him. The numbers will fall against us and we accept that, but the loser will be parliamentary democracy. Any Minister who cannot stand up on 10 minutes' notice and reply to suspension motions should not be a Minister of the Crown. I can hear the berating from the Independent members behind me. If I can believe the news announcement on the Australian Broadcasting Corporation, the Independents are going to vote with the Government for the purpose of ceasing debates in this Parliament. So be it.

Ms Moore: That is a misrepresentation, though I suppose the honourable member has had lots of practice at that.

Mr WHELAN: The honourable member for Bligh can look forward to her contribution to this debate. Another item I wish to raise concerns matters of public importance. I understand that the Speaker in the Federal Parliament publishes matters of public importance and has powers in relation to dissent. The Speaker of the Federal House determines that any matter proposed shall be announced to the House. As I have indicated to the Leader of the Government in the House and to anyone to whom I have sent the notification, I shall move an amendment to Standing Order 49 suggesting that the matter be immediately published.

Mr Moore: The Government will accept the amendment.

Mr WHELAN: The amendment will be accepted. The Government thinks it is going to get some advantage, as does the Opposition. We think it will remove the difficulty that Mr Speaker will have in that information will come other than from him. If it is immediately published, and if it arises at two minutes to one o'clock, it will stop the Government - this is a long-term proposition - having those hip pockets filled with new matters of public importance. They are most important motions, Mr Speaker, and this is a protection. The other amendment that the Opposition wants to move is the deletion from Standing Order 395 the words "by leave". That is self-explanatory. Unless leave is granted there will be no more suspensions of standing orders of the Parliament. If we are going to have a free for all, let us see how good we are. Why do members need the leave of the Parliament? It will enable any Government member to object to a matter dealing with suspension of standing orders outside question time and enable a member of the Opposition to object should the Government want to move a

procedural suspension of standing orders. The Government will lose by this. I cannot understand why we must have all this argument. Procedural standing orders apply throughout the other parliaments of Australia. The only parliament out of step is the New South Wales

Parliament. It has been out of step historically, and it is now going further out of step. Why cannot the New South Wales Parliament adopt the Federal Parliament standing orders? They enable suspension at any time, matters of public importance, and the limitation of the number of questions. Why do we have to flog ourselves to try to fit in with the Government's proposals?

Mr SPEAKER: Order! The honourable member has exhausted his time for speaking.

Mr HATTON (South Coast) [10.31]: In *Julius Caesar* Mark Antony said, "If you have tears, prepare to shed them now". That is exactly how I felt while listening to the honourable member for Ashfield. Together with the previous changes, these changes to the sessional orders are the most dramatic that have occurred in this House in 50 years, not just in 20 years. The honourable member for Ashfield knows that. He has lived through the convoluted rulings, the Speaker not seeing a member of Parliament for weeks, the gag and the guillotine, and no opportunity to ever move a motion if the Government decided against it. Previous governments did not even obey the convention of bringing on motions of no confidence the next day; they brought them on at their convenience, sometimes weeks down the track. The honourable member for Ashfield knows that also, and he knows that a private member could never get legislation on. If the government wanted to favour a member, as it did a Democratic Labor Party member on one occasion, he would be allowed to make a second reading speech but then it would die. I do not remember any other opportunity when any other member was able to bring legislation to the floor of the House and debate it. The honourable member for Ashfield should give some credit where credit is due. Let us have constructive criticism of me and of my decisions by all means - it is valid criticism - but let us not have this total hypocrisy. The honourable member for Ashfield and any member who has any memory of this House knows that a government could spend half a million dollars on committee inquiries for which members of Parliament could travel overseas but no opportunity was given to honourable members to debate those final committee reports on the floor of this House. They would collect dust.

Mr Whelan: That is false.

Mr HATTON: Except for a few cases. The honourable member knows that is true.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Ashfield to order for the second time. I call the honourable member for Broken Hill to order.

Mr HATTON: Never before in this House have there been matters of public importance. Of course there have been standing order 49 adjournment debates for which the test had to be that it was a matter suddenly arising and that a member had no other opportunity to raise it and it had to be of State significance before he could get it on. Matters of public importance are not another standing order 49 adjournment debate. It is misleading to say they are. Never before in this House has there been a set number of questions. I have seen question time almost all used up by a Minister giving a long, convoluted answer, particularly to prevent members from asking questions. The

Page 4490

honourable member for Ashfield knows that I was in the Chamber when a Minister took the call from the Australian Labor Party side, the Government side, and moved suspension of standing orders because of the tension at the time and there was no question time. Any member who has been around this place for some time will remember what happened. I remember one occasion when we had 90 divisions on a fuel tax bill. The House did not go through the normal procedure of adjournment. The business was suspended so that the next day became a continuation of the previous day to deny members of Parliament a question time on that day. Therefore, standing orders did not apply normally on that day.

I have seen what can happen in this House. Private members had one afternoon every couple of weeks. It was set play. Government members would say what a good job the Government had done and members of the Opposition would condemn the Government to score points. Sometimes decisions were made; sometimes they were not. If a decision was wanted, the gag was applied; if otherwise, it would be talked out. It is important to remind honourable members of the history of this place. No supplementary questions have been allowed, and the abuse has been constant. What we are trying to do is to change the culture of the place, but we are not doing it all at once. It is fair criticism to say that we should. I accept that. Allowing a matter of public importance to be debated every day will give members of Parliament an opportunity to raise a matter of importance every day of the week. The principal speaker will have 15 minutes, and 10 minutes in reply and four other speakers will each have five minutes in which to speak. On private members' day the House will start sitting at 9 a.m., when legislation and motions can be introduced, debated and decided upon; when one can reorder the priority by suspension for precedence for bills introduced by private members. Supplementary questions will appear in the standing orders for the first time. Of course honourable members should seek to expand that. Debate on reports will occur between 1 p.m. and 2 p.m. That will give for the first time a standard opportunity in the standing orders to allow a member to speak for a few minutes to express a dissenting voice against a report brought down by the chairperson of a Government-controlled committee.

Suspension of standing orders by leave is an interesting experiment, because it will depend on developing a culture in this place. The Government will not be able to suspend standing orders; neither will the Opposition. It is true that the Government has more opportunities than the Opposition to get on to the floor of the House without suspension but is all about a culture change. The honourable member for Ashfield talked about suspension as it is in the Federal House, but he knows that the culture of the Federal House is that suspension is only for very important matters and that the opportunity to bring up a matter of public importance passes if suspension is granted. Suspension by leave will give five minutes for the mover and five minutes for the reply on whether suspension ought to be granted and whether the House will grant leave. I understand that only one dissenting voice will be necessary. Grievance days will be retained to prevent that from happening. Parliament will finish at 10.30 p.m. It is true that this will be on trial for a period of two and a half sitting weeks and will come up for review in February. It is true that the honourable member for Ashfield has made some valid points. There is no doubt about that. But there are some tensions. There is the ambush where the Minister is put on the spot. The Minister has made a valid point. The Minister has to know his or her portfolio; the Minister will have no opportunity to be briefed, will not have a set speech and will be put on the spot. Informed debate in which there is no ambush and a Minister may make a considered reply must be weighed against that. There is tension and disagreement on that question.

As I mentioned earlier, question time may be completely eroded if the
Page 4491

Government grants itself suspension. There will be abuse if the Government is on the ropes. The clever use of suspension in the hands of the Government is a weapon to pre-empt a matter of public importance. That was one of the considerations we had to take into account and we still have not got any answer to that. A member of Parliament may go to the Speaker on a matter that is very important, obtain the Speaker's permission and be all ready to go. If the Government does not like the matter of public importance that is to be raised, it can organise for the suspension of standing orders straight away. If standing orders are suspended, the matter of public importance is zapped for that day. If that matter of public importance happens to be raised on a Wednesday, there will be no opportunity to raise it until the following Tuesday. By then the force of the matter of public importance may be lost. The matter of public importance could be extremely important to a member's electorate or in many other ways. I accept the valid arguments of the honourable member for Ashfield in favour of suspension. However, other equally valid points have to be considered. We have agreed to disagree with the Opposition on the question of balance. If there are 10 questions in question time and the

Opposition wants 14, will there be 20 or 30? When do members stop asking questions? Pressure can be put on Independent members at any time. It can be said, "Look, these terrible Independent members have prevented us from asking another 10 questions simply because they would not agree to lift the number of questions from 14 to 24".

