LEGISLATIVE ASSEMBLY

Thursday, 14th November, 1991

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Mr Speaker (The Hon. Kevin Richard Rozzoli) took the chair at 9.30 a.m.

Mr Speaker offered the Prayer.

PETITIONS

St Joseph's Hospital

Petitions 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 Clough, Mr Nagle, Mr Scully and Mr Shedden**.

Lidcombe Hospital

Petitions praying that the House reject any proposals to close down or cut back services or staffing at Lidcombe Hospital but instead support an increase in services and staffing at the hospital, received from **Mr Nagle and Mr Scully**.

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**.

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**.

Chaelundi State Forest

Petitions 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 and Ms Moore**.

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**.

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**.

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**.

Walker Estates

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

Cooks River Pollution

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

Liverpool Public Sector Services Funding

Petition praying that the Government not cut funding to government services in the Liverpool area but that it immediately review its Budget and reallocate resources on the basis of social justice and equity principles, received from **Mr Anderson**.

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**.

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**.

SELECT COMMITTEE UPON THE LEGISLATIVE ASSEMBLY SUPPLEMENTARY BUDGET ALLOCATION

Report

Mr LONGLEY (Pittwater) [9.34]: I bring up and lay upon the table the report of the Select Committee upon the Legislative Assembly Supplementary Budget Allocation, dated 14th November, 1991.

Ordered to be printed.

Mr LONGLEY, by leave: I am proud to present to the House this bipartisan report by a committee that has representatives from the Liberal Party, Australian Labor Party, National Party and the Independents. The report is fairly straightforward and is easy to read and understand. The object of the consensus report is to enable members of Parliament to better serve their electorates. It recommends allocations for improved library services to enable members more easily to debate matters in the House and also to enable members to have use of basic modern equipment such as facsimile machines, computer equipment and so on. These significant recommendations include also several items for further investigation, in particular with regard to child care facilities and to the computerisation project which is yet to come before the Parliament with specific understandings which in the short three weeks within which the committee had to report it did not have adequate opportunity to investigate. We ask that you, Mr Speaker, investigate that specific issue of child care facilities further and also technical constitutional questions need to be adequately resolved by the Leader of the House. I commend the report to the House.

BUSINESS OF THE HOUSE

Precedence of Business

Mr MOORE (Gordon), Minister for the Environment [9.36]: I move:

That during the present Session, unless otherwise ordered, so much of the Standing Orders be suspended as would preclude -

(1) General Business Motions and Orders of the Day retaining their relative places on the Business Papers until concluded or otherwise disposed of; and

(2) The Business Paper being re-ordered to reflect this Sessional order.

This is the mechanical motion to re-order the business paper so that the first shall be last and the last shall be first.

Motion agreed to.

ROYAL COMMISSIONS (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr MOORE (Gordon), Minister for the Environment, on behalf of Mr Greiner [9.38]: I move:

That this bill be now read a second time.

The object of the bill is to give a royal commission clear authority to provide information and material to a law enforcement agency where that information or material relates to a breach of a law of New South Wales or another State or the Commonwealth. The bill also expressly provides that a witness's documents and other property are to be returned to the witness if the commission does not propose to pass them on to another agency. A royal commissioner may currently disseminate information to other agencies concerning possible breaches of law. However, there is some doubt about whether that authority extends to handing over documents and other material which a commission has required

a witness to produce, using its compulsory powers. The amendment made by the bill will make it clear that a commission has that authority where the material relates to possible breaches of the law.

The bill also expressly allows a royal commission in New South Wales to hand on material and information to other commissions of inquiry, whether set up by New South Wales or another State or the Commonwealth. Giving royal commissioners a clear power to disseminate material and information which relates to breaches of law will help to ensure that those breaches are brought to the attention of the appropriate authorities and action taken. Once allegations are made during the course of an inquiry that a witness has breached the law, the witness is alerted to the possibility of proceedings brought against him or her. If material produced by the witness were returned at the conclusion of an inquiry, there would clearly be a strong incentive for the witness to destroy it. The amendment will ensure that important evidence is safeguarded. However, where material produced to a commission does not relate to a breach of law or where the commission does not propose to pass it on to a law enforcement agency, the bill will require it to be returned to the witness at his or her request. The amendments are modelled on similar provisions in the Commonwealth Royal Commissions Act.

It should be emphasised, however, that the authority to pass on evidence of breaches of law to appropriate authorities will not affect the rules of evidence relating to the admissibility of that evidence in any subsequent civil or criminal proceedings. Nor will the protection given by section 17 of the Royal Commissions Act against admission of evidence under objection be affected. That section provides that where a witness has produced a document to a commission under objection, where he or she could have successfully claimed privilege in court proceedings, that document cannot be admitted into evidence in subsequent proceedings against the witness. The amendments made by the bill do not affect this protection. The bill will enhance the effectiveness of royal commissions and help to ensure that the resources invested in them are well used. In the general ambit of debate, in addition to the remarks I have made concerning the bill, I wish to apologise to the honourable member for Broken Hill for taking an unnecessary swipe at him in the early hours of this morning. I also wish to assure the House that it is not the intention of the Government to repeat the sitting hours that occurred last night. Although I mixed up the hands on the clock last night and do not wish to be censured for as trifling a matter as that for which the honourable member for Mosman was brought before the House, I am confidently informed that the honourable member for Kogarah's Mickey Mouse watch was still smiling at him at 32 minutes past 12 this morning. I commend the bill.

Debate adjourned on motion by Mr Beckroge.

DEFAMATION BILL

Bill introduced and read a first time.

Second Reading

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [9.42]: I move:

That this bill be now read a second time.

The Defamation Bill provides for the repeal of the Defamation Act 1974 and its replacement with a new Act that will introduce substantial reforms to the law of defamation. The purpose of introducing the bill today is to expose it for public consideration and comment. The bill has been prepared to meet one of the Government's election commitments directed towards open government; it will do so by allowing for greater media scrutiny of the process of government. Existing defamation law is in need of reform. It lacks clarity. It operates to impose unwarranted restrictions on freedom of speech. The relief offered is costly and insufficiently prompt. The provisions of this bill address each of those shortcomings. The bill I put before honourable members has evolved from extensive research and consultation. In June 1976 the Australian Law Reform Commission was given a reference by the then Commonwealth Attorney-General, the Hon. R. J. Ellicott, Q.C, on desirable changes to the existing law, practice and procedure relating to defamation and actions for defamation.

Though defamation law is a responsibility of State and Territory governments, the commission's terms of reference required the commission, in making its inquiry and report, "to consider proposals for uniformity between the laws of the Territories and the laws of the States". The commission was also exhorted "to note the need to strike a balance between the right to freedom of expression and the right of the person not to be exposed to unjustifiable attacks on his honour and reputation". Like all areas of the law that entail some restriction of freedom, the law of defamation is the result of a balance of competing interests. On the one hand is the public interest in freedom of speech and access to full information; on the other is the right of the individual to reputation and privacy. Society's values are the result of dynamic processes. A consequence is that the accepted point of that balance must be adjusted from time to time to reflect any shifts that may have occurred. Essential to the measurement of such shifts is the review process.

The Australian Law Reform Commission released its final report entitled *Unfair Publication: Defamation and Privacy* in December 1987 and, on the basis of that report, in July 1980 the Standing Committee of Attorneys General began deliberating on the possibility of a uniform law of defamation. The question of uniform defamation laws was removed from the agenda of the Standing Committee of State and Commonwealth Attorneys General in May 1985 when, despite broad agreement on conceptual ideas, differences in opinion over detail prevented the finalisation of a draft bill. Nevertheless, the major problems associated with defamation identified by the report of the Australian Law Reform Commission - namely, a national press, a non-uniform legal system and the misuse of the action - continued. In June 1990, when it became evident that some jurisdictions were prepared to reconsider the issue in the context of a review by each of their existing laws, my predecessor, the former honourable member for Lane Cove, met the Attorneys General of Queensland and Victoria to work towards settling opinions and identifying legal issues.

A joint discussion paper on reform of defamation law was released by the three Attorneys General on 26th August, 1990. That report made reference to the report of the Australian Law Reform Commission along with the report of the New South Wales Law Reform Commission on defamation made in February 1971 as a basis for discussion of a number of reform options. The paper elicited a wide-ranging response. Submissions were received from media interests, bodies representing sections of the legal profession, various organisations including the Australian Press Council and the Free Speech Committee, lawyers practising in the area, academics, government sources and interested individuals. A second joint discussion paper was released on 15th January, 1991. That paper also received a wide-ranging response, and submissions were taken into account in formulating on a consensual basis the reforms contained in this bill.

The importance of uniformity as a goal in itself should not be overlooked. As I have already mentioned, in Australia the responsibility for the administration of defamation laws falls to the States and Territories. Whilst separate defamation laws created few problems in the days when information took a considerable time to pass from one State to another, today's instant communications highlight the inadequacies of having eight sets of rules. Today we are confronted with a situation where a true statement in Victoria can produce no liability in defamation in that State but still result in an award of damages in New South Wales if it is not made in the public interest. Since a national press creates and destroys national reputations, a New South Wales court might award damages in respect of a Victorian publication even though the plaintiff would have lost had the action been brought in Victoria. There are many examples in the case law of such inconsistencies.

The problems created by the inconsistencies in the law are not simply lawyers' problems. The Australian Law Reform Commission pointed to the difficulties that journalists face when preparing a publication which must satisfy the rules of eight jurisdictions. The resultant uncertainty restricts the media's scrutiny of public affairs. The Government does not believe that to be desirable. In that regard the substitution of one law for eight has obvious advantages. Today in Queensland and Victoria legislation will be tabled that is consistent with the major reforms contained in this bill. Against that development it is hoped that the widest possible implementation of reform on a uniform basis might proceed. That is not to say that the quality of the measures has in any way been sacrificed in the hope of achieving a uniform law. Rather, the primary objective has remained the introduction of appropriate reform. For example, an approach to the question of avoiding the large damages awards now prevalent in this State has required the proposal of an arrangement which will differ from that in Victoria. In that State juries will continue to be responsible for determining the quantum of damages on the basis of their conservatism in doing so in the past.

Some parts of the Defamation Act 1974 have not been changed. Those provisions either do not require amendment to achieve uniformity or deal with local statutory bodies. I do not propose to take the time of the House to discuss those unchanged areas. Honourable members will find in the explanatory note a brief summary of the clauses which correspond to existing provisions. What do need to be outlined are the principal changes, apart from the obvious one of cost saving to the community brought about by uniformity, which the bill brings to the law of defamation. The new defences for which the bill provides will ensure that the media and others will have a less restrictive framework for reporting, particularly on matters of truth or of public interest. However, that does not mean that the media is being given carte blanche. In relation to the new defence of truth found in division 2 of part 3 of the bill, justification will be established where a defendant shows the publication to have been true. Nevertheless, appropriate measures have been introduced to ensure that individuals are protected from revelations about their private affairs that cannot be justified either as being in the public interest or made to a limited audience in furtherance of some legal, social or moral duty.

The bill does not exhaustively catalogue the affairs that may be characterised as private. Some are mentioned by way of illustration but whether or not other intrusions wrought by publication concern private affairs will depend on all the circumstances. On some occasions, for example, financial affairs will be wholly private; on others they will, because of the context in which their consideration arises, be denied that character. Similarly, in circumstances where the Criminal Records Act provides for a conviction to be regarded as spent, a disclosure might well concern a person's private affairs. Again, the categories of publication which may be warranted in the public interest should not be

regarded as closed. The bill also makes corresponding changes in the area of contextual imputations. The new defence of qualified privilege in clause 25 of the bill should also afford

the media greater scope to put information into the public domain. But it will not do so without also demanding a responsible approach by the media.

Information will need to be carefully and fairly obtained and reported and publication not motivated by ill will or other improper purpose. Publishers must show that the person complaining of the imputation was approached about the proposed publication, unless it was inappropriate to do so, thus affording a chance to confirm or deny it. This is designed to stop publications which are reckless, baseless or sensational, lacking proper investigation or unsupported by genuine attempts at verification. The clause envisages that there may be occasions when it will be inappropriate for a chance to be given to so confirm or deny. Those occasions, it should be noted, will be exceptional situations such as where some threat of serious personal injury might follow or investigations of organised crime might be prejudiced. In order to establish that a publication is made in good faith, a willingness to allow a right of reply should be evident. If the imputation is shown to be false, the court will have a discretion to order a right of reply even where the defence is established.

To the extent that the bill provides for some relaxation of the existing statutory defence of qualified privilege, it does so in a way that demands that a publisher's conduct and the content of the publication should satisfy prescribed standards. Those standards do not countenance any conduct less ethical than that presently tolerated. Broadly speaking, the test becomes more objective in that it looks to the quality of reporting rather than the mind of the reporter. Accordingly, well-researched reports will be acceptable without a publisher being required to prove an honest belief in the truth of a statement. The standard of care observed in obtaining the information will be the focus for the defence rather than the reporter's subjective state of mind.

Other existing defences have been significantly expanded. Two possible extensions to the defence of absolute privilege were referred to in a discussion paper entitled "Parliamentary Privilege in New South Wales" released by my predecessor. That paper considered the recommendations made in the report of the Joint Select Committee upon Parliamentary Privilege tabled on 26th September, 1985. The report proposed extensions of the defence of absolute privilege in respect of various forms of *Hansard* and tape recordings of parliamentary proceedings. Accordingly, the defence of absolute privilege has been extended, first, to the various forms of *Hansard* and to certified extracts of *Hansard* printed in a standard format and, second, to authorised tape recordings of committee proceedings and any rebroadcast of proceedings that take place within the precincts of Parliament from electronically recorded material legitimately recorded and held by the Editor of Debates.

The defence has also been extended to address an anomaly that exists between the scope of absolute privilege under the Defamation Act 1974 - which is now confined to publications concerning the business of our Parliament - and the defence about protected reports where publications concerning the business of other Parliaments have been included. In both cases the wider protection will now apply. The law recognises that the public should have information regarding proceedings of public concern and official and public documents and records. The existing provisions on that subject are retained and expanded in schedule 2 to the bill. The reports referred to in that schedule now include proceedings of local government bodies and other authorities that are open to the public as well as proceedings of a public company at its general meetings.

The bill also provides a mechanism for ensuring the early publication of agreed apologies or corrections so as to make them a viable means of vindicating damaged reputations. Monetary damages, in addition to compensation for economic loss, are an appropriate means of compensating for harm and upholding a plaintiff's complaint. However, the Government recognises that correction statements, promptly inserted, may assuage a person's damaged reputation and thereby reduce the ultimate verdict. Accordingly, provision has been made for a discretionary, fast-track procedure for correction statements. The decision to publish any correction approved by the court or a mediator will, in recognition of the difficulties involved in dealing with the matter at an early stage while evidence is incomplete, be up to the defendant. Nevertheless, early action by a defendant to publish a retraction, correction or apology in terms and or a form approved by the court or a mediator will be reflected in any ultimate award of damages. Similarly, failure to so publish may, at a judge's discretion, be reflected in liability to bear a successful plaintiff's costs.

The measure should assist in weeding out those plaintiffs whose primary object is the recovery of a substantial damages award rather than restoration of reputation. Thus the machinery facilitating early correction is the carrot, and the risk of incurring some appropriate adjustment of damages and or costs for an unreasonable refusal to publish or accept a correction is the stick. The proposed correction procedure should, by promoting earlier assessment of the issues and corrections, result in fewer actions for defamation and the provision of a less costly and quicker form of relief without clogging the court lists. The bill provides for a limitation period of six months from the date a plaintiff learns of publication. Publishers will not be exposed, henceforward, to the difficulties of obtaining evidence or locating witnesses so often attendant on delayed proceedings.

Further, and more important, the bill will curtail resort to defamation actions brought only to inhibit publication by the threat of exacerbating damages. Any extension of the short limitation period will require leave of the court, with a period of three years being the outside maximum. A proceeding which has remained dormant for a whole year or in which there has been a disregard for, or unwillingness to comply with, interim orders of the court will be liable to be struck out for want of prosecution. This measure will ensure that actions which are not pursued, but appear to have been commenced simply to prevent discussion of a sensitive matter, will not remain on foot. The right to debate the subject in the public domain should, in such cases, be restored.

Another area in which the present law is being reformed is that relating to damages. Monetary damages, in addition to compensation for economic loss, are, as I have said, an appropriate means of compensating for harm and showing a plaintiff's complaint to be vindicated. No statutory limitation or cap is proposed for awards for non-economic loss. The Government is wary of encouraging sensationalism. If there were to be a ceiling on damages, unscrupulous publishers could simply write them off against huge profits. That is not a state of affairs that the Government believes should be inflicted upon society. Nevertheless, the unprecedented damages awards in this State have been questioned as failing to correctly reflect the aim of compensating a person for an injured reputation. In defamation cases, judges are considered to be better placed than juries to assess where a particular case falls in the spectrum of civil damages. Mitigating factors, such as the appropriateness of any action taken, or any refusal to publish a correction or apology, are also better assessed by judges. A judge would, of course, be able to seek a jury's opinion on the question of whether damages should be nominal or actual. The final changes relate to the offence of criminal defamation.

The need for prosecution of such an offence is extremely rare. However, it is recognised that the necessity for criminal sanctions exists. Currently, criminal proceedings require the consent of the Attorney General, but the Director of Public

Prosecutions has been given authority through this bill to consent to such actions. Henceforward, the decision to prosecute will, subject to only one exception, be that of an

independent and apolitical officer, the Director of Public Prosecutions. The exception is in the, albeit unlikely, contingency that the director is himself to be charged. In that case the Attorney General's consent will be required. In addition, the bill clarifies who has the onus of establishing lawful excuse. It also specifies a maximum penalty. Notwithstanding the extensive consultation attending the evolution of this bill, it is my view that before proceeding with reforms in this most important area of the law it is appropriate to circulate the bill to provide an opportunity for comment on the proposals on the widest possible basis. I would welcome comment on the substance of this bill. However, to enable sufficient time for submissions to be fully considered prior to debate being resumed during the autumn session, they should be received prior to 29th February, 1992.

It is also the Government's intention on this occasion to submit the draft bill to the first legislation committee established by this Parliament. That legislation committee will comprise members from both sides of the House and the crossbenches and it will have the power to review thoroughly all of the provisions I have laid before the Parliament in the bill today. It will have a complete mandate to dissect each recommendation and where necessary to provide alternative recommendations should the committee so decide. This is a truly democratic step which we are taking in referring this bill to the State's first legislation committee. I believe it is a very substantive reform. We have seen the Committee stage in this Parliament often truncated and conducted very much at the last minute without members being able to consider the sort of detail which is necessary to ensure that we enact legislation which stands the test of time. I believe there is great merit in the introduction of consideration by legislation committees of benchmark pieces of legislation. This is such a piece of legislation. I commend the bill to the House and foreshadow a motion to facilitate its evaluation by a legislation committee.

Debate adjourned on motion by Ms Allan.

Legislation Committee

Motion, by leave, by Mr Collins agreed to:

That, pursuant to the resolution of the House on 13th November:

(1) The Defamation Bill be referred to a Legislation Committee;

(2) Such Committee consist of Mr Beckroge, Mr Gaudry, Mr Hatton, Mr Hazzard, Mr Kerr, Dr Metherell, Mr Nagle, Mr D. L. Page, Mr Petch and Mr Turner.

(3) That the Committee report by 27th February, 1992.

WATER BOARD (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr SCHIPP (Wagga Wagga), Minister for Housing [10.5]: I move:

That this bill be now read a second time.

The main purpose of this bill is to amend the Water Board Act 1987 so as to facilitate private sector involvement in the provision of infrastructure for the Water Board. This bill will remove any doubt as to the capacity of the Water Board to utilise the private sector in the construction, ownership, financing and operation of major areas of infrastructure provision. In addition, it will remove any doubt as to the capacity of the Water Board to give security for the performance of obligations arising under any such service agreement. It will ensure that any service agreement, possibly of up to 30 years' duration, for the construction, financing, maintenance and operation of water, wastewater and trunk drainage works provided by the private sector will provide for the same standards of service as those placed on the Water Board.

The Water Board will take full responsibility for the services provided by the private sector. All private sector infrastructure proposals will first require the approval of the Minister. These amendments will also ensure that land may be compulsorily acquired under the Act for the purpose of its being transferred, through lease or freehold, to private contractors to facilitate the ownership, including construction, financing, maintenance or operation of water and wastewater and trunk drainage works or for the making of ancillary arrangements. The normal protection of the public interest will be maintained. Ministerial approval will be required. Honourable members will be aware of the importance the Government attaches to ensuring the protection of the environment and the maintenance of environmental amenities for the people of New South Wales. As honourable members are only too well aware, over the past few years there has been increasing vocal demand from the community that the beaches, waterways, oceans, estuaries and rivers should be cleaned up and made free from pollution of all types.

In recognition of and in response to these demands the Government commissioned the Camp Dresser McKee report, of which honourable members should be aware. As a result of this report's recommendations and its proposals for solutions to the water and wastewater pollution problems, this Government resolved in late 1989 to commit approximately $6.25 billion over a 20-year period towards the cleaning up of the beaches, harbours and waterways of Sydney, Illawarra and the Blue Mountains. That $6.25 billion figure has escalated to $7 billion in 1991 terms. To achieve the environmental improvements demanded by the customers of the Water Board the board and this Government determined that the most effective way to achieve the objectives was to involve the private sector in the provision of major infrastructure needed to attain these goals.

The benefits to the community from the board in using the private sector are expected to be: the provision of an avenue for the incorporation of the most internationally advanced technology, management skills and operating procedures into the board's operations. This association with leading international techniques will give New South Wales the opportunity to participate in the provision of higher skills at all levels of the work force. Such skills development is essential for the progress of New South Wales as a prime movement in technological advancement. Financial benefits as a result of the development of a competitive climate that includes overseas participants will result in increased efficiencies in operations. The optimisation of the use of resources through the balanced, co-ordinated and co-operative involvement of both the private and public sector will achieve improved productivity leading to more cost-effective service delivery in providing environmental improvements.

As a result of reforms that have occurred in the past decade, the board is now a commercially focused organisation which is managed as a long-term and viable business enterprise with the goal of providing customers with value for money and an appropriate

return on the assets employed. This operational and organisational attitude will be further enhanced through these amendments to the Act. The Water Board needs to be at the leading edge of water cycle management and must have the ability to use new technology if it is to successfully pursue its statutory and customer obligations. It must seek innovative and new ideas to solve the complex water cycle management issues facing the Sydney region. It must never again be inwardly focused and construction oriented, but must be prepared to look

outside its boundaries, both nationally and internationally, to find the expertise and ideas necessary to provide for solutions to these problems. Major examples of private sector involvement in infrastructure provisions which are dependent upon the passage of these amendments include:

the provision of four water treatment plants - Woronora, Avon, Macarthur and Prospect - which will when fully operational supply approximately 95 per cent of Sydney's total water needs and will allow the board greater scope for meeting the proposed National Health and Medical Research Council's guideline targets. It is anticipated that the detailed tender proposals will be submitted by the preferred consortium by May 1992;

the Blue Mountains sewage transfer scheme, for which it is expected that the preferred tender will be announced in January 1992, will begin construction in March 1992. This scheme will ensure that the current disastrous pollution problems in the rivers and streams of the Blue Mountains, caused by years of neglect by past governments, will be rectified by the innovative and far-reaching strategies adopted by this Government;

the Rouse Hill urban development project, for which expressions of interest for design and construction have been advertised, is expected to commence construction in 1992, depending upon satisfactory financial arrangements being finalised; and

the construction, ownership and operation of two grease trap receival depots at Quakers Hill and Warriewood. I am informed that negotiations with potential developers are proceeding.

These are just a few of the projects that would be accelerated by the adoption of these amendments. All of them indicate that the Government is making a mature response to the community's demands for the efficient provision of water and wastewater services in the Sydney, Illawarra and Blue Mountains areas. The board, however, cannot achieve these objectives from its own resources. Therefore it is looking to the private sector to assist in meeting these challenges through the contribution of resources of a physical, financial and or technical nature. This assistance will be channelled through the board's build, own, operate schemes. Unfortunately the Water Board Act 1987 does not contain express provisions that readily accommodate the relationships needed to be established in the execution of a boot project. Honourable members would readily understand that before the private sector commits funds or resources of the magnitude needed for construction of these projects it would require that the enabling provisions of the Water Board Act are clear and unambiguous. Relying on a favourable interpretation of the existing legislation by the courts is not adequate and may well involve both parties to the contract in expensive and protracted litigation.

The first amendment concerns the powers of the Water Board to enter into contracts. This proposal amends section 12 so as to enable the board to enter into other types of arrangements. Section 12 is further amended to ensure that the board has power to enter into contracts and other arrangements for the exercise of the board's functions

or for the securing of obligations arising under such contracts and arrangements. In proposing to enter into such contracts the board is obliged to obtain the approval of the Minister. Other amendments to this section merely clarify the scope of the board's functions, which are currently unclear. The second amendment concerns the capacity of the Water Board to contract out elements of its functions. This is currently fettered by section 13 of the Act, which prohibits the exercise of the board's functions within its area of operations by persons other than the board. The section is to be amended to ensure that the prohibition does not affect a private contractor to whom the board has contracted to carry out the provision of some of its services. For the purpose of exercising its water and wastewater functions, the Water Board is empowered to enter land, subject to the requirement that it pays appropriate compensation for

any damage that ensues. In addition, it has the power to break up roads, sewers and drains, subject to the requirement that it adequately compensates and rectifies any damage so caused.

The third amendment confers those obligations on private contractors as well, as long as they are acting in the performance of certain kinds of contract, such as those for the construction, maintenance or operation of water or wastewater works. The board will, however, remain primarily liable for payment of compensation and costs of rectification for damage ensuing from a private contractor's exercise of those powers. The board would recover the costs under the usual contractual arrangements. Section 55 of the Act provides for the compulsory acquisition of land for the purposes of the Act subject to the Minister's approval. The fourth amendment will ensure that land may be acquired by the board under that section for the purpose of its being transferred to a private contractor to enable the contractor to construct, maintain or operate water, sewerage or drainage works or to make ancillary financial arrangements. In summary, these legislative proposals will facilitate private sector involvement in the development, ownership and operation of public sector infrastructure in New South Wales. The legislation will significantly reform certain operational aspects of the public sector in New South Wales. The provision for the encouragement of private sector competitiveness in public sector infrastructure will result in financial benefits to both the Government and the community and will achieve demands for environmental improvements. New South Wales under this Government again leads the way in microeconomic reform. I commend the bill to the House.

Debate adjourned on motion by Ms Allan.

WORKERS COMPENSATION (BENEFITS) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Minister for Further Education, Training and Employment [10.17]: I move:

> That this bill be now read a second time.

This bill provides major improvements in the benefits available to workers suffering employment-related injuries. The main purposes of the proposed legislation are: to increase the level of weekly benefits payable to incapacitated workers, to increase the maximum lump sum entitlements of workers for permanent bodily losses and related pain and suffering, to increase the maximum benefits for dependants of workers suffering fatal work-related injuries, to increase maximum entitlements for medical and hospital

expenses, to improve access to common law benefits for injured workers, to modify the workers' compensation claims excess provision, and to adapt weekly benefit provisions to give more appropriate coverage to workers paid under enterprise agreements and other arrangements. As a result of the excellent performance of the WorkCover scheme this bill provides major improvements to workers' compensation benefits. As I announced earlier this year, in addition to reducing WorkCover insurance premiums for employers by an average of 10 per cent for 1991-92 at a cost of $80 million in premiums, an additional $400 million is being provided in benefits to injured workers. This legislative package, which provides for improvements to workers' compensation and common law benefits, has been formulated with the benefit of extensive actuarial advice to ensure they are responsible and affordable.

When the WorkCover scheme was introduced in 1987 the targeted premium rate was 3.2 per cent of wages. In 1989 this was reduced to 2.6 per cent of wages, and last year was further reduced to 2 per cent. From 1991-92 the rate has been set at 1.8 per cent. This rate compares favourably with average rates of 3 per cent in Victoria and 3.8 per cent in South

Australia. This Government is committed to ensuring that the New South Wales WorkCover scheme will continue to operate on a fully funded basis and for workers' compensation benefits to be monitored to provide an equitable and affordable workers' compensation system. With this commitment various improvements contained in the bill relate to weekly benefits such as an increase in the pre-injury earnings indexed maximum or ceiling which is at present $616.40 a week, which will be lifted to $1,000 a week. Injured workers' entitlements after the first 26 weeks of a claim will be increased by 20 per cent of the statutory rates of weekly compensation payable to totally incapacitated workers. This will benefit a significant number of long-term seriously disabled workers and their families. It will also assist partially incapacitated workers receiving make-up benefits based on the difference between their pre-injury and post-injury earning capacities, since the statutory rate operates as an upper limit - after the first 26 weeks - on those workers' entitlements to be compensated for that difference.

It should be noted that the improvements to workers' weekly entitlements will apply to workers receiving weekly benefits under the WorkCover scheme and to workers who are injured after these amendments have commenced. To further assist injured workers, the bill will increase by 25 per cent the maximum lump sum entitlements of workers for permanent bodily losses under the table of disabilities and for related pain and suffering. This improvement to the maximum lump sum for losses under that table will increase the ceiling from $120,100 to $150,150 and the maximum for pain and suffering from $49,400 to $61,750. In addition, the bill provides for the improved maximum lump sum benefits to dependants of a fatally injured worker to be increased from an indexed $169,450 to $211,850. Substantial increases are to be made to the current maximum amounts for claimable expenses of injured workers. The maximum for medical and hospital treatment will be increased from $10,000 to $50,000, ambulance service from $5,000 to $10,000, damages to artificial limbs and spectacles from $500 to $20,000, and damage to clothing from $300 to $600. These expenses will be made available under streamlined claim procedures. Honourable members should note that, under the proposed legislation, the increases in workers' compensation benefits will flow through to volunteer bush fire fighters, emergency and rescue workers, including surf lifesavers.

The bill will also improve access to common law by reducing the disability threshold applicable to damages claims against the employer from 33 per cent to 25 per cent. This will enable more workers to claim at common law. The reduction in the common law threshold will apply to workers who receive injuries after a date to be

proclaimed. A further measure in the bill is to extend the present definition of award by including an enterprise agreement so that workers paid under enterprise agreements will be compensated on a similar basis to those currently covered by an industrial agreement or award. The bill will exempt licensed self-insurers from liability to contribute to the Insurers' Guarantee Fund towards liabilities of any licensed or previously licensed insurers that may become insolvent in future. This is proposed because self-insurers' outstanding claim liabilities are sufficiently covered by bank guarantees provided under stringent licensing requirements. The bill will provide enhanced benefits to more than 20,000 seriously injured workers who need help the most. I commend the bill.

Debate adjourned on motion by Mr J. H. Murray.

HARNESS RACING AUTHORITY (APPEALS) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [10.25]: I move:

That this bill be now read a second time.