[Interruption]

Mr HATTON: I understand that and I accept that. I have no complaints about the cut and thrust of this place. Another issue is dealing with a matter of public importance every day. The honourable member for Ashfield has proposed that if suspension of standing orders is granted an entire debate and a matter of public importance will follow. Honourable members have to ask themselves when on those Tuesdays and Wednesdays, if the whole of Thursday is to be put aside for private members' matters, the Government will be able to exercise its right to govern? I have always thought that the Government has a right to govern; it does not have a right to dictate. The balance must be weighed carefully. This matter will come back to haunt a Labor government when it achieves office. If a way is devised to require that a vote of approximately two-thirds of the House is necessary to change a standing order and that is enshrined in the standing orders, the Government will have very little time in the working week to introduce its legislation, despite the nature of its majority. I put that forward as a valid criticism. It is not a matter of the terrible Independent members of Parliament doing this and not doing that. It is a matter of considering the balance.

The Government has indicated that there may be an opportunity for one additional speaker to reply to a ministerial statement. I agree with the Opposition that supplementary questions should be asked at the end of question time and not late at night, except with the leave of the House. That device has been used on many occasions. I am prepared to suffer criticism. I am proud that as a result of the negotiations on this package of reforms, dramatic changes will be made to this Parliament. There will be more dramatic changes in February next year. I am pleased to support these changes to the standing orders. Undoubtedly the reforms will make marked improvements and give Opposition and Independent members opportunities they could never have dreamed of as little as nine months ago.

Ms MOORE (Bligh) [10.45]: I support the proposed amendments to the sessional orders. The Independents are about changing and improving the system, a system which in the past has been non-democratic. This place had fallen into disrepute. It had been nothing but an expensive charade, rubber-stamping decisions made behind

Page 4492

closed doors by the Executive Government. Until now the Opposition and the Independents have had no input into the legislative process and Government backbenchers had minimal involvement. In the past it had been impossible for members in this place to represent the interests of their electorates. The Government had complete control of the agenda. It was difficult to ask questions and impossible to introduce legislation. When these reforms were raised initially more than five months ago we were told it would simply not be possible for non-government members to introduce legislation. That is now happening weekly. In future debate on important legislation will not be gagged or guillotined. In the past the parliamentary program was a movable feast, particularly under the Labor Government. Minimal notice of the introduction of bills was given. Important bills were rushed through the House at 2 a.m. The people of Paddington still talk about the 2 a.m. approval of the Sydney Football Stadium at Moore Park without an environmental impact statement. The community had no input and members had little time for consultation or preparation. Last December the House sat for 33 hours continuously while 30 bills were passed. I recall debating the new Public Health Bill at 7 a.m. It was legislation by exhaustion.

Mr J. H. Murray: That was the ticks and crosses.

Ms MOORE: No, at 7 a.m. it was the public health bill. The ticks and crosses were debated earlier, as I recall. Now for the first time we will have a weekly agenda. That will enable 10 questions and supplementary questions to be asked. The time for answers will be restricted.

[*Interruption*]

Mr SPEAKER: Order! If the members of the Opposition wish to discuss matters between themselves, they should do so outside the Chamber. The honourable member for Bligh will be heard in silence.

Ms MOORE: All elected members will have the opportunity to introduce legislation and raise matters of public importance. Estimates committees have been set up. I recall one evening leaving the estimates committee of which I was a member and hearing Australian Labor Party members saying, "Well, wasn't that marvellous being able to question Ministers and their staffs". The Minister for School Education and Youth Affairs was accompanied by about 20 staff members when she attended the estimates committee. The estimates committees have introduced some accountability and enabled members of Parliament to question Ministers. In future members should be more involved in that process and not merely ask questions after the Budget has been handed down. Laws which affect the whole community can now be changed and improved. As the Leader of the House said, some Government legislation will not succeed, some Opposition legislation will succeed. That whole democratic process is certainly a good thing. Landmark legislation will now be before the House for 28 days and if there are changes after a review, the legislation will be before the House for an additional 28 days. After the historic bipartisan committee on gun law reform was set up and a consensus report was brought down, the chairman and six members of that committee were able to address this Parliament.

The reforms to sessional orders are about introducing long overdue improvements. It needs to be stressed that these are not ongoing reforms. They will be assessed in February and at the end of the autumn session. The honourable member for Ashfield cares only about opportunities to play party politics, but these long overdue changes represent real reforms of the democratic process. He should give credit where

Page 4493

it is due. What the honourable member for South Coast said about balance is right: balance of course is needed. We will now have a whole day for private members. There will be opportunities to ask questions. There will be opportunities to debate matters of public importance. There must also be opportunities for the Government's legislative program to proceed through this House. In conclusion, this is a process of ongoing reform. I reject totally the hypocritical criticism by the honourable member for Ashfield. I pay tribute to the Minister for the Environment, the Leader of the House, for the part he has played in these reforms. He has been committed to them as a parliamentarian, not just as a member of a political party. I pay tribute to the honourable member for South Coast for his wisdom, experience and determination to get these reforms through. I pay tribute to the honourable member for Manly for his good humour and common sense which got us through many tense moments in the development of these reforms.

Mr J. J. AQUILINA (Riverstone) [10.51]: The honourable member for South Coast began his contribution to the House tonight by quoting from *Julius Caesar*. I shall follow in the same train by giving a quote which is perhaps even more memorable, from Mark Antony when he said, "I come to bury Caesar, not to praise him". Tonight we are burying this Parliament because we are taking away from the Parliament the one important principle that has been sanctioned by oppositions. The present Government, in the 12 years it was in opposition, ensured that it maintained that right for itself, because it knew its value in this Parliament - the element of surprise that comes from the right to move for the suspension of standing orders during question time. The Government knows the advantage of this and that is why it has tried

above everything to ensure - no matter what concession it had to give - it would win the concession from the Independents of getting rid of the element of surprise. The Parliament will be put into a straitjacket. The sessional orders and standing orders of this Parliament should be a guide to the proper running of the Parliament, not a straitjacket. This Government is turning the sessional orders and the standing orders into a straitjacket.

Let us forget about any kind of attraction to this Parliament in the future. Let us forget about filling the galleries during question time. Let us forget about the vibrancy and spontaneity of debate in the Parliament. All the children and adults who come here will see is the humdrum, dull, predictable and boring question time. Nothing of any import will happen. The only element that has meant anything to oppositions, the element of surprise, will be taken away. Independent members and Government members will argue that we can ask questions without notice and they will provide an element of surprise. What has happened with questions without notice, particularly since the last election? Government members predictably ask dorothy dixers for which Ministers have prepared long-winded replies which are absolutely meaningless and which tell the Parliament and public of New South Wales absolutely nothing.

A ministerial statement in response to a dorothy dixer today took a considerable period. Yesterday the Premier delivered two ministerial statements during question time. What happens to questions from the Opposition? The *Hansard* shows how many Opposition questions were answered with one or two words. A Minister used to have an element of shame in not being on top of his portfolio and able to give the Parliament a decent answer. But the present Ministers have turned this into an art form. If they do not have a proper response, they say that they will provide a response later. That is the only answer given. Where is the element of surprise? Where is the relevance and importance of question time? The Government has contrived this situation. The Independents have been conned into accepting the Government's proposals about eliminating the suspension of standing orders during question time. There is no merit at all in the proposal. The Parliament will become totally predictable. It will lack the

Page 4494

theatre which has been one of its main attractions. It will lack relevance and spontaneity.

[*Interruption*]

Mr SPEAKER: Order! There is too much interjection.

Mr J. J. AQUILINA: In order to get its way and eliminate the element of surprise the Government has attempted to crack a nut with a sledge-hammer. It has brought out the heavy guns and conned the Independents into supporting it to take away the important privilege which the Opposition has fought to maintain not for the last three months or for the last three weeks but for the last three and a half years. In the 12 years the present Government was in opposition it fought to maintain this right. To give due credit to the Leader of the House prior to the last election, when the matter was raised in the Standing Orders and Procedures Committee time and again the Hon. John Dowd proposed to do away with the suspension of standing orders and to offset this with debates on matters of public importance. Opposition members refused. John Dowd accepted the Opposition position. There was no way that he would contrive to mislead any members: he is an honest man. He knew in his own heart the validity and the importance of the suspension of standing orders being maintained as a procedure during question time.

Let us not cry crocodile tears, as may have been suggested by the honourable member for South Coast. We are looking at the demise of a very important element of this Parliament which has been an institution - the element of surprise. A lot has been said about maintaining the validity of question time. We have seen recently the way in which the Government has manipulated question time. The only device available to the Opposition has been the suspension of standing orders. If that is taken away, it removes the only element that the

Opposition can utilise effectively. The honourable member for Bligh referred to the great gains to the Parliament under this Government. She referred to the possibility of private members introducing legislation and having it debated. That would appear to be a great gain. But I guarantee that already Government members have worked out a way of manipulating the situation to make sure that the time of Opposition members or Independent members to debate private members' legislation is very limited. At this very minute Government backbenchers, with the assistance of Ministers, will be working on private members' bills. Next year, instead of Ministers introducing legislation, bills will be fobbed off to private members to introduce. How will we work out the order of procedure for debating such bills on a Thursday? Priority will be decided by a vote of the Government.

Ms Moore: We will all have a vote.

Mr J. J. AQUILINA: As the honourable member for Bligh said, there will be a rotating order, but there is also the provision that the order may be altered and that the Parliament may vote on what legislation is to be debated. That will be a convenient and efficient way for the Government to manipulate private members' legislation. The estimates committees were referred to. Let us be fair dinkum about these committees. They were an absolute farce. During hearings of those committees Government and Opposition members were permitted five minutes or 10 minutes - whatever it was - in which to ask questions. They could not ask supplementary questions. If a Minister evaded answering a question, he could not be pressed to answer it at a later stage. If the Minister did not know the answer, it was pawned off to a departmental officer. I recall specific instances of that happening and I have the tapes of the estimates committees to prove it. As a transcript of the estimates committees is not provided in a short time, the immediacy of the issue was lost. Members were not given the opportunity to press the

Page 4495

issue. Many questions were handled badly by Ministers and many were not answered properly.

I recall that when I asked the Minister for Industrial Relations and Minister for Further Education, Training and Employment a question about TAFE course fees his answer related to administration fees. When I tried to press the issue I was called to order by the Chairman, who said I was asking a supplementary question. I do not know whether the Minister was aware of the difference between course fees and administration fees, but certainly the question was unanswered. Estimates committees are a farce. They have not worked properly. The Leader of the Government has not undertaken to alter the procedure of those committees so that they may be more efficient in the future. The honourable member for Bligh and other members said that if this process does not work in the next two and a half weeks it can be reviewed in February. Where is the provision for a review in February? Are honourable members taking this Government on trust? Have they learned so little in the past few weeks that they dare to take this Government on trust in relation to any undertaking it has given? Who is to judge whether the process will work well? If the Opposition objects to the way in which the system works, obviously the Government will say that it is the role of the Opposition to object, so let it object.

If this motion is successful the right of members to move suspension of standing orders will be non-existent. Government members will gloat that they conned the Independents and won yet another right to turn this Parliament into a straitjacket. The issue of matters of public importance and what a great innovation they will be was raised. What is so great about matters of public importance? There has been provision for standing order 49 adjournment motions for as long as I have been a member of this Parliament. Very few members have used that procedure. From memory, up until 1988 the then Opposition had used the procedure perhaps half a dozen times, but had moved 50 or 60 motions for suspension of standing orders. The Opposition at that time moved suspension of standing orders because a standing order 49

adjournment motion does not have that element of surprise. The debate is merely humdrum and everyone knows precisely what is to be debated.

Clever Ministers can obtain all kinds of dissembling information from their departmental officers to befuddle debate. The Ministers concerned are effectively looked after by their bureaucrats and are given the opportunity to prepare for debate well beforehand. The only element of any value to the Opposition in this Chamber is the element of surprise. It is the right of the Parliament to be the determiner of its own destiny. That can only happen when the mood and circumstances are dictated by what happens in this Chamber, not by what is determined outside. The honourable member for Port Jackson said that in the past governments have tried to manipulate the standing orders to avoid having question time. She referred to the time when this Chamber sat into the early hours of the morning debating the petrol franchise bill. The honourable member was not present at that time. I was and I know what happened. A special sitting of the Parliament was called to debate that bill and that bill only. The debate continued into the early hours of the morning because the Opposition of the day divided on every item of the bill, including the short title. About 80 divisions were called, for which the Minister for the Environment was responsible. That was not a manipulation by the government of the day, as the honourable member for Bligh said.

Ms Moore: I did not mention that matter.

Page 4496

Mr SPEAKER: Order! There is far too much conversation in the Chamber. The honourable member for Riverstone has the call.

Mr J. J. AQUILINA: The only time that I can recall question time being deliberately obliterated was on 29th November, 1990, when honourable members debated the ticks and crosses legislation until the early hours of the morning - and indeed the debate continued until 7 p.m. on the Friday.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Myall Lakes to order.

Mr J. J. AQUILINA: Honourable members should get their facts straight. Occasionally they like to colour the facts. Those of us who have been members of this Chamber for some time remember precisely the history and what the circumstances were. Disguise it as they might, argue as they might, Government supporters know that their major victory relating to the changes of standing and sessional orders is to take away that element of surprise and to take away the right of the Opposition to move suspension of standing orders.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Ermington to order.

Mr J. J. AQUILINA: The Opposition will not cop it. It will not sit back and allow the Government to turn this Parliament into a straitjacket. The Opposition will fight this matter all the way. It will remind Government supporters day in and day out of this situation.

[Interruption]

Mr SPEAKER: Order! I call the Minister for Natural Resources to order. I call the Minister for Justice to order.

Mr J. J. AQUILINA: The issue has been canvassed widely in the past three and a half years. It has been debated ad nauseam. In the past three and a half years the Opposition has consistently and repeatedly told the Government why it does not want to use procedures relating to matters of public importance in preference to moving suspension of standing orders. No matter what the Government or Independent members say about how question time is not working, their statements are all furbies and excuses. The real issue for this Government, a government on its last legs, and running scared, is to take away the one effective weapon of the Opposition, and that is the element of surprise in moving suspension of standing orders. That is not good enough and it shows that the Government is running scared. It is not willing to put its bona fides to the test. The Government is so bereft of talent on its frontbench that its Ministers are not willing to allow themselves to be subjected to the element of surprise -

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Sutherland to order.

Mr J. J. AQUILINA: - to debate issues unless they have their props around them, their bureaucracy, their personal assistants providing them with information. The Opposition rejects strongly -

Page 4497

[*Interruption*]

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber.

Mr J. J. AQUILINA: The Opposition rejects the proposal and urges the Independent members to rethink their position.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Ermington to order for the second time.

Mr J. J. AQUILINA: Our proposition would have meant that only 20 minutes was taken from question time. With the support of the Government matters relating to the suspension of standing orders could have been debated outside question time. But that was not agreed to. The Independent members have taken away the one element that was of value to private members.

Mr BECKROGE (Broken Hill) [11.10]: Some of my colleagues have commenced their contributions with a quote from Shakespeare. I am not ignorant of Shakespeare's *Julius Caesar*, and I wish to quote the following from act 1, scene 2:

You blocks, you stones, you worse than senseless things!

The Government does not understand what it has done. It has been conned by the Independent members. For the first time this session this House has sat past 10.30 p.m. It has done so not to talk about the good government of New South Wales or what the electorate wants. We are talking about the semantics of this Parliament.

[*Interruption*]

Mr SPEAKER: Order! I call the Minister for Justice to order for the second time.

Mr BECKROGE: The Independent members are not asking the Government to do things for their electorates. The program of the Independents is to put on record the way they perceive themselves to be. Parliaments pass laws for the good of the State. But on this occasion, at 11.10 p.m., we are talking about semantics, not about the good government of New South Wales. Obviously the Government has agreed to that course. For the 10 years I have been a member of this House I have heard the honourable member for South Coast speak about his electorate on only 10 occasions. A number of years ago I visited the South Coast. Roads in that region are worse than they are in mine. Bitumen roads are in disrepair. But do we hear the honourable member for South Coast in this Parliament crying about those that he represents? No. He tries only to increase his influence and that of the Independent members of this Chamber. Unfortunately, the Government has fallen for it. History will show -

[Interruption]

Mr SPEAKER: Order! There is far too much interjection and audible conversation emanating from the Government side of the House. It is pleasing that at this hour of the night there are so many Government members present in the Chamber.

Page 4498

Though their interest in the debate is apparent, I ask them to exercise a degree of decorum so that the honourable member for Broken Hill can be heard in silence.

Mr BECKROGE: I shall not detain the House for too much longer. There can be no doubt that the Independent members of this Chamber have been sincere in their efforts in this regard, but they have failed to grasp what the main game is all about, which is serving the people of New South Wales. I remind them that the electorate voted for a Liberal Party-National Party government. They almost voted for an Australian Labor Party Government. The position of Independent members in this Parliament is tenuous. The Government should understand when it is dealing with the Independents that their idea is for neither the coalition nor the Australian Labor Party to form a legitimate government in New South Wales.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for The Entrance to order.

Mr BECKROGE: This debate has nothing to do with the good government of New South Wales. It has to do with ensuring that Independent members improve their profile in the electorate. They are seeking to ensure their re-election. I am disappointed that the Government is giving them support.

Mr GREINER (Ku-ring-gai), Premier, Treasurer and Minister for Ethnic Affairs [11.20]:
Mr Speaker -

[Interruption]

Mr SPEAKER: Order! Two members not supporting the Government have spoken in succession. It is now the turn of the Government. The Premier sought the call and gained it.

Mr GREINER: I apologise to honourable members on the Government side of the House for their being subjected to the contribution of the honourable member for Broken Hill. Not so long ago, in one of my more friendly discussions with the Prime Minister of Australia, he said to me, "You know, mate" -

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Smithfield to order. I call the honourable member for Broken Hill to order for the second time.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Smithfield to order for the second time.