The bill before the House proposes to amend the Harness Racing Authority Act to enable remedial action to be taken when an industry participant subject to disciplinary action by the Harness Racing Authority of New South Wales or its stewards has exhausted all existing avenues of appeal and it subsequently becomes apparent that a substantial miscarriage of justice may have occurred. Under the present appeals legislation, persons aggrieved by certain decisions of race clubs, the Harness Racing Authority or stewards of the authority may appeal to the Harness Racing Appeals Tribunal. The tribunal was constituted in its present form in 1983 and has been an outstanding success, having met with full acceptance from industry participants. Despite this widespread acceptance of the appeals system, it has been brought to my attention that it is possible for situations to arise whereby an industry participant may suffer a miscarriage of justice and the tribunal does not have the power to intervene.

In this regard, the Harness Racing Authority Act provides that the decision of the tribunal is final and conclusive. Based on legal advisings provided to me, this would preclude the tribunal, and for that matter the authority or its stewards, from rehearing a case even were new evidence to come to light following an initial appeal hearing which might prove that a person was unjustly penalised. Such a situation arose during 1990 when three harness racing trainers were disqualified for presenting horses for racing with a prohibited drug in their system. It was subsequently discovered that the drug was administered to the horses through contamination caused by the presence of poppy seeds in their feed. Although it was apparent that the trainers had no knowledge of the contaminated feed, the appeals legislation did not enable a further hearing of their respective cases. Clearly, this created an untenable situation and the former Minister for Sport, Recreation and Racing took action to right these obvious injustices by authorising the conduct of independent inquiries into each of the cases by His Honour Judge A. Goran.

Based on the findings of these inquiries, the former Minister directed the Harness Racing Authority to quash the guilty findings against each of the trainers.

Although this action addressed the situation, it was recognised at the time that it was inappropriate for the Minister to involve himself in matters of a judicial nature. In fact, in reporting to the Minister on the findings of his inquiry, Judge Goran recommended that legislation be put in place to allow for independent inquiries to be conducted in such cases as a matter of course. The bill before the House adopts Judge Goran's recommendations and will amend the Harness Racing Authority Act to establish a mechanism which will enable cases to be reheard when all existing avenues of appeals have been exhausted and it is apparent through further evidence subsequently coming to light that an injustice may have occurred. In considering an appropriate body which might be appointed to rehear such matters, I was mindful that the current Harness Racing Appeals Tribunal and the former tribunal both indicated that they did not believe it would be appropriate for the tribunal to rehear a case once a decision had been handed down.

However, no objections were raised by the tribunals to another body being authorised to rehear a matter. The Government has decided that it would be appropriate for the power to rehear a case to be given to the Harness Racing Authority or, if so determined by the authority, to its stewards or an independent tribunal appointed by the authority. I believe that it is imperative that the appeals mechanism is broad enough to ensure that all industry participants are afforded every opportunity to obtain justice, not only for the benefit of the participants themselves but also to ensure that the credibility of the appeals system is maintained. I might make it clear that the proposed legislation will in no way erode the powers of the Harness Racing Appeals Tribunal. As I have indicated, the rehearing of cases will be restricted to instances where it is apparent that a substantial injustice may have occurred. I commend the bill to the House.

Debate adjourned on motion by Mr Shedden.

BOOKMAKERS (TAXATION) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [10.30]: I move:

> That this bill be now read a second time.

The purpose of the proposal before the House is to simplify the requirements relating to the licensing of bookmakers. As such the proposal is in line with the Government's policy of reducing red tape for business in this State. At present bookmakers wishing to operate at race meetings in New South Wales are first required to register with the licensing body for the type of race meetings at which they propose to operate. They must then apply to the Bookmakers Revision Committee for an order on the Department of Sport, Recreation and Racing for the issue of an appropriate bookmaker's tax receipt. Depending where and at what racing codes a bookmaker fields, he could require as many as five different types of tax receipt. The legislation also requires bookmakers to renew these tax receipts annually. The cost of the tax receipts ranges from $20 to $280. As part of the Government's licence reduction program a critical review of the need for bookmakers' tax receipts was carried out. That review, which was undertaken in consultation with the controlling bodies for the various codes of racing and the Bookmakers Co-operative Society, found that while controls over people wishing to act as bookmakers are still considered to be necessary, the licensing procedure can be

simplified considerably. A recommendation resulting from the review was that a single perpetual licence that will allow bookmakers to field at race meetings conducted by any of the three racing codes in all areas of the State be introduced. The bill before the House will give effect to that recommendation.

For the information of honourable members, the primary objective of bookmakers' tax receipts is to protect Government revenue by the exercise of control over which persons are allowed to field as bookmakers and to provide for the implementation of appropriate action when those persons fail to meet their obligations. Those actions include the powers presently conferred on the Bookmakers Revision Committee to direct licensing bodies to cancel or suspend a bookmaker's registration. The bill also rationalises legislation relating to the licensing of bookmakers by incorporating all the provisions regarding the registration of bookmakers in the one Act. At present the Racing Taxation Act 1937 provides for the payment of a registration tax by bookmakers operating on galloping or harness racing meetings; the Bookmakers (Taxation) Act 1917 provides for the collection of those taxes; the Finance (Greyhound-racing Taxation) Act 1931 provides for the payment of a registration tax by bookmakers operating on greyhound-racing meetings; and the Finance (Greyhound-racing Taxation) Management Act 1931 provides for the collection of those taxes. The proposed legislation incorporates the relevant provisions of all these Acts into the Bookmakers (Taxation) Act and repeals the other Acts. The cost of the proposed single perpetual tax receipt will be $100. So in addition to making the registration process simpler for all concerned, the new arrangements will provide cost savings to the bookmaking industry and should alleviate some of the present financial burden that bookmakers are presently enduring. The legislation provides for the new provisions to become effective from 1st January, 1992. However, provision has been made for bookmakers with current galloping and harness racing tax receipts to have until 31st January, 1992, to pay for the new perpetual tax receipt. Existing greyhound-racing tax receipts will remain current until 30th September, 1992, the expiry date of those tax receipts. The legislation also makes clear that the Bookmakers Revision Committee has the power to direct the cancellation or suspension of a bookmaker's registration for failure to pay

certain taxes by the due date even though the amount owing was subsequently paid, and makes several other amendments of a minor or consequential nature. I commend the bill.

Debate adjourned on motion by Mr Face.

GAMING AND BETTING (RACE-COURSE LICENCES) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [10.35]: I move:

That this bill be now read a second time.

The bill proposes to amend the Gaming and Betting Act to replace annual racecourse licences with perpetual licences. Horse racing, harness racing and greyhound racing meetings may only be conducted on racecourses licensed by myself in accordance with the provisions of the Gaming and Betting Act. Currently, licences are issued on an annual basis, with licences for horse racing and harness racing issued from 1st July each

year and greyhound racing licences issued from 1st October. The licensing provisions of the Gaming and Betting Act enable the Government to provide controlled alternatives to illegal betting activities, while at the same time restricting the number of racecourses to a level appropriate to the needs of the racing industry and the community. In addition, restrictions are able to placed on the maximum number of days on which race meetings may be conducted, in some cases on the actual days on which race meetings may be held. The provisions of the Act also enable the Government to ensure that racecourse licences are issued to non-proprietary organisations only, that is to say bodies which direct their profits back into the industry.

There are 218 licensed racecourses in New South Wales, made up of 130 horse racing, 42 harness racing and 46 greyhound racing courses. As part of the Government's commitment to minimising regulatory restraints on business, a licence reduction program was undertaken which involved the critical review of all business licences. Racecourse licences formed part of the review. The review identified that licences could either be retained under existing conditions, issued on a perpetual basis or abolished. Following consultation between the racing industry and my department it was concluded that the retention of the licence was warranted. However, it was recognised that the current controls could still be achieved if licences were issued on a perpetual rather than an annual basis. The results of the examination are reflected in the bill under review. In proposing the introduction of perpetual licences the Government is mindful of the need to ensure that it is able to maintain its ability to exercise a general oversight of racing in this State and the illegal gambling activities associated with the industry.

Accordingly, included within the legislation is a provision which will allow me to place certain conditions on perpetual licences which will ensure the continued compliance of the provisions of the Gaming and Betting Act. This will provide a means of protecting the viability of racing clubs and the livelihood of persons employed in the racing industry. It will also ensure that revenue generated by the racing industry will continue to be maximised and that the public interest is protected. In this regard honourable members would be well aware that the Government receives significant revenue from the racing industry which enables additional funding to be provided in areas such as health, housing, education and law enforcement. The introduction of perpetual licences also will reduce the administrative burden on both licence holders and my department. It is proposed that current licence holders will be charged a one-off fee at existing rates. A one-off fee of $100 will be charged in respect of any new racecourse licence. In introducing this proposed legislation the opportunity has also been taken to delete

from the Act references to licences for pony racing as licences for this form of racing ceased to be issued some years ago. I commend the bill.

Debate adjourned on motion by Mr Face.

TOTALIZATOR (OFF-COURSE BETTING) FURTHER AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [10.41]: I move:

That this bill be now read a second time.

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The bill before the House proposes to amend the Totalizator (Off-Course Betting) Act 1964 for two distinct purposes. It will alter the manner of disbursement of any profits from the commercial undertakings of the New South Wales Totalizator Agency Board and it will enable the TAB to accept investments from outside Australia. The New South Wales Totalizator Agency Board commenced operations on 9th December, 1964, and from humble beginnings with a mere six branches the board now lays claim to the title of the largest off-course betting organisation in the world. During 1985 the Act was amended to enable the TAB to conduct commercial undertakings outside its normal betting activities. Until recently, the TAB's involvement in commercial undertakings has been limited. Honourable members may be aware, however, that recently the New South Wales Totalizator Agency Board was successful in its tender to provide a computerised betting system to Hungarian racing authorities. In seeking the approval of the Treasurer and the Governor to enter into this commercial venture, the board drew attention to what it believed to be an inequity in the legislation which requires any profits from its commercial ventures to be paid into the Consolidated Fund.

The Totalizator Agency Board argued that this arrangement offers no financial incentive for it to enter into commercial ventures. In this regard, the board pointed out that funds utilised by the Totalizator Agency Board for commercial activities would otherwise have been distributed to the racing industry from the board's surplus and, therefore, any losses on such ventures would be borne by the racing industry. Yet the legislation as it stands provides no opportunity for the racing industry to benefit from any profits derived. The Government saw merit in the board's argument and supports the sharing of profits between the Consolidated Fund and the Totalizator Agency Board on a fifty-fifty basis. The Government is of the view that this arrangement will provide the Totalizator Agency Board with sufficient incentive to continue to explore commercial markets to the overall benefit of the racing industry and the people of New South Wales. Honourable members may be interested to learn that after six years the Totalizator Agency Board expects to break even on the Hungarian venture and make a profit of $5 million in the final year of its seven-year contract, resulting in a return of $2.5 million to the Consolidated Fund.

As I have mentioned, the bill will also enable the New South Wales Totalizator Agency Board to accept investments from outside Australia. While the Totalizator Agency Board is at present empowered to establish and operate offices in overseas countries, the legislation will not enable the board to accept investments received by overseas authorities for the purpose of paying such investments into a totalizator used by the board. The Totalizator Agency Board, in conjunction with the major metropolitan galloping clubs, has recently been negotiating with authorities in several overseas countries regarding the possibility of New South Wales and possibly Victorian race-meetings being televised in those countries and for totalizator investments made overseas being transmitted to New South Wales for inclusion in this State's

totalizator pools. Tentative arrangements have now been reached with the Sky Channel television network and authorities in Las Vegas for an initial trial to be conducted late this year. Though I am not in a position to provide details of likely investments in Las Vegas, the potential exists for overseas ventures such as this to generate significant profits for the racing industry and the Government.

The bill proposes that any arrangements entered into between the board and overseas authorities will require my approval and will be subject to such terms and conditions as I may impose. This is consistent with the provisions of the Act as they relate to the New South Wales Totalizator Agency Board accepting investments from other States and Territories of the Commonwealth and will enable me to oversee all
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negotiations so as to ensure that the State's interests are being protected. The successful forays of the New South Wales Totalizator Agency Board overseas not only demonstrate the international acceptance of that organisation, but also heighten this State's overseas profile and could lead indirectly to an expansion in the State's export market in other areas. I commend the bill.

Debate adjourned on motion by Mr Face.

GOVERNMENT INSURANCE OFFICE (PRIVATISATION) BILL

In Committee

Consideration resumed from 13th November.

Clause 29

Mr THOMPSON (Rockdale) [10.45]: This Opposition amendment refers to the Opposition's concern that any privatisation of the State's assets should be subject to a double test. The first test is: what is the social usefulness of public ownership? That was well and truly addressed by my colleagues in the second reading debate. The second test, and the crucial issue in the amendment, is: what is the retention value of the enterprise measured against its sale value? Any assessment that is made of the GIO's value now or in the future ought to be subject to certification by the Auditor-General - that is, the Government's methodology should be examined by the Auditor-General and his certificate should be tabled in this Parliament. If that is not done, if the Government pushes on regardless, the people of New South Wales could well be the losers.

Given the Government's record on financial matters and the fiscal ineptitude it has demonstrated, the people of New South Wales will be the losers. There are many examples of the Government's hopeless management of the State's finances, not the least of which is the black hole of Eastern Creek. If it cannot be proved that the sale value will exceed the retention value, there is no case for proceeding further. That is the test. Let the sums be done and let the Auditor-General put his certificate on them. Last night honourable members were subjected to a waffly performance of the Minister for the Environment, who brought into the House and tabled a letter from the Auditor-General dated 28th October. The Minister was trying to suggest that it was all too difficult, it was too hard, for the Auditor-General to give the certificate and make the examinations that the amendment seeks. I recall last night's memorable performance of the honourable member for Auburn, who took the letter apart chapter and verse. At this stage I shall refer to only a couple of aspects of the letter. The fourth paragraph of the letter, signed by the Assistant Auditor-General, reads:

> 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.

There is no suggestion that it cannot be done. Certainly, it may be a little difficult and might take time, but it would be within the professional capacity of the Auditor-General and his staff to carry out the requirements of the amendment. I go to the final paragraph of that letter:

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

That seems to me to put an end to all this nonsense that was suggested earlier about the great difficulty and unfairness that would be caused by requiring the Auditor-General to become involved in this. If the assessment fails the test, it clearly means that the people of this State are being duped, cheated, or robbed, or all of those terrible things. There would be a windfall for the Government, which would help it out of the parlous situation it is now in with the State, but it would only be a one-off, short-term benefit. There would be no long-term gain for the people of New South Wales. There need to be safeguards and controls. Let us have this measured in dollars; let the Auditor-General check the sums; and let us then table the certificate of the Auditor-General in this Parliament, a process which, by the letter of 28th October from the Assistant Auditor-General, is well and truly within the capacity of the Auditor-General and his staff.

Mr PRICE (Waratah) [10.51]: I rise to support the proposed amendment to clause 29 of the Government Insurance Office (Privatisation) Bill. I reiterate what many of my colleagues on this side have said, namely, there is considerable concern in the general community as to the true value of GIO Australia. We have had the opportunity to view the letter of the Auditor-General. As has been said on a number of occasions, he has stated quite clearly that his department is entirely capable of conducting the necessary inquiry for a certificate to be issued. It is a matter of cost over time. I do not believe that that is a particularly inhibiting factor. I draw the attention of honourable members to clause 3 of that letter, where the Auditor-General refers to consultants being used by both Treasury and the GIO. Both consultants are reputable firms. The present Government and the former Government have used such consultancies in matters of financial disputation, but they remain consultants, and continuing liaison with government is required in a whole range of areas. And many people are aware of the abuse of the use of consultants over the last four years by the Government. There would perhaps be public confidence that the true value of the GIO had been ascertained if the Auditor-General, who is certainly above reproach as far as this Parliament is concerned, were to certify the documentation proposed for the prospectus in this sale. We are talking about $1.2 billion. Surely there is no suggestion that the senior executives of the Auditor-General's office are not capable of doing this. They talk about a time constraint. We all have time constraints.

This is the largest single government asset that has been traded to date and the trade has to be done properly. I am sure that the Government would not argue with that, but I believe that the community perceives a problem. It perceives a sign of panic and it is concerned about it. This amendment is designed to reduce that concern. The Auditor-General, as the parliamentary financial watchdog, provides overall scrutiny. He is seeking to extend that scrutiny wherever he can. Though in some instances he uses consultants or contracts auditing firms, nevertheless, the imprimatur of the Auditor-General's Office is clearly stamped on those people who report directly to his officers. The basic problem is that we have to determine whether there is a guarantee that the revenue gained from the proposed sale will exceed the retention value to this State and the ongoing benefit of the revenue derived from the GIO. It can be equated to some degree to the problems associated with the proposed sale of the Grain Handling Authority. There is widespread belief - and I believe sufficient proof to establish - that the market price of that collection of assets is significantly undervalued. I am sure that my colleagues from the Illawarra area would be familiar with the Port Kembla coal loader sale. That asset was leased for significantly less than its value. A number of interesting conditions relieved the new leaseholders from significant debt commitments which are still carried by the

State and by this Government. I can assure the House that it is a very peculiar management arrangement.

Another aspect of the work of the Auditor-General should be the subdivision of the asset in terms of various sources of revenue: the workers' compensation area, the

property area and the investment account. Honourable members should bear in mind that the GIO earns the bulk of its income from investment account work and rollover funds. People want a guarantee and a protection. We have heard during the debate on the bill that the government guarantee that applies to the rollover funds will be maintained. The Minister has said that in his final speech he will cover that, but there is still significant concern about how tradeable a government guarantee is. Can the Auditor-General say: "Yes, the Government should be able to sell this guarantee. There are mechanisms for maintaining it". It would be interesting to hear what he would or would not say. The risk to policyholders is significant. The Opposition is concerned with the proposed manner of assessment of the price. Though that is done by commercial organisations, that certainly will not satisfy the current policyholders and shareholders.

If the guarantees are taken and it is asserted that the certificate of the Auditor-General is not a reasonable requirement, the community will start to wonder. The speeches made in 1926 when the Government Insurance Office was set up show that the reason for its establishment was the cartel created by private insurance companies. The Government of the day felt that it was being held to ransom. We are creating a set of circumstances that may well cause the same thing again. Because private assessments are being done of the true value of this organisation, we have no guarantee that consideration of other insurers within the industry is not being taken into account in determining the market value. I support the amendment proposed by the honourable member for Drummoyne and hope that the Government will review its attitude to the proposed amendment, will agree to it, and will have the Auditor-General undertake that work, even if in conjunction with the consultants nominated by both Treasury and the GIO itself.

Mr MOSS (Canterbury) [10.58]: Earlier in the Committee stage of this debate the honourable member for South Coast implied that the Opposition had changed its attitude to this legislation. I want to make it clear that the Opposition has maintained a consistent attitude to the bill. We have never said we oppose it outright. We have consistently said that we would consider supporting the bill if the Government agreed to the amendment that is being debated at present. I assume that the honourable member for South Coast feels that the Opposition has changed its attitude because we voted against the bill at the second reading stage. There was a good reason for that. We voted against this bill at the second reading stage because rumour had it that the Government would not accept the amendment about which the Opposition was particularly concerned. It is therefore little wonder that the Opposition opposed the bill at the second reading stage. Late last night the Leader of the House waved around a letter signed by the Assistant Auditor-General. It would seem that the Government is hanging its hat on an alleged statement of the Auditor-General that suggests, in the words of the Leader of the House, that the Auditor-General does not feel it is appropriate for him to comment on the proposal that has been put forward by the Opposition. The Auditor-General said also that he would comply with the wishes of the Parliament. That is precisely what the Opposition wants him to do. We want to direct the Auditor-General to give the Parliament an assessment that the proposed sale price of the GIO exceeds its retention value.

I can understand why the Auditor-General pointed out in the letter that it would take a considerable amount of time to make such an assessment. I can understand also his reluctance to become involved to the degree the Opposition would like. Like all public servants, the Auditor-General is merely responding to the policies of the Government of the day. He knows that the Government wants to sell off the GIO as quickly as it can. We have heard an

assessment has been made by two accountancy firms. In my view those accountancy firms are consultants. The stubborn attitude of the
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Government about this issue is typical of its consultancy mentality. Undoubtedly those consultants have reported and will continue to report in accordance with the policies of the Government. Consultants usually have a habit of telling those who appoint them to do a particular job what they want to hear. The Opposition would place greater emphasis on a report of one of its own, that is the Auditor-General. We want him to advise the Government and he has stated that he will comply with the wishes of the Parliament. This amendment is reasonable. The Opposition is calling for an assessment from a Government source that has the expertise to give a reliable report. In his letter the Assistant Auditor-General said that the Auditor-General will still be undertaking the audit up to the date of the conversion of the GIO and therefore much of the financial information prepared and collated to that date will be subject to his review. That statement is all very well but it has nothing to do with the amendment. It is an after-the-event statement. He will be undertaking the audit after the Government has resolved to sell off the GIO. I place no credence whatsoever on that statement.

The letter claims that it will take several months to make an assessment. However, the GIO is one of the largest assets of the State. It has been owned by the State since 1926 and is to be sold off based on the assessment of two consultancy firms. Because it will take several months for the Auditor-General to comply with the requirements of the amendment, it is felt that that is time consuming and a waste of time. Yet a valuable asset could be lost if it were ascertained at a later date that it was not desirable to sell it. Several months is no time at all when one considers the important issue before the House. I remind the Chamber that the broad electorate is extremely concerned about this proposed privatisation. The electorate is well aware that no one knows the true value of the GIO. The electorate is concerned that the GIO will be undersold and that New South Wales will lose a great public asset. The amendment proposes that the GIO will not go public if the report of the Auditor-General favours retention. If the amendment is not carried, the Government will be taking a huge risk with a major State asset. If that asset is sold and it is later found to be more valuable than at first thought or that its retention was far more viable, the decision to sell it will be condemned by the people of this State. That condemnation will rest squarely on the shoulders of the Government.

Mr NEILLY (Cessnock) [11.5]: I support the amendment proposed by the Opposition. One thing that has been overlooked during this debate is that part 5 of the bill provides for the exclusion of parts of the business undertaking of the GIO or a GIO subsidiary. Clause 24(1) provides:

> The Minister may direct, by order in writing, that any assets, rights or liabilities that are part of the business undertaking of GIO or a GIO subsidiary be excluded from that business undertaking and transferred to the Ministerial Corporation or another person on behalf of the State of New South Wales.

Up until now everyone has been talking about the sale of the GIO. The accounts of the GIO have been presented to the Parliament. However, the bill provides that something less than what we know as the GIO may be sold off. What might be put forward as the GIO in the ultimate prospectus document may not necessarily be the GIO that we know from the accounts that have been presented to this Parliament. The Opposition wants to know what the Government intends to sell. I do not know what will happen in relation to the prospectus document or what financial information will be contained in it. At some time in the next week or two the Parliament will be dealing with a bill to corporatise the Hunter Water Board. After recent discussions with officers of the board, I discovered that they were in the process of revaluing the assets of the board with the aim of making
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the long-term bond rate the objective for return to the Hunter Water Board. I am not aware whether it is intended to revalue those assets of the GIO to be made available for sale as part of the privatisation. That information will become available as a result of the activities of the

consultants who have been engaged to advise both the GIO and the Government. I note that in the letter of the Assistant Auditor-General which was tabled last night the Auditor-General expresses faith in the two accounting firms that will work on the preparatory stages of the sale. In the letter the Assistant Auditor-General stated:

> The Auditor-General also commented that as both Ernst and Young and Coopers and Lybrand are involved as investigating accountants, there is a certain degree of independence already in existence and in view of the two firms' reputation, an acceptable level of professionalism is already available for the privatisation process.

The Auditor-General, through his assistant, has recognised that the two accounting firms that are involved, which are also auditing firms, have professional competence and expertise. Later in his letter the Assistant Auditor-General stated that, if this amendment is passed, the Auditor-General will comply with the wishes and directions of Parliament. I do not believe that an audit at the date of sale is a practical interpretation by the Auditor-General. In my view it is a pedantic interpretation because the Opposition is seeking that the Auditor-General comment on the financial information contained in the prospectus document. The Auditor-General is jumping the gun a little by presuming that the prospectus document will contain updated information current right to the time of sale. He is also jumping the gun in interpreting that it is the expectation of both the Government and the Opposition that he will have to do a complete and thorough audit of the business which is intended for sale. As I said, the consultants have not yet determined what will be sold. It may well be that the whole of the GIO as we currently know it and its assets are sold. The accounts of the GIO as presently constructed might be used for the purposes of the prospectus document. I do not know that, nor does the Auditor-General.

The Auditor-General should also recognise from the perspective of professional competency that it would be accepted by persons in this Parliament that it is appropriate to accept the figures of two respected accounting firms as being accurate. However, the Auditor-General should compare the figures for the proportion of the GIO that will be sold with the retained asset value of the GIO. The Auditor-General is going in for overkill in his interpretation of the Opposition's proposed amendment. If the Government is satisfied that the GIO can be sold without taking into account exclusions, why has it incorporated the capacity contained in part 5 of the bill? The bill does not impose an obligation on the Minister to report to the Parliament the unsold portion of the GIO. We want to know that information. That is a small request to make of the Government: that the representatives of the people be informed in relation to the selling off of one of the largest assets in this State. I support the amendment.

Mr HARRISON (Kiama) [11.12]: When I spoke previously on this clause I had not had access to the letter from the Auditor-General's Office which has been tabled by the Minister for the Environment. The Minister claimed that the letter showed that there would be no purpose served by the Auditor-General becoming involved. Now that Opposition members have flushed out the letter and have been given the opportunity to be as well informed as Government members I am even firmer in my resolve that the Auditor-General should be involved in advising this Parliament whether the GIO should be sold now or maintained in public ownership. The letter 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.

The salient part of the paragraph is that it is well within the capability of the Auditor-General to provide the information sought by the amendment of the honourable member for Drummoyne. The salary of the Auditor-General is appropriated by Parliament and the cost of his providing the information would be minuscule compared with the $1,200 million which is being touted as the sale price of the GIO. As I said, in 1990-91 the GIO contributed in excess of $100 million to

State revenue. Over 10 years the return to the State would provide the equivalent of the sale price, if the figure suggested is accurate. The same amount could be contributed to State revenue and a very valuable asset belonging to the people of New South Wales could be retained. The GIO is not owned by Government members or members of Parliament collectively; it is owned by the people of New South Wales and we are only custodians of it. The mad rush to cash it in for a one-off advantage does not sit right with me and my colleagues. I can assure Government members that from talking to people in the electorate I know that it does not sit right with members of the voting public of New South Wales. They see it as just another fire sale, an opportunity to make a quick profit to reduce the budget deficit that we now know to be a certainty.

I hope the Minister for the Environment is sitting with his ear to the monitor. Apparently he takes the trouble to listen to everything that I say. I hope he takes on board that the tabling of the correspondence from the Auditor-General's Office makes me all the more determined that this asset belonging to the people of New South Wales should not be sold unless there is a positive advantage in doing so. Mr Temporary-Chairman, I put it to you that the reason the Government is adopting a hard line on not involving the Auditor-General in some sort of factual analysis of the advice given to us by consultants is that it is terrified that the Auditor-General will conclude that there is more economic advantage in maintaining public ownership of the GIO than there is in flogging it off. At the bottom of the first page of the letter it states:

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

That is like closing the gate after the horse has bolted. We are being asked to vote on this matter. We want to know what is the factual estimate of the Auditor-General of the value at this time. It would not be satisfactory to be given that information on the date of the sale after everything had been concluded and wound up. It would be extremely embarrassing for the Government if on the date of sale it was realised that we had thrown away an asset belonging to the people of this State for considerably less than it was really worth. On the second page of the letter signed by Mr Dunn it states:

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

Of course the Auditor-General will comply with the directions of this Parliament. That is why we have an Auditor-General. I do not know how anyone could realistically continue to argue against the involvement of the Auditor-General in an effort to obtain factual advice on whether the consultants' report is to be taken as gospel, or whether in his considered opinion the best interests of the people of New South Wales can be served by maintaining the GIO, which is the most reputable and respected insurance company in Australia, as a public asset. I fully support the amendment moved by the honourable member for Drummoyne and I appeal to the Minister, whom I regard as an honourable person, to rethink this matter. It may appear that the sale of the GIO is the best way to bail out the State from its debt and keep the Government solvent for a little longer, but in the long term that may not be the case. I cannot understand any other reason for not seeking the advice of the Auditor-General other than that this State is broke, is in a

chronic financial mess and the Government is looking for a one-off profit, regardless of whether the best long-term interests of the people of New South Wales are served.

Mr CLOUGH (Bathurst) [11.22]: I cannot understand why the Government does not accept the proposition that the Auditor-General should oversight this matter and provide advice so that the Government, the Opposition and the people of New South Wales may be assured that the true value of the GIO will be realised. If the Auditor-General's advice is sought and he proves that the accountants' estimates are low and recommends an increase, the Government wins. If he says that the figures are accurate, the Government still wins. If he says that the accountants' estimate is too high, the Government still wins because the purchase price

obtained for the sale of the GIO will be the one that was recommended by the accountants. I can only hazard a guess at why the Government will not accept the involvement of the Auditor-General. It seems to me that it boils down to two reasons: first, the Government cannot afford to wait for the money from the sale; and, second, as my colleague the honourable member for Kiama said, it is a fire sale. I hope that is not the case because if by waiting a few more months we obtain a few hundred million dollars more for the GIO then it will be worth the wait. Another thing that worries me is: whether there is a hidden agenda in relation to this item. I trust the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, but I do not trust about 40 of his colleagues.

Mr A. S. AQUILINA (St Marys) [11.25]: I also trust the Minister for Sport, Recreation and Racing but I am worried about what his colleagues will make him do. I do not believe that the Premier has the best interests of this State at heart. One of the most important aspects of this amendment is that it seeks to ensure that the best interests of the State and the people of New South Wales are considered before any change is made to this major asset. It is an asset that the people of New South Wales have had for decades and an asset that has been most important to the financial management of New South Wales for many years. If Government supporters suggest that it is not appropriate or possible to obtain a true, accurate and objective opinion of the prospectus of the GIO so that we have a true and fair statement of the GIO's financial position and we know whether the sale value exceeds the retention value, they are not acknowledging the importance of that organisation to this State.

For generations the people of New South Wales have put their hard-earned money into the GIO. If the Government does not believe that the people deserve to have an appropriate, independent and objective opinion from the Government's chief auditing officer, it does not deserve to represent the people of this State. Opposition members know that the Government does not deserve to represent the people of New South Wales. They know that the Government came to office by stealth, by means of the ticks and crosses rort, but they know also that the Government will not be in office for much longer. The Opposition hopes to persuade the Government that there is an alternative way of dealing with the privatisation of the GIO. Let me deal first with the issue of the Auditor-General providing a certificate. I believe that a considerable amount of pressure has been brought to bear on the Auditor-General to make the statement that is contained in the letter from the assistant Auditor-General dated 28th October. In part that letter states:

> . . . 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.