Mr GREINER: The Prime Minister said to me, "Parliament is only an interruption in the course of (expletive deleted) progress". It is fair to say that Premiers and Prime Ministers, leaders of governments and Ministers, on occasions have exactly that view of the Parliament. It would be completely dishonest of me to say anything to the contrary. That is the case. The reason I have chosen to speak in this debate, apart from being stimulated by a tirade of immaturity and abysmal repetition from the

Page 4499

honourable member for Riverstone, is that I believe it is worth saying, from my perspective - and I have not been known as a champion of the parliamentary process and I have been either the Leader of the Opposition or the Premier for most of my time in this place -

Dr Metherell: You used to go home early almost as often as I did.

Mr GREINER: The honourable member for Davidson is absolutely right. As I was saying, with my accustomed honesty, I have not been known as a champion of the parliamentary process. That is partly because the process of this Parliament in the 10 or 11 years I have been a member has been a farce. What the honourable member for Davidson said is one of the few things he has said in the past three or four weeks that makes any sense and that I agree with. Some of the comments he has made about the Parliament are an accurate reflection of the role of members. Members on both sides of the House and on the crossbenches know the truth of the comments of the honourable member for Davidson about the capacity of individuals to make a contribution to the parliamentary process as opposed to the real contributions they make in their electorates. That capacity in this place has been decidedly limited.

There is no doubt about that. In many ways the process has been a farce. There is no doubt that the present situation, which is the result of the mathematical accident so ineptly described by the honourable member for Broken Hill with regard to the fragile and fine-line political position, has led to a situation where the Parliament is now operating in a much more meaningful way, and where the opportunities for individual members to make contributions have already, even before the introduction of the reforms being debated tonight, undoubtedly improved. That has not taken place always to the pleasure of the Government, but it is obviously an improvement in the institution. It brings the institution much closer to the model we hold up to children in our schools and to the community in general - the model that has not been here, the model that has been a mirage. It is true that the parliamentary institution has made significant progress. The measures being debated tonight are a further step in that process of progress for the institution. The honourable member for Riverstone repeated about 10 times that what was happening tonight was the most important thing in the Parliament: the element of surprise was being removed from the Opposition.

It is true that Oppositions and governments use whatever rules exist. That is exactly what one would expect them to do. The honourable member for Riverstone and the Labor Party are really saying that when what they put up is subjected to truth and scrutiny it usually fails the test. The only difference between a suspension motion and matters of public importance is exactly that the element of absolute surprise is gone. The converse of that is that the capacity to have facts come out is greatly enhanced. That is what happens. That is why there will not be the sort of thing we have had in this Parliament regarding suspension of standing orders during question time, which of course I used when I was Leader of the Opposition, and which of course the present Opposition uses. The reason that does not exist in any other Westminster style of Parliament to my knowledge is because it does not have any

intrinsic merit. Presumably intrinsic merit is about getting to the truth of the matter; it is not about scoring points. It is true that the present Opposition likes to think it is good at hype, it is good at what the Leader of the Opposition calls thematic politics, which means telling lies consistently until someone believes him.

[*Interruption*]

Mr GREINER: He admitted that.

Page 4500

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Smithfield to order for the third time.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Baulkham Hills to order.

Mr GREINER: There is no doubt that in terms of hype, mythology and those sorts of things, having a motion moved after question time rather than during question time is not as exciting. But if the question is: has a particular matter been dealt with properly, are there too many consultants in the Water Board or whatever it might be? There is a much better chance of getting to the truth of that matter if you do not have the ambush element and are able to get the information. There is no difference. If the Water Board has consultants who are being paid hundreds of millions of dollars hidden somewhere in its ranks, that fact will come out. If it is true, it will be shown to be true in 45 minutes' time. If it is not true, you do lose something because you cannot get up and make things up or say things that do not have a basis in fact. So the capacity is lost to create a perception. The Leader of the Opposition in one of his moments of honesty said to a journalist: "But you remember what I said when I tell big lies all the time. You remember the big lie, don't you?"

Mr Carr: You cannot help yourself; you are an instinctive liar.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Burrinjuck to order.

Mr GREINER: I was trying to make a serious speech. I think what the Leader of the Opposition said was a joke. He was looking in the mirror. Let me return to the point. The point about matters of public importance is that they give the opportunity for the moving of a substantive motion. Most of the time in the history of this Parliament governments will have the numbers. That is the reality. Over time the situation that exists now will not prevail. If the new change becomes institutionalised, it will mean that there will be at least the capacity not to have a restriction of 10 minutes. I have had plenty of opportunities when I was on the other side of the House to have most of the 10 minutes -

[*Interruption*]

Mr SPEAKER: Order! I call the Leader of the Opposition to order.

Mr GREINER: Most of the 10 minutes was used by Frank Walker, Neville Wran or Terry Sheahan on this side of the House simply taking up the 10 minutes.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for The Entrance to order for the second time.

Mr GREINER: There have been examples when we have done the same thing to the present Opposition. In future if the proposal works, as I am sure it will because it works in most parliaments around the world, it will mean that oppositions, if they

Page 4501

really have something to say, something of intrinsic merit, will have the opportunity to say it and to move a substantive motion unlike the Standing Order 49 procedure. Any opposition with worthwhile ammunition and a worthwhile attack will have an infinitely better situation than exists at present. The second thing said by the honourable member for Riverstone that inspired me to reply was the discussion about estimates committees. I have a certain interest in the economic and financial management of the State. One of the things in this Parliament that has constantly amazed me in the past 10 or 11 years - and I suspect for a long time before that - is that while we spent a lot of our time arguing for more money, with people asking for money for this and for that, when it came to the estimates debate no one attended.

With the old style of estimates debates in the Parliament before the existence of the estimates committees no one ever turned up. In the previous term of this Government we went to great lengths to provide opportunities for meaningful estimates debates. The reality is that no one turned up. A lot of people from both sides turned up to debate the Legislature estimates, to say they needed more money and all sorts of conditions and good things for the Parliament, but of all the farcical debates we have had in this place the estimates debates were the greatest waste of time. Basically no one took an interest in them or listened to them. Billions of dollars went through without any serious attempt at assessment. Of course the new estimates committees process is not perfect. One of the reasons it did not work was that the members of the Australian Labor Party simply did not think about it or do their homework.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Drummoyne to order.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Myall Lakes to order.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Drummoyne to order for the second time.

Mr GREINER: They did not use the opportunities that were available. The failings, if there are failings - and the system needs to be given an opportunity - were in the way that the system was used. I ask honourable members from both sides of the House who have been members for a while to ask themselves whether there has ever been an opportunity when not only Ministers but all the senior bureaucrats, almost without exception, all the senior public servants in New South Wales, have come along and exposed themselves to questioning. One can argue about the details of the system and the way it is structured. When I think back to my time of being interested in estimates, I remember that I did not even know who the senior bureaucrats were, because they were under strict instructions from Gerry Gleeson and Neville Wran not to go within a bull's roar of the Opposition, much less come to Parliament and actually answer questions that miserable opposition backbenchers might ask. Just think how far that process has come from four or five years ago, from the whole time when the Labor Party was in office and no doubt for a time before that when I was not here.

Anyone who is genuine will acknowledge that the estimates committee process is a tremendous step forward. When members from both sides learn to use the process
Page 4502

better it will enable them to gain an understanding of the process, which in large part they do not have now. The estimates committees are a significant step in the right direction. Before making some concluding remarks I should make a point to members opposite about the whole question of House management. Honourable members have heard an unbelievable amount of hypocrisy this evening from members of the Australian Labor Party. Let me give the House one statistic which I think summarises the difference in attitudes. In the time of the previous Liberal Party-National Party Government when we clearly had the numbers in this House, in the whole of the time from March 1988 to the end of 1990, there were 16 closures of all types - gags, guillotines and other things. There were 16 closures in the entire time of that Parliament when we had the numbers and could have used that procedure any number of times. The Australian Labor Party in the last Parliament before the defeat of the Labor Government, in the same time span, had 142 closures. That is the clearest possible indication of where the truth lies in terms of any balance, any assessment.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Ermington to order for the third time.

Mr GREINER: I notice that the honourable member for Ermington was here on time so he probably heard what I said. In case he heard only the Bar clanging, I repeat that there were 142 closures for the Australian Labor Party and 16 closures from the Liberal Party-National Party in the same sort of time frame. There is no doubt in my mind that on any fair-minded assessment these changes to the sessional orders do represent a significant step towards making the Parliament work. I acknowledge that making the Parliament work does not mean making it more comfortable for me or more comfortable for my colleagues in the Cabinet. The question really needs to be asked, not just in terms of this Parliament and this particular set of numbers, which is an historical or political accident in the way the numbers fall out: is this an improvement in the way the Parliament functions and the capacity of the Parliament as a whole and of individual members to make a contribution? The answer to that is unequivocally yes. I would have thought that the Australian Labor Party, after having, as I understand, basically gone along with this during a process of more rational discussion in the standing orders committee -

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Londonderry to order.

Mr GREINER: Rather than the Australian Labor Party coming out with a lot of vituperation and abuse, whether directed at the Government or at the Independents, I would have thought the sensible thing would be to give these sessional orders a trial. Frankly, even without a trial it is perfectly obvious that they are an improvement on what has gone before. Nevertheless, give them a trial. There will be a process of review and subsequent review. I have no doubt that at the end of all this all of us - whether we have been initiators or dragged along in violent opposition as some members opposite apparently have been - will concede that the process that the Parliament is going through is going to be important not just for this particular Parliament but for many parliaments in the future. That is something that all members can be proud of and in particular those members who have been responsible for drawing them up, especially the Minister for the Environment and some of the Independents who have taken a particular interest in them.

Dr METHERELL (Davidson) [11.34]: As is often the case, the truth does lie about halfway between the rantings of the honourable member for Ermington, if he does

not mind my describing them as that, and the sanctimoniousness of the Premier on this issue. It is true that these proposed standing orders do represent a significant improvement and therefore are worthy of support. But I shall say something briefly about the question of suspension because it causes me considerable concern and it is something on which I focused in my discussions with my Independent colleagues. I do fear, as some Labor Party speakers have indicated, that a very significant Opposition right is being surrendered in this process, that there is a category of matters that come before this Parliament which do not lend themselves to questions without notice on the one hand, or on the other to matters of public importance and the period of notice included in such matters. They are matters particularly where it is believed that a Minister or a senior department officer has acted perhaps improperly or indeed where the process of decision-making by a Government has been in some way improper. A member giving significant notice of the fact that a matter is to be raised by the MPI process may give a Minister or his or her department or the senior officers who might be involved a chance to further obfuscate, further cover up and further conceal what may have been an improper course of conduct or decision-making.

It seems to me that there could well be a case for the preservation of suspension of standing orders in a particular category of matters. The reason that I am not going to support the Opposition's position on this is that we are talking about a very short term trial for these new standing orders. We are talking about two and a half weeks before they are reviewed. To use the words of the honourable member for South Coast, after two and a half weeks all bets will be off. We will be reviewing the progress of the next two and a half weeks, reviewing all the circumstances and looking at all these matters afresh, and a new judgment can be made for the next session of Parliament. Another important matter that the Labor Party needs to address, which it has not done so satisfactorily to date, is the circumstance that it is proposing if we were to support its amendment. That is a situation where each day the suspension and the matter of public importance both could be running, with long periods allocated to those matters, and serious erosion of the limited time available for the normal processes of government and for dealing with Government business. Until that matter is resolved so that we can have a clear-cut division of a suspension or an MPI or an appropriate timing for each, or a definition of the circumstance in which a suspension might still be able to be moved while the MPI process remains, I do not think that at this point it is something I can support.

We have two and a half weeks. That is a short time but over the recess period the Labor Party will have more than enough time to examine this question, and the Government may re-examine this question to judge if suspension should be retained in certain circumstances or, alternatively, whether there can be a mechanism whereby suspension and or MPI can be turned on or off in balance. In that way we may not face the situation that we faced this week and in the last week or two when almost no business of any sort was done in this place. Neither Government business nor Opposition business is being done. That will lead ultimately to either chaos in the crescendo of the last two weeks or frustration for all of us, and that does not seem to be in anyone's interests. Yes, to a point I accept what the Premier said earlier: we have seen significant improvements. A moment ago the Leader of the Opposition said that the number of guillotines were the slap of firm government. When I was part of the former Opposition I was bruised all over by the slap of firm government. I do not want to return to those days of the slap of firm government. There is a middle ground. It is possible for us to not accept what the Premier is saying but that significant further improvement can still be made even though we have already made some inroads.

I certainly would not accuse the honourable member for South Coast of gullibility but rather perhaps an excess of zeal from time to time, if he does not mind me saying so. I ask my fellow Independents to look carefully at this question because they

may well find on reflection that they have surrendered to the Government a very significant advantage that an Opposition needs to have in its armoury if it is ever to make government

accountable. I have yet to see an MPI process or a section 49 process in Federal or State politics that ever made government accountable. You get a lot more accountability with that little element of surprise that comes with the possibility of suspension. There is a balance to be struck. I agree with the honourable member for South Coast on this. We are going to review it afresh. I hope that in the time we have available to us in this session and in the recess we will arrive at a compromise between the two positions. For the moment I will certainly be voting with the Government for the improvements contained in the package but I foreshadow to the Government that I am looking for further improvements in the next session.

Mr KNIGHT (Campbelltown) [11.39]: What a delicious irony! Here we are debating a package of measures which are supposed to be about civilising the Parliament, about opening up the Parliament to greater public scrutiny, and about stopping things being rammed through in the middle of the night. But when are we debating it? We are debating it at the behest of the Minister for the Environment as the clock ticks towards midnight, before a completely empty press gallery and a public gallery that consists of a few hardy souls whose personal lives I will not speculate on. One wonders, though, what they are doing here at this hour rather than pursuing other alternatives. What delicious irony! What a time to bring this forth! What a time to have the Premier come in and cry his crocodile tears! In fairness to him, he tried to make a moderate speech, a compassionate and thoughtful speech. From time to time he could not help himself and he had to dip back to his pathetic attempts to bucket members of the Opposition; but he tried to make a sensible, rational speech. Why is it that after three and a bit years of government there has been this sudden interest in changing the rules? Why has there been this deathbed repentance by a government in its death throes?

It would be remiss and silly of me not to admit that there are some good elements in this package. The Opposition has indicated that a number of things in this package help private members and Independent members. There are some major gains for the honourable member for Davidson, the honourable member for Manly, the honourable member for South Coast and the honourable member for Bligh. The honourable member for South Coast has been here for a long time and has suffered under the procedures whereby governments have limited his opportunities to raise matters. I understand why he is committed to this package. He knows full well that he would not have got this package out of the Premier if the Premier had any alternative. The Premier has been dragged kicking and screaming into accepting this package. Despite what some people may think, I accept that the honourable member for South Coast and his colleagues are honourable in this regard. They have entered into a deal with the Government and they will vote tonight to honour that deal. I accept the propriety of that, but I question the wisdom of the deal.

As those Independent members have said here tonight, this package is to last for only two and a half weeks. I would like Independent members to think very carefully about what they will do when this package is reviewed in two and a half weeks. We accept the direction that they take tonight to honour a commitment, but, as the honourable member for South Coast has said, the duration of that commitment is for only the next two and a half weeks. I ask the Independents to give some attention to the Westminster system. In the end, however important or unimportant people rate the role of Independents, our system of government rests on a contest between governments and oppositions to see who will form a government to run the State. Though there may be an important role for Independent members, be it in a hung Parliament or in a Parliament

Page 4505

where the Government has a clear majority, in the end I hope the honourable member for South Coast and his colleagues will recognise that the stability of our system rests upon one party or one coalition forming a government and the other forming an opposition - that is the real world that we operate in. We should not attempt to turn this Parliament into one large municipal council. At the expense of our Westminster system, we should not purely and simply increase the opportunities of Independent members without recognising the fundamental aspects of democracy in that government versus opposition context.

As any member who has been in this Parliament for a long time knows, the time when we come back to the real world, the time when there is scrutiny in this Parliament, is question time. That is the time when the press gallery is full. That is the time when the public gallery is full. The honourable member for Davidson nods his head in agreement. That is the time when reputations are broken on the floor of Parliament. We have seen what happens when someone moves for the suspension of the standing orders and the Government says that it will grant the suspension if the debate on the substantive motion is held over until after question time. If that debate comes on after question time, it may not affect question time but it affects the attendance in the press gallery, on the floor of the Chamber - attendance all around the Chamber. We move into a formal set piece debate. I have been here 10 years. I have seen reputations, including the tremendous reputation of Neville Wran, both in opposition and in government made primarily during question time. The current Premier has made for himself a not inconsiderable reputation by his activities when in opposition during question time, mainly by moving suspension motions. I have seen Rosemary Foot destroy her reputation by attempting to move a foolish suspension. She left this Parliament in disgrace. We have all seen the difficulties that the Minister for Health Services Management has had in trying to arrogate any reputation for himself during question time, today being a prime example.

In question time the Opposition gets a chance to ask a question and a question usually lasts one or two sentences. Ministers get the opportunity to make a minispeech in answer to an Opposition question. More commonly, they make such speeches in answer to a dorothy dix question from a member of the Government. Government Ministers get a chance to make a reputation for themselves, to pursue a policy position and to make a case for what they are on about in the full glare of the press gallery - before a packed Parliament. The only time that a member of the Opposition gets a chance to do that is when he or she gets 10 minutes to move a suspension motion. People have talked about suspension motions tonight as though they are granted.