If the sale of a major asset which has been part of this State's financial arrangements for decades does not deserve to be properly considered and examined by the Auditor-General, obviously it is not considered to be as important as the Opposition believes it to be. The

people of New South Wales believe that the GIO is an important organisation. As they have supported it for so long they must consider it to be important. It has been the pace-setter in the insurance industry in this State. If the GIO is to be sold the least the Government could and should do is have its chief auditing officers examine the financial position of the organisation and state whether or not they believe, and therefore this Parliament can believe, that the sale value will, or is likely to, exceed the retention value. If that is the case it will be worth while selling the GIO in order to make up the shortfall in government funds.

The Government has made a mess of the finances of New South Wales. When the coalition came to office it claimed that it could manage this State better than any other government. It has been proved wrong. It is trying to make up the shortfall for this financial year. Millions of taxpayers' dollars have been spent on the Eastern Creek Raceway. The Government has provided subsidies to its well-heeled friends and paid millions of dollars to consultants. Members of the senior executive service have received a better salary deal than

any public servant has ever received. The Government has placed itself in a black hole from which it cannot escape. Unfortunately, generations of New South Welshmen will be affected adversely by the loss of a major public asset that has been part of the social fabric of this State for many years. The following sentence appeared in a letter from the office of the Auditor-General:

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

I am pleased that the most senior officer in the Auditor-General's office is willing to comply with the wishes and directions of the Parliament, in other words, the wishes and directions of the people of this State. It is a shame the Government is not willing to do the same. The letter concluded:

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

If the process is lengthy, so be it. However, the Government must ensure, after detailed research, that the GIO is sold only if the taxpayers of today and future generations will benefit by the sale. That is the least it could do for the people of this State and their children. The Government is seeking to flog off an asset of the people to extricate itself from a financial black hole. There may be short-term gain, but there will be long-term pain. I doubt that there will even be a gain in the short term. Under the financial management policy of this Government the State is getting further and further into debt.

Mr Harrison: What will the Government sell next year?

Mr A. S. AQUILINA: Precisely. The State is getting further into debt. What will the Government sell next? If the Parliament allows the sale to take place, the people of this State may well say: "The Parliament does not care about public assets. It is sitting back and allowing a minority government to sell the farm. It is not concerned about future generations of people in this State". The GIO is and has always been an important financial asset to this State and as such deserves more favourable treatment than it has received from the Government. The people of New South Wales also deserve better treatment than that which they have received from the Greiner Government. The Government must give an assurance that what it proposes is in the best interests of this State. Remember, however, that many past financial assurances given by this Government have not been fulfilled, to the detriment of the economy of New South

Wales. Earlier, I referred to the black hole of Eastern Creek and the millions of dollars that have been paid by this Government to consultants and the senior executive service. The Government lacks concern about the financial circumstances of the people. It believes it can solve its financial problems by selling off a major public asset. I do not believe that is the answer.

The TEMPORARY CHAIRMAN (Mr Tink): Order! I hesitate to interrupt the member for St Marys, but I remind him that the Committee is considering a proposed amendment to clause 29, which relates specifically to the role of the Auditor-General with regard to advice on valuations. It is not in order for the member to make a pseudo second reading speech to the wider financial ramifications of the sale of the GIO in the context of overall government policy. I direct him to confine his remarks to the amendment under consideration.

Mr A. S. AQUILINA: I heed your advice, Mr Temporary Chairman, but I point out that we are talking about the sale of the GIO and the role of the Auditor-General. Therefore, it is important that I refer to some of the more general aspects of the Government's financial management of this State.

The TEMPORARY CHAIRMAN: Order! I hesitate to interrupt the member again, but he came perilously close to canvassing my ruling. I remind him again that clause 29 relates specifically to the Auditor-General's certifying various matters.

Mr A. S. AQUILINA: Given that I have been interrupted, I seek an extension of time.

The TEMPORARY CHAIRMAN: Order! There is no provision in Committee for a member's time to speak to be extended.

Mr A. S. AQUILINA: In conclusion, it is most important that the Auditor-General has a part to play in the process of the sale of the GIO. If it is being suggested that the officer charged by this Parliament with the responsibility to manage the assets and finances of the people cannot discharge that responsibility, we may as well forget about the Westminster system as we know it. The Auditor-General must play a part and provide an objective, independent, true and fair statement of the financial position of the GIO to ascertain whether its sale value is likely to exceed its retention value. If the Government is not willing to allow the Auditor-General to discharge the responsibility given to him by this Parliament, the people of New South Wales will judge it as the Opposition has judged it, as a Government that cares little for the needs of voters.

Mr IRWIN (Fairfield) [11.39]: The Government's claim to fame is that its members have some expertise with regard to business management. Though I am willing to concede that a few of its members have some knowledge in that field, I remind it that recently a number of car salesmen have had their reputations dented somewhat. The Government should recognise that the criterion for disposing of an asset is to ensure that its sale value exceeds its retention value. That is simply good management practice for individuals, businesses and governments. The Government has a particular responsibility to ensure that disposal of an asset returns true and proper value to the people of New South Wales for whom the asset is held in trust. The test of the GIO float is whether the retention value of that asset is greater than its market value, that is, whether the people of New South Wales will benefit more from retaining the GIO than from disposing of it. The Opposition insists that is the main test that the Government must apply to the proposed privatisation of the GIO. The asset value of the GIO in the current financial

market may be assessed by many suitably skilled institutions or organisations. Such assessment is not an overly complex exercise. Important considerations are whether the GIO may have a greater value in the near future and whether retention of that asset for a shorter or longer time will provide a greater return on sale. The Government, however, is limited by its tight ideological blinkers. The Government, faced with the problem of balancing the budget, sees the GIO as a pot of gold. In its haste to get its hands on that gold it wants to dispose of the GIO at the earliest opportunity and at a pace that may not ultimately give the best value to the people of New South Wales.

The Government has not stated how it will assess the true market value of the GIO. No reliable indication has been given of the potential loss of value if the GIO is sold rather than retained. The Opposition believes that the New South Wales Auditor-General is the only authority able to assess that value, to present an objective and independent opinion of the GIO prospectus and determine whether it represents a true and fair statement of the financial position of the GIO, and that its sale value is likely to exceed its retention value. Examination of retention value is not merely a cash flow exercise comparing possible return from disposal of the GIO with possible dividend flow. Other values that emanate from the inception of the GIO also must be considered. What is the true value of the GIO to the people of New South Wales? The Government is engaged not merely in a cash flow exercise or disposal of an asset. In a business an asset is not valued solely by its market value. Market value may be used in accounting and management procedures but the true value of an asset is its real worth to an organisation. The true value of the GIO to the people of New South Wales can only be

satisfactorily assessed by the Auditor-General. The GIO has intrinsic values which would not be evident in a strict financial analysis.

From its inception the GIO has provided reinsurance cover, which is not generally available from other insurers. Though that role is no longer limited to the GIO and the insurance market now is substantially more sophisticated and capable of covering the whole range of services offered by the GIO, that office still has exclusive coverage of some insurance areas. The GIO is virtually the sole provider in the important and lucrative reinsurance field. The proposed float puts that reinsurance role at risk. The value of that role to the people of New South Wales and Australia may be lost. Other intrinsic values that cannot be estimated in monetary terms may also be lost. The GIO, although it has for some years operated at arm's length from the Government, nevertheless is a representative of the Government in the insurance field. Insurance is primarily a federal responsibility but the GIO has afforded the Government and the people of this State an important window into that industry. Insurance is a major cost to families in this State. The Government has had an opportunity, through the GIO experience, to independently assess and monitor the operations of the insurance industry, an opportunity that would not otherwise have been available to it. Implementation of regulatory control of the insurance industry would be a costly exercise that would require establishment of a bureaucracy to monitor those activities.

The TEMPORARY CHAIRMAN (Mr Tink): Order! I ask the honourable member to explain how what he is now discussing relates to the amendment being considered by the Committee.

Mr IRWIN: The amendment seeks to involve the Auditor-General. The Auditor-General is in a unique position to assess the value of the GIO to the people of New South Wales. I am speaking in support of that Opposition amendment. I am suggesting that aspects of the GIO other than its monetary value as an asset of the people of New South Wales need also to be considered.

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The TEMPORARY CHAIRMAN: Order! I remind the honourable member of the terms of the amendment being considered and call on him to ensure that his remarks are relevant to that amendment.

Mr IRWIN: Of recent concern in the banking industry has been the way the banks have operated contrary to the interests of the citizens of this country. Only through the involvement of government-related banks can we gain any measure of what takes place without the costly need to regulate and go through the exercises to assess whether the banks in this country have served the population well. Those areas must be taken into account because of the intrinsic value of the Government's involvement in the insurance industry through the GIO, but one cannot always put a dollar value on them. Another matter that could be assessed only by Auditor-General is whether the ownership of the GIO should be subjected to a form of regulatory control. The value of a business asset is its worth to the business itself - not just its dollar value, but what it returns to the business. Many people have old and trusted cars of 15 to 20 years of age. The book value of those cars or what they would bring if put up for sale, the dealer might say, could be only a couple of hundred dollars. But the owners of that reliable form of transport that does not cost much to run could find it impossible to put a dollar value on the asset. It may well be that the value of the asset is only in the eyes of the owner of the asset. The Auditor-General has the unique ability to assess the value of the GIO, not just in dollar terms, but in terms of the contribution it can make to the State of New South Wales.

Mr WHELAN (Ashfield) [11.53]: I wish to speak to clause 29 and to the amendments moved by my colleague the honourable member for Drummoyne, particularly those that related to the Auditor-General and his role. I ask the Minister when he replies to answer questions I

shall ask. I noted that he indicated to the House, in answer to a question, that the stockbroking firm that will handle the public float has not been chosen. If that is not correct -

Mr Souris: That is correct. It has not been chosen.

Mr WHELAN: It has not been chosen. Am I to assume that there is a process in train?

Mr Souris: A tender.

Mr WHELAN: A tender process, the Minister indicates, will operate. I assume that will be published and will be available through normal public avenues and also stockbroking avenues. I ask the Minister whether the tender includes preferential commission rates, in view of the fact that the GIO's assets include $500 million in cash. It would be the easiest float in the world if part of the assets of the corporation were $500 million, no matter whose money it was - whether it was an asset of the State or of a private company. The estimate of the worth of the GIO is approximately $1.5 billion. I have heard all sorts of figures in the billion dollar range. Included in that estimate of worth is a cash asset. I should expect the tender document to set out a sliding scale in relation to the certainty of the success of the tender, as ultimately would be the case, because the Opposition's amendment does nothing to detract from subclauses (1), (2) and (3) of clause 29, but requires certain protective mechanisms to be inserted.

I next ask the Minister whether the tender document will ensure that on the ultimate public sale the successful broker will ensure that members of Parliament from either side and their immediate families will not be beneficiaries of the State's asset? In

other words, I should not only like the float to be carried out with completely clean hands but also I would like every member of this House to be at arm's-length from the process. There has to be a fiduciary duty by anyone involved in the sale of an asset, whether or not it be an asset in which they have a vested interest. I liken the position of the GIO to that of this Parliament; those entrusted with the duty of care should ensure that the owners of the asset - and in this instance the people of New South Wales - will ultimately become the beneficiaries of the sale. The Minister might give me some indication of that.

Mr Souris: On a point of order. The honourable member for Ashfield has made two points so far. One is in relation to the selection of the underwriter. The other is the question of potential conflict through a loose definition of insider trading through members of Parliament and their families being able to purchase shares. Clearly, both points bear no relationship to the validity of the appointment of the Auditor-General in the way suggested in the amendment.

Mr Whelan: On the point of order. I thought the Minister would understand, but I shall give him a copy of the bill. Clause 29 is preceded by the words, "Sale of GIO by public float". The Committee is dealing with the sale of the GIO by public float, through the whole of clause 29, together with the amendments. I did not contribute to the second reading debate. There is no validity in what the Minister has said. If he wants me at the appropriate time to raise the issue at the third reading stage, I shall be happy to do so. But I submit I am totally in order.

Mr Souris: Further to the point of order. The honourable member for Ashfield has clearly stated in his submission on the point that, because he has not made a contribution to the second reading debate, he wishes to deal with any matter that he has not had an opportunity to raise using the generality of the lead-in to clause 29. If his submission were correct, any member could introduce any matter pertaining to the GIO float on the basis of a broad definition of the word float.

Mr Whelan: Further to the point of order. This is just a nit-picking argument. Could I ask you, Mr Temporary Chairman, in all fairness, to ask the Minister to read clause 29(2), which

provides "The arrangements may include underwriting agreements and the issue of a prospectus". I want to know the circumstances in which they are to be issued.

The TEMPORARY CHAIRMAN (Mr Tink): Order! I will not make any inquiry of the Minister. In ruling on the point of order I make two comments. First, it is in order to consider the clause in the context of the amendment, but it certainly is not in order for the member to range wider than that simply because he did not seek the call during the second reading debate. The relevant matter for discussion is the amendment and the clause under consideration. I ask the honourable member for Ashfield to bear those matters in mind.

Mr WHELAN: I certainly will. I understand the Minister's reluctance. I detect a little sensitivity in relation to the tender and the ultimate purchase of the GIO shares, which I will follow up with a great deal more interest than I at first thought I would. I look forward now to examining the public tender documents and ascertaining who the successful tenderer is. Also, I might have a closer look at who the ultimate beneficiaries of the sale of the GIO are. I am trying to ascertain whether the Government will give to the stockbroking community of New South Wales a free 3 per cent share in the sale of $500 million in cash. We are talking about the easiest sale in the world - cash. I have

not even mentioned the tax advantages that will flow from the sale when the chartered accountants and tax experts get hold of the arrangements under the prospectus and prepare all the underwriting arrangements on the tender documents. No one has yet mentioned what tax advantages will flow to the ultimate purchasers. Who will be the losers? The people of New South Wales. When I asked the Minister for Sport, Recreation and Racing and Minister Assisting the Premier about tendered documents, I found it strange that he should take a spurious point of order about the stockbroking community. The honourable member for Charlestown asked the Minister a question and he said in this Parliament that he had not chosen.

Mr Souris: We have not chosen.

Mr WHELAN: The Minister also said that to me during this debate. If I find that the Minister or anyone in his department has had negotiations or discussions with stockbroking firms up to this time, he can expect that we will raise this matter in the Parliament. It is on the record that the Minister said that he has not had negotiations or discussions with stockbroking firms. I refer to the general thrust of what the Government can object to on this bill. This is a sale by public float. The Opposition wants the financial information from the Auditor-General as to the real value, the fair statement of the value, of the GIO. We want to ask the Auditor-General whether in his view it should be retained by the State. That is under amendment 4, which seeks to insert clause 29(2)(b). Luckily the Auditor-General, who is overseas, happened to write in response to a verbal request - remember that we are dealing with the sale of a government asset to be sold for $1.5 billion dollars. Someone rang up and said, "Can you give me some advice on the telephone". It was a verbal request. Someone said that he would send over amendment No. 4 of the Opposition in the Legislative Assembly and requested his advice. I ask the Minister to give the advice and information that the Auditor-General offered the Government that would have led to the preparation of the Government's bill. Why did the bill go to the Parliamentary Counsel and come back without bona fide restraints on the sale of the GIO?

I have heard many members question who the outside consultants will be. I do not want to argue about who will be accepted but I make a point about who will be involved in the process. In the sale of this State asset the people of New South Wales will be the ultimate losers. We will see the sale of the GIO and the ultimate float of up to 10 per cent of the value of the shares of the company. We will see the loss of a State asset and we will also see the disappearance of a great community service. I have had complaints about the closure of the GIO in my electorate of Ashfield because of its convenience for the people of my electorate. It

was a necessary asset and a lot of new business of varied sorts was coming to the GIO. After the float it will probably be found that it is not commercially operative for the GIO to operate in suburban and rural areas of New South Wales. State-owned business - owned by the people of New South Wales - which provides a service on a constituency basis will be closed down under the guise of economic rationalisation once owned by private enterprise because the profits will not come through.

The GIO had one objective of making money and another of providing a public service. Once this float occurs, we can forget about public service. The organisation will have been sold. I cannot understand anyone with any business sense agreeing that at the time of sale of any business any prospective purchaser should not be able to look at the value or assets of any building or operation. Do honourable members think that the smart people in the superannuation funds and the like who will, with the brokers, buy these assets of the GIO do not know how much the GIO is worth to a cent? They will

put hundreds of millions of dollars into it. They will not be taking a punt that the GIO is not worth what the public float will bear. They will get in on the ground floor. In other public floats that take place, one is likely to see preferential clients of a broker yet to be named being given the benefit. They are the ones who will make the killing - and guess who they are killing. They are killing the people of New South Wales who will not get the asset back. That is why the Minister should consider seriously amendment No. 4 to clause 29(2)(b). Let the Auditor-General certify to the people of New South Wales that the GIO is worth selling. Let him make the decision.

No one in this Parliament is competent to determine the effective sale value of the GIO with its cash assets and tax advantages. That is why chartered accountants are in the field. The Auditor-General of New South Wales is willing, at the request of the Opposition and this Parliament, to be an officer certifying the value of the GIO. I ask the Government to reconsider its opposition to these very wise and judicious amendments. They are judicious because any person involved in business in New South Wales would ensure that he is getting the maximum price if there is to be a sale of the GIO. Under clause 29 the Opposition would concur that there is to be a public float. If there is a float, let us maximise the advantage to the people of New South Wales. It is a State asset. Let us do what people in private enterprise do with a float. I tell the Minister again that I do not want any repetition of what happened in Queensland when that Government floated enterprises. Half the Bjelke-Petersen Cabinet, its friends, its hangers-on, its benefactors and its donors all got shares. I intend to watch this tender process very carefully.

Mr HATTON (South Coast) [12.6]: I have given this matter a considerable amount of thought, as have my fellow Independents. "Cross-examination" would be the word that the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, who is at the table, might like to use to describe the debate. We have cross-examined him pretty carefully on a lot of aspects of the Government Insurance Office (Privatisation) Bill. One can get caught up in the rhetoric. The Australian Labor Party is putting forward a philosophic question which is quite supportable, that is, the Auditor-General should be the public inspector, if you like the public window, of this whole process. That falls down however in that the Auditor-General has said that if the legislation requires him to carry out the float he could do it, but there would be vital aspects that he could not cover. For example, the honourable member for Ashfield was talking about tax advantages, shares price and maximising the return to the Government. Everybody would agree with that. The Government would agree with that. If the thrust of the argument of the Australian Labor Party is true, which I believe - namely, that this asset is to be sold off in order to get a billion dollars for the Government to cover a lot of Commonwealth and State revenue shortfalls - naturally it is in the Government's interest to maximise the share price. We are talking about the best way to do that and the philosophy behind that. In the opinion of Mr Dunn, the Assistant Auditor-General, he cannot do that. The second last paragraph of his letter says:

> Secondly, the proposed legislation -

That is, the Australian Labor Party amendments. It continues:

> - appears to require the Auditor-General to predict (and certify) what the future will bring and he believes that it is unrealistic for him to be asked to do this.

That to me was a key paragraph. These amendments are broken up into paragraphs (a) and (b). Paragraph (a) requires that the Auditor-General certify in writing that he is satisfied that:

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> (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 the GIO.

The fact is that the Auditor-General will be doing that in any event. That needs to be underlined. When specifically addressing amendment 4(a) in his letter to the Premier, the Assistant Auditor-General said:

> . . . the Auditor-General is of the opinion that this particular clause would require him to undertake a due diligence audit of the investigating accountants' report. In essence he believes that the proposed legislation requires him to certify the accuracy of the aforementioned report.

He then speaks of Ernst and Young acting for the Treasury and Coopers and Lybrand acting for the GIO. He emphasises that those organisations are reputable and widely recognised as acceptable professional accounting firms. This is not the Government saying that Ernst and Young and Coopers and Lybrand are acceptable in the market-place; this is the Auditor-General saying that they are "widely recognised as acceptable professional accounting firms". The Auditor-General believes that the provision of the required certificate is within the capabilities of his office. However, the letter continued:

> The Auditor-General also noted that he will still be undertaking the audit up to the date of conversion of the GIO and therefore much of the financial information prepared and collated to that date would be subject to his review.

In other words, he will be undertaking the audit in any event. The letter continued:

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

That satisfies me. The letter continued:

> The Auditor-General also commented that as both Ernst and Young and Coopers and Lybrand are involved as investigating accountants, there is a certain degree of independence already in existence and in view of the two firms' reputations, an acceptable level of professionalism is already available in the privatisation process.

Naturally the Auditor-General is not involved in the political process, the ideological game or the positions adopted in this Parliament. If he says that these firms are acceptable to him and that they are independent, that is good enough for me. I understand the credibility of the opposite view. However, I want to express my position. The letter then deals specifically with clause 2(b) of the amendment, which reads:

> . . . 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.

In his letter the Assistant Auditor-General said:

> Turning to subclause (b) of item 4, the Auditor-General observed that compliance with this proposal would prove to be very difficult. Firstly, the net worth of the GIO (as at sale date) would need to be determined. This would require the GIO to prepare a set of financial statements as at the date of sale and for those financial

> statements to be audited. The Auditor-General envisages that this process could take several months (the Auditor-General estimates 4-5 based on past experiences) -
>
> **Mr Harrison:** So what?

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Mr HATTON: I shall reply to that interjection later. The letter continued:

> - 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 reassessed to bring it into line with the "new" date of sale.

The Auditor-General is pointing out problems not only of time but of organisation. I understand why the honourable member for Kiama interjected and said, "So what?" It could be said that, if one is talking about an asset worth $1 billion, four or five months is not going to make any difference; why rush into it? I am tempted to agree with that but I cannot agree, because of the Assistant Auditor-General's letter to the Premier saying that the certificate is necessary. I do not feel that the amendment is necessary and therefore I will not support it.

Ms MOORE (Bligh) [12.14]: Notwithstanding the assurances given by the Auditor-General about the professionalism and independence of Ernst and Young and Coopers and Lybrand and notwithstanding that the Auditor-General says that the provision of the certificate would require considerable input from his officers and would be fairly costly, I believe that, in order to achieve maximum scrutiny and accountability of the public float of the people's asset, the Australian Labor Party amendment should be supported.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.15]: I thank the many speakers who have taken part in the debate on this amendment. I understand precisely why the amendment has been moved and much of the argument in support of it. I should like to place on record the high regard that I have for the Auditor-General. Some speakers have alluded to my past involvement, as a former member of the Public Accounts Committee, with the Auditor-General. During the time that I was a member that committee conducted an investigation of the Auditor-General's Office and my involvement with the Auditor-General became more intense at that time. I had a considerable opportunity to assess his high professional standards and public credibility. The Government's opposition to this amendment is not intended to reflect on the professionalism or integrity of the Auditor-General or his staff. It is obvious that the Auditor-General is capable of doing what the amendment requires. There is no question about his ability or his ability to subcontract the work. The Auditor-General's Office has a staff of about 190 and much of the work is subcontracted.

It is sought to publicly float the GIO. A public float is unlike the sale of a specific asset. The sale of a specific asset may involve questions of whether the asset has been valued correctly. As the sale of the GIO will involve a public float, a completely separate process of public accountability will be brought into play. That process will involve the prospectus, the Corporations Law, and heavy duties of disclosure and heavy sanctions, including criminal sanctions, against any form of false information. The float of the company will involve a substantial process which is quite separate from the selling of a specific asset by a particular Government instrumentality. The Auditor-General is the auditor of the GIO and has, indeed, completed an audit of the GIO as at 30th June. He will continue to be the auditor of the GIO up to the time of conversion. In assessing the retention value of the GIO a most important consideration will be the net assets position of the organisation as portrayed in the audited financial statements. It is not suggested that the Auditor-General will discover a totally false or separate valuation that is not part of the auditing process. Timing is crucial.

Timing is important in relation to the further involvement of the Auditor-General. Under the Corporations Law a prospectus must include financial statements operating no more than six months since the closing date. With the proposal for the float

to occur within the financial year at a time, say, in May or April or even June 1992, it is necessary to freshly strike six months accounts to be dated 31st December 1991. It is not possible to use the 30th June, 1991, accounts even though they are audited, because they will very shortly become stale accounts on account of the six months requirement. The financial statements involved in a prospectus can never be longer than six months from the strike date. Therefore, striking accounts dated 31st December, 1991, will require some months subsequent to 31st December, 1991, to prepare and finalise. So some months will then go by. There is the most expansive due diligence process being conducted by two separate firms of accountants, Ernst and Young and Coopers and Lybrand, in whom the Auditor-General has expressed confidence in the letter which has been tabled. That again will take some months to do. However, at the same time the Auditor-General is continuing to be the auditor and auditing the GIO because an obligation will apply to audit the final accounts upon conversion the day before the float.

To ask the Auditor-General to conduct a further due diligence process above that due diligence process is to ask the Auditor-General to conduct another audit of the GIO dated 31st December, 1991. That would take several months. The Auditor-General suggests four or five. An underwriting assessment will be under way and that will be time consuming. Also, an actuarial assessment of the retention value will involve the striking of the float price. The proposal is to duplicate the due diligence process and add a further audit that most certainly would go beyond 30th June, 1992. The process would have to be repeated entirely, with the striking of fresh accounts again on 30th June, 1992, which would then have to be audited and the whole due diligence process recommenced. There is an argument that we may never be able to complete within a six months period all the required processes which in each case require some months. So there is the problem of imposing a further process above what is required under the Corporations Law.

The honourable member for Ashfield during question time some time ago asked me whether the firm of Potter Warburg had been appointed as the duly appointed underwriter. I replied that the firm of Potter Warburg did not have, does not have at the moment, any relationship with the New South Wales Government. It is an appointed consultant or adviser to the GIO and no doubt is being paid for that. Potter Warburg's existence in the equation is that it is a consultant or adviser of the GIO in the same way as various other advisers have been appointed by the GIO - for example, the firm of Tillinghasts, consulting actuaries, and others. I - or the Government - have not appointed Potter Warburgs. I have not spoken to the firm, although I must say that I have spoken to almost every stockbroker, actuary, accountant, lawyer, investment banker and banker in the central business district at some time or recently.

One of the burdens I have to bear is receiving many representations from firms seeking involvement in government work in some form or another. The appointment of the underwriter has commenced, as I have already indicated. Expressions of interest have been called. A long list of tenderers has been selected and the companies have been invited to tender. A short list will be selected and ultimately a firm of underwriters will be appointed. Obviously, we do not yet know what the tenders will be. It is only a matter of days since I signed the letters that went out to the firms. The advisers who are advising both the Government and the GIO will assess the tenders received. The commission rate and all other questions will obviously be relevant to that. I am already mindful of the cash component in the make-up of the assets.

Dr Metherell: Have you excluded, in terms of the assessment, the commission that can be charged?

Mr SOURIS: Not yet. The honourable member for Davidson just asked whether the assets have been excluded.

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Mr Whelan: Cash assets.

Mr SOURIS: The cash assets. All that has happened at this stage is that a fairly general letter of three or four pages inviting firms to offer a tender has been issued. No negotiations have occurred as yet. I cannot give a committed view during this debate because we do not know what will be available and what advice we will receive. However, we are cognisant that a component of cash assets is involved and there is an argument that there would be a separate treatment in terms of the commission rate and other matters involved in the sale. We are aware of several options but we do not have anything to assess as yet and therefore we do not have anybody to negotiate with. All of that will be publicly accounted for and by law all details must be included in the prospectus.

The honourable member for Ashfield referred to a matter which could be described as insider trading although that is not exactly what he was referring to. He was simply referring to the general probity of members of Parliament participating in the purchase of shares. General members of Parliament are at arm's length in this case and there is no legal prohibition on members of Parliament purchasing shares of any publicly listed company, subject to the provisions of disclosure through the parliamentary system. In direct response to the honourable member for Ashfield I advise the Parliament that at a recent meeting of New South Wales Cabinet it was decided that no members of the Cabinet or their immediate family and relevant non-arm's-length associates would participate in the purchase of shares at the time of issue or at any time for at least 12 months after the float of the GIO. That decision has not been announced publicly but I advise honourable members that Cabinet has made the decision that no members of Cabinet or their families will be associated with the purchase of shares at the point of float, or subsequently through the stock exchange, for a minimum period of 12 months.

I turn now to the detail of the amendment. I wish to place on record several points. The amendment contains two aspects. The first is the verification of the financial information and the second is the certification of the retention value. The financial information of the GIO to be included in the prospectus will be prepared by two of Australia's leading firms, Ernst and Young and Coopers and Lybrand. They will state in the prospectus that it presents a true and fair view of the operations of the body to be privatised for the past five and a half years, as well as its assets and liabilities as at 31st December. Therefore, the value of net assets will be presented in the prospectus. The question of retention value is another matter, although the point about net assets is clearly relevant. As I stated in the second reading speech, and as the Premier stated in his Budget Speech, the Government will be seeking a margin above net assets in the order of $100 million or $150 million to create a retention value. As a basis for the presentation of retention value, the net assets as contained on the balance sheet, which has been audited by the Auditor-General for some five years, will be contained in the prospectus.

It must be emphasised that the prospectus is a marketing document in essence as required by the Corporations Law, and must be prepared and certified by organisations with which the market is familiar. The Auditor-General will continue his normal auditing role of the GIO up to its conversion to a company, but of course he will not be required to audit the financial information contained in the prospectus in respect of that half year. The Corporations Law imposes onerous duties and responsibilities on all of those named in the prospectus, and the certifying accountants must state that the financial information includes no misleading material or misleading statement or any material omission. The Auditor-General's Office has been consulted on this matter, and my colleague the

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Minister for the Environment tabled a letter from the Auditor-General's Office which has been circulated widely. That letter indicates the Auditor-General's view, which generally supports the points that I have made.

In relation to the certification of the retention value, the Government made clear in the second reading speech that the GIO will be sold by public float only if the sale value is in the best interests of the State, and therefore that the sale value is likely to exceed the retention value of the GIO. The assessment of the sale and retention value is not an audit function. An assessment requires expertise in corporate financial analysis. The analysis requires assessment of financial risks of ownership for the Government, the effects of the restriction of public ownership on the future performance of the GIO, and an understanding of the nature of the industry and the planned business strategy of the GIO. Such an analysis has a far wider scope than an audit and, indeed, the scope of an audit would be encompassed by such analysis. The Government will require its financial adviser, B. T. Corporate, to certify that the sale proceeds are likely to exceed the financial value to the State from the retention of the GIO in public ownership. The Auditor-General's Office has been consulted and has indicated that it does not support the proposed amendment, as it is unrealistic to expect the Auditor-General to make an assessment of future profits. The timing component is vital in respect of this matter. It is an impossible order to make upon the Auditor-General to require him to undertake an additional audit function and a certification function over and above those functions already provided for within the Corporations Law. The Government is constrained by a six-month period in any case.

Mr J. H. MURRAY (Drummoyne) [12.35]: I wish to reply to some of the comments made by the Minister, because I believe on one or two occasions he has not explained fully the background to or the implications of some of the points he has made. The Minister admitted that at present the Auditor-General is working closely with the two contract auditors, one contracted to Treasury and the other to the GIO. Obviously those organisations have to work closely with the Auditor-General because they would be using his working papers. If they are working closely with the Auditor-General, I submit to the Minister that there is a likelihood that the Auditor-General's Office and these outside consultants are carrying out parallel tasks. When the Commonwealth Bank was being sold the Federal Government used the good offices of the Australian Audit Office to do exactly what the Opposition is asking the State Auditor-General to do on this occasion. That created no problems whatever for the partial float of the Commonwealth Bank. The Federal Government is doing exactly the same thing in respect of Australian Airlines and Qantas Airways Limited. That is the point that the Minister did not explain to the honourable member for South Coast.