The debate about suspension motions has been carried out as though such suspensions are granted and question time disappears because the debate on the substantive motion proceeds. Anyone who has been here for any length of time, including the Minister for the Environment, knows that most suspension motions are not granted. In almost all cases the suspension motions that are moved by Opposition members are not granted. The only circumstances under which a suspension motion moved by an Opposition member in this Parliament would be granted is when the Government says, "Yes, we grant the suspension", or when the Independent members vote with the Opposition. The power to grant suspension of standing orders rests with the honourable member for South Coast, the honourable member for Bligh, the honourable member for Davidson and the honourable member for Manly - the very members who were telling us tonight that we cannot suspend standing orders because the ensuing debate takes away the time of the Parliament. Such debates erode question time and the time of the Parliament only when those members decide that the issue is

Page 4506

sufficiently important to override those other considerations and to warrant the granting of standing orders suspension. Suspension does not occur just because the Leader of the Opposition moves such a motion, no matter how powerful his speech and no matter how valid his argument.

Mr Hazzard: What about in the next Parliament?

Mr KNIGHT: The honourable member will not be a member of the next Parliament. That is not a concern. Boofheads and homophobes will not be here.

Mr Hazzard: On a point of order. First, the honourable member is still standing up.

Mr KNIGHT: I can stand up if I want to.

Mr SPEAKER: Order! The honourable member for Campbelltown will resume his seat. A point of order has been taken.

Mr Hazzard: The honourable member obviously has not read Standing Order 16. He should be seated, but that is beside the point. I ask that the honourable member be directed to use language that is a little more decorous and a little less offensive in compliance with Standing Order 151, even at this late hour.

Mr KNIGHT: Which word?

Mr Hazzard: Boofhead.

Mr SPEAKER: Order! The member for Wakehurst has not put his point of order very well. If he wishes to claim that the words used are offensive to him he can ask to have them withdrawn.

Mr KNIGHT: They are withdrawn.

Mr SPEAKER: Order! I ask the member for Campbelltown to withdraw the word.

Mr KNIGHT: I am happy to do that but -

Mr SPEAKER: Order! The member will withdraw without qualification.

Mr KNIGHT: I withdraw the word that the member finds offensive. I used two words in regard to him, the second being homophobe.

Mr SPEAKER: Order! The member for Campbelltown has withdrawn the words. He is not in a position to debate the matter.

Mr KNIGHT: But, Mr Speaker, with respect, the honourable member asked me to withdraw one of the two words, and I have withdrawn the word "boofhead".

Mr SPEAKER: Order!

Mr KNIGHT: Unreservedly.

Mr SPEAKER: Order! The member for Campbelltown said he withdrew the
Page 4507
offensive words. He will continue addressing the question before the Chair.

Mr KNIGHT: Let me just say in continuing my address that the behaviour of the honourable member for Wakehurst reminds me of that famous case -

Mr SPEAKER: Order! I have directed the member for Campbelltown not to pursue that avenue. He will speak to the question before the Chair, and that is all. Otherwise he will resume his seat.

Mr KNIGHT: Suspension will be granted only when the Chamber - and that effectively means either the Government or the Opposition and the Independent members - regards that as a matter of priority. Let us leave aside the question of urgency, which is often technically incorrect but used in the debate. It is only when that matter is deemed to be of such enormous importance that it will set the other business aside. It is worth thinking back to the suspensions of standing orders that the Premier moved and, indeed, made much of his reputation on, in this Parliament. I cannot remember a single one that was granted, but on every occasion he had the right to make a 10-minute speech and try to state his case. People say that the alternative

is the matter of public importance, the MPI. I want to take this opportunity to pay tribute on the record to the Machiavellian skills of the Leader of the House. I have enormous respect for his capacity to use the rules in the most effective way for his own party. I ask honourable members to think about some of the things he could do with a matter of public importance because I am sure I am not giving him any hints; I am sure he would have thought of them well before discussions took place on whether to allow the procedure of bringing on matters of public importance.

Mr Whelan: He has got three in his pocket now.

Mr Moore: I would be silly if I did not.

Mr KNIGHT: As the Minister said by way of interjection, he would be silly if he did not. I pay tribute to his inventiveness and his capacity to plan ahead. You, Mr Speaker, of all people will soon find that you are placed in a very difficult position by the actions of the Minister for the Environment. Under the proposed standing orders, when more than one matter of public importance is placed before you, it will be your responsibility to decide which matter is of the most public importance. The previous six matters of public importance might have come from the Opposition, which is where you would expect a matter of public importance to come from. On a particular day the Government has a difficult issue to deal with, so, lo and behold, some person with the dubious capacities of the honourable member for Wakehurst just happens to put in a matter of public importance on that same day. What do you do, Mr Speaker? Do you sit down and say, "I will arbitrate on the merits of what is the most important of the matters of public importance", or do you say, "Gee, the Opposition has had the last six. Maybe I ought to be seen to be fair and let the Government have this one"? That is an untenable position in which to put the Speaker but it is the very position in which the Minister for the Environment will soon attempt to put you. The Minister also will have the amazing capacity to delay the discussion of a matter of public importance beyond the press deadlines. He can do that simply by guaranteeing a minimum number of questions. A Minister will be able to filibuster an answer as long as he or she likes, because there will still be the minimum number of questions. But if a difficult matter of public importance faces the Government, such a procedure will extend the time the Minister will have in which to prepare and the time that others will have to prepare -

Page 4508
[Interruption]

Mr KNIGHT: The Minister needs no advice. He drafted it for these very reasons. It will give him that extra time. I ask the Independent members, particularly the honourable member for South Coast, to think about what that will do to the parliamentary institution. The reality is that oppositions play by the rules they are given. If the rules change, we will play the game differently. If one no longer gets points for a scrum penalty, one finds other ways to get the ball over the line.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Wakehurst to order.

Mr KNIGHT: Oppositions use the rules of the game. If the Opposition is forced to a situation where we lose the advantages that oppositions have had in this Parliament since time immemorial to move the suspension of standing orders and to have the attention of the gallery and the attention of the Parliament, we will increasingly end up shifting our focus out of the Parliament. We will be forced, if we want to score points for the television news, to move our focus more and more out of the Parliament and to the interview room downstairs. That will not be to the disadvantage of the Opposition, because there are some clever operators in the Opposition who will be able to use the system to their advantage, but it will further erode the

role and powers of the Parliament - the very things that a number of the Independents genuinely and seriously are concerned to see enhanced.

[Extension of time agreed to.]

In my closing remarks I want to deal with two of the comments the Premier made this evening in the House. First, he paraded his deep concern about how he has hardly ever used the gag in government. Honourable members know why he has not used the gag in this Parliament: because he knows he could effect it. As the honourable member for Kiama said, the Premier promised he would never use the gag in the last Parliament, and he lied and broke his promise, as he did with so many other promises. Certainly he did not use the gag often. He had another technique to get through debate quickly. That was not to have any speakers from the Government side. Time after time the Opposition cannot have a debate because the only people who speak to the bill are the Minister who makes the second reading speech and Opposition members who criticise it. The Government has displayed a contempt for the process of parliamentary debate. The occasion I remember best of the Premier using the gag was the time I was gagged twice on ticks and crosses legislation - after the Government had tried time and again.

The Government brought on the debate when most members were attending the press party. The debate was brought on again two or three times in the middle of the night. Then the Government caused the Parliament to sit from 10.30 one morning until after 6 p.m. the following night without a break. The Premier had given an undertaking that he would not gag the debate and a personal commitment that there would be no gag. The Government tried: it cajoled; it manipulated; brought on the debate; it adjourned it. It brought it on when it thought no one wanting to speak on the matter was in the Chamber, and, finally, a little after six o'clock on a Friday night the Government gagged the debate and gagged me twice to end the debate. That is the sort of sneaky way in which the Premier has used the gag - that outrageous rort that the Minister for the

Page 4509

Environment, to his credit, is enormously proud of. It was his rort, and that is what kept the coalition parties in government. Without that rort they would not have survived the judgment of the people at the last election.

Without foreshadowing Mr Justice Slattery's views, the coalition parties still may not survive the judgment the people made at the last election. The second matter the Premier raised that I want to deal with is supplementary questions in question time. The Premier wanted to make a big deal of the right to ask supplementary questions. Supplementary questions are not a novel or revolutionary thing for the New South Wales Parliament. There used to be supplementary questions. Who took them away? The Premier's temporal and spiritual predecessor, Robert Askin. I do not want to speak ill of the dead. It is an appropriate time not to continue my remarks about the previous Premier from the Liberal Party. I do want to speak ill of the politically dead and it is appropriate to look at the current Premier in precisely that light.

Mr MOORE (Gordon), Minister for the Environment [11.59], in reply: Although I disagree with the contribution made by the honourable member for Campbelltown, it was, of those contributions of members opposing some of the measures before the House, probably the most lucid and thoughtful. He spent a lot of time destroying my reputation by being nice to me and the best thing I can do is to give him a bit back. The honourable member has lurched so far that my National Party colleagues keep sending him membership forms. However, he fails to understand the difference between stable government in a Parliament and government in a Parliament that is dominated by an arrogant and dictatorial party system. I have said before in this Parliament that I pride myself on being a parliamentarian as well as a politician and a local member. They are matters of considerable importance to me. I know that the honourable

member for Campbelltown prides himself on being a parliamentarian and understanding and caring about the way this institution works.

I am not here to deliver a series of laudatory comments to the three Independent members who have provided much of the stimulus for this debate. It is to their great credit that the shopping list they presented to the Government was a constitutional shopping list within the framework of government and not a shopping list of new schools, new roads or whatever. Because of that it has been very much more difficult for an Executive Government of three years in office to understand and come to grips with that, but we have done so. I believe the honourable member for Campbelltown does himself and his party a grave disservice by giving away the game, as the honourable member for Ashfield has in the past, by saying that in future parliaments when the numbers shift so that there are 50 guaranteed on one side and less than 50 guaranteed on the other, those with 50 will bend over those on the other side and belt them. There is a difference between dominance by party and stable government. The most stable government in the world over the past 25 or 30 years in western democracy has been the Italian Government, but it has changed. It has been a fluid system of government that has evolved on the floor of their Parliament -

[Interruption]

Mr SPEAKER: Order!

Mr MOORE: The honourable member for Campbelltown cannot set aside the notion of a government that is effective, meaningful, functional and stable in this Parliament without a group of members being able to come in here and procedurally beat up the other side of the Chamber day after day. The honourable member and I come

Page 4510

from intrinsic machine-political backgrounds. I am a product of a political machine. I am proud to be a retired factional warrior of the New South Wales Liberal Party. I suggest that if the honourable member for Campbelltown were to look at the scales of justice and note the extra powers given to those on the other side of the House and not on the frontbench on this side of the House, he would find the rights weighing down heavily in his favour compared with the comparatively limited points achieved by members of the Executive Government. What this will force all of us to do, whether we like it or not, is to confront issues and vote on them in this House. Bills will come on. We will see Government private members' bills, probably in the next five of six sitting days.

Let me tell the honourable member for Campbelltown a secret that the Leader of the Government in the House of Commons told me recently when he was in Sydney. The House of Commons has a ballot system where members get a turn to bring on a bill. Often when they put their names in the ballot, they do not have a bill. Do honourable members know what happens? Opposition members - whether Conservative before the Thatcher Government was elected or Labor now - have their names drawn from the ballot and go to the Government Leader of the House and say: "I have a place in the ballot; do you have a nice, tidy little piece of statute law reform that will let me get my name up in lights?" I am told that about 15 or 20 per cent of private members' bills moved by that bastion under Kinnock of the socialist ethic come from legislation provided by the high Tories, because the Labor Party members do not have the brains to think of something for themselves. If the honourable member for Broken Hill wants it, I probably have a bill for him in my back pocket and I will make it monosyllabic, if that will help.

I want to make these points abundantly clear to the House. They are commitments from me on behalf of the Government with respect to this process. The first is that before these matters are enshrined in the standing orders towards the end of next year they will be reviewed three times by the Standing Orders and Procedure Committee. I am sure the honourable member for Ashfield would privately acknowledge that the committee has worked at least 80 per cent of the time on a co-operative basis to get to an agreed position on the matters that

have come before the House. The second thing, and it is very important, is that the changes we are introducing will not only culturally evolve for us as members of the Parliament, but they will evolve in the written word, interpretations, and rulings of Mr Speaker. That is the only way we will get change in this Parliament. It does not matter what the rules are; unless we have a position where we can try to evolve conventions relating to the rules, there will be no change.

I want to make it abundantly clear that it is the intention of the Government, when we get to the position of consensus about the rules, to enshrine them by changing the law to require a consensual majority of the Parliament before they are overridden. The honourable member for Broken Hill may well laugh about that. He belongs to the right-wing Labor ethos which says that the numbers will crunch anything. What he does not seem to understand is that if I had the numbers I would undoubtedly be tempted to use them. I do not want to get into biblical quotations about being taken onto the mountains and being tempted by all the kingdoms and principalities of the world, but it is important to stop the tyranny of either party in the future taking out matters that we will eventually put into the standing orders, unless they are by the consent of the Parliament.

I want to say a little, as I have on several earlier occasions, about being a parliamentarian in this Parliament. The matters that we are dealing with now, that we

Page 4511

have dealt with over the past several months, and that we will continue to deal with in the future, provide true benefits that will start now for the non-Cabinet members of the Parliament. Indeed, the final sitting day of the week will not be an Opposition day and not a non-government day. It will be a non-Cabinet day. So far I have had three approaches from my colleagues for consent to draft private members' legislation. That is as it should be.

Mr Whelan: We all remember Guy Yeomans.

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Kiama to order.

Mr MOORE: I do not remember the honourable member for Ashfield battering on the door of the then Leader of the House saying: "Heavens, I must debate Mr Yeomans' legislation. Bring it on, bring it on, bring it on". He was saying, "For Heaven's sake, don't embarrass any of us by bringing it on". The procedure that is before the House will force members to confront issues whether they like them or not. It will force the House to state a view on a wide variety of issues. Members of parties who like dominance and who might have dominance will find it uncomfortable to do so. In conclusion I want to make it clear, as I have said four or five times before in this House, that the true beneficiaries of this process will not be the old lags like me, the honourable member for Ashfield, the Deputy Premier, or the survivors of the class of 1976. The beneficiaries will not be those who are here from the class of 1988 who will survive in this Parliament long past any of the three of us. The true beneficiaries will be the people who enter this House in the classes of 2003, 2007 and 2011. As my friend the honourable member for Davidson said -

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Drummoyne to order.

Mr MOORE: - there is absolutely no doubt that this process is a benchmark from which we cannot resile. All that can happen is that the rights of members will be expanded further rather than contracted back to the days when I had the pleasure, using the word loosely, of sitting on the other side of the House for 12 years getting pummelled all the time.

Mr Whelan: It has affected you mentally, and they did not realise it.

Mr MOORE: Due to the lateness of the hour, I forgive my honourable and learned friend the honourable member for Ashfield. I understand that some members of the Opposition have felt it necessary to speak more strongly on these issues than they may really feel. The suggestions that we should consider what the Opposition would like the Parliament to be when the wheel turns, as it inevitably will in 15 months or 15 years -

Mr Martin: Or 15 days.

Mr MOORE: - 15 days or 15 minutes, the suggestions were very valid. I suggest to members of the Opposition that in the interest of making the institution of the Parliament the long-term beneficiary of these changes, they should set aside the attitude that they want the machine to dominate. The Sussex Street mentality of taking people in, whacking them through the procedural grinder and popping them out the other end as

Page 4512

legislative sausages ought to be rejected comprehensively. In that spirit the honourable member for Ashfield will move some amendments, some of which will be accepted by the Government because they will make the sessional orders better, which in the ultimate is what all members of this Chamber should want.

Mr WHELAN (Ashfield) [12.13 a.m.]: To save the time of the House, I have circulated amendments standing in my name. I move:

That the proposed Sessional Order be amended to read:

395. Any standing or sessional orders of the House may be suspended by any member, without notice, provided that:

- (i) the mover and one member shall be limited to an 8 minute statement each.
- (ii) when the mover is a member not supporting the Government, the reply shall be by the responsible Minister and, when the mover is a member supporting the Government the reply shall be by the Leader of the Opposition or a member deputed by him.
- (iii) such motions may be entertained during the time set aside for the taking of questions without notice provided that the time taken to conclude such motion shall not be counted as time elapsed for questions without notice.
- (iv) the provisions of Standing Order 175 shall not apply.
- (v) such motions shall not be permitted on sitting Thursdays, except for the time set aside for the taking of questions without notice.
- (vi) substantive motions pursuant to such suspension motions shall be moved at the conclusion of Formal Business.

Question - That the words stand - put.

The House divided.

Ayes, 52

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins

Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths
Mr Hatton

Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Ms Machin
Mr Merton
Dr Metherell
Mr Moore
Ms Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips

Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit

Tellers,
Mr Beck
Mr Hartcher

Page 4513

Noes, 45

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina

Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Mr Markham
Mr Martin
Mr Mills
Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman
Ms Nori
Mr E. T. Page

Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski

Tellers,
Mr Beckroge
Mr Davoren

Question so resolved in the affirmative.

Amendment negatived.