If it is good enough for the Australian Government - the pioneer - to follow that procedure, why cannot the Auditor-General do exactly the same thing? I believe there are two reasons. I am not certain that the Auditor-General, who is attending a conference overseas, was given the correct information over the telephone by the Assistant Auditor-General. If he is to make a proper assessment he must be given all the facts and figures. As the honourable member for South Coast would know, when one is out of the country it is difficult to gain a good understanding of a situation without background knowledge and the assistance of advisers. The Auditor-General received a verbal request for an opinion from a Treasury officer, with a vested interest in selling the GIO as quickly as possible. I am not suggesting that the Auditor-General has been snowed. What I am saying is that if he is asked to base his opinion on a brief that may not contain all the relevant details, perhaps his response will not be as accurate as it would have been if he had all the relevant information. I submit to the Minister that had I telephoned the

Auditor-General and asked him to implement the procedure that the Federal Government adopted, that is, his auditing team developing a comprehensive audit -

[*Interruption*]

Mr J. H. MURRAY: The Minister has crossed the floor to speak to the honourable member for South Coast. The Minister has had sufficient time to speak to the honourable member for South Coast but now that I addressing the Committee he is distracting the honourable member. The Opposition has not approached one member of the Independent party - the no election party - to apply pressure. The Minister has spoken for 20 minutes and now wants to speak again for 15 minutes. If he has anything to say, he should say it to all members. Had the Auditor-General been asked to participate in the preparation of a comprehensive audit with the other two existing auditing entities, the period involved would be two or three weeks rather than three months. The Auditor-General, obviously, was not supplied with all the information when he was asked to comment. The Auditor-General has said that in his opinion because of proposed amendment 4(a), he will be required to undertake a due diligence audit. A bill that would circumvent the need for a due diligence audit has been ready for introduction into this House for the past three weeks. It has not yet been introduced. Its provisions will indemnify the Auditor-General in respect of undertaking the type of audit that the Opposition seeks.

Despite the tabling in this House of a report of the Public Accounts Committee some weeks ago about that legislation, it has not been introduced. The Minister wants to use as a weapon in this debate the fact that the Auditor-General has said that he will be required to undertake a due diligence audit. If the Minister were to introduce that legislation today, it would pass through this Chamber because the Opposition supports it. Together with the two auditing firms referred to the Auditor-General should ride shotgun over the process to protect the interests of the people of New South Wales. The legislation to which I have referred will make the Auditor-General an officer of this Parliament, who will report to the Parliament. If this proposal is unsuccessful, it is no good saying that the Auditor-General will look into the matter. He will not report to the Parliament. The Minister said that the report of the two contracted auditors would be made public yet the report of the Auditor-General will not. Surely if it is good enough for the advice of the two contracted auditors to be made public, it is good enough for the advice of the Auditor-General to be made public. Why should not the report of the Auditor-General be made public?

Mr Rixon: That is a good question.

Mr J. H. MURRAY: It is a good question, and if other legislation is introduced, the question will be answered. The Government is squeezing the lemon to get as much as it can from the sale. I can vouch for the veracity of the Minister in terms of his being a good man for a good deal, but he knows as well as I do that the Auditor-General will demand a fee from the Government to undertake this audit. The Auditor-General's Office is self-funding. The Minister knows also that the Auditor-General will require others to carry out some of the necessary basic tasks. He will, however, oversee and place his stamp on that work. The costs incurred to engage the services of the Auditor-General with regard to a $1.2 billion sale will be infinitesimal. The cost benefit return, however, will pay for the fees of the Auditor-General a hundred times over.

The TEMPORARY CHAIRMAN (Mr Tink): Order! The honourable member has exhausted his time for speaking.

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Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.45]: I wish to respond briefly to the comparison that was made between this process and the Commonwealth Bank float. Many of the matters in those two processes are comparable. However, it is important to note that the Commonwealth Bank float was only a partial float; 70 per cent of the Commonwealth Bank was retained by the Federal Government. The role of the Federal Auditor-General in that process was different from that

envisaged in this proposed float. The Federal Auditor-General was the auditor of the Commonwealth Bank and has continued to be beyond the point of conversion. During the float and for the preparation of the prospectus the Federal Auditor-General had precisely the same role as that proposed for the New South Wales Auditor-General in this proposal, in that he was the auditor to the point of conversion.

Another difference is that for the preparation of the prospectus the Commonwealth Bank engaged only one investigating accountant, the firm of Arthur Anderson. The Federal Auditor-General was not an investigating accountant signing off on the prospectus. He was the continuing auditor, a position that he still holds. In the float of the GIO there will be two investigating accountants - double the number thought to be necessary by the Federal Government. The firms of Ernst and Young and Coopers and Lybrand will both be signing off on the prospectus. The Auditor-General will continue to be the auditor but only to the point of conversion. The audit report that will be generated at that time will be tabled in the Parliament. In the Commonwealth Bank float the Federal Auditor-General remains the auditor beyond the point of conversion by virtue of the Federal Government's retaining 70 per cent ownership of the bank.

Mr J. H. MURRAY (Drummoyne) [12.48]: The Minister failed to inform the Committee that though the Auditor-General is the auditor at the moment, he signed off on the June account, which was not presented until September. The Parliament will be presented with a report from the Auditor-General about this float well after the float has been completed. That is not good enough. The Minister did not refer to the fact that if the Auditor-General were to work with the two existing auditors, the delay would be only two or three weeks rather than three or four months. The other legislation that I referred to earlier should be dealt with at the same time as this legislation. All honourable members support that legislation. Obviously the Minister did not respond to that matter; he knows that what I said is correct.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.49]: I wish to clarify this aspect of timing and the role of the Auditor-General. The Auditor-General is the auditor of the GIO. He has completed his audit for the last financial year and he will continue to be the auditor through to the point of conversion. His report will be tabled in the Parliament immediately following the point of conversion. The honourable member for Drummoyne claimed that the report would not be tabled until some lengthy period after the float has been completed. That is an incorrect assumption. The matter raised by the honourable member is spurious. The Auditor-General will present his report to the Parliament immediately after the point of conversion.

Question - That the words be inserted - put.

The Committee divided.

Ayes, 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 Irwin
Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
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, 49

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
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Ms Machin
Mr Merton
Dr Metherell
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

Pair

Mr Jeffery

Mr McManus

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

Schedule 1

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Mr J. H. MURRAY (Drummoyne) [12.58]: I move:

Page 20, Schedule 1. After clause 5, insert:

(6) (1) This clause applies to a person who is a member of the staff of GIO immediately before the conversion, including a member of that staff who is transferred under this Act to the staff of a GIO subsidiary, to the Ministerial Corporation or to any other person.

(2) A person to whom this clause applies who is retrenched from the service of GIO, a GIO subsidiary, the Ministerial Corporation or that other person is (subject to this clause) entitled to the appropriate Public Service redundancy payments.

(3) The Public Service redundancy payments are the payments provided by the Government, in accordance with established employment policy, for public servants who are retrenched or who accept an offer of voluntary redundancy.

(4) This clause applies until other provision is duly made for the payments to be made to the persons concerned.

The second major deficiency in the bill is the omission of any provision to grant redundancy rights to existing employees of the GIO. Those employees are not covered by the New South Wales standard public service award or industrial agreement provisions relating to redundancy payments and conditions. Given the uncertainty of the employment market and the instability created in the minds of the loyal employees of the GIO as to their future in the organisation, the Parliament has an onus to include in the proposed legislation assurances about their rights and entitlements in the event of redundancy. The proposed legislation should guarantee that the employees receive the same minimum package that other employees in the New South Wales public service enjoy - and this is the key to the amendment - until such time as the privatised GIO negotiates appropriate redundancy agreements with the unions. As I understand it, the finance industry award provides redundancy payments on a base of eight weeks pay plus three weeks pay for each year of service, to a maximum of 75 weeks. I assume that the incoming board would use those provisions as a base. But the concern is that the bill is silent on redundancies. The Opposition believes that GIO employees who have given loyal service should have this protection in case difficulties arise when the new board takes over. The provision would provide the protection of a minimum of two weeks' pay for each year of service, to a maximum of 26 weeks after a period of 13 years' service. I put it to the House that the provisions in the amendment are in keeping with the compassion and understanding of members of Parliament and will give added protection to GIO employees.

Progress reported and leave granted to sit again.

[*Mr Acting-Speaker (Mr Chappell) left the chair at 1.4 p.m. The House resumed at 2.15 p.m.*]

MATTER OF PUBLIC IMPORTANCE

Mr SPEAKER: Order! I have to advise the House that I have received from the honourable member for Eastwood notice of a matter of public importance to be listed for consideration at the end of question time.

QUESTIONS WITHOUT NOTICE

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TARONGA PARK ZOO LAND SALE

Mr CARR: My question without notice is directed to the Minister for the Environment. Has the Zoological Parks Board developed secret plans to sell part of Taronga Park Zoo? Do Government briefing notes refer to a special property review panel comprised of the Property Services Group, Mosman Municipal Council and the Zoological Parks Board to dispose of parcels of land that it describes as "environmentally and politically sensitive"? Does this conflict with the Government's commitment to enlarge and protect open space land along the harbour foreshore?

Mr MOORE: I thank the Leader of the Opposition for his question. I am pleased to be able to advise him that the Zoological Parks Board is made up of a broadly experienced and politically ecumenical group of people. It is difficult to imagine any consideration of issues by the Zoological Parks Board that could possibly be regarded as secret. The Zoological Parks Board has submitted to me - after consideration, and from recollection upon a unanimous vote, a proposal that three areas of land at the zoo should be considered for disposal. My recollection is that the areas of land are as follows: an area along Whiting Road on which two houses are already located, a small area of bushland adjacent to the road and a parking area; an area within the boundaries of the walls of the zoo known as the director's house and works depot area; and, finally, an area that comprises the main car park area. It was proposed to the Government that there should be medium density development, as I recall, on the director's house site; residential housing blocks on the existing small strip of road with two houses on it and a major tourism development on the car park.

I am pleased to be able to advise the Leader of the Opposition that, after extensive consultation with my colleague the honourable member for North Shore, I and the honourable member for North Shore have indicated to the Premier that we do not consider it appropriate that any development of a large - or any other - scale be considered on the car park and that the development of the director's house and works depot area is inappropriate. Neither of those areas is therefore proposed for sale. There are four residential housing blocks that may be disposed of by sale, including two that already have houses on them. The area that is adjacent to the foreshore and continues from the zoo to the north and west of the zoo is to be considered for application through the Premier's open space and heritage fund for addition to Sydney Harbour National Park. The Government has no intent to sell or develop foreshore areas.

HAWKESBURY-NEPEAN RIVER SYSTEM TASK FORCE

Mr HARTCHER: I direct my question without notice to the Minister for Conservation and Land Management. What progress has been made by the Hawkesbury-Nepean task force and what action is the Government taking to reverse the degradation of the Hawkesbury-Nepean river system?

Mr WEST: I thank the honourable member for Gosford for his timely question. It goes without saying that the degradation of the Hawkesbury-Nepean river system is a

disgrace. Government after government has allowed this jewel in this State to become a tarnished blot on our landscape. I am pleased to signal to the House today that that is not to be the case any more. In August, at the specific request of the Premier, I appointed a task force to find the most appropriate mechanism for managing the river system and addressing the issues of water quality, land use - especially urban development - land and riverbank degradation and flood mitigation. I can advise the House today that Cabinet has now accepted the task force report in principle and any final decision must be supported by the community. Therefore, it is my intention to release a discussion paper for public comment over the next three months.

It should be of no surprise that many of the task force recommendations reflect the initiatives that the honourable member for Gosford has been advocating for some considerable time. Key recommendations from the task force report include the establishment of a Hawkesbury-Nepean catchment trust to accelerate the revision of regional environmental plan No. 20, the linking of it with both air and quality objectives to complete regional environmental plans for the remainder of the catchment and for these to be combined into a single plan. The purpose of the trust will be to protect and, importantly, restore the river system, to co-ordinate economically sustainable use, development and management of natural resources and the built environment and to foster orderly and proper planning. In other words, the trust purpose will be to achieve a healthy and productive river system and catchment. The trust will consist of nine members, five of whom will be appointed on a full-time basis and will be selected according to their scientific, planning, technical and managerial abilities. Three of the four part-time positions will be publicly advertised to seek a representative of landowners, a person with environmental interests and one with commercial or business interests. A fourth part-time member will represent local government.

Mr Speaker, as you and I and, I hope, many members of this House would appreciate, the Government's efforts to repair the Hawkesbury-Nepean river system must be seen to be immediate and decisive. I hope that members will approach the review of the discussion paper objectively and in a bipartisan fashion. When recommending the establishment of a trust the task force was obviously mindful that the trust must have the ability to play a meaningful role in planning issues. It has therefore been recommended that the trust have a concurrence role under the Environmental Planning and Assessment Act. However, such a role will be exercised only where the development proposal is environmentally sensitive and likely to have a significant impact on the river system. These types of developments will be specified and confined to those designated in the relevant planning instruments. Essentially, though the trust will be the community's watchdog, it will not be a prosecuting authority. It will therefore not usurp the powers of the Department of Planning or of the proposed Environment Protection Authority. Indeed, the Minister for Planning will continue to be ultimately responsible for all planning issues as they affect the catchment. In its watchdog role, the trust must establish and maintain a closer affinity with the community as well as relevant interest groups within the catchment. It is suggested that this can be achieved by the establishment of a number of appropriate consultative and advisory bodies.

[*Interruption*]

Mr SPEAKER: Order! There is too much audible conversation in the Chamber. I include in that remark a reference to the honourable member for Eastwood and the honourable member for Monaro.

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Mr WEST: Recommendations are made for the establishment of a consultative council and a research and assessment committee. Mr Speaker, they are of course key recommendations that emerged from your draft bill. In addition, the trust will also be expected to interact closely with the Nepean-Hawkesbury Catchment Management Council as well as with existing catchment management committees such as those for the upper Cox's River and

the Blue Mountains, whose purpose of course is to address local issues. For far too long an overly bureaucratic approach has been taken to this catchment. Too many agencies have had their fingers in the pie and have looked only at the narrow focus of their own responsibilities. Therefore this trust will cut through the red tape that has stifled co-ordinated planning in the region. It is simply impossible to effectively manage such a vast river system without taking a total catchment management perspective. It is proposed that during the period of public consultation discussions will take place with peak groups representing local government, industry, the environment and, essentially, the community. I should like to take this opportunity to encourage the community and all members of this House to obtain copies of the discussion paper, to take seriously the recommendations in it and to comment on the objectives put forward in the task force recommendations.

MUSEUM OF CONTEMPORARY ARTS BUILDING REFURBISHMENT

Mr LANGTON: My question without notice is addressed to the Minister for Local Government and Minister for Cooperatives as the Minister for responsible for the Property Services Group. Do secret briefing notes reveal that the top two floors of the new Museum of Contemporary Arts building at Circular Quay, now occupied by the Tourism Commission, have been refurbished at a cost of $3.4 million? How much was spent on the lavish refit of the top floor ministerial suite? Is this same office now vacant because the present Minister for Tourism prefers to remain at the State Office Block?

[*Interruption*]

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

Mr PEACOCKE: I am not aware of the matters raised by the honourable member for Kogarah. I will give him a supplementary answer shortly.

[*Interruption*]

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

Mr PEACOCKE: I have a supplementary answer to the question asked earlier by the honourable member for Kogarah. The honourable member asked for details of the costs associated with the refurbishment of the Museum of Contemporary Arts and, in addition, the costs associated with the fit out of the personal office of the Minister for State Development and Minister for Tourism located in the same building. The refurbishment and fit out of floors five and six of that building was undertaken at a cost of $3.5 million. These floors are currently occupied by the Tourism Commission of New South Wales. A ministerial office occupies part of level 6 of that building. However, the cost of the fit out of that office is included within the amount of $3.5 million mentioned earlier. A further $2.7 million was spent on refurbishing common areas of the building.

[*Interruption from gallery*]

ABORIGINAL NATIONAL PARKS MANAGEMENT

Mr ZAMMIT: I direct my question without notice to the Minister for the Environment. What consultations has the Government had with Aboriginal groups about areas of cultural significance, particularly national parks?

Mr MOORE: I do not propose to deal with any detailed amendments that would anticipate debate later in the day. However, I wish to indicate to honourable members that during the winter recess, I spent a week visiting areas in western New South Wales and discussing with local Aboriginal groups, local landholder groups and local councils questions arising from the Government's proposal for Aboriginal management of national parks of cultural significance to them. I am well aware that this matter is of particular concern to the honourable member for Murray. I have been able to assure people in those areas that though the Government remains committed to its proposal for a proper statutory management regime over Aboriginal national parks involving majority Aboriginal participation, the Government believes also that it is essential that adjacent neighbours have the ability to be involved in that management process. I and my colleagues have been particularly pleased by the response of Aboriginal groups to these initiatives. Next week at the invitation of the Uluru joint management board I will be visiting the Uluru National Park to meet members of that board and see how the Uluru model works in the management of that area of great Aboriginal cultural significance and great national environmental and conservation significance. It is important that all honourable members understand that Aboriginal groups throughout the State welcome the initiatives taken by the Government. We desire to continue that process.

ABORIGINAL NATIONAL PARKS MANAGEMENT

Mr ZAMMIT: I wish to ask a supplementary question. In discussions with Aboriginal leaders, was the issue of employment opportunities within the National Parks and Wildlife Service raised and, if so, what action is being taken?

[*Interruption*]

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

Mr MOORE: One of the matters that has been raised continually with me during my discussions with Aboriginal leaders has been the necessity for an affirmative action program of training and employment within the National Parks and Wildlife Service for Aboriginal officers. There is absolutely no point in trying to confine, as some people would argue, Aboriginal employment within the National Parks and Wildlife Service to those areas of high Aboriginal cultural significance. That would be employment apartheid.

[*Interruption*]

Mr SPEAKER: Order! There is far too much audible conversation in the Chamber. This has been the case all through question time. Members wishing to converse shall do so outside the Chamber.

Mr MOORE: At present the National Parks and Wildlife Service employs 27 Aborigines, in designated Aboriginal positions as well as within the normal career structure of the National Parks and Wildlife Service. It was recently my very great

pleasure to work with and meet the Aboriginal employment network within the National Parks and Wildlife Service to finalise and launch an Aboriginal employment and training strategy for the period 1991 to 1996. The aim is that over that period Aboriginal employment within the service will be expanded from 27 to 65 persons and important opportunities for on-the-job vocational training, including tertiary training for Aboriginal rangers through the Aboriginal ranger entry scheme, will be provided. I table a number of copies of the plan for the information of honourable members.

HOSPITAL PROPERTY SALES

Dr REFSHAUGE: My question is directed to the Minister for Health Services Management. Did your predecessor announce in 1989 a five-year program to sell 31 hospital properties worth $500 million? Are you aware of criticisms by the Property Services Group that only five sites have been sold? Do you agree with the Property Services Group's criticisms of your predecessor as health Minister that the program was totally unrealistic? What are you doing to salvage this failure?

[*Interruption*]

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

Mr PHILLIPS: The Opposition wants to have an each way bet on a number of issues. The Opposition continually attacks the Government for alleged fire sales of property or deals under the asset sales program. New South Wales Labor members are the only opponents of the asset sales program which is occurring throughout Australia with various Labor parties and the Federal Government. They are out of step. Now the Opposition turns around and asks, "Gee, why have you not done it?" I do not understand that. The reason the properties have not been sold is quite simple. There are about $500 million worth of health properties out there which I wish we could dispose of so that the income could be put towards accelerating the building program that we started in 1988 and 1989 under the Minister that the honourable member is seeking to criticise. We will stick to our commendable program. We will not have a fire sale of the properties. We will continue to find ways of properly disposing of the properties over time and finding other uses for them to raise income to progress the building program within health. We must remember why we have to sell the properties: it is because of the wonderful recession that the Opposition's colleagues in Canberra felt New South Wales and Australia needed, the worst in 60 years. That is why we cannot dispose of the properties and that is why I cannot get an additional $500 million to put towards the health system. I look forward to the next dorothy dix question.

TELECOMMUNICATIONS CARRIER LICENCE

Mr SMITH: What action is the Minister for State Development and Minister for Tourism taking to ensure that the successful bidder for the second telecommunications carrier licence locates in New South Wales?

Mr YABSLEY: I thank the honourable member for Bega for his interest in one of the most important projects to be determined in Australia for some years. This Government is committed to increasing competitiveness in the telecommunications sector. Modern, efficient telecommunications infrastructure is critical to the performance of business and the economy. The House will be aware that the Federal Government has called for tenders for a second telecommunications carrier to compete with Telecom-OTC. The two bidders for the second carrier licence consist of Kalori Communications,
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comprised principally of the Hong Kong-based Hutchison Telecoms and a number of other overseas and Australian partners which will move to 51 per cent Australian ownership within five years, and Optus Communications, comprised of Bell South, Cable and Wireless and a number of Australian equity partners which provide 51 per cent of Australian ownership. Both bidders submitted their detailed proposals to the Federal Government on 8th November and selection of the successful bidder is expected within a month.

The second carrier is scheduled to commence operations from 1st January, 1992. On any commercial basis, New South Wales is without peer in Australia as the location for the second carrier. It has the largest market and the most users of telecommunications services in the financial, business services and tourism and transport industries. These users are "smart customers" whose enhanced competitiveness will benefit the whole economy. New South

Wales is the preferred headquarters for international and Australian business. Particularly now that the go ahead for the third runway has been given, there is an overwhelming case for the second carrier to choose Sydney as its location for substantive business operations. The facts speak for themselves. New South Wales accounts for 37 per cent of the $11 billion telecommunications market. New South Wales generates $1.1 billion more telecommunications revenue per annum than any other State and New South Wales has 37 per cent of local and subscriber trunk dialling markets, 40 per cent of international traffic and 66 per cent of corporate international revenues generated from its corporate users.

Honourable members will notice that I mentioned substantive business operations, which include the office of the chief executive officer, international and national corporate division, marketing division and engineering division and associated research and development and training and systems support divisions. This is a major national project and I expect some activities will be located across Australia. Importantly, this Government's aim is to capture the heart of this major new business and maximise the activities which respond to the needs of business and the community. Location in New South Wales of these activities will be of major economic and technological importance to this State and to the Government's goal of ensuring that Sydney becomes the telecommunications hub of the Asia-Pacific region. This outcome would be good for Australia as well as New South Wales.

The second carrier will directly employ up to 5,000 people and have an expenditure of up to $4 billion in the first five years in Australia. Work done for the Department of State Development by Price Waterhouse estimates that up to an additional 9,500 jobs and an additional $3.5 billion in economic activity will be created through the multiplier effect in this State should the second carrier choose New South Wales. The New South Wales Government has been targeting telecommunications as a major development sector for the past three years: first, with the telecommunications industry task force; and, since the announcement of the second carrier project, with the establishment of the second carrier task force chaired by the co-ordinator general. The Government has been working closely with both consortia, providing them with comprehensive material on the strengths of New South Wales as the commercial choice for location of the telecommunications operation. All members of this House will shortly receive an outline of this material. We have offered to assist the second carrier to locate in New South Wales by providing co-ordination services through government and supporting key activities in skills training, research and development and industry development.

As a separate issue, this Government has taken a major initiative in calling for tenders for the supply of telecommunications services to departments and authorities. This contract, which is under the control of my colleague the Chief Secretary and Minister for Administrative Services is a major factor in shaping the telecommunications industry in Australia. The bidders include the second carrier tenderers and also British Telecom and Bell Canada. Tenders for that network close at the end of this year and will be decided in the first quarter of 1992. Competition in telecommunications will benefit all and will be reflected in a better and greater range of service and delivery at lower prices. In marked contrast to the Opposition's unsubstantiated and ridiculous claims about Badgery's Creek, this Government is dedicated to attracting real and substantial growth and jobs to New South Wales, because that is the way ahead.

ABORIGINAL LAND CLAIMS

Mr MARKHAM: My question is directed to the Minister for Conservation and Land Management. Has he received a request from the Minister for Local Government and Minister for Cooperatives to restrict Aboriginal land rights claims by amending the Aboriginal Land

Rights Act? Is the request designed to speed up the Government's asset sales program? Will the Minister rule out any such changes to the Act?

Mr WEST: I may have received those representations but I am not aware of the detail. I will report to the House as soon as I have that information.

COMMONWEALTH HEALTH FUNDING

Ms MACHIN: I address my question without notice to the Minister for Health Services Management. Has the Commonwealth contribution to health funding in New South Wales been declining steadily since 1985? In view of the Prime Minister's abandonment of any commitment to a fairer share of income for the States, what are the implications for health care in New South Wales?

Mr PHILLIPS: I thank the honourable member for her question which really gets to the heart of two problems. The first is the problem of health funding in Australia, and therefore New South Wales, and the second is the question of greater co-operation between the Federal Government and the State Government, which, due to the internal wranglings recently of the Federal Labor Government, is becoming tattered at the edges. In answer to the first part of the question, clearly Federal funding to New South Wales has been reducing since 1985. Had the Commonwealth Government maintained its contribution to the New South Wales health system in percentage terms since 1985, this State would have received an additional $1,339 million. That is the level of additional health funding New South Wales would have received had the funding been maintained at the same level. As a result of the budgetary cuts my department is out of pocket $250 million. I am not asking for an increase; I merely want the same level of funding that New South Wales received in 1985. This represents a decrease in Federal funding of 6 per cent. In 1985 the Federal funding proportion was 40 per cent. This year it is 34 per cent, a 6 per cent drop. However, total health care funding in New South Wales has not dropped because the Premier, this Government and successive Ministers have shown a commitment to health care in New South Wales by topping up the health budget. In spite of the worst recession experienced in 60 years, the health budget has not been reduced this year. New South Wales has one of the most efficient health services in the country.

[*Interruption*]

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Mr PHILLIPS: Opposition members laugh but they will stop laughing after I read them portion of a letter that I received which stated:

> Your State is clearly in the forefront of reforms to health services management in Australia. The area management initiatives have undoubtedly improved the service and responsiveness of the New South Wales public hospital system.

[*Interruption*]

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

Mr PHILLIPS: That letter was from the Federal Minister for Community Services and Health, Brian Howe.

[*Interruption*]

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

[*Interruption*]

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

Mr PHILLIPS: If the Federal Government considers that the New South Wales health system is efficient why is it not giving New South Wales its fair share of health care funding?

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Blacktown to order for the second time. I call the Leader of the Opposition to order for the second time.

SOUTH COAST STORM DAMAGE RELIEF

Mr HATTON: My question is directed to the Premier. After considering my report on the severe wind damage to the villages of Manyana, Cunjurong Point and Lake Conjola, where more than 100 homes were damaged, two caravan annexes destroyed and six houses completely demolished, would he inform the House of the assistance available to those residents?

Mr GREINER: I thank the honourable member for South Coast for his question. The concern he had was shared by many members, in particular the Minister for Police and Emergency Services, who tried to wake me at 11.30 at night but succeeded in wakening me at 6 a.m. the following day to tell me about the incident. It was indeed a very severe wind storm in which about 100 houses received minor damage, six houses were entirely destroyed together with a whole range of devastation. Fortunately no one was injured, so far as I am advised, for which we should be grateful. We should also be grateful for the fact that by the following morning, 110 State Emergency Service volunteers from as far afield as the Bega Valley, Eurobodalla, Sutherland, Bankstown, Fairfield, Sydney, Rockdale, Waverley, Botany and Wollondilly assisted the 30 or so local people from the Shoalhaven Bushfire volunteer service. There was a great deal of prompt voluntary help by all sorts of people, not just local residents.

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A special hotline has been established at the Shoalhaven SES headquarters for people inquiring about property damage and any assistance that they might require. My understanding is that Illawarra Electricity restored all power supplies to the area a couple of days ago. There is available from the disaster welfare section of the Department of Community Services a range of support. Immediate support was given through organisations such as St Vincent de Paul, the Salvation Army, the Red Cross and other local groups, but there continues to be available for people who may have continuing problems or who may discover problems when they eventually see their properties, support from the disaster welfare section of the Department of Community Services. Emergency financial support is available. Obviously food, clothing and shelter assistance is available where required, though I understand that as of yesterday there were no outstanding requests for help of that sort from the residents.

I assure the honourable member that given the nature of the area and the fact that many absentee landlords are involved, should other cases of genuine hardship appear where further assistance might be required, the Department of Community Services will be pleased to assess individual cases. I am advised that insurance cover in most instances is adequate. Where that is not the case, what I have just said applies. I thank all the volunteers who assisted in meeting the crisis. There is no doubt that New South Wales has experienced more than its share of natural disasters in recent years. Emergency services generally deserve a great vote of gratitude from the people of New South Wales for the way in which they respond to incidents similar to that which occurred in the electorate of the honourable member. I am advised further that as of yesterday no additional people will be seeking assistance. If further

assistance is required by anyone, the Department of Community Services will be only too pleased to help.

HOMEFUND LOAN APPLICATIONS

Mrs GRUSOVIN: I direct a question without notice to the Attorney General, Minister for Consumer Affairs and Minister for Arts. When was the Minister's department first aware of allegations of the falsification of HomeFund loan applications by Mendoza Real Estate Pty Limited, Ken Long and Company, solicitors, and Bardella Management Pty Limited during 1989 and 1990? Have these serious allegations been thoroughly investigated by police? What charges will be laid, and when?

Mr COLLINS: I am pleased to answer this question relating to Mendoza Real Estate Pty Limited. I am happy to provide the House with particulars that have been in my file for some time. Indeed I am aware of the issue that has affected a small section of the Spanish-speaking community of Sydney's west. The matter concerns a block of residential units constructed by Meriton Properties at Equity Place, Canley Vale. Of the 104 units, 58 were sold to South American immigrants with little understanding of English. All the affected consumers purchased home units through Mendoza Real Estate Pty Limited of Fairfield. They were offered the services of a licensed finance broker, Bardella Management Pty Limited and of a solicitor Ken Long. Long also acted for Mendoza Real Estate and the vendor of the units, Meriton Properties. All the consumers were encouraged by Mendoza Real Estate to apply for low start finance from the City Central Co-operative Housing Society. In most cases loans constituting the full purchase price of the units were approved. Curiously, the honourable member for Drummoyne is a director of City Central Co-operative Housing Society.

[*Interruption*]

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

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Mr COLLINS: He was appointed a director of that society in July 1988. In normal circumstances directors formally review and approve loan applications. It is odd that on several occasions recently the honourable member for Drummoyne has taken the high moral ground and called on this Government to provide a moratorium for people facing difficulties in meeting payments for mortgages or other loans. At the same time, however, the City Central Co-operative Housing Society, of which he is a director, has taken quite despicable action. There is substantial evidence that the loan approvals were based on statements of income that had been fabricated and falsified at the instigation of Mendoza Real Estate. As a final touch many of the consumers were also offered loans of up to $24,000 by Custom Credit Corporation to top up their home loans. Those loans placed further burdens on the consumers, most of whom had little command of the English language. The Custom Credit loans were also arranged by Mendoza Real Estate.

The manner in which the loans were approved resulted in a situation that some consumers were never in a position to repay the loan. At least six families have been forced to sell their units for a price below that which they paid two years ago. They are left with a substantial debt to the co-operative and or Custom Credit. Additionally, a further 23 families are in arrears and could face eviction. The Commissioner for Consumer Affairs has been aware of this matter for a number of months. He has established a special unit to investigate the allegations. The Department of Consumer Affairs is taking every step possible to protect the interests of these unfortunate victims of a scheme of deception aimed at securing loans that they could never afford to repay. My colleague the Minister for Housing shares my concern about this matter. He has asked the Real Estate Services Council to review urgently whether Mendoza Real Estate should continue to hold a real estate licence.

Mrs Grusovin: A year later?

Mr COLLINS: The honourable member has asked me a question and I am giving her a complete answer. I thank her for having asked me the question. The Department of Housing has acted to ensure that adequate checks are being carried out with regard to the applications under the low start loan scheme. In recent days further information has come to hand about the sale by the Mendoza organisation of 30 units at Mount Druitt. The only variation in this sale is the name of the housing co-operative. The Dunheved Housing Co-operative Society is involved in that sale, which is now the subject of an investigation. It has been claimed that Mendoza himself has approached witnesses recently with a warning not to co-operate in the investigation. If that is the case, police will be notified and appropriate court orders sought. I thank the honourable member for asking a question that I was expecting to be asked by the honourable member for Drummoyne, who seems to have more than a passing knowledge of what has happened in this unfortunate case. This is a complete scam. I was waiting and hoping for the honourable member for Drummoyne to ask the question, but I thank the honourable member for Heffron for asking it.

HOMEFUND LOAN APPLICATIONS

Mrs GRUSOVIN: I ask a supplementary question of the Attorney General. In view of the Attorney's advice that because of concerns about the matter police - albeit at this late stage - have been asked to investigate, will he inform the House why this real estate agent is still freely practising and has suffered no suspension of its licence?

Mr COLLINS: A former Minister for Consumer Affairs has asked me a question.

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Mrs Grusovin: I know.

Mr COLLINS: She says that she knows. If that is so, she should also know who the appropriate Minister is to answer such a question. She would know better than anyone that her question should have been addressed to the Minister for Housing.

[*Interruption*]

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

JUSTICE OF THE PEACE APPOINTMENT CRITERIA

Mr PETCH: I direct a question without notice to the Minister for Justice. Is the Minister aware that under existing guidelines a vast number of people are eligible to become Justices of the Peace? If so, what action is the Government taking to ensure that tighter controls are kept on such appointments?

Mr GRIFFITHS: This matter is of vital importance to all members of this Parliament. The office of Justice of the Peace in this State has a long and, for the most part, proud history. Justices of the Peace have played an essential role in the administration of justice since the earliest days of the colony. Traditionally they have performed valuable service in local communities by witnessing affidavits, statutory declarations and other official documents. It goes without saying that the commission of Justice of the Peace carries with it a real degree of personal and professional prestige. Justices of the Peace have an obligation to provide their services freely to the local community. Sadly that obligation has not always been met. As a consequence the status of this important public office has been seriously devalued during the past decade.

[*Interruption*]

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

Mr GRIFFITHS: A situation has arisen whereby people who lack the necessary maturity to discharge their duties without affection or ill will, as their oath requires, are being appointed. Others who in no way can offer a service are being appointed also. The emphasis has shifted from community service to personal prestige. With about 7,000 appointments each year, the number of justices of the peace is now estimated at 350,000 - that is one for every 16 men, women and children in this State. It is little wonder that the office is not what it used to be. As a local member I was concerned at what I saw to be a lack of criteria to vet applicants. Sometimes people were endorsed who may not have been completely suitable. I know that my concerns have been shared by members on both sides of the House. I thank the honourable member for Charlestown for his positive contribution.

[*Interruption*]

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

Mr GRIFFITHS: In particular I thank the honourable member for Gosford, the honourable member for Monaro and the honourable member for Gladesville.

[*Interruption*]

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

Mr GRIFFITHS: Those honourable members have forcefully made known to me their views. I thank them for their positive and valuable contributions. I would encourage every member where possible - and it is not always possible - to interview and vet all applicants. That may not always have occurred in the past. On one notable occasion an applicant with a very suspect character reference was endorsed. The reference suggested that the applicant was of questionable sexual habits and of even more questionable golfing ability, yet he became a justice of the peace. He was recommended by a member of this House. Successive governments have failed to do anything about the worsening situation. This administration has now taken action. I intend, therefore, having provided an opportunity for consultation with every member of the House, to approve new and far more stringent criteria for appointment as a Justice of the Peace with effect from Monday, 18th November. The major elements of the new requirements are as follows: applicants must be 21 years of age; they must demonstrate a real community or employment need; that must be supported by a reference from the employer or chief executive of the charitable organisation; and for the first time the people who may supply references have been spelt out. Honourable members have received a full briefing on the new provisions. I urge all to pay close attention to the guidelines to make sure that only suitable applicants are submitted for consideration.

MUSEUM OF CONTEMPORARY ARTS BUILDING REFURBISHMENT

Mr SPEAKER: Order! I ask those people standing in the gallery to sit down and be quiet, otherwise I will order that the gallery be cleared.

[*Interruption from gallery*]

Mr SPEAKER: Order! The attendant will clear the top gallery.

Mr PEACOCKE: The Crown was required to meet an additional cost of $2.5 million for removal of asbestos. The fit out was standard and was within the Government guidelines for refurbishment. Refurbishment of the Museum of Arts was funded by the museum with some input in funding from the Government.

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BUSINESS OF THE HOUSE

Printing of Reports: Suspension of Standing Orders

Motion, by leave, by Mr Moore agreed to:

> That so much of the sessional order pertaining to the printing of papers be suspended as would preclude the Leader of the House from giving a notice of motion for the printing of papers and subsequently moving that motion at the sitting of this House on Friday, 15th November, 1991.

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EAST TIMOR HUMAN RIGHTS

Matter of Public Importance

Mr TINK (Eastwood) [3.7]: As a matter of public importance, I move:

> That this House condemns the killing of innocent civilians in East Timor by Indonesian Army Forces and requests the Federal Government to seek a full investigation of this violation of human rights by the United Nations.

It would concern all members that Mr Kamal Bamadhaj, who was a student at the University of New South Wales, is reported to have been killed in the past couple of days in East Timor. What differentiates the current atrocity from the one that occurred in East Timor in 1975 in Balibo, when five Australian journalists were killed, is that on this occasion two American journalists survived to tell the tale. What a shocking tale they have to tell. One of the journalists, Amy Goodman, said:

> Soldiers were battering us with rifle butts, punching us and kicking us. They had guns at our heads and were screaming at us in Indonesian. They were arguing as to whether or not to kill us or let us go. It was quite an argument. They obviously did not want any witnesses to tell the world what had happened.

I suppose we can at least be thankful that on this occasion, as distinct from what happened in 1975, they were allowed to live to tell the tale. In considering what they had to say and what the Indonesian Government has had to say about this matter thus far, one gets to the heart of the matter before the House.

The Indonesian Government is apparently claiming that the incident started when the army discovered that more than 100 undercover separatists carrying Portuguese-made G-3 rifles and grenades went to Dili to join the mourners. That official explanation seems to fly completely in the face of the evidence that has been presented by Amy Goodman and her companion on that occasion, another American journalist, Allan Nairn. It appears, according to

reports from Goodman, that the soldiers were not provoked; they just opened fire on defenceless people, old women and children, who were supposed to defend themselves with banners and the commemorative crosses they were carrying. Mr Nairn's summary of similar events is that whatever provoked the soldiers could have been in no way commensurate with the force that was used. Mr Nairn said that from what he saw 100 troops fired indiscriminately into a crowd of unarmed Timorese, that the troops were well disciplined and they appeared to have the matter well planned. He said: "They walked down in a very orderly fashion. Troop movements were co-ordinated in two directions. They turned the corner. They fired. It all went like clockwork". Those reporters at the time of the attack were positioning themselves between the troops and the people who were marching in the funeral parade and were about to confront them. They were clearly in an excellent position to give eye witness evidence of what happened. It is a matter of great concern that the Indonesian Government version of events is at such great variance with the version of two credible eye witnesses, who were western reporters. The other matter that is relevant in considering the motion is that General Try Sutrisno, the Indonesian general who is acting as spokesman for the Indonesian Government in this matter, takes issue with the reported death toll of 100 people plus. General Try is saying that the death toll is closer to 50, perhaps even as low as 20. If one for a moment discounts completely - and I do not - the reports of the journalists on the scene, it is interesting to note that the Indonesian Legal Aid Commission, which I assume has some official status in the scheme of things in Indonesia, is reporting that the number killed in this incident is 115. There is a

substantial difference of opinion on key matters between the Indonesian Government, which suggests there was substantial provocation - one infers sufficient provocation to warrant civilians being fired upon with some sort of shoot-to-kill order - and the two American journalists, who say there was no such thing and it was a well co-ordinated, premeditated attack. However, an Indonesian general is specifically controverted by an official Indonesian agency, namely, the Indonesian Legal Aid Commission, on something as fundamental as the number of people killed by a factor of two. As opposed to the Balibo situation in 1975 fundamental differences of opinion and fact in the evidence are emerging in this case from extremely credible sources.

The Australian Ambassador, Mr Flood, and a number of other commentators are saying that they find it difficult to believe that this incident could have been co-ordinated by the Indonesian Government. I should like to share their view, but I should like to be confident in being able to do so. The prevailing view among the experts appears to be that it is a matter that involves some problems with local troops on the scene, possibly up to the rank of general, but does not involve people in the wider context in the Indonesian Government. I sincerely hope that is so because it goes without saying that Australia's relationship with Indonesia - and no honourable member would be under any misapprehension about the importance of that relationship for a number of reasons - must be founded on a proper basis. For our sake, for the Indonesians' sake and for the sake of the world community, we must get to the bottom of what happened in a credible way. That really gets to the nub of the motion before the House. The Federal Government says, of course, that the Indonesian Government should, without fail, have a full and credible inquiry. I am saying by this motion that for there to be a full and credible inquiry the United Nations should supervise it. It is clear that in the past 12 months the United Nations has been taking a much more active role on a number of matters, starting with the Gulf crisis. It is, if I may say so, a much more credible organisation than it has been for some time. There is a real appreciation in the world community that the United Nations had an important role to play in the Gulf conflict, and, more recently, it has had an important role to play in the Cambodian peace settlement, which I have to acknowledge has not a little to do with the efforts of Senator Evans.

It goes without saying that Senator Evans is deeply involved in trying to find an outcome for the current matter. I suggest that he draw on that greater involvement of the United Nations in other important world events to have it make a fair dinkum, objective

appraisal of what went wrong in this tragedy. The involvement of the United Nations has been called for with some force by the President of Portugal, who has a critical interest in the matter because of Portugal's long involvement over at least 300 years in the affairs and government of East Timor. As one who has the type of attitude to East Timor that Australians and the Australian Government might have to certain events that take place from time to time in New Guinea, I think it is important that his call be heeded. It is important, as much for the Indonesians themselves as it is for the world community and for Australia, that there be a fair dinkum, independent inquiry into the incident. For any inquiry to be seen as independent and in the interests of Indonesia as a whole, it must have United Nations oversight. The key issues really are getting to the bottom of what happened, getting away from the absolutely insurmountable gulf in the evidence at this stage between the official Indonesian version and the version of the credible eye witnesses, and getting down to looking at what happened.

If the incident had a local basis, as I sincerely hope it did, the inquiry must discover what went wrong in the command structure with a view to ensuring that a similar incident does not occur in the future. That second and very important limb to what I would think would be the minimum aim of any comprehensive inquiry that sought

to get to the bottom of that issue is critical, not only to the world community and to Australians at large but also to the Indonesian Government itself. I move this motion as a matter of grave concern. No one can be but appalled by what has happened. This has been a problem at the local rather than national level, and I move the motion in the hope that it will be taken up on the basis that what it proposes is the best way of dealing with the matter and of getting to the issues in the interest not only of the rest of the world community but also of the Indonesian Government. I commend the motion to the House.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [3.20]: I am pleased to support the motion moved by the honourable member for Eastwood. I am sure that all members of this House would be very supportive of this motion and of the honourable member's comments on it, in that we hope that this incident arose out of a local issue and is not one that in any sense is being directed by the Indonesian Government. There is no doubt that all politicians throughout Australia have condemned this massacre in Dili, as did the Federal Government recently. The Prime Minister, in answer to a question asked by the Leader of the Opposition - a very decent question which quite rightly required information - said that he was deeply disturbed by reports of this tragedy in Dili. He went on to say:

> We deplore the loss of innocent life and, while many details remain unclear, it is evident that an appalling tragedy has occurred by which many people have been killed.

It is difficult to be sure how many people are directly involved, but the earlier reports were of 100 East Timorese being killed at the hands of the Indonesian military. This incident is a great tragedy. Whether the number is 100, 50, 20 or one, it is still a great tragedy. The people of Australia owe a great debt to the East Timorese people for the courageous support they gave Australian soldiers during the second world war. Therefore, it is appropriate that this House deplores the events that occurred in Dili yesterday. East Timor was invaded by Indonesian troops in 1975. Since the invasion Indonesia has ruled East Timor with an iron fist. It is estimated that about 100,000 East Timorese have died since that occupation - approximately one-third of the entire population. This latest massacre is one in a long line of unabated human rights abuses perpetrated on the East Timorese. The East Timorese have suffered famines, forced relocations and the loss of their land and traditional ways of life.

Yesterday's events are brought home to us even more clearly by the death of an Australian resident, Kamal Amed Bamadhaj, who was reportedly shot several times in the chest and left for dead in a street during the shootings. He later died in a military hospital. Kamal was a resident within my electorate. He lived at Marrickville in a student household. He studied at the University of New South Wales and was a student activist involved in groups concerned

with human rights and Indonesian issues. Indeed, Kamal was one of the founding members of the Australian-Indonesian solidarity movement. He went to East Timor to continue the peaceful work to which he had committed himself, that is, achieving self-determination for the East Timorese people. His brutal murder and the murder of all those innocents yesterday are powerful symbols of the fight for self-determination. He had a premonition before he went there that things may not be as safe as he had hoped. In fact, he felt that it was important to put many vital papers that he had kept containing information about East Timor in the hands of a friend so that they would still be available if something happened to him. Unfortunately, his premonition came true.

The history of struggles for self-determination are unfortunately strewn with the bodies of martyred activists, but history shows us that their deaths are often not in vain.

Inevitably, the enduring strength of such movements triumphs over bigger and more powerful adversaries. Just as the people of eastern Europe and southern Africa are throwing off their chains of totalitarianism, so too - inevitably - will the people of East Timor. On behalf of the New South Wales Opposition, and I am sure all members of this House, I wish to convey our deep condolences to the family and friends of Kamal Amed Bamadhaj and those who died so tragically yesterday. We join with the Prime Minister and the honourable member for Eastwood in calling for a thorough investigation of the events and requesting that the perpetrators, no matter who they are, be brought to justice.

Mr COCHRAN (Monaro) [3.25]: I join with the honourable member for Eastwood and the Deputy Leader of the Opposition in condemning the actions of those involved in this tragic, appalling incident in East Timor. The entire House will have been as saddened as I was to learn that such a barbaric act could occur within our own region and be accepted by Indonesians as acceptable behaviour in this day and age when in the rest of the world peace is becoming more of a reality. I am fearful that, unless this action that was taken by the military commander or at the direction of some other higher authority is not brought to the attention of the United Nations and those in some place of authority who can, at an international level, condemn such actions, this will be seen as acceptable behaviour. It is incumbent on the entire world to condemn this mass public execution - an indiscriminate slaughter of innocent citizens, including women and children, who were attending the funeral of a person who had previously been involved in a peaceful demonstration. Such horrifying events could probably be described only by those who witnessed the incident. One would hope that the explanation for the incident is a lack of control by a junior commander in the field, or some such simplistic explanation. However, the history of the region and the Indonesians in this area is not good. As the two honourable members for Eastwood and the Deputy Leader of the Opposition said, since 1975 there has been a history of persecution of the East Timorese. This is inexcusable in our region.

I see this incident as being one of the most serious breaches of human rights in several decades in the South-east Asian region. Though the Prime Minister may have failed to display the necessary courage needed to recognise the independent sovereignty of Croatia, Slovenia and Macedonia, to his credit he came out of his burrow and supported the rights of innocent people in Iraq during the Gulf War. I publicly paid him credit for that. But now is the time for him to show his real colours and publicly condemn the actions of the Indonesians in respect of this incident, as I believe he has done. For him now to call upon the United Nations to conduct a major inquiry and investigation into the entire incident would be an appropriate action - an absolutely necessary action given the circumstances. I was interested to read in one of this morning's newspapers the reaction of the Indonesian ambassador in Canberra, Sabam Saigian. When called into the Department of Foreign Affairs to give an explanation of the incident, he said that it was "very regretful of the victims of both sides, on the people, and also on the security apparatus in Dili". I would go further and say that he should have publicly condemned the action of the commander and whoever ordered that this action should have taken place. It was also interesting to note the comments of the regional army commander at the time, who was quoted as saying:

> The authorities will never be in any doubt about taking tough action against any abuse of our persuasive approach. The only order is to kill or to be killed.

He went on to mention that the crowd was yelling hysterically and pelting shops and the police post. On international standards, that is no excuse for the massive slaughter of
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innocent women and children who merely wanted to exercise their democratic rights in East Timor. I join with the honourable member for Eastwood and the Deputy Leader of the Opposition in calling on the Prime Minister to request the United Nations to conduct a major investigation into the incident.

Madam DEPUTY-SPEAKER: Order! The honourable member's time for speaking has expired.

Mr HARRISON (Kiama) [3.30]: I am pleased to join with the honourable member for Eastwood, the Deputy Leader of the Opposition and the honourable member for Monaro in condemning this senseless and atrocious slaughter of innocent men, women and children who were doing nothing more than attending the funeral of one of their comrades. I do not suppose honourable members should be surprised by the actions of the Indonesian army. It has been carrying out a war of genocide against the people of East Timor since that country was annexed in October of 1975. It is a matter of regret that Australia recognised Indonesia as having control of East Timor, which must surely have the right to be regarded as a sovereign state. I should like to recount some of the events that have occurred since Indonesia annexed East Timor in 1975. The noted columnist David Jenkins has claimed that approximately 100,000 persons have died in East Timor since that country was invaded. Indonesia's involvement in this region has been a total disgrace. The council of the generals occurred in 1966 and the Indonesian regime led by Soeharto and Nasution murdered about 650,000 of their own population. That was the second greatest genocidal act of the twentieth century. It is second only to the purge of the jews by the Nazi monster, Adolf Hitler.

At the conclusion of that takeover by the council of generals, some very fat and dangerous looking persons controlled Indonesia. They were expansionist and dangerous. Though I agree completely with the sentiments expressed in the motion moved by the honourable member for Eastwood, the motion could have gone further and called on the Federal Government to withhold all military and financial aid to Indonesia until such time as a credible investigation of the events, during which between 50 and 115 people were slaughtered, has taken place and the persons responsible for that callous and disgusting act have been adequately dealt with. Earlier I had the opportunity to watch television for a short time and I heard the Prime Minister, in answer to a question asked of him, announce to the Federal Parliament that he totally condemned the actions of the Indonesian military in East Timor, that he had advised Indonesian authorities that he required some sort of credible investigation, to occur and that the persons responsible should be properly dealt with. I certainly support the sentiments expressed by the Prime Minister in Federal Parliament today. I commend the honourable member for Eastwood, the honourable member for Monaro and my colleague the Deputy Leader of the Opposition for their contributions to the debate. So long as the rest of the world turns a blind eye to the happenings in East Timor, the Indonesian military will obviously continue to exterminate the citizens of East Timor and do whatever it thinks necessary to annex the country. There is an old saying that idealism increases in direct proportion to one's distance from the problem.

Madam DEPUTY-SPEAKER: Order! The honourable member's time for speaking has expired.

Mr KERR (Cronulla) [3.35]: I support the motion moved by the honourable member for Eastwood. As the honourable member for Kiama said, it is important that the events of which

we have heard are not ignored by the world community. As the honourable member for Eastwood said when he moved the motion, the end of the Cold
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War has given the United Nations new opportunities. It has achieved a degree of credibility it did not have previously. Russia no longer exercises its veto. A concerted effort was made to meet the aggression of Iraq in the Gulf War. The world community is entitled to demand an impartial investigation conducted by the United Nations, a world body. The history of East Timor since the invasion has been lamentable. As the honourable member for Eastwood has rightly said, Australian relations with Indonesia are extremely important. It is important also purely from Indonesia's point of view that it be seen to act quickly and properly to ensure that justice is done. The world community will no longer tolerate the wanton disregard for human life that seems to have occurred in this instance. It is particularly appropriate that the honourable member for Eastwood has moved this motion. It demonstrates that this Parliament is united in calling upon the Australian Government to take action which should properly involve an impartial investigation by the United Nations and a judgment being made. If people have committed crimes, they must be identified and dealt with. I have no hesitation in supporting the motion before the House. I commend the honourable member for Eastwood for taking this initiative.

Mr DOYLE (Peats) [3.38]: I also support the motion moved by the honourable member for Eastwood and the members who have so far spoken in support of it. It is fair to say that at present we are unsure of the magnitude of this tragedy. However, at the very least we know that 50 people have died and about 20 have been injured. That has been conceded by General Sutrisno, the chief of Indonesia's armed forces. I was pleased by the quick response of Australia's Minister for Foreign Affairs and Trade, Senator Evans, and the Prime Minister in contacting Senator Evans' Indonesian counterpart, Ali Alatas, to express Australia's concern. Though reference has already been made to that matter, in my view that is the appropriate response at this stage, as the details are sketchy and it will be some time before we have full information about this massacre. In this morning's media some commentators have said that it would be futile for Australia to voice its concern on this issue. The rationale is that Indonesia will not take much notice of us and we should not delude ourselves that Australia's protests will do any good. I do not think that destructive sort of attitude should silence us for a moment and prevent us from expressing our concern and repugnance in the strongest possible terms about what has happened in Dili. It is also of some concern that in this morning's *Sydney Morning Herald* David Jenkins in his commentary said:

> When it comes to human rights abuses, Asian nations prefer to see no evil, hear no evil and speak no evil.
>
> This policy has three advantages. It's in keeping with the Asian way of doing things. It saves giving offence and it offers the comforting knowledge that if you don't criticise the other fellow's human rights abuses, he won't criticise yours.

In other words, he is suggesting that there is some sort of culture, particularly within the Association of South East Asian Nations, to turn a blind eye when such massacres and abuses occur. I do not agree with that. Surely we have reached the stage globally when no matter when or where human rights abuses occur they are recognised as gross human rights abuses, and massacres are recognised as massacres wherever they occur and under whatever circumstances. The response to those events should not be tainted or influenced by the location in which they take place. There can be no excuse for what happened in Dili. The various Indonesian versions of events are in total contrast with that offered by the people present, the American journalists and so on. There have been numerous excuses. Of course, the Fretilin movement has been blamed. In one version it was claimed that about a hundred separatists were carrying Portugese made G-3 rifles. None of the Indonesian claims have any credibility.

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It should be pointed out that the funeral procession followed the deaths of two Timorese who were slaughtered by Indonesian soldiers while taking refuge in a church. The most likely scenario is that the Indonesian soldiers simply opened fire. At this early stage we have heard many excuses from the Indonesians for this: they were inexperienced soldiers; it was a demonstration of strength; it was in some way linked to the visit by a Portugese delegation and so on. None of these excuses is acceptable. Even the worst possible scenario of the Indonesians, that the East Timorese citizens were carrying rifles, does not in any way excuse the slaughter by the Indonesian soldiers. I do not think anybody would disagree with that. Having visited East Timor and the neighbouring regions of Indonesia back in the 1970s, my sympathy can only be with the East Timorese. The period under the Suharto regime with which the East Timorese were afflicted has been disgraceful. Indonesian troops crossed from West Timor. Five Australian reporters were killed in the incident at Balibo in 1975. Australia must support the strongest United Nations action. Jakarta must act to begin to re-establish whatever credibility it should have in these issues by instituting its own investigation so that there will never be a repetition of the disgraceful massacre that has recently occurred in Dili.

Mr TINK (Eastwood) [3.43], in reply: I thank the Deputy Leader of the Opposition and the honourable members for Monaro, Kiama, Cronulla and Peats for their contributions. The honourable member for Ermington and the honourable member for Gosford said that they would have liked to speak on the matter had they been able to under the rules governing this type of debate. The Hon. R. S. L. Jones from another place also expressed considerable interest in and concern about the issues that we have been discussing. It is apparent that the concerns I have expressed are shared by all members of this House. For everybody's benefit the matter must be cleared up under the auspices of the United Nations. Nothing short of a credible independent oversight is required. The events of the last year show that the United Nations has impeccable credentials in the area now. Northing short of that type of oversight will resolve the difference in the stories which are emerging. Such oversight is required - as the honourable member for Peats stated - to ensure that this type of atrocity does not happen again. Again I thank all participants in the debate and commend the motion to the House.

Motion agreed to.

GOVERNMENT INSURANCE OFFICE (PRIVATISATION) BILL

In Committee

Consideration resumed from an earlier hour.

Schedule 1

Mr SHEDDEN (Bankstown) [3.46]: We should reflect on why the Premier has sought to privatise the Government Insurance Office. There is great concern in the community about the decision in view of the fact that less than two years ago he gave the assurance that the GIO would not be privatised. One of the deficiencies of the bill concerns redundancy rights for existing employees, who will no longer be covered by public service redundancy provisions, industrial agreements and conditions. The loyal employees are concerned about their future in the presently unstable employment market. This Parliament must guarantee that existing employees of the GIO receive redundancy entitlements equivalent to the minimum package that other public sector employees receive. Until the GIO renegotiates the appropriate agreements with the unions there will be uncertainty.

Mrs LO PO' (Penrith) [3.50]: I support the Opposition's amendment pertaining to redundancy. The well accepted definition of redundancy that I use is loss of employment "not on account of any personal act or default of the employee dismissed or any consideration

peculiar to the employee but because the employer no longer wishes the job the employee has been doing to be done by anyone". The Opposition cannot understand or believe that a triple-A rating organisation, which is obviously not impoverished, is not offering redundancy packages. I ask the Minister for Sport, Recreation and Racing and Minister Assisting the Premier to address this issue. New South Wales and South Australia have led Australia in their redundancy package schemes yet this Government is making a momentous decision to preclude redundancy packages for GIO employees. Redundancy arrangements follow a set of established principles. It is only fair and reasonable that former employees of an organisation should have the security that a redundancy package brings. Australian workers have gone a long way in a short time from being grossly unprotected against the consequences of being dismissed for economic reasons, to a position where at least those with a degree of long service may expect a substantial level of severance benefit from employers. I submit that if the Government is to be retrogressive about redundancy packages, it is in keeping with what the Government has done already in retrogressing industrial relations in this State. I urge the Minister to take seriously the notion that redundancy packages should be part and parcel of this transition and that GIO employees have every expectancy that a redundancy package should be offered to them.

Mr NEWMAN (Cabramatta) [3.55]: I support the amendment moved by the honourable member for Drummoyne, which seeks to provide redundancy payments to GIO employees. Some time ago the Premier stated that there was significant scope for the introduction of profit-sharing schemes in State public service sectors, business undertakings and government departments. He gave life to that statement in an industrial relations paper issued in 1988. Last year the GIO made a profit of $100 million. The financial advantage to the Government through the GIO float will be about twice that amount. The Government stands to realise something like $1.2 billion from the sale of the GIO. The amendment proposed by the Opposition merely seeks to provide to GIO employees public service redundancy payments which equates to something like two weeks pay for every year worked up to a maximum of 26 weeks - a paltry sum when compared with arrangements in the private sector. In 1984 many redundancy agreements were made in this State. The trade union movement was actively protecting its workers. At that time the average redundancy payment was three to four weeks pay per year of service. The State public service provision is two weeks pay for every year of service. I hope the Minister for Sport, Recreation and Racing and Minister Assisting the Premier will agree to this amendment, because all it seeks to do is to provide the basic public service redundancy payment.

The Employment Protection Act provisions contained in the Industrial Relations Act offer a poorer rate, something like one week's pay for every year of service; and, frankly, that is not a fair deal for anyone. GIO, one of the largest employers in this State, is on the brink of a major transition. The Opposition is concerned to introduce a safeguard for GIO employees. With the present high unemployment rate it is essential that safeguards are contained in legislation. The Government should be able to offer employees redundancy packages from the $1.2 billion that it estimates it will realise from the sale of the GIO. One of the first judicial decisions in respect to redundancy was made by Mr Justice Fisher in the Industrial Commission of New South Wales. In a clear-cut statement he referred to redundancy and the causes of redundancy - technological change and the economic recession. He referred also to company mergers, takeovers and reconstruction. In his decision Mr Justice Fisher said that each type of retrenchment

should be determined on its separate merits and there should not be any single overall prescription or standard. He said that severance payments should be designed to assist retrenched employees to maintain family living standards during the likely period of unemployment and to extend that period during which a search for re-employment can be conducted without serious erosion of family assets and living standards. He then referred to provisions that were later included in the Employment Protection Act.

I commend the honourable member for Drummoyne for proposing this amendment. What objection could the Government have to including an insurance factor in the legislation to provide for interim redundancy arrangements and to ensure that the same severance pay provisions that apply for public servants will apply also to employees of GIO? The Premier said in his Liberal Party industrial relations policy speech that he believed there was scope for the introduction of a profit sharing scheme and that the concept of sharing the benefits of cost savings and revenue increases was highly desirable as a means of changing entirely the culture of the 350 employees. The Minister is in the box seat. He has the perfect opportunity to do what is best for these employees. The legislation will change the nature of the GIO from a public to a private entity. It should provide for profit sharing arrangements and redundancy applications, as this amendment, which I support, proposes.

Mr MILLS (Wallsend) [4.0]: Given the integrity of the Minister for Sport, Recreation and Racing and Minister Assisting the Premier I am saddened that it is necessary for the Opposition to move an amendment to protect the staff of the GIO during the transition period. Since the Greiner Government came to office the Labor Party has been compelled to propose amendments with regard to a range of industrial matters. As the Government proceeds with its agenda, for some reason or another it has a tendency to forget about workers - about redundancy payments, superannuation, compensation-related matters, or employee representation on boards. I hope, however, that the Government will rethink its position, as it has done on a number of occasions in the Legislative Council, when it has been necessary to close loopholes in legislation. The employees of the GIO are subject to the provisions of a Federal award negotiated by the finance sector unions. However, there is no provision for redundancies. I acknowledge that negotiations about redundancy agreements are proceeding. The GIO has informally adopted the industry standard with regard to redundancies: eight weeks, plus three weeks for every year of service, up to a maximum of 75 weeks. The bill and its schedules are silent on this important aspect of the welfare of the staff of the GIO as the organisation heads towards privatisation. In the October update about the privatisation of the GIO that the Minister has circulated to members reference is made to staff benefits. The update states:

> Staff will also benefit. They will have the opportunity to benefit from growth. Growth of the organisation delivers greater career opportunities. Necessary legislation to enable the privatisation to take place will protect the accrued employment benefits of staff as well as the usual continuity of employment.