Mr WHELAN (Ashfield) [12.24 a.m.]: I move:

That the proposed Sessional Order be amended in paragraphs (a) and (c)(ii) to read:

(a) such matters are submitted to the Speaker no later than 1.00 p.m. on any sitting day and immediately published.

(c)(ii) the Speaker, by placing a notice on notice boards, shall inform Members of the matter.

Mr MOORE (Gordon), Minister for the Environment [12.25 a.m.]: I have indicated privately to the honourable member for Ashfield that it is foolish for the Opposition to move this amendment because it gives the Government an additional 45 minutes' minimum notice of a matter of public importance. Having counselled the honourable member for Ashfield against my interests, I inform him that the Government accepts the amendment. The Government will not object if the honourable member for Ashfield changes his mind and seeks to withdraw the amendment in February.

Amendment agreed to.

Mr WHELAN (Ashfield) [12.26 a.m.]: I move:

That all words after "Votes and Proceedings" be omitted with a view to inserting instead the following:

Provided that:

- (1) No Question shall be asked after the lapse of forty-five minutes from the Speaker calling on questions or the answering of 14 questions whichever is the later.
- (2) One supplementary question may be asked by the member asking the original question.
- (3) Answers to questions shall not exceed 7 minutes.

Page 4514

Question - That the words stand - put.

The House divided.

Ayes, 52

Mr Armstrong
Mr Baird
Mr Blackmore
Mr Causley
Mr Chappell
Mrs Chikarovski
Mr Cochran
Mrs Cohen
Mr Collins
Mr Cruickshank
Mr Downy
Mr Fahey
Mr Fraser
Mr Glachan
Mr Graham
Mr Greiner
Mr Griffiths
Mr Hatton

Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald

Ms Machin
Mr Merton
Dr Metherell
Mr Moore
Ms Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips

Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles
Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit

Tellers,
Mr Beck
Mr Hartcher

Noes, 45

Ms Allan
Mr Amery
Mr Anderson
Mr A. S. Aquilina
Mr J. J. Aquilina
Mr Bowman
Mr Carr
Mr Clough
Mr Crittenden
Mr Doyle
Mr Face
Mr Gaudry
Mr Gibson
Mrs Grusovin
Mr Harrison
Mr Hunter

Mr Iemma
Mr Irwin
Mr Knight
Mr Knowles
Mr Langton

Mrs Lo Po'
Mr Markham
Mr Martin
Mr Mills
Mr Moss
Mr J. H. Murray
Mr Nagle
Mr Neilly
Mr Newman
Ms Nori
Mr E. T. Page

Mr Price
Dr Refshauge
Mr Rogan
Mr Rumble
Mr Scully
Mr Shedden
Mr Sullivan
Mr Thompson
Mr Whelan
Mr Yeadon
Mr Ziolkowski

Tellers,
Mr Beckroge
Mr Davoren

Question so resolved in the affirmative.

Amendment negatived.

Mr WHELAN (Ashfield) [12.28 a.m.]: I move:

(1) That all words after "Votes and Proceedings" be omitted with a view to inserting instead the following:

Page 4515
commencement of Questions.
Provided that: the Leader of the Opposition is entitled to be called first at the

(2) Ministers seeking to provide additional information to questions already answered do so at the conclusion of Question Time.

Mr MOORE (Gordon), Minister for the Environment [12.29 a.m.]: The Government accepts the amendment. With respect to the latter provision Ministers will require leave of the House to give supplementary answers other than at the end of question time. As we have discussed earlier, that will remove the element of ambush.

Amendment agreed to.

Motion as amended agreed to.

ASSENT TO BILL

Royal assent to the following bill reported:

Australia and New Zealand Banking Group Limited (NMRB) Bill.

BUSINESS OF THE HOUSE

Days and Hours of Sitting - Precedence of Business

Mr MOORE (Gordon), Minister for the Environment [12.31 a.m.]: I move:

That notwithstanding any resolutions of the House to the contrary:

1. That this House meet for the despatch of business at 9 a.m. on Friday, 15th November, 1991 with the provisions of sessional orders relating to sitting Thursdays to apply to that sitting.
2. That government business shall take precedence of general business on Thursday, 14th November, 1991.

The effect of that is to implement this week's Friday being Thursday for the terms of the new sessional orders adopted.

Motion agreed to.

BUSINESS OF THE HOUSE

Questions without Notice

Mr MOORE (Gordon), Minister for the Environment [12.32 a.m.]: I move:

That so much of standing and sessional orders be suspended as would preclude the calling upon questions without notice at 2.15 p.m. on Thursday, 14th November, 1991.

For the assistance of the honourable member for Kogarah, when the big hand is on 12 and the little hand is on 32 -

[Interruption]

Mr SPEAKER: Order!

Page 4516

Mr MOORE: The big hand is on 32 because we need to count down the minutes after 12 and -

[Interruption]

Mr SPEAKER: Order! I call the honourable member for Charlestown to order.

Mr MOORE: Mickey is still smiling at him from his watch. It is appropriate that the House adopt a provision that will enable the sessional orders adopted tonight to provide for a question time at 2.15 p.m. tomorrow.

Motion agreed to.

DEFAMATION (AMENDMENT) BILL

Legislation Committee

Motion, by leave, by Mr Moore agreed to:

That so much of standing and sessional orders be suspended as would preclude the Defamation Bill being referred to a Legislation Committee after the adjournment of the debate following the Minister's second reading speech.

JOINT SELECT COMMITTEE UPON THE CONSTITUTION (FIXED TERM PARLIAMENTS) BILLS

Mr Speaker reported the receipt of the following message from the Legislative Council.

Mr Speaker

The Legislative Council having had under consideration the Legislative Assembly's Message of 31 October 1991, relating to the appointment of a Joint Select Committee to consider and report upon the Constitution (Fixed Term Parliaments) Special Provisions Bill and the Constitution (Fixed Term Parliaments) Amendment Bill, acquaints the Legislative Assembly that it has this day agreed to the following resolution:

"That:

- (1) this House agrees to paragraphs 1, and 3 to 7 of the Resolution in the Legislative Assembly's Message of 31 October 1991, relating to the appointment of a Joint Select Committee to consider and report upon the Constitution (Fixed Term Parliaments) Special Provisions Bill and the Constitution (Fixed Term Parliaments) Amendment Bill introduced in the Legislative Assembly;
- (2) this House insists that the Committee be composed of an equal number of members of each House, especially as this matter concerns the Constitution, functions, powers and privileges of the Legislative Council; and
- (3) paragraph 2 of the Resolution in the Legislative Assembly's Message of 31 October 1991, be substituted as follows:

2. That the Committee consist of eighteen members.

(1) Nine shall be Members of the Legislative Assembly, of whom:

(a) five shall be Government Members, nominated by the Leader of the Government;

Page 4517

(b) three shall be Opposition Members nominated by the Leader of the Opposition; and

(c) one shall be an Independent Member nominated by the Leader of the Government.

(2) Nine shall be Members of the Legislative Council, of whom:

(a) five shall be Government Members, nominated by the Leader of the Government;

(b) three shall be Opposition Members nominated by the Leader of the Opposition; and

(c) one shall be a non-Government Member nominated by the Leader of the Government.

(4) the time and place for the first meeting of the Committee be fixed by the Clerk of the Legislative Assembly."

The Legislative Council requests the concurrence of the Legislative Assembly in the proposed amendment to paragraph 2 of the Legislative Assembly's Resolution.

Legislative Council
13th November 1991

Max Willis
President

Mr MOORE (Gordon), Minister for the Environment [12.34 a.m.]: Mr Speaker, at the request of the honourable member for Ashfield I ask that you fix the resumption of this debate as an order of the day for tomorrow.

Mr SPEAKER: Order! Consideration of this matter will be fixed as an order of the day for tomorrow.

Mr Whelan: Mr Speaker, I think the House is due for some explanation as to why I sought that the matter be fixed as an order of the day for tomorrow. In the Legislative Council a

Mr Moore: Mr Speaker, I am reluctant to rise on a point of order at this hour of the night but at the request of the honourable member for Ashfield I asked that the matter be made an

order of the day for tomorrow so that the honourable member could make his speech then and not now.

Mr SPEAKER: Order! No point of order is involved. The honourable member sought the call. He may speak if he wishes to. If he declines to, he declines to. The question is that the motion be agreed to.

Mr Whelan: No, the Minister has agreed to stand it over till tomorrow. If there is any debate we are up.

ADJOURNMENT

Mr MOORE (Gordon), Minister for the Environment [12.35 a.m.]: I move:

That this House do now adjourn.

Mr Whelan: Mr Speaker, I want to make absolutely certain that the Minister
Page 4518
has indicated to the House that the matter on the Joint Select Committee on Fixed Term
Parliaments Bills has been adjourned until tomorrow.

Mr SPEAKER: Order! It has been set down as a matter for consideration tomorrow.

Motion agreed to.

House adjourned at 12.36 a.m., Thursday.