Unfortunately, nothing is said about redundancy payments during that period. The question and answer paper provided by the Minister is also silent with regard to redundancies. I urge the Government and the Independent members of this House, in the interests of the staff of the GIO, to support this amendment.

Mr THOMPSON (Rockdale) [4.5]: I support the amendment moved by the honourable member for Drummoyne. As recently as last month the employees of the GIO have come under a Federal award negotiated by the finance sector unions.

However, the award does not contain any specific redundancy provisions. The reason is that it is customary for individual recipients to a broad Federal, award to which those unions are a party to negotiate agreements subsidiary to the main award. At the moment a redundancy agreement is being negotiated. For example, Westpac Bank employees, though subject to the provisions of a Federal award, enter into agreements specific to their employment with that organisation. The redundancy provisions for those employees refer to a maximum of 75 weeks. The ANZ Bank and the National Bank also have subsidiary agreements that provide for redundancy arrangements of the order of 75 weeks. I have some experience with the redundancy provisions for employees of the State Bank. They provide for a maximum of 75 weeks. The period of 75 weeks is generally accepted as the standard throughout the finance industry. This morning I confirmed that a maximum of 75 weeks is appropriate with regard to redundancy and accepted in the insurance industry.

The amendment seeks to redress the fact that the bill is silent with regard to the issue of redundancy. It seeks to put in place the minimum standard that is thought appropriate throughout the New South Wales public service, and a standard that has been accepted by the Government in various awards with which the Government is associated. It is appropriate that that standard should be included in this legislation as the bottom line, as a safety net with regard to redundancies. The standard that has applied in more recent times in the GIO is the industry standard of eight weeks, plus three weeks for each year of service up to a maximum of 75 weeks. That standard will continue to apply at least until such time as a redundancy provision has been formally negotiated and agreed to. Employees of the GIO, who are members of the finance sector unions, accept that it is only a matter of time before the 75-week provision will be codified and become a reality. In the meantime, this amendment will provide a safety net. I support the amendment.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.10]: I wish to respond to what has been said by members opposite about the final amendment proposed by the Opposition. The bill already provides for the transfer of all existing rights of employees, in particular the right of continuity of service. If a major redundancy program and package is introduced and negotiated with the unions or directly with the employees, say, five years after conversion, an employee's years of service prior to conversion and an employee's years beyond conversion will be taken into account. Continuity of employment applies not only to having a job immediately after conversion but, also, all the rights that presently attach will be transferred upon conversion. No redundancy package is available within the GIO under present Government ownership. The GIO is not contracting its operations. That is the whole point: the GIO is expanding its operations in New South Wales, interstate and internationally. One of the great strengths of the GIO and a reason for its strong value is its sheer size and presence in the market, its visibility and extraordinarily extensive branch network. About 2,700 GIO employees operate 107 branches throughout New South Wales.

The GIO is a large and expanding organisation, as demonstrated by its turnover and profitability. Consequently no redundancy package has been negotiated. The GIO has never found it necessary to undertake a redundancy program and negotiate a redundancy package. If in the future redundancy is deemed necessary for whatever reason - not in the immediate foreseeable future - surely under prevailing industrial conditions a package could be negotiated in the normal way. If ever that occurred, remote as it may be, it is possible that employees would not thank the Labor Opposition

in this State for enshrining present public service arrangements which may be less than what may be negotiated at that time. That is as speculative as the Opposition's amendment. The Opposition would be well advised not to try to enshrine a piece of an industrial award for future application. The honourable member for Cabramatta gave the clue. Only 30 per cent of the work force of the GIO are members of unions. An agreed transfer of coverage is currently happening between the public service union and the finance sector unions. Negotiations are under the way. The Opposition seeks to enshrine in legislation a complete subversion of the normal industrial relations process. To enshrine legislatively a provision that would bind any forthcoming industrial award would be contrary to the whole spirit of industrial relations negotiations and to the well-being of the employees sought to be covered. Not only will employees have continuity of employment but all other entitlements will be also continued, including entitlements for superannuation, long service leave, annual leave and sick leave.

Working conditions will be continued in terms of rostered days off, examination leave, overtime, allowances generally, employment appeals and hours of work. Conditions applying to full-time and part-time staff, including a pay loading in lieu of leave and public holidays in accordance with the normal industrial awards, will continue. The present remuneration packages of employees will be continued. I wish to refer to a matter mentioned by the honourable member for Cabramatta and repeated by the honourable member for Rockdale.

The honourable member for Cabramatta suggested that present employees of the GIO should be entitled to a redundancy package for the rest of their working career with the GIO irrespective of what might happen. The honourable member suggests giving a free pass of 26 weeks, to the 2,700 present employees, which would take 13 years to achieve. At a going rate of say $20,000 per annum for each employee, that would cost $54 million. Therefore the GIO would enter the float with a discounting of its worth by $54 million. The honourable member for Rockdale suggested hysterically that up to 55 weeks would be a suggested available figure. Under his suggestion employees of GIO would suddenly become entitled to $152 million irrespective of how long they stay with the GIO in the future. That is ludicrous.

That money would be lost on flotation, not lost progressively over a number of years. That payment would be discounted upon float by the market. The present owners of the GIO, the general taxpayers of New South Wales, and the future owners of the GIO, the broad cross section of public shareholders who would participate would be financially disadvantaged by the GIO being devalued and discounted to the tune of either $52 million under option A of the honourable member for Cabramatta or $152 million under option B of the honourable member for Rockdale. Privatisation means the placing of the GIO in the private sector and the removal of all aspects of government restriction or regulation other than those that apply to all companies generally. It is totally inconsistent with the policy of privatisation to impose by legislation special provisions relating to public service redundancy which are to apply after the GIO is privatised. At present the GIO is not tied to public service redundancy and has its own policy. Accordingly it is totally wrong to impose by legislation a different policy on the GIO.

After the sale of the GIO the terms and conditions of the employees are matters for determination by GIO management, shareholders, the board and the staff itself. It is appropriate to legislate in respect of employment entitlements once the company is privatised. It should be noted that there is no reason to believe that there will be changes to the term of employment in the short term, however long that might be. Beyond that period this is very much dependent on developments in the industry and the objectives

and goals of the GIO, which will be determined by the new shareholders and the GIO board. Established rules about redundancy apply to all companies and are enforceable by the courts. Separate legislation covering redundancy is completely inappropriate. I stress that the amendment suggests that the clause is to provide an ongoing provision without sunset for all present employees of the organisation prior to privatisation to have a public sector redundancy package - which they do not have now under GIO Government ownership - for the entire term of their employment from the date of conversion. I stress that would devalue and dirty the float because those direct costs up front will be borne by all taxpayers in New South Wales. It has been suggested by the GIO that it is highly undesirable to have different employment conditions applying to staff employed before and after privatisation. This would cause division amongst staff and raises the question why a special redundancy package is required after privatisation, given that the GIO never had or needed such a package in the past. The essence of the strength of the GIO lies in its extensive branch network and its staff. To contemplate that privatisation will lead to widespread redundancy is wildly illogical.

Mr SCULLY (Smithfield) [4.20]: I am mesmerised by the words of the Minister. He referred to dirtying the float. The Opposition has moved an amendment to the bill to try to protect some workers who will be retrenched as a result of this privatisation bill, but all the Minister can talk about is dirtying the float.

Mr Souris: Who is going to retrench them?

Mr SCULLY: The Minister is ignorant. I am glad he has realised he is ignorant. If he were to make some inquiries, he would find out that redundancy packages are being paid to former employees of the GIO. They are being paid eight weeks' pay plus three weeks' pay for each year of service up to a maximum of 75 weeks. The GIO already recognises that industry

standard. The Minister has said that the GIO is an expanding organisation, but does he mean that every section of it is expanding? Can it not enter the Minister's small brain that it is possible that some sections of the GIO are retracting and people have to be retrenched?

[*Interruption*]

Mr SCULLY: The honourable member for Monaro finds this funny. I am glad he has come into the Chamber to listen. The Minister has said that the proposal would cost $50 million. The Eastern Creek Raceway set the Government back $90 million, but it did not care about that. It gave Fairfax $98 million. At least it could have got its hand in where everyone else did. The abolition of stamp duty on share transactions cost the Government $100 million. But when the Opposition moves an amendment to protect the workers of this State the Minister says: "This will cost $50 million. We cannot possibly do it".

Mr Souris: On a point of order. Honourable members have heard 30 or 40 speeches emotionally unloading the philosophical baggage which is essentially that of the Labor left-wing. They do not need to take any more of it. The comments of the honourable member for Smithfield are far too wide and come nowhere near meeting the exacting requirements of debate on this amendment.

Mr Scully: On the point of order. I take extreme exception to being called a member of the left. That is an outrage, and I demand that the Minister withdraw his remark.

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Mr Souris: Further to the point of order. I did not mean to imply that I was sentencing the honourable member for Smithfield as a member of the left-wing faction. I said they were the arguments of the left.

The TEMPORARY CHAIRMAN (Mr Merton): Order! If the Minister withdraws the allegation that the honourable member for Smithfield is a member of the left, will the honourable member make his remarks relevant to the amendment?

Mr SCULLY: Yes, thank you.

Mr Souris: That is not a bad deal.

Mr SCULLY: It is not a bad deal. It is about the best deal I could expect from this Minister. If he had read the amendment he would realise that the provision would be only temporary. Subclause (4) provides that the clause will apply until other provisions are made for payments. The Opposition is suggesting that the new board cannot be relied upon. The present board is making provision for redundancy payments. The Opposition is calling for an interim measure while there is a new board so that any workers made redundant will be protected. It would be a temporary provision until other arrangements are made. The Opposition does not trust the Minister.

Mr Souris: I do not trust the honourable member.

Mr SCULLY: It is the truth. The Opposition always speaks the truth. The truth is that it does not trust the Minister.

Mr Souris: The honourable member would be better off in my hands.

Mr SCULLY: I asked the Minister last night to come over to this side, but he knocked back my suggestion.

Mr Souris: If I go over, the honourable member goes left, does he?

Mr SCULLY: That is not a bad deal.

The TEMPORARY CHAIRMAN: Order! I draw the attention of the honourable member for Smithfield to the amendment before the Chair. Members should cease banter across the table and proceed with the debate in an orderly manner.

Mr SCULLY: Billy Hughes said, "You have to draw the line somewhere". The Minister's Opposition to the amendment must be viewed in light of the industrial relations legislation that recently went through this House. This must be seen as the philosophical baggage that this Minister is carrying. He has his marching orders from his senior Minister, the Minister for Industrial Relations and Minister for Further Education, Training and Employment, who has told him: "Don't protect the conditions of the workers of New South Wales. Don't let this amendment go through. You will be doing the right thing by the workers. Hit them on the head. Knock this amendment out for six. Don't let them have the deal they deserve. Keep wasting the money". If the Minister is serious about wanting to come over to the Opposition side, I could think about joining the left. But, no, it is not on.

Question - That the words be inserted - put.

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The Committee divided.

Ayes, 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 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
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 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
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

Pair

Mr Fahey

Dr Refshauge

Question so resolved in the negative.

Amendment negatived.

Schedule agreed to.

Madam DEPUTY-SPEAKER: Order! If the honourable member for Bligh, the honourable member for Ermington, the honourable member for Smithfield and the
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honourable member for Wyong wish to have a private discussion, they should do so outside the Chamber.

[*Interruption*]

Bill reported from Committee without amendment and passed through remaining stages.

NATIONAL PARKS AND WILDLIFE (ABORIGINAL OWNERSHIP) AMENDMENT BILL (No. 2)

ABORIGINAL LAND RIGHTS (ABORIGINAL OWNERSHIP OF PARKS) AMENDMENT BILL (No. 2)

Suspension of Standing and Sessional Orders

Motion, by leave, by Mr Moore, agreed to:

That so much of the standing and sessional orders be suspended as would preclude the National Parks and Wildlife (Aboriginal Ownership) Amendment Bill (No. 2) and cognate bill being referred to a Legislation Committee after the adjournment of the debate following the Minister's second reading speech.

Second Reading

Debate resumed from 2nd July.

Mr MOORE (Gordon), Minister for the Environment [4.35]: At the conclusion of my remarks when the National Parks and Wildlife (Aboriginal Ownership) Amendment Bill (No. 2) and cognate bill were originally introduced I indicated to honourable members that there was a proposal that there be broad community consultation on the proposals for Aboriginal ownership and the management of national parks in selected areas. I indicated that I proposed to meet with a wide variety of community groups, including Aboriginal groups, local resident and landholder groups and local councils, in the areas where the Government proposes that this form of land tenure should occur initially. During the parliamentary recess some months ago, I spent a week in the Western Division of New South Wales meeting with local Aboriginal groups, local landholder groups and local shire councils. Out of those various meetings and as a result of a wide variety of submissions which I received from the various Aboriginal and other groups that wished to respond on these matters, a number of clear streams of concern emerged from varying perspectives.

The first concern that I wish to address this afternoon is that of local landholder groups that they will be left without any input into the form of management that is now the preferred option of the Government. I wish to make it clear that the Government believes that the legislation and amendments now being discussed for consideration by legislation committee should require that at least two places on any management board of any of these Aboriginal park areas be reserved for a representative sample of the neighbours of those areas so that those neighbours can be satisfied that their concerns about feral animals, bushfires, weeds and matters of that nature will be addressed. I am satisfied for the very large part that the concerns of local landholder groups are honestly and genuinely held and come from a fear of the unknown rather than from any genuine dislike or distrust of Aboriginal citizens of the State of New South Wales.

The second matter I want to deal with relates to the constitution of the local Aboriginal bodies with whom it is intended to deal in relation to land tenure matters. I have indicated to a number of individual groups - in Balranald, for example, where two local Aboriginal groups each claim to constitute the Balranald Aboriginal Land Council - that I have sufficient trouble dealing with white people's politics without becoming involved in black people's politics; and until they can resolve who constitutes the Balranald Aboriginal Land Council and until they have unity within the Aboriginal community I do not propose to deal with a divided local Aboriginal community. As I have indicated on a number of occasions, the first of these proposals will deal with the site known in white people's language as Mootwingee Historic Site or Mutawindji, a sacred trading and spiritual area for Aboriginal people. The Government intends to have a new bill drafted which will embody the amendments I outline. This draft will be submitted to the legislation committee as a series of alternatives to the bills that are currently before the House. The draft will contain the following major departures from the original bills.

The first matter that has been raised extensively with me by Aboriginal communities is that the proposed 99-year term of the lease is too long. The Government has accepted that proposal, and the lease will be limited to 30 years with the option of continual renewal as provided for in the present legislation. The power to present the option for disallowance of the initial lease will remain with the Parliament as provided for in the present bill. Considerable concern was expressed not only by local white communities but also by local Aboriginal communities about the composition of the structure that will examine management issues and whether that structure will be given powers or have purely advisory activities, as proposed in the present legislation. The Government has accepted the proposition that the local body should be a management body rather than an advisory body, that it should have between nine and 13 members and that the statute should provide that a majority of those members should be representatives of the Aboriginal group with whom the lease is executed with at least two

places, as I indicated earlier, being reserved for representatives of the neighbours of the conserved area.

The signatories of the representatives of the local Aboriginal community who execute the lease on its behalf will nominate their representatives on the board and the Minister will appoint the remaining members. It is expected that the Director of the National Parks and Wildlife Service will be represented on the management board by the local district superintendent. The management board will be responsible not to the director but directly to the Minister for the administration of these areas. It is proposed that the Act will provide that a plan of management be prepared by the National Parks and Wildlife Service under the supervision of the management board for adoption by the Minister on a not less than 10-yearly basis. These plans will be required to take into account any national or international significance the area may have and to encompass the provisions of any national or international agreement to which the Government is a signatory. The plan of management or any amendments to it will be tabled and will be subject to the scrutiny of the Parliament. If there is no current plan of management for any of these areas, it is proposed that the statute will require that such a plan be prepared within two years of the lease document being signed.

As these proposals are related to empowerment rather than revenue, it is intended by the Government that the peppercorn nature of the rental should remain in the bill. However, it is intended to provide that any revenue derived from the areas the subject of these arrangements will be spent within the leased area through the National Parks and Wildlife Service under the supervision and control of the management board

and in accordance with the plan of management. It is intended, as is the case in the Kakadu National Park through organisations such as the Gagadju Association, that provision be made for recording in the original lease document the names of the community members who will be regarded as the traditional owners. The representatives of the traditional owners who can execute the lease will be assessed and established at that time so that there will be no dispute as to the community with which the contract is made. It is also obviously intended to create a provision that will enable a genealogical discovery of people who are genuine descendants of a local tribal clan grouping to be added at a later stage.

The Government believes that the legislation should permit, notwithstanding any other provisions in the National Parks and Wildlife Service Act to the contrary, traditional owners to hunt or gather traditional Aboriginal foods in these park areas, subject to two exceptions. The first is that these hunting and gathering provisions will not apply to any plants or animals registered as endangered under the provisions of the National Parks and Wildlife Service Act. The second is that such activities will require the concurrence of the management board and the Minister. It is intended also that in those areas which might be currently closed, the plan of management will provide for itinerant camping for cultural, ceremonial and other purposes associated with the cultural needs of the traditional owners and their descendants, notwithstanding anything that has traditionally taken place in the past.

It is intended also that the cognate Aboriginal Land Rights (Aboriginal Ownership of Parks) Amendment Bill (No. 2) will identify a group of local custodians if, because it is a non-resident area, there is no existing local Aboriginal land council. That is the situation at Mutawindji where representatives of the Aboriginal people who are associated with the area come from Wilcannia, White Cliffs and Broken Hill and are not representative of people who are actually resident proximate to the area. We propose that after discussion with the local Aboriginal communities those issues will be the subject of finalisation between the Minister administering this legislation and the Minister administering the Aboriginal Land Rights Act. As there may be disputes from time to time between the management board and the Minister or the management board and the director, we are proposing the establishment of an independent arbitration system to enable those disputes to be dealt with rather than the Minister being the sole determinant of the issues.

It is obvious that within the general budgetary constraints of the National Parks and Wildlife Service, there will always be a finite amount of money able to be directed to these matters. Their funding will be set within the budgetary priorities of the National Parks and Wildlife Service. However, it is the intention of the Government to have the moneys allocated to any of these areas the subject of such agreements dealt with through a special purposes account for that site so that such an account will be able to be administered by the local management board which, as I indicated earlier, will have an Aboriginal majority on it. At present only two of the four areas nominated in the schedule to the bill derive any revenue, but the amounts are comparatively insignificant compared to the real costs of maintenance and cultural conservation of the areas. Those two areas are Lake Mungo and Mutawindji. It is intended that the Act require that any revenue derived from those areas be paid into the special purposes account of the management board for that area and that that management board account be topped up with money allocated to the National Parks and Wildlife Service.

I said earlier today that a formal Aboriginal employment strategy for the National Parks and Wildlife Service has been adopted. It is obviously a complementary

and essential component of the process of recognising the importance of Aboriginal culture in the conservation regime of the State. I look forward to working co-operatively with the members of the service's Aboriginal network and with the directorate of the service in implementing the strategy plan over its five-year life. We have examined the boundaries of the areas involved in the four proposals in the schedule to the bill. In the case of Lake Mungo, Mount Grenfell and Mount Yarrowyck the sites are discrete and there is no question of any additions to the areas. When I was at Mutawindji talking to the local Aboriginal community the people there made the point that, although the historic site had been selected for conservation purposes in 1924 on Eurocentric anthropological grounds rather than on genuinely contemporaneous Aboriginal cultural grounds, there was validity in considering whether the surrounding Mootwingee National Park should be added to the area that is the subject of the arrangement.

The historic site effectively forms the hole and the national park forms the perimeter of a doughnut. Following my discussions with the local Aboriginal groups I have recommended to my colleagues that it would be appropriate for the arrangements at Mutawindji to cover not only the historic site but the surrounding national park area. An area to the northeast of the Mootwingee Historic Site and Mootwingee National Park complex called the Coturaundee Nature Reserve is managed from the Mootwingee service complex. The nature reserve has some cultural significance for the local Aboriginal people although it is not as significant as the historic site and all or a large part of the national park site. That matter will be discussed with the local Aboriginal people to see whether it is desirable culturally and for land management purposes that the three should continue to be managed together. If so, all three would be under the purview of the local management board rather than one being split off and managed at a large distance from the management board.

Significant changes have arisen from the community consultation undertaken on these measures. In my assessment the measures taken in this regard in New South Wales are at the leading edge of progressive measures of this nature in Australia. I expect that this State will be able to avoid the sort of disputation over issues such as hunting for traditional Aboriginal game and gathering traditional Aboriginal foods that is currently bedevilling the Queensland argument on these issues. I have discussed these matters with the Australian Conservation Foundation, for example, and it is supportive of the sorts of measures that I am proposing to the House tonight. I have already indicated to the honourable member for Keira that next week I will be happy to assist him and his colleagues in moving around three of the areas that are the subject of this proposal. There is a capacity for a totally bipartisan position to be adopted on the proposal.

I expect that further changes advocated by me and adopted by my colleagues will be welcomed by Aboriginal people. Our guarantee of a statutory right of representation of local landholders will go a considerable way towards calming the fears of those people, which I have told the honourable member for Keira I do not believe have a genuine basis; it is the fear of the unknown. After he makes his visit next week I look forward to his bipartisan support so that we can share the pain. As I said in the second reading speech, the original stimulus for the structure I am talking about came from an article I read which was published in the Aboriginal legal bulletin. The model that I am now advocating to the House is perhaps not identical but in large measure incorporates all the matters of concern to the Aboriginal people who were primarily connected with Mutawindji.

In conclusion I wish to make some very brief remarks about a particular individual, a member of the staff of the National Parks and Wildlife Service. I trust that
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in the eyes of the Aboriginal community and his colleagues I will not cause him embarrassment or do him a disservice by speaking about him in this domain. He has been of considerable assistance in forming the final shape of my views, which have now been adopted by the Government. He is an Aboriginal sites officer with the National Parks and Wildlife Service. I hope honourable members opposite will have the opportunity to meet him next week. In the latter half of the week I will take him to Uluru to meet the management board there to discuss the way in which Uluru is administered. The person to whom I refer is a man named Badger Bates, a rough diamond of a human being. I think he is one of the most genuine advocates of Aboriginal culture employed by the National Parks and Wildlife Service to provide a human interface between white Australia and Aboriginal culture in the western region of New South Wales. He has been of great assistance to me in understanding issues that are of concern to his community. I think him for that. I do not know whether he would say it from his side - I hope so - but I regard him as a friend.

I hope he will appreciate the further steps that the Government has taken to meet the genuine concerns of the Aboriginal communities on these sorts of issues. I certainly look forward to - indeed, may well need - the bipartisan support that I expect to be offered for this legislation so that it will become part of the consensus and acknowledgment process in Aboriginal affairs in this State rather than part of the past of confrontation and unnecessary tension and aggression in rural New South Wales between black and white Australians. We owe an enormous debt to black Australians, to whose culture we have done enormous damage over the past 200 years. We have an obligation to the living representatives of that Aboriginal culture to try to conserve it in a contemporary Aboriginal cultural framework rather than in the Eurocentric anthropological or archaeological framework of the past.

Debate adjourned on motion by Ms Allan.

Legislation Committee

Motion by Mr Moore agreed to:

That -

(1) The National Parks and Wildlife (Aboriginal Ownership) Amendment Bill (No. 2) and cognate bill be referred to a Legislation Committee:

(2) Such committee consist of Mr Markham, Mr Mills, Mr Photios, Mr Small and Mr Zammitt.

(3) The committee report by 31st March, 1992.

PROTECTION OF THE ENVIRONMENT ADMINISTRATION BILL (No. 2)

Second Reading

Debate resumed from 17th October.

Mr GAUDRY (Newcastle) [5.2]: This bill is most important for the people of New South Wales and especially those of Newcastle and the Hunter Valley. In the past decade interest in the environment and involvement in environmental issues have become important to the community. Hardly a day goes by when newspapers do not carry articles related to environmental degradation and difficulties faced in the built and natural
Page 4650
environment. For example, in today's *Newcastle Herald* an article appears under the heading "Sydney rubbish may be dumped in the Hunter". The article refers to a proposal by a private company to set up a regional rubbish dump for Sydney material to be dropped in the Hunter region. One of the interesting matters raised in the report is that the proponents of the idea, having taken it to various councils, said "It was decided to keep it confidential at this stage on the basis of not wishing to upset the local people". One of the most important facets of legislation for the protection of the environment is that it must provide strong and effective protection for the built and natural environment. It must involve citizens in action to be taken against polluters. That is one deficiency of this bill.

A similar bill to that now before the House was brought before the Parliament prior to the election. That proposed legislation was roundly criticised by the environmental movement and many people in industry as being deficient in that it failed to give sufficient protection to those on either side of the issue. I understand that about 44 amendments are to be made to the present bill. Many of them will be proposed by the Government. Many of those amendments were to be put forward by the Opposition when the previous bill was being debated but the Opposition was gagged in effect when the Government called an election before the debate had been concluded. It is of interest to note that in the changed political circumstances the Minister proposes to move many of those amendments. I have not had the opportunity to read them fully and consider them in connection with the bill. Nevertheless, I believe they will strengthen the bill and make it much more powerful. I was not a member of this place at the time I saw the bill but I was involved in discussions related to it. I was concerned that it did not seem to have sufficient strength to be the pre-eminent and overriding legislation that it should be in order to protect the environment and to allow the development of ecologically sustainable industry in this State.

The tremendous awareness in the community about environment has arisen from an increasing knowledge that what we do on this planet will have an impact now and down the track for ourselves and our children. That awareness extends to global issues such as ozone depletion, problems related to the loss of rainforest areas, the loss of biodiversity, the worldwide problems of waste management and the fact that we do not have an infinitely extendable resource and must conserve, reduce, reuse and recycle. National awareness of the environment has been increased through campaigns such as those regarding the Franklin River, Washpool, and southeast forests. It is necessary to conserve resources and by means of legislation to provide the strongest possible environment protection. Within the school system, from kindergarten through to year 12, children have an increasing awareness of and greater emphasis is placed on environmental education. The honourable member for Davidson had quite a lot to do with the introduction of that environmental education within the school system. I pay tribute to him and others for the way that environmental education has been taken up, not only by the formal education system but by many involved in industry. I refer specifically to the Green Train which recently visited Newcastle and gave many children a chance to see the positive ways in which we can react with the environment.

The people of Newcastle have a great interest in the environment, but many of them lack confidence in the State Pollution Control Commission. They consider that it is not sufficient simply to create a new instrumentality; the instrumentality must have stronger powers than the commission. There is a lack of confidence in self-regulation as a method of keeping industry honest. I am sure that aspect needs to be strengthened, and I do not consider that

anything contained in the proposed legislation will achieve that. People in New South Wales want industry and ecologically sustainable development, but

will not accept the destruction of lifestyle. That is becoming more evident as people take action against polluters. The legislation should enable community groups, environmental organisations and others to take third party actions against polluters. That right should not be determined by another government organisation. The development of industry in the Hunter has brought about an increasing awareness among industry and government authorities of the need for better consultation processes between the people, industries and the authority that determines the level of pollution permitted by licence. That matter is not well understood. State Pollution Control Commission licences permit pollution at a level that is unacceptable to the community.

There are far too many weaknesses in this bill. Another disturbing aspect is that, during this Government's term of office, the Minister for the Environment has had areas of responsibility removed from his portfolio and transferred to the conservation and land management portfolio. Subtly put, conservation and land management should be written with a small "c" for the conservation side of it and capitals LM, because the emphasis is on land management and development far more than it is on conservation. It is of concern that areas that should rightly be the responsibility of the Minister for the Environment have been removed from his portfolio. As he demonstrated in his second reading speech on the National Parks and Wildlife (Aboriginal Ownership) Amendment Bill (No. 2) and cognate bill, the Minister has a strong position on the environment. Though he was unable to incorporate that position in the original bill, obviously now, in a different political climate, the amendments can be moved which will, to a great degree, strengthen the legislation. Dr Metherell got to the nub of this matter when, following his resignation, he said that the Minister for the Environment had been "knifed in the back at every turn". He said:

> Around the Cabinet table . . . they have arrived at an arrangement whereby Tim Moore is allowed to show what he wants done, by leaks, letters, documents and float his view.
>
> With a cynical intent, the decisions have already been made to roll Tim Moore in Cabinet but allow him to save face while the Cabinet rolls the greens. That has been done on more occasions than I can remember.

That statement may be disputed but it was a view from the inside by a former Minister, the honourable member for Davidson. It is a reflection of the changed political circumstances that those aspects of the bill that were so obviously unpopular with Cabinet will be inserted into the legislation by way of amendment. Newcastle is in a unique position to avoid Sydney's problems of urban sprawl and to develop industries that are more compatible with a reasonable lifestyle. If the Lake Macquarie and Port Stephens areas are included Newcastle has a population of about 300,000 people. In the past 20 years industry has been changing in that area. There has been tremendous industry expansion, particularly in the coalmining industry in relation to coalmines, coal exports and electricity generation.

[*Extension of time agreed to.*]

There is keen community interest in the control of pollution. Newcastle has 10 of the top 100 polluters in the State. Those polluters have been doing some self-regulation. They have invested in and installed equipment for the control of pollution. That has had some impact, but the self-monitoring process creates problems. The *Newcastle Herald* of 7th June printed an article entitled "BHP says river coping with discharge". The article reported the Newcastle Steelworks executive as suggesting that:

> . . . the river was comfortably diluting chemicals and metals discharged from industry sites along the Hunter and Williams rivers and run-off from Hunter Valley farms.

On 27th September Broken Hill Proprietary Company Limited was fined $21,000 for polluting the river through dumping waste in the river system. BHP had problems also with discharging a gas cloud from its coke ovens. That caused great distress to the residents of Mayfield, as does discharge from industry around Mayfield, Tighes Hill and Stockton. Those residents have been prepared to take citizens' action to press the companies and to take their complaints to the State Pollution Control Commission. Unfortunately, they do not have an effective legislative instrument to enable strong and effective action to be taken. I hope that when this bill becomes law it will contain strong education provisions both for the government authority and industry. The *Newcastle Herald* printed an article entitled "No harm to city in toxic spill at BHP". That spill involved 110,000 litres of toxic chemical - hydrocarbon compound benzene toluene xylene. A spokesperson for BHP was reported to have said that a public announcement had not been made because of unnecessary concern. She said:

> We complied with our requirements to inform the SPCC, made the area safe and made a professional judgment that there was no danger to the community so a statement was not released. There was no conspiracy to keep it silent.

Similar decisions are being taken by industry time and again. Industry has a misunderstanding of the communities interest. The community is interested in working with industry to ensure that people and industry can exist together in a clean environment. Industry needs to be educated along those lines. Newcastle has many environmental problems. BHP has problems with fall-out from its plants. An aluminium smelter in the area is expanding. The Pasminco plant, formerly called Sulphide Corporation, has a problem with extremely dangerous lead dispersal into the atmosphere. Waste management is a problem in the Hunter. It has been suggested that Sydney waste will be sent to the Newcastle area. Newcastle has enough waste of its own and is experiencing difficulty trying to find ways to control and adequately dispose of it. There needs to be strong and effective legislation in that regard. I now turn to one of the major weaknesses of this bill. The Minister is not pre-eminent in his power because of the veto power vested in the Premier. In the *Australian* of 20th February the Premier is reported to have said:

> Markets can often make decisions that politicians lack the will or adequate information to make.

The article continued:

> Earlier, Mr Greiner told the Public Issue Dispute Resolution conference in Brisbane that one of the most effective methods of resolving environmental conflict was market forces.

If that is put in the context of an environmental dispute between the Environment Protection Authority and a government department, the Premier could override the powers of the Minister for the Environment. In the Chaelundi debate the Premier has declared his hand on environmental matters. A regulation was introduced to circumvent the decision of the court in that matter. The matter is the subject of a motion for disallowance in the Parliament. The people of Newcastle want a strong Environmental Protection Authority and it is hoped that the amendments proposed by the Opposition will make that possible. They demand that the penalties the authority will be empowered to impose not be overridden by politics. They do not want a system in which market forces dictate the level of environmental control. In the past decade Newcastle has had more than its fair share of problems associated with industrial pollution. Community action has been strong with regard to the disposal of sewage in the region. Community groups such as Rasun, the Clean Oceans Committee, the Community Forum, and the Civic Association, have been established because of what they perceive as a lack of

Government will to control pollution. This legislation must guarantee a right for community groups to have access to third party action to preserve their lifestyle and the standard of air and water that Australians deserve. Another matter that has caused me concern is the situation with regard to the Environmental Council.

Madam DEPUTY-SPEAKER: Order! The honourable member has exhausted his time for speaking.

Mr WINDSOR (Tamworth) [5.22]: I welcome the opportunity to contribute to debate on this bill. Thus far consideration has not been given to economic and environmental implications. The honourable member for Blacktown suggested that I might be one out so far as this legislation is concerned. I refute that suggestion. Many people throughout this State are trying to earn an income in hard economic times. I am certainly not one out. The economic as well as the environmental implications of the legislation must be considered. It would be difficult for any honourable member representing a country electorate - whether a member of the National Party, the Liberal Party or an Independent - to support the legislation in its present form. The purpose of the bill is to abolish the State Pollution Control Commission and the Waste Management Authority and to create a new combined authority - the Environment Protection Authority - to license, monitor and regulate commercial discharges into the environment. The bill does not provide for the regulatory regime to be administered by the authority. That is a matter of some concern. The Minister has assured the House that such a provision will be introduced in legislative form within approximately 12 months of the establishment of the authority after extensive consultation between the Government, industry, commerce and the general community. I hope that that consultation process is an improvement on the process that was embarked upon with regard to this legislation.

There is little doubt that community concern is increasing about degradation, perceived or otherwise, of the environment in which we all live. I come from a farming background where the sound husbandry of the environment is part of the day-to-day management of one's capital asset. Therefore, I am acutely aware of the need to protect, conserve and enhance the environment. Lest I should be criticised for being insensitive about environmental issues I wish to advise the House of my background in conservation, particularly soil conservation. I was appointed by the former Minister for Agriculture, Mr Jack Hallam, as an adviser on matters relating to soil conservation in New South Wales. I was instrumental in the initial formulation of the total catchment management concept, which has proved to be highly successful. It is testimony to the fact that group participation, education and peer pressure can achieve environmental goals. I hope a similar goal can be achieved with regard to the ridiculous reorganisation that has taken place in the Soil Conservation Service. One thing certain is that if this legislation is passed without modification, land care groups and total catchment management committees will suffer a sever psychological blow and participation levels within the community will be affected adversely.

I have represented Australia at overseas forums to assist with the extension of dry land farming technology in the marginal lands of eastern and central Africa by the use of conservation tillage techniques and chemicals to control weeds, rather than detrimental mechanical tillage practices. To the ignorant urban dweller the suggestion of the use of chemicals in agriculture creates fear. I own some of the oldest chemically farmed land in Australia, outside that owned by research stations. It should be noted that the land has the highest earthworm population recorded in the district with organic matter and soil structure analysis levels higher than those found in soils that have never been cultivated. I inform honourable members of that fact not because Tony Windsor is anything special as a farmer, but to illustrate the fact that environmental sustainability and improvement can be achieved, not just talked about, within economic parameters. That

should be encouraged. However, governments continue to tax the input to production of conservation tillage practices. If the Parliament were serious about environmental issues, it would remove the artificial imposts on conservation tillage practices. It is the genuine intention of most farmers to leave their land to succeeding generations in better condition than when they acquired it. With farming there is a practical day-to-day integration of environmental and economic concerns. That feature is common to all primary industries - agriculture, forestry and

mining. Unfortunately it is not necessarily an overriding consideration in the manufacturing sector, which is not directly dependent upon the use of the land and land-based resources.

Community concerns about the environment, whether based on fact or fiction, confirm the fact that the day has passed when it was believed implicitly that what was good for business was good for society. That is unfortunate, because at a time when Australia is in the worst recession for 60 years the nurturing of business and industry, especially new projects, is essential if the economy is to recover to attack the scandalous levels of social dislocation that have been brought about by the present deliberate levels of unemployment. The Secretary of the Labor Council of New South Wales, Michael Easson, was reported in the weekend newspapers as requesting the fast tracking of projects in New South Wales to encourage employment. The Government should give consideration to fast tracking specific projects. This legislation will succeed only to slow track projects. It is in this context that the debate on the Environment Protection Authority has taken place. Honourable members should not forget for one moment that, given the economic conditions and the crisis being faced by New South Wales and Australia, debate and consideration of this legislation are among the most important tasks confronting this Parliament. I suggest that the Minister should not be too hasty in his endeavours to have this legislation pass through the Parliament. He should allow the matter to be given due consideration by all honourable members.

If a proper balance between the protection, conservation and enhancement of the environment, economic incentive and health is not struck, the Parliament will, in both the short term and the long term, worsen the already parlous state of the New South Wales economy. Should that occur, honourable members will be rightly accused of disregarding in a cavalier manner the interests of the people of this State. Honourable members should acknowledge that for the economic and environmental health and well-being of New South Wales - both factors being essential for social well-being in the community - the legislation must strike a fine balance between the environment and the economy. I believe that this balance has not been appropriately reflected in the provisions of this bill. Nor do I believe is it reflected in the amendments proposed on behalf of the Opposition by the honourable member for Blacktown. The first step towards achieving the balance to which I referred is to provide a mechanism for the creation of a genuine partnership between government, business, industry and the general community.

Madam DEPUTY-SPEAKER: Order! It being 5.30 p.m., pursuant to sessional orders the debate is interrupted.

PRIVATE MEMBERS' STATEMENTS

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ASIAN COMMUNITY WITNESSES INTIMIDATION

Mr NEWMAN (Cabramatta) [5.30]: I raise the issue of presumption of bail and its effect on the opportunity of police being able to gain information and secure witnesses in cases concerning the Asian community. On Wednesday morning this week I

interviewed nine terrified Cambodian men, two of whom are witnesses in the case concerning a Mr Toan Van Nguyen who is charged with firearm offences and possession of $50,000 worth of stolen goods. I do not intend to deal with the case against Mr Toan Van Nguyen, which is before the court, but I must raise with the Parliament, the Minister for Justice and the Minister for Police and Emergency Services the poor current state of affairs in this case and particularly the protection of witnesses. The nine people who visited my office were all family men, with no police records and all claimed that Mr Toan Van Nguyen was a standover gangster figure in Cabramatta who is usually armed and derives his income from gambling operations. The

Cambodian group stated they knew of five incidents where Mr Toan Van Nguyen had threatened people by placing a handgun to the side of their heads.

During the interview, I was informed by a Mr Oeur Morlsoth and Mr Hem Hauy that Mr Toan called at Mr Oeur's flat after his arrest and stated he knew the name of the person, being Mr Bun Hing Heng, who had reported him to the police. I was told that Mr Toan made sure that they knew that he knew that Mr Heng had reported him and that he had all the facts. Mr Toan suggested they buy land at Lidcombe - Rookwood cemetery - to bury Mr Bun Hing Heng. Mr Toan also confronted a Mr Seang Thuch, a witness in the case, and attempted to intimidate him to change his testimony. I was informed that the most blatant act of intimidation occurred on 8th November when Mr Bun Hing Heng attended a friend's wedding at the Spot Lounge in Fairfield. It was described like a scene out of the "The Godfather" movie. Mr Toan and 10 of his henchmen invited themselves to the wedding. They were not known to the bride and groom, and the wedding guests had to suffer their unwelcome presence. I was told they were at the wedding to make sure that Mr Bun Hing Heng got the message to back off from being a police witness. Mr Bun Hing Heng was assaulted in the toilet later that evening by one of Mr Toan's men but was rescued just in time by friends before serious injury occurred. It was stated to me that Mr Toan appeared to be armed but was afraid to use his gun because of the many people present.

This incident was reported to the Fairfield police by Mr Heng the same night and also the next day. Unfortunately, the detective on the case was not at the police station that night and Mr Heng was recommended to go and sleep at a friend's house. The matter was reported to another police station, the Cabramatta police, on the Saturday with protection assistance being sought. This group of Cambodians also informed me that two other men were prepared to testify that Mr Toan placed a gun to their heads and made threats. I am most disturbed by this situation, which must have immediate investigation and action by the police. My contact today with the Fairfield patrol commander, Superintendent Sheather, gave me little confidence that he had a grasp of the reality of the issues involved. After that call I knew why the Cambodian group chose to come to my office rather than go back to the Fairfield police station. Why did it take so long for the police to act after this matter was reported and why was it necessary for the Legal Aid Commission to represent the victim of the assault? Why is Mr Toan still free on bail if the incidents of intimidation of witnesses have been reported to police?

Will the Minister for Justice and Minister for Police and Emergency Services undertake a review of the Bail Act to consider if the court erred in its consideration of setting bail for Mr Toan, particularly in respect of sections 32(1)(c)(ii), 32(2)(b), and 32(2)(c)? Can immediate protection be afforded to Mr Heng and others to ensure that they appear at the court on 29th November in the case involving Mr Toan? These incidents described to me about Mr Toan and his actions have no place in our Australian society and must incur the most rigid application of our Bail Act. This incident is a good example of why the Asian community is hesitant in coming to police with information.

The Bail Act must be amended to automatically deny bail in cases involving threats with firearms. The Asian community of western Sydney will be watching this case carefully to see if justice will be done, and if protection will be afforded to the witnesses. I have stated before that gun-toting criminals in Australia who do not have citizenship should incur an automatic deportation as part of their sentence. This is the only action that is feared by this type of criminal element. The Asian community of Cabramatta, be they Vietnamese, Cambodian, Chinese or Laotian, deplore criminal activity and want to live in peace and harmony with respect for our laws. On many occasions they have joined me in saying: send back the murderers, gangsters and terrorists. These minority groups throw a bad light on the rest of the peaceloving Asian community who are a credit to Australia. I appeal to the Minister for some action in this matter.

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [5.35]: I thank the honourable member for bringing this matter to my attention on behalf of the Minister for Police and Emergency Services in another place and the Minister for Justice. I also thank him for notifying me prior to this session that he would be raising the matter this afternoon. I share the honourable member's view that his constituents and those members of the South-east Asian community who have settled in New South Wales want an end to violence. They certainly want to avoid the type of situation he described to the House this evening. These people have come from countries where repression, intimidation and violence have been part of their way of life. As the honourable member so correctly told the House, those people do not want a bar of violence in this country. They want a fresh start and a peaceful life. I am not able to deal with the specific case raised this afternoon but I bring to the attention of all honourable members, and in particular to the attention of the honourable member for Cabramatta, the fact that the Government has indicated it will conduct a review of the Bail Act 1978 and that the review will run parallel with a review being undertaken in Victoria.

In the next few weeks I expect to be able to release a discussion paper on the New South Wales Bail Act for public comment, with a view to addressing some of the anomalies the honourable member for Cabramatta has raised. The types of things to be considered in the discussion paper will include, first, whether there is any rational basis for the current levels of entitlement to bail - at present a person charged with an offence may have a right to bail, a presumption for or against bail, or be subject to no presumption either way - second, how these levels of entitlement relate to the presumption of innocence; third, whether it is possible to identify those most likely to abscond or breach bail and, if so, what is to be done about that. Fourth, whether the matters to be considered when granting bail and the bail conditions that may be imposed should be restricted or expanded - this relates directly to the matter raised by the honourable member; fifth, whether automatic bail conditions should be imposed for offences, and, finally, whether the mechanisms currently in place for the review of bail decisions are appropriate. I take very seriously the matters raised by the honourable member for Cabramatta. I can assure him those matters will be considered in a review of the Bail Act that I will announce in the very near future on the release of a discussion paper.

PARRAMATTA RIVER FERRY SERVICES

Mr PHOTIOS (Ermington) [5.38]: I take this opportunity this evening to emphasise the importance that the Government and I place on the Parramatta River ferry service. This issue featured as the centre-piece of the budget allocation of the Minister for Transport. The Minister and the Government are determined to implement these services in the immediate future. I emphasise the immediate future because there have

been some scurrilous remarks made by honourable members opposite who are living in the past in the sense that they are conscious of the promises made by Labor administrations that remain unfulfilled to implement a Parramatta River ferry service. In particular I refer to an article in the *Parramatta Advertiser* of 13th November in which the honourable member for Parramatta sought to have an each-way bet. He suggests there will need to be hard rock blasting in concert with dredging operations before the Parramatta River ferry service can come to fruition. At the same time he has called for the immediate introduction of the ferry service, though in many respects he seeks to sabotage it by worrying conservationists and commuters, despite the fact that the environmental impact process is now complete and it has been published and demonstrated that there is no environmental barrier to the introduction of the service.

The Government's plans are now well advanced. Our preparations for the introduction of the service provide for a 50-minute run from Parramatta to Circular Quay with a stop at Ermington and Rydalmere in my electorate and downstream at Meadowbank. The ferry services should be extended from the present uppermost terminal at Meadowbank to Parramatta during 1992, as promised. The new RiverCat ferries will be ready for trials on the

Meadowbank run early in the new year. The environmental impact statement that was required to demonstrate that the ferry operation would be environmentally acceptable was exhibited earlier in the year. The Department of Transport has determined that there is no environmental barrier and, as a consequence, development applications have been submitted to Parramatta City Council with respect to the jetties, passenger terminals and car parks at Parramatta and Rydalmere. In my electorate, at the bottom of John Street, we plan to spend a total of $432,000 on the construction of the Ermington-Rydalmere wharf and an additional $269,000 will be spent on the construction of the wharf at Charles Street.

We next must obtain approval for dredging of the river upstream at Silverwater. Extracts of the environmental impact statement will be exhibited publicly with the dredging application before the Maritime Services Board, the appropriate consent authority. Final engineering analysis is now under way and this includes the gathering of comprehensive geotechnical and survey data. It is important to emphasise for the benefit of honourable members and, in particular, the honourable member for Parramatta, that it is not intended to conduct blasting; nor should blasting be conducted for environmental reasons. The furphy offered by the honourable member for Parramatta seeks to mislead the public and delay the introduction of this project. Marine archaeological excavations will be conducted ahead of dredging. They have already commenced, again demonstrating the determination of the Government to fast track this process. Once the engineering details of the dredging are finalised, the dredging application will go on exhibition for 30 days. If no major objections arise, the proposal can then be quickly approved and the dredging will commence early in the new year. A submission seeking State Pollution Control Commission endorsement for treatment and disposal of dredge spoil will be dealt with at the same time.

Tender documentation for passenger facilities is being finalised and will be released shortly. Construction of these wharves and car parks requires only three or four months - contrary to the allegations made by the honourable member for Parramatta. Dredging could take up to six months, but the service will be in place early in 1992, as promised by the Government. Services will be delivered to the people of Gladesville, Ermington and Parramatta as promised by this Government at the last election. This will fulfil a commitment that has been made but never realised by previous administrations

in New South Wales. I commend this project to the House. It is one of the most exciting developments in public transport. Of course, public transport is a priority in this State and in the electorate of Ermington.

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

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [5.44]: I thank the honourable member for Ermington for his statement. The honourable member for Ermington has had a longstanding interest in public transport in Sydney. I remember the honourable member, when he was the former member for Ryde, raising on a number of occasions the whole structure of transport in the metropolitan area. Since early settlement Parramatta River has been a traditional conduit for transport in Sydney. Rather exciting developments in the Homebush area are proposed for our Olympic bid. The Parramatta River will ultimately be one of the key links for ferry transport in that area. It is also proposed to relocate the Royal Agricultural Society to that area. The Parramatta River, in addition to being a transport conduit, is one of our most historical waterways. It adds a considerable amount to the aesthetics of Sydney and the character of our wonderful city. The Parliament is indebted to the honourable member for Ermington for taking such a responsible attitude. I note that $678,000 will be expended on the Parramatta River ferry service.

BROKEN HILL PROPRIETARY COMPANY LIMITED INDUSTRIAL DISPUTE

Mr RUMBLE (Illawarra) [5.43]: The matter I wish to raise today concerns recent industrial turmoil experienced in the Illawarra area. The chaos experienced in the Illawarra was due mainly to the manic determination of the sheet and coil division of BHP to introduce contract labour in certain sections of BHP, irrespective of the wishes of its employees or union officials who had been meeting with company officials over this contentious issue. These company officials thought that the issuing of potential dismissal notices at a time of economic recession would bulldoze all the employees into going back to work. BHP employees are not totally opposed to contract labour. However, it could be argued that contractors should perform construction work. Replacing day shift labourers with contractors would be opposed by employees and the trade unions.

This strike has cost the Illawarra tens of millions of dollars. BHP sheet and coil division took a belligerent attitude towards this strike. It wrongly thought it could coerce employees back to work because of the threat of dismissal and other intimidating tactics. It appears that the BHP head office at Melbourne was advised by management at Port Kembla to hold out as local management at the BHP sheet and coil division believed they were in a dominant position to crush the strike. One got the distinct impression that if the local management at BHP scored a victory over the unions, irrespective of the cost to the Illawarra region, they would be considered to be the goldenhaired boys within BHP's hierarchical structure and especially by their superiors in Melbourne. I am informed that the number of employees at BHP sheet and coil division who broke ranks with their fellow workmates could be counted on one hand. This shows that the employees were fighting for a just cause. Moreover, workers were not going to be intimidated by management.

When an agreement was eventually reached between the unions and BHP and the New South Wales Industrial Commission, it was basically the same proposition put to BHP two days earlier and rejected by it. Quite obviously, BHP went along with the

propositions put by the unions, and the Industrial Commission was involved so that BHP could save face. BHP sheet and coil division would have been spurred on in its belligerent attitude towards employees by the passing of the Greiner Government's contemptible and obnoxious Industrial Relations Bill. All union officials, including Paul Matters and Frank Jackson of the South Coast Labor Council, Nando Lelli and Graham Roberts of the Federation of Industrial Manufacturing Employees Union, Warwick Tomlins of the Electrical Trades Union and Steve Quinn and Wayne Phillips of the Amalgamated Metal Workers Union should be congratulated for their efforts in eventually settling this unfortunate dispute. However, the management of BHP sheet and coil division seems to have learned nothing from previous industrial turmoil. Earlier this week talks broke down between company and union representatives. Quite obviously, the management of BHP sheet and coil were not prepared to enter into meaningful negotiations. To give a few examples, it would not discuss payroll deductions and, childishly, would not supply a copy of a letter that had been sent to the union previously.

The unions also wished to discuss matters such as dismissal threats, company warnings and notations on history cards. I wish to draw a distinction between BHP slab and plate and BHP sheet and coil. Previously discussions were held between BHP slab and plate and the unions on the issue of contractors. I point out that this is the major section of the steelworks at Port Kembla. During discussions agreements were reached without the turmoil that has been recently experienced. Obviously, there is a lack of capacity on the part of management of BHP sheet and coil to negotiate in a mature way. I suggest management should contact its colleagues at BHP slab and plate for some tutoring in industrial relations.

PRIVATE MEMBERS' STATEMENTS

RSPCA STOCK INSPECTION

Mr COCHRAN (Monaro) [5.50]: I wish to speak on behalf of my constituents who are landholders severely affected by a drought that has created enormous problems in the Monaro electorate. I raise specifically the issue of dealings that my constituents have had during recent weeks with inspectors of the Royal Society for the Prevention of Cruelty to Animals. I preface my remarks by saying that I have a healthy respect for the RSPCA and its long history of service to animals and animal lovers throughout Australia. I have a deep respect for the diligence and work of the RSPCA in these most difficult circumstances of current drought conditions, depressed commodity prices and lack of fodder and agistment for stock. In addition, many of the stock in the Monaro electorate are too weak to travel by road and such transport would be cruel. The officers of the RSPCA have to keep all those factors in mind prior to taking action against stockowners who, through no fault of their own, have poor stock on their properties. Such landholders have the options of selling their stock, which often is in too poor a condition to be sold, purchasing feed or seeking agistment. In the Monaro electorate a bale of lucerne costs about $10, which is beyond the means of many landholders. Another option is euthanasia, which may attract legal action by the RSPCA. I draw that fact to the attention of the Minister.

In recent weeks I have received complaints about the RSPCA and in particular about the inspector in the Monaro electorate. Those complaints have come in the main from landholders who are suffering from an extreme drought. Last week I had cause to inspect the property and livestock of Mr Jack O'Hare, a fourth generation landholder, in the Majors Creek area. He resides on very light country that has a prominence of swamps. Cattle seeking a bit of green fodder during the drought are attracted to the

swamps and become bogged. An RSPCA officer inspected the condition of Mr O'Hare's stock prior to taking the action which I have cause to question. Mr O'Hare unfortunately had inadequate funds to feed his stock, which were in too poor a condition to be transported. Mr O'Hare had little choice but to try to battle on with whatever he could. Having examined the stock, the inspector destroyed quite a number of the cattle on the property. Mr O'Hare now faces the predicament that in future more of his stock probably will have to be destroyed.

Other honourable members in country areas, especially National Party members, have experienced similar circumstances. I draw that to the attention of the Minister. I ask that he continue negotiations with the RSPCA to assist and develop communications between his department, landholders and the RSPCA to avoid legal action, which must be regarded as the last resort. No purpose is served by forcing legal action upon people who cannot defend themselves because they have insufficient funds to seek legal advice.

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [5.55]: I thank the honourable member for Monaro for raising this most important and timely subject. As the honourable member said, I have received similar representations from a number of members on this side of the House in recent weeks, notably from the honourable member for Murrumbidgee, the honourable member for Lismore and the honourable member for Oxley. Twice in the past 24 hours the honourable member for Oxley has raised this matter. The RSPCA is one of the, if not the most, respected animal welfare organisations in Australia and the world. The RSPCA depends entirely on the good will of the community to raise its funds, which it does with relative ease even in difficult times such as these. The association is run on a voluntary basis with the exception of the employed staff. Its responsibilities are onerous. It is responsible for the welfare of many different animals - and their owners - ranging from caged birds to all sorts of odd pets including white rabbits and mice, and sheep, cattle and horses on commercial farms, feedlot stock and intensive animal industries.

The RSPCA has extensive knowledge of the character and purpose of such animals. The association has developed a high ability to communicate with the broader community and those with whom it has direct contact. It is essential that the RSPCA should be impeccable in communicating with those who have come to notice and in educating the community on what is acceptable or not and desirable or not. New South Wales is suffering one of the worst droughts

in history. If nothing changes in the next two weeks this drought will rank with the great droughts of 1944 and 1981-83. All livestock in New South Wales will be under severe stress, especially those on the coast because of abnormally low rainfall this year. Stock in the west of the State will also be under extraordinary stress. Not only domestic stock but also native fauna will be suffering. Kangaroos, wallabies and wild goats - and the landholders, as the honourable member for Monaro said - are all suffering severely. It is essential that the RSPCA should get its message out to the broader community and act in a responsible manner.

JILLY'S ROADSIDE DINERS GROUP

Dr MACDONALD (Manly) [5.58]: The matter I raise is very serious and relates to Jilly's Roadside Diners Group and Jilly's Diners Limited. Last year Mr Peacocke, at that time the Minister for Business and Consumer Affairs, was given a two-part report from a corporate affairs investigator calling for urgent action to investigate claims of murder, conspiracy, drug dealing and perhaps even political corruption. The allegations arose out of a preliminary investigation into the activities of the Jilly's Roadside Diners Group, which went into liquidation in June l986. A supplementary report gives details of criminal associations of a number of people associated with Jilly's Diners. I have a

summary of that report, which was compiled by Rose Kluve, dated 27th June, 1990. It summarises the background, the documents and conclusions of that investigator and recommends certain actions. In its conclusion the report states, inter alia:

> In view of the fact that Peter Collis has been to a number of areas of government with allegations that there are persons in the community who are involved in murder, conspiracy to pervert the course of justice, fraud, drug dealing and corruption yet who continue to do business unhindered and nobody has been willing to investigate the matter; if this matter is again buried and later surfaces severe criticism could be levelled at the Government for having failed to act on allegations to protect the public from these individuals.
>
> Whilst Peter Collis has not told me all the information which he is privy to, I believe that he has information which would be invaluable in linking a criminal network of sharp business practices, fraud, drug dealing, crime and corruption and in providing criminal profiles in respect of a number of individuals who are associated with this type of criminal activity.
>
> In terms of his motivation for coming forward to expose these matters, I see it as his desire for justice and some compensation for himself and a means whereby he can maximise his future safety.
>
> He is currently in hiding and believes he must remain so for the rest of his life unless he brings the matters he is privy to out in the open where they can be acted upon by the proper authorities.

The summary then makes the following recommendations:

> It is thought appropriate to establish an investigation team to examine Peter Collis's allegations and to determine why nothing has been done to date by any of the government departments which have been approached. It is suggested that a task force be set up under the State Investigative Group headed by someone of high public repute. It would be in a position to provide witness protection for Peter Collis. This task force should be for the specific purpose of verifying the important information supplied by Peter Collis with a view to then conducting a full public inquiry into these matters if his information bears out.

At this stage a brief outline of events is required. Peter Collis reported that in 1985 he bought the franchise and two roadside diners, one in West Ryde and the other in Canterbury. The Franchisee Counselling Centre facilitated the sale, and $15,000 was paid. From then things went wrong. Peter Collis withheld the balance of moneys; there were allegations of inaccurate bookkeeping; the Canterbury diner turned out not to have council permission, and moneys were owed by Jilly's for services rendered. By early 1986 there was an attempted removal of a diner, spurious charges were laid against Peter Collis, and finally in April 1988 there was an application to wind up Jilly's Diners. The report goes on to criticise the Business and Consumer Affairs Agency for continuing to refer people considering buying franchises to the Franchisee Counselling Centre, which actively promoted Jilly's in the months before it went into liquidation. The report stated that the Franchisee Counselling Centre was in a position of

conflict of interest. It reportedly gave independent advice to potential franchisees while acting on behalf of and taking fees from groups selling franchises. Recently there has been considerable publicity, all of it highly favourable, about the concept of franchising. Publicity in the form of newspaper advertising supplements centred on the claimed benefits and prospects of franchising, but completely ignored the potential traps. I should like to ask the Attorney General, Mr Collins, what steps he and the Government consider they should take about the continuing non-action over the Jilly's Diner fiasco, and what does he plan to do to protect potential franchisees from exploitation by unscrupulous types?

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [6.2]: I am aware of the claims made in the *Sun-Herald* on 10th November about Jilly's Diner. Regrettably the claims are typical of some of the blatant

sensationalism that this House and the State have come to expect from some elements of the New South Wales media, who prefer to sensationalise rather than substantiate, allege rather than ascertain, and vilify rather than verify. The report contained allegations of murder, heroin trafficking and money laundering associated with the operation of this diner. The story is spiced with references to past and present alleged criminal figures. However, the story's veracity is based solely on a report claimed to have been compiled by the New South Wales Corporate Affairs Commission. This is not so. I understand that a report detailing the allegations of Peter Brian Collis was prepared by an officer of the former Business and Consumer Affairs Agency. That officer was not, and never has been, a Corporate Affairs Commission investigator and was in no position to make a valid assessment of the allegations. However, in 1987 the commission had conducted an investigation into the Jilly's group.

In October 1987 a brief recommending prosecutions on company matters was submitted to the Director of Public Prosecutions. As a consequence, one of the principals was extradited from Europe, and his trial - on matters unrelated to the claims published in the *Sun-Herald* - is to commence this month. As honourable members would be aware, the former Business and Consumer Affairs Agency was involved with the business of corporate regulation, not criminal investigation. Therefore, the report had no status and was not based upon any criminal investigation - if upon any investigation at all. In fact, the credibility of Peter Collis, from whom these allegations have come, must also be seriously questioned. Coroner Derrick Hand criticised Collis for lying to a hearing before the Coroner's Court. All these investigations have at one time or another been investigated by the police, the Independent Commission Against Corruption, the State Drug Crime Commission and the National Crime Authority. All of the agencies found the allegations to be lacking in any substance. Therefore no further investigation is proposed unless fresh and compelling evidence is produced. I trust that this information will assist the honourable member for Manly to appreciate the attention previously given to these sweeping and often dubious allegations, none of which have been based on evidence which, to date, is likely to secure a conviction.

Private members' statements noted.

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

Consideration of Legislative Council's message of 13th November.

Mr MOORE (Gordon), Minister for the Environment [6.5]: The Legislative Council's message seeks the agreement of this Chamber to increase the membership of the Joint Select Committee upon the Constitution (Fixed Term Parliaments) Bills to ensure numerical equality of representation between the two Houses. The Legislative Council has stated that as the bills would alter the Constitution and affect and entrench the parliamentary terms of the members of that House, the concerns and views of members of that House are as important as those of members of this House. Though it would be possible to develop an argument that because this Chamber has the power to unmake a government - and the provisions of the legislation deal

substantially with limiting the circumstances under which a government formed in this Chamber and unmade in this Chamber can go to the people - the Government believes that it is not worth arguing about a matter that should be approached on a bipartisan basis in the interest of the people of New South Wales. Therefore, on behalf of the Government, I move:

> That the Legislative Council's message be agreed to.

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Mr WHELAN (Ashfield) [6.7]: In some respects the motion creates a record. The original motion of Reverend the Hon. F. J. Nile for the establishment of the Joint Select Committee upon the Constitution (Fixed Term Parliaments) Bills provided that the committee comprise 14 members. I thought that was a considerable membership. However, the resolution contained in the message received in this House last night provides that the committee comprise 18 members. By comparison, 18 members is about 15 per cent of the total membership of this Parliament; one less than the number of members of the Tasmanian upper House. A committee of 18 would not necessarily be unwieldy, but I envisage it would have considerable logistic difficulties. However, the committee has a specific term of reference and a fairly defined brief. I have only two comments to make. The two proposed bills were annexures to the memorandum of understanding between the Independent members and the Government. At the time the memorandum was entered into I said that I believed, contrary to the Independents' original belief, that the memorandum of understanding provided no protective measure to disentitle the Premier of the day to call an early election. I do not intend to read out the advice I have received from one of the most eminent constitutional lawyers in Australia -

Mr Moore: Who is that? Professor Blackshield?

Mr WHELAN: Not Professor Blackshield, but the Minister will find out in due course who it is. The first part of the advice is as follows:

> The bill does not allow the Governor to reject the Premier's advice, and thus compels him to accept.

The second part states:

> Whether clauses 4(3) and & of the Constitution (Fixed Term Parliaments) Special Provisions Bill 1991 would if passed effect changes to the Constitution Act 1902 without those amendments being submitted to referendum pursuant to section 7A.

I know Dr Macdonald has scant regard sometimes for lawyers, but section 6 of the Australia Act 1986 provides:

> a law made after the commencement of this Act by the Parliament of a State respecting the constitution, powers or procedure of the Parliament the State shall be of no force or effect unless it is made in such manner and force as may from time to time be required by a law made by that Parliament, whether made before or after the commencement of their Act.

It follows, therefore, that the provisions proposed will mean that unless and until the referendum is passed by the people the bill cannot, in effect, have any validity. With those remarks I shall await the committee's deliberations. I know what the political reality is about the committee. The Opposition understands totally the Government's proposals.

Motion agreed to.

Message

Message sent to the Legislative Council advising it that it had agreed to the Council's amendment relating to the appointment of a Joint Select Committee Upon the Constitution (Fixed Term Parliaments) Bills.

[*Mr Acting-Speaker (Mr Chappell) left the chair at 6.12 p.m. The House resumed at 7.30 p.m.*]

PROTECTION OF THE ENVIRONMENT ADMINISTRATION BILL (No. 2)

Second Reading

Debate resumed from an earlier hour.

Mr WINDSOR: Before the debate was interrupted I was discussing the need for a genuine partnership of government, business, industry and the general community to protect the environment of this State. I was also discussing the role of economic facilitation of this legislation if it is passed in its current form. It concerns me greatly that the Ministry of Environment will become the economic facilitator for this State, particularly given the recessionary conditions in which we live. It should be recognised that within each of the constituent parts of the partnership between government, business, industry and the general community there are differences which are often conditioned by necessity. For example, each primary industry has its own concerns. The same can be said for the huge range of interests covered by those in what is termed "small business". These concerns are quite distinct and unique from the concerns of the manufacturing sector. The same concerns can be identified in the environmental movement, community groups and government. These different needs are not recognised in the bill.

There are grounds to believe that the board, the consultation forum and the education and advisory committees, as proposed in the bill, will not be able to reflect appropriately these differences while harnessing them in the interests of the best possible environmental and economic management for this State. In the implementation and administration of this legislation there is no room for attitudes which deny the legitimacy of either community environmental concerns or the right of business and industry to conduct proper economic activity. I therefore reject the extremist position being put forward by some sectors of the environmental movement. In contrast, business and industry have generally acknowledged the need to establish an environment protection authority - and I support this. I emphasise that I am not against the formation of an environment protection authority, but I am against the structure proposed in this bill.

I am also aware that the Coalition for Economic Advancement, which represents a great number of businesses in our community, has proposed a number of constructive amendments to this bill. Those amendments have the sole purpose of ensuring that New South Wales industry is able to employ people and be competitive with other States and nations. This legislation, as it stands, makes New South Wales uncompetitive. It is contingent upon the Government, Opposition and Independents in this Parliament adopting many of the amendments proposed by the coalition. It would seem that in the midst of this recession every effort should be made for all parties to negotiate an acceptable package that ensures the protection of the environment while providing for the legitimate rights of business and industry to develop the economy of New South Wales. I should also say at this stage that it is regrettable that the authority envisaged in this bill closely reflects the model used in the United States. That body is currently being reviewed after 20 years of operation and there are strong indications that major reforms and changes will be implemented. This bill will not reflect any of those findings, and it seems likely that the New South Wales Environment Planning Authority may make many of the same mistakes its United States counterpart made.

The Minister's proposals will make the authority the largest organisation of its kind in this country. This is in addition to the proposal of the Federal Minister for the Arts, Sport, the Environment, Tourism and Territories to establish a Commonwealth environment protection

authority. There is reasonable concern in the business community in my view that with such a large establishment the focus of the authority will be as an
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environmental police force and a prosecuting agency instead of being primarily an encourager of sound environmental management with an enforcement role and powers in the back-up armoury of the authority. It concerns me that the conduct of the preparation of this bill will be a reflection of what will happen if it is implemented. The key to the success of this bill - and I want to see an environment protection authority formed - will be a proper consultative process. It will need to involve the community and it will require that people wanting to achieve something rather than having to abide by the laws imposed on them.

[*Extension of time agreed to.*]

There is a growing international recognition of the importance of developing economic and market-based solutions to environmental problems. These instruments include charges, subsidies, deposit or refund schemes, performance bonds and tradeable rights. The House must take on trust, in the absence of legislation outlining a regulatory regime for the authority, that it will pursue and develop market-based incentives and mechanisms in conjunction with pursuing its enforcement role. This is not a situation with which I am comfortable, especially given some of the strident views expressed on the powers of the authority by sections of the environmental movement. The structure and powers of the authority, as outlined in the bill, take no account of self-regulation and in my view will be self-defeating, not only of the aims the Minister is hoping to achieve but also for the economic development of this State.

There are numerous examples of industries which have high standards of self-regulation and which could be promoted as models for the development by industry as a whole of strategies for environmental management and protection. It is unfortunate that the authority may not have the powers to act in an advisory role and to promote this approach to, amongst others, government, industry, business and the community. Some industries, such as the mining industry, must negotiate three distinct approval processes. I must question how it is proposed the Government will implement the Premier's commitment to the "one stop shop" for approvals through this legislation. This goes to the heart of whether New South Wales is an attractive destination for investment both in new projects and in new plant and equipment. I am not convinced that these considerations have received appropriate coverage in this bill, yet they are vital questions for the future of the State, both from the point of view of environmental protection and management and economic growth.

Australia's and the State's competitiveness and comparative advantage in global markets are fragile, as we are all well aware. It is important for governments to understand that future growth must be encouraged within a policy framework which does not cripple that slender comparative advantage, which is already threatened by institutional inefficiencies and market distortions. I find it very surprising that the essentially free enterprise Government that we have could be moving in the direction of possibly crippling business in this State. In other words, this State cannot afford to shoot itself in the foot, particularly by adopting environmental policies and practices which are out of step with our international and internal competitors. I recognise that this bill, other than in connection with the definition of the environment in clause 3(1), does not introduce any new policy that is not already in place in the statutes of New South Wales. This bill therefore largely rehashes existing legislation, with the numerous failings contained therein. We all agree that the current State Pollution Control Commission has not worked and that we need to improve upon it. I do not see this bill in its current form being that improvement. This policy review conducted prior to this legislation coming to the Parliament provided the opportunity to be innovative and constructive in connection with finding solutions to the economic and environmental problems faced in this State. It is regrettable that this bill does not rise to the occasion to meet these challenges. It is
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further regrettable that this bill is more a product of political necessity and trade-off rather than long-term consideration of the best interests of the community of this State. That is a tragedy. The environmental and economic future of this State are far too important to be treated in this manner.

If honourable members are so concerned about the environment in which we live, they will no doubt be interested in doing something constructive about solving the problems rather than using the sledge-hammer approach. The problems in urban and country New South Wales differ. The problem in urban New South Wales is that neither the Government nor the Opposition has encouraged commercial developments and consequent residential developments within the major metropolitan areas. This lack of policy direction from both sides of the House over many years has created this problem which members are now attempting to solve with a sledge-hammer under the guise that the Environment Protection Authority will be an improvement on the State Pollution Control Commission. We need to seek solutions to the long-term problem. We need policies to enable the removal of the cause of the problem at its source. We need a policy for urban New South Wales that promotes decentralisation and actually means something. For each new home that is built in the western suburbs of Sydney, approximately $80,000 of taxpayers' funds is expended on infrastructure costs. To that figure must be added the environmental costs to the Hawkesbury-Nepean river system, the pollution aspects of human habitation, vehicle emissions and cluttered industrial sites. To that figure must be added also the social costs of distance from work and the stress of living in newly-built surroundings that by their very nature lack community spirit.

If honourable members are serious about addressing these problems, they should first consider the consequences of the legislation and, second, support legislation I will be introducing that will seek to implement a realistic decentralisation policy. That legislation will not only provide advantages to country communities but will provide the distinct social and environmental advantages that can be achieved by locating industry with sustainable guidelines in country areas. I repeat that I am not opposed to an environment protection authority. However, I am opposed to the proposed structure. I am concerned about the powers the proposed body will have, particularly in relation to the economic development that must take place in this State. I am concerned that New South Wales could end up as a pretty place in which to live where we all enjoy the views but that the State will have no money. At this moment businesses are bypassing New South Wales in favour of Queensland because New South Wales does not have the fast-track proposals of other States. The bill as currently drafted will not solve that problem. The economic facilitation role to be taken on by the environmental movement as a result of this bill will be a great hazard. The way the bill has been introduced has caused a problem because to sell a concept such as this -

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

Mr MILLS (Wallsend) [7.43]: I should like to make two main points in my brief remarks. Before I do so, I wish to comment on some of the remarks of the honourable member for Tamworth. Indeed, I hope he will remain in the House, or read the Hansard tomorrow, to learn why my electorate needs a more powerful environment protection authority. The legislation is not about being pretty. It is about the health of those who live in close proximity to industry. It is about life at the cutting edge of the highly technical industries that create our wealth but may later on bite us in the tail. Part of the problem of environmental protection is the way we catch up, usually later, with the difficulties created by our industries. Having made those few comments about the contribution of the honourable member for Tamworth, I should like to say that I received a big surprise in May of this year when the Minister for the Environment, who boasts of

his bipartisan approach to a range of issues - and I acknowledge his sincerity about many of those issues - suddenly turned up in the Hunter Valley early in the election campaign and said

on radio that the reason New South Wales did not have an environment protection authority after three and a quarter years of the Greiner Government was the fault of the Australian Labor Party. I am sure ridiculous comments such as that did not benefit the Liberal Party election campaign in the Hunter.

The residents of the Hunter are a little more clever than that. They knew that New South Wales did not have an environment protection authority because the legislation which had already passed through this House had not been debated in the upper House before the Government called an election 10 months early. If we are to be bipartisan, let us not play those silly games. Let us be realistic. New South Wales needs a strong environment protection authority. I propose to give one or two examples of why the Hunter area needs a strong environment protection authority. The State Pollution Control Commission is sadly underresourced in the Hunter region and has been for some time. I say that in a bipartisan way because I know that both the major parties now intend to do something about it. Too many of our industries are catching up with us, and they are not all private industries. In the Hunter area the State Pollution Control Commission does not have the ability to monitor industries which do not monitor themselves. I hope the honourable member for Tamworth, who said he wants more self-monitoring by private industry, realises that that is about all the monitoring there is in the Hunter Valley.

The State Pollution Control Commission has almost no ability to cross-check. Occasionally Greenpeace comes to the Hunter Valley and dramatically exposes problems that many of us suspect are present but which the State Pollution Control Commission does not have the resources to do anything about. The industries do their own monitoring in compliance with their licences. The new Environment Protection Authority has some large tasks ahead of it in its first 18 months or two years of operation. It will have to review many past practices. I should like to give one example of a problem which caused great difficulty to about a thousand of my constituents who live within nose-whiff range of the Edgeworth sewage treatment works. There are plans to do something about the problem down the track, but there is no way in the world these constituents of mine could have barbeques in their back yards. They were worried that some of the gases may not be merely the hydrogen sulphide they could smell. They learned from reading documents that if hydrogen sulphide is too concentrated it cannot be smelt at all. They are worried also that there may be harmful organic substances present in the emissions. The State Pollution Control Commission simply does not have the ability to follow these things up thoroughly. As a result of community action, the Hunter Water Board has been alerted to the problem and is carrying out more self-monitoring and, hopefully, providing more community protection.

The major problem to which I wish to refer will be a major headache and will require some real testing of the powers that this bill, or hopefully an amended bill, will give to the Environment Protection Authority. I refer to lead pollution in the Argenton and Boolaroo area around what was formerly the Sulphide Corporation smelter, which is now the Pasminco lead smelter. It has been in existence for 70 years. A number of small investigations have been carried out into the health of the people who live nearby, but at the beginning of this year following some briefings, in which the company participated fully and showed a genuine concern for people living around the smelter, the Department of Health granted the public health unit $60,000 to examine the levels of lead in the blood of people living around the area. They took the obvious one - lead in babies' blood. Tests were carried out on 140 babies, being 95 per cent, living within a kilometre. Of those 140-odd 12 were found to have levels of lead in their blood greater than 25 milligrams per decilitre - that is 0.25 parts per million, the level of concern by

all international standards for young children. Action is being taken about that matter. Pasminco has contributed $30,000 towards cleaning up houses where those children live, but that is only the beginning. The Department of Health is providing money and the State Pollution Control Commission is now starting to participate in soil sampling. However, a real

problem will arise down the track. One asks: on testing primary school children what will happen and who will determine who pays for clean-ups? A whole new area will be opened up because the clean-up will be massive. We wait to find out what happens with the primary school children.

Lead is not the only substance to be emitted. Sulphuric acid can be emitted in clouds and that makes it impossible to breathe in that area for a short while. It does not happen frequently but again the SPCC, as presently constructed and resourced, can only respond later to these matters. Its people cannot reach the problem area quickly and do not have the ability to monitor cautiously. Industry is monitoring. I have viewed the air emission licences for Pasminco. In my opinion they are too weak at least in that they do not deal with the occasional large emanations of acid gases. The Argenton Public School windows are difficult to see through because an associated plant that makes superphosphate from the acid produced at Pasminco produces hydrofluoric acid which etches the glass nicely. That is not great in the lungs but I do not think anyone will die from it.

The area adjacent to these local pollution problems will require great study. It is to be hoped that this amended bill will produce powers for a better EPA for our local community. A review needs to be undertaken of the type of licences given to industry. The Minister has received my submissions. I ask him to consult, when possible, with the overworked officers of the SPCC in the Hunter. Finally I wish to refer to report produced following the chemical inquiry, which was tabled recently by the Minister for Industrial Relations and Minister for Further Education, Training and Employment. I studied this document in relation to a liquefied petroleum gas matter in my electorate. I sighted a large number of recommendations of that inquiry which will add to the burden of an anticipated new EPA. On the basis of what I have read, I am looking forward to the establishment of an EPA to tackle these problems.

The establishment of a single telephone reference point for dealing with chemical and environmental inquiries is recommended. This is particularly relevant regarding incidents such as the Boral fire and the Diversey incident. It is important that the inquiry recommended also that the Government endorse the right-to-know principle and progressively delete confidentiality provisions in the dangerous goods legislation and the Waste Management Act. I do not think this legislation takes up that recommendation, even though this bill does pick up the Dangerous Goods Act in explanatory note 2(d) to provide for government agencies to make information about chemical operations available to the public. That is fine but once again I urge the adoption of the proposed amendments. Local communities need the ability to have some influence. Accessing information is only the first stage of having that influence. Our amendments seek to provide a procedure to influence decisions. I support the honourable member for Blacktown who has foreshadowed those amendments. I look forward to the Environment Protection Authority being established quickly and with real powers.

Mr HATTON (South Coast) [7.55]: I congratulate the Government on introducing this bill and the honourable member for Manly on the work that he has done. I congratulate him also on making his maiden speech on this legislation. I know he has the environment at heart. When I first met him after the elections in May, that commitment came through strongly. He has put in a considerable amount of work with the Government and the Opposition in forging significant improvements to this bill, of which both sides of this House can be proud. Following my briefing with the honourable

member today, I believe this legislation will be some of the best, if not the best, environmental legislation in Australia. It will be of world standing. I appreciate that is a large claim to make but I do make it because there has been a co-operative effort between the Opposition, the Government and the honourable member for Manly.

In our quieter moments we all wonder what the planet is all about, how we arrive here, how we survive and where it fits into our perceptions of religion and the totality of life. We

cannot escape the overwhelming coincidence - for want of a better word - that indigenous people, whether they be the Inuit of the northwest territories of Canada, the North American Indians, the South American Indians or the Australian Aborigines, have this concept of living in a symbiotic relationship with the earth. The earth is their mother; it is not something that they own. As Christians the earth to us, because of a misplaced Christian ethic, which has changed to some extent I am pleased to say and is rapidly changing, suggests that we were created as the supreme beings. We have assumed the role of masters of the planet, masters of the earth, and the earth will bend to our will. Overwhelming scientific evidence tells us that the opposite is true; that in fact we will bend to the will of the earth. The sooner we recognise that the sooner our survival will be ensured. If we do not recognise that our destruction is ensured.

The beauty and symbolism of the language of indigenous peoples is marvellous. For example I picked up a little phrase in Fiji. We were walking through a garden and the guide was speaking about various things. He came across a bush and said, "Look at those grubs enjoying themselves on that bush". Our response is: "Those expletive grubs. We will wipe them out". It is a different ethic. They have every right, as we have, to enjoy the planet. Sure they may be a nuisance but an attitude is displayed towards creatures each having its own place on the planet. The more enlightened response for thinking Christians is that we, as Christians, and those of other religions in our multicultural society, have a duty to appreciate, to care for and to worship the gifts of God in nature. I can only speak for myself about the value of wilderness. What is now the part of the city of Liverpool was in those days the village of Hammondville.

When I was young we would go skinny dipping in clear streams. I lived in the bush. We lived off the fruits of the bush. We would have breakfast in the morning, be away the whole day and return home in the evening. Being young people we would be extremely hungry. We learned to eat the berries off the paper barks, roots, cranberries and a whole range of other natural products. I know how much that means to me. When I become fed up in this place and the next person who talks to me is in grave danger of having his head belted in because of my stress, the way I recover is by going out into the bush on my own. Often I sit on the ground beneath the level of the fernery and try to put into perspective the problems that have threatened to crush me and my personality and absorb my energy. I try to melt into the landscape. A day in the scrub is a great rejuvenation for me. This feeling is experienced by all those who have a lot to do with the land.

It is no coincidence that the various farming organisations now recognise the intrinsic conflicts in competition in the market-place to produce goods to compete in the local and world markets. This can lead to taking shortcuts with the use of weedicides, pesticides and fertilisers to get maximum productivity through overcultivation. People on the land from generation to generation, from father to son, mother to daughter, are caretakers of the land. In the teaching of agriculture I always stressed to my students that the soil did not belong to them. An inch of mature podsol topsoil in the eastern Australian climate is worth at least 1,000 years of time. If overnight we lose an inch of that fully matured topsoil in a podsol profile, we have lost 1,000 years of creation. We are now recognising that. The thinking farming organisations are not only moving towards that concept but are recognising that the concept has a dollar value in

safeguarding the ongoing productivity of the soil and producing a more saleable product. People are being educated about the dangers of contaminated products.

The bill contains a far-reaching definition of the environment which takes into account man's interaction with the systems. It addresses economically sustainable development. We have been told that in our rapidly expanding capitalist economy - and in socialist economies - in order to survive there must be exponential growth; there must be 3 per cent or 5 per cent real growth compounding year after year in the economy. Our common sense tells us that the planet cannot stand that. Money has meant the concentration of the wealth of the earth and therefore the abuse of its resources. Not until the creation of money was it possible for people

physically to accumulate wealth and to use that as power to exploit the earth for their own selfish purposes. We cannot reverse the process. We must use a whole new set of management skills. In a moneyed economy with a concentration of wealth and power we must realise that no matter how much money or power a person has, the survival of the ongoing generations, our family, our successors in the familial line, and their livelihood will depend on how we treat and respect the resources of the planet. The alteration in people's attitude to these matters is bringing about significant changes but they are a drop in the ocean compared with the enormous destruction occurring in the highly capitalised countries and in the extremely overpopulated and undercapitalised countries.

The right to know is enshrined in the amendments to this bill. Because somebody commands resources or wealth, that should not give him total control of information, though he may feel that it is intrinsic to his business and is of commercial confidence. If one participates in the market place of pollution one affects other human beings and society in general. They have a right to know what effect one's activities are having on the environment. People who do not command wealth and power should be able to participate in decisions, particularly in court processes in which they can exercise their rights. That provision of the bill is very important. The board should not be appointed simply by the Minister; it should have balanced representation. That is in the interest of private enterprise as much as it is in the interests of the environmentalists. The co-operative model is the only model that works. The adversarial model is the scourge of the Westminster system, in law and in business competition. In my view the adversarial system is the greatest force of destruction in the Westminster, European, Asian or whatever system. The co-operative model which invites participation, which respects the opinions of other people and the right to know, is to be preferred. This bill recognises that concept in the composition of the board and the exercise of the board's functions. It is the key to good legislation. In my view this will be landmark and excellent legislation of which the Minister for the Environment can be extremely proud. We all live in and are part of an integrated system. If we forget that and do not give people an opportunity to participate in decisions which affect that integrated system, we spell our destruction.

Debate adjourned on motion by Mr Moore.

HOMEBUSH ABATTOIR CORPORATION (DISSOLUTION AND TRANSFER) BILL

Second Reading

Debate resumed from 24th October.

Mr MARTIN (Port Stephens) [8.8]: The Opposition does not oppose the legislation. The explanatory note on the front of the bill states clearly that the objects of the bill are: to dissolve the Homebush Abattoir Corporation, constituted by the Meat

Industry Act 1978; to constitute a body corporate with the name Homebush Bay Ministerial Corporation, to transfer the assets, liabilities and staff of the dissolved corporation to the new corporation and to give it certain functions in relation to the transferred property and other property acquired by it; and to amend various Acts consequentially. Those objects to me signal very clear intentions. The Opposition is aware of the need for administrative changes by way of the body corporate for the Homebush Bay Ministerial Corporation. This bill relates to the transfer of assets, liabilities and staff. It will achieve those goals. Though the bill may be necessary in those respects its ancillary consequences will have grave ramifications for meat wholesalers and their customers in the Sydney metropolitan area and slightly beyond.

The Minister for Agriculture and Rural Affairs might suggest that this is not relevant to the bill but I assure him that the passage of this legislation will see the demise of the central meat distribution centre that has provided a valuable public service for the Sydney region. These are not issues separate form others in the bill; they are part and parcel of the whole structure. If wholesalers are forced to leave the present facility at Homebush and are not provided with an alternative site, the people of Sydney will have to pay up to $1 a kilo more for

red meat. That will add hundreds of dollars to many families' annual expenditures. All this has been caused by the mismanagement of those opposite who have been able to build racetracks but mismanage a meat service that has contributed much to metropolitan Sydney. Later, the honourable member for Mount Druitt will speak about the need to clear the land at Homebush and its connection with the Olympic Games bid for Sydney. The Opposition is sceptical about the financial arrangements that have been made regarding the transfer of the Royal Agricultural Society from Centennial Park to the Homebush site. In offering these criticisms the Opposition is endeavouring to be constructive and to assist the House, as all loyal Oppositions should do.

Honourable members will be aware that the Homebush Abattoir Corporation and its predecessors had been supported by successive New South Wales governments from the 1840s to 1988. The corporation provided facilities for the slaughtering and distribution of red meat in the metropolitan area. The 1988 election policy of the coalition parties committed the Government to closing the slaughtering facilities at Homebush. The coalition parties promised that if elected they would retain a major centre for the wholesale distribution of red meat. Until now the Minister for Agriculture and Rural Affairs has kept that promise but now he has decided that the wholesale meat industry is to be removed from Homebush Bay. The first proposal was to move the wholesale meat distribution centre to the Clyde Showground but at the eleventh hour that fell through. I understand the present proposal is to use railway land at Chullora. A site there is to be made available on a freehold basis or on a long-term lease at full market rates. It was expected that the lease would return 11 per cent on unserviced land. Site development and construction costs would have to be met by the meat wholesalers. But that proposal looks after only the few rich wholesalers who can afford to meet those costs. A whole range of others cannot meet the costs involved and the red meat distribution system will become fragmented.

I am pleased that the honourable member for Murrumbidgee is in the Chamber. He has been a great supporter of the marketing system. There is no reason why the Government cannot provide a site for the distribution of red meat, as has been done with the fruit and vegetable market and the fish market - even though the Sydney fish markets are a scandal. It is essential to protect meat marketing and give wholesalers a central distribution site. The Minister for Agriculture and Rural Affairs has acted arrogantly and carelessly. He does not intend to provide any assistance to the meat industry, which is on its knees in rural areas of the State. Producers should be able to sell as much meat as possible at the highest price they can get for it. The Minister is on record as having said:

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> Governments have been most generous in the past, namely, the Government's maintenance of a significantly large debt accrued by the Homebush Abattoir Corporation -

In 1988 that debt was $76 million:

> - and the Government's generous assistance package to the county council abattoirs of $48 million in 1984.

Neither of those expenditures has been of any benefit to the wholesale meat market.

Mr Armstrong: The honourable member did not write this speech himself. He has plagiarised it.

Mr MARTIN: The Minister interjects. I shall repeat what he said if he chooses to find fault with my quotation of his words. I did not come here looking for an argument but to put the Opposition's point of view constructively, to demonstrate to the people of New South Wales that it is essential to have a red meat distribution centre in the Sydney metropolitan area. Crazy decisions were made during the time of the Askin Liberal Government, which wasted $27 million on refurbishing a 50-year-old abattoir. Good money was thrown after bad, merely to maintain an export licence, or to stroke gently the ego of the chief executive at that time. That

$27 million and the interest on that sum would equal the losses incurred by the Homebush Abattoir Corporation. That fiasco and the events surrounding the county council marketing of meat, following the terrible decisions made in the 1950s, left no alternative but to reform the system. Ratepayers today still bear the cost of the bad economic decisions that were made regarding the eight county council abattoirs. Members who came to this Parliament in the 1980s have been made aware of what their forefathers had to pay because of those bad decisions. The decision to dissolve the Homebush Abattoir Corporation and not replace it -

Mr Cochran: How can our forefathers be paying for it now?

Mr Fraser: How many fathers do you have?

Mr MARTIN: I can assure you that if you want to bring your fathers into -

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member for Port Stephens will address his remarks through the Chair and return to the substance of the debate.

Mr MARTIN: Members on this side of the House can identify their fathers but I have my doubt about a similar ability being shared by members on the Government benches. I turn now to the legal aspects of this bill. The Homebush Abattoir Corporation was established to serve as a central meat distribution point for the population of the Sydney metropolitan area - 3.45 million people, estimated to rise to 5 million by the year 2010. Henceforth, under the proposed Homebush Bay Ministerial Corporation there will be no centralised system for the distribution of meat. The State is going backwards rather than attempting to meet the needs of the future. The Government is a failure. It is unable to make a decision. It is unable to deliver the services and facilities that the people need and demand. Meat wholesalers claim that about 35 per cent of Sydney's meat consumption goes through this marketing system but the Minister and his officers claim it is a lot less than 35 per cent. On 25th May, 1988, shortly after the honourable member for Lachlan became the Minister for Agriculture and Rural Affairs in this Chamber he said:

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> The distribution complex supplies about 45 per cent of Sydney's weekly requirement of meat and therefore there is a present need for its continued operation.

Though the Minister may have been naive -

Mr Schultz: But he was right.

Mr MARTIN: Of course he was right, yet a minute ago he shook his head and said I was incorrect.

Mr Fraser: But you were referring to what is happening now.

Mr MARTIN: Does the honourable member understand about the distribution of meat? Has he had the sort of briefing that Opposition members were given? Have the lobby groups been to see him? The honourable member comes from the banana republic of Coffs Harbour. His constant interjections show that he has not got a clue about the meat industry.

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member for Port Stephens will address his remarks through the Chair.

Mr MARTIN: Members opposite do not understand that because of this legislation the price of meat will rise by $1 a kilo. The Government will be responsible for that price increase. The producer will not receive the benefit of the additional money that the consumers will pay for

meat. The additional money will be used in administering the fragmented marketing system, which is not in the best interests of the people of New South Wales. Much of Sydney's meat supplies are transported direct from country abattoirs. It is clear to Opposition members that if meat from country abattoirs is sent to a centralised place for distribution the consumers, producers and the industry will benefit. A better variety and quality of meat will be available. The Minister for Agriculture and Rural Affairs said that the Homebush Abattoir Corporation would remain open - another broken promise. This Government is not delivering the services that it promised. The Opposition has no option but to argue the case on behalf of the people of New South Wales.

The New South Wales Farmers Association has said that there should be a central wholesale red meat distribution centre. What would such a centre cost the Government? The Government has surplus land. The people in the industry are prepared to construct their own facility. All they require is a serviced site at a reasonable price, which is a far better economic proposition than other forms of marketing, yet the Government blindly continues with its ideology, which is hurting the people of this State. The present Homebush Abattoir Corporation is a government trading enterprise returning a dividend to the State. It should be given the chance to get on with the job. Instead it encounters nothing but arrogance and difficulties from the Government. The history of the Homebush abattoir complex is both long and complicated. I have touched only briefly on some of the issues. What is important to the meat consumer is that there should be a healthy future for this industry. The Government has failed once again to honour a promise. The Government is doomed. It has failed to listen to the people and it has failed to act on their behalf. The people deserve far more than ideology and hype.

Mr FRASER (Coffs Harbour) [8.28]: In 1988 when in opposition the coalition parties pledged to close down the disgracefully inefficient and polluting abattoirs at Homebush Bay. The present Minister for Agriculture and Rural Affairs achieved that
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goal in June 1988. His action prevented the haemorrhaging of taxpayers' funds used to prop up the abattoir without compromising the supply and price of meat to Sydney consumers. The Minister for Agriculture and Rural Affairs subsequently closed the saleyards in May 1990, thereby achieving further savings for the taxpayers of New South Wales, something that the former Labor Government never did.

[*Interruption*]

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member for Port Stephens has had his opportunity to participate in this debate.

Mr FRASER: This bill deals with the final stages of the winding up of the Homebush Abattoir Corporation. The corporation no longer has an effective function other than to manage its assets and liabilities. It will be wound up on 31st December. The new vehicle for managing the current responsibilities of the corporation will the Homebush Bay Ministerial Corporation, which will commence its operations on 1st January, 1992. The object of the legislation is to establish a more appropriate legal entity to manage the considerable lands under the control of the present corporation. It will permit the new corporation to properly develop the land under its control so as to allow the implementation of the Homebush Bay strategy, to which a more co-ordinated approach will be taken.

As honourable members are aware the strategy encompasses, among many things, Sydney's Olympics 2000 bid. Eventually the new corporation will be transferred to the portfolio of the Minister for Local Government and Minister for Cooperatives and will be under the direct control of the Property Services Group. It will be subject to the audit reporting requirements of the Public Finance and Audit Act. The hypocrisy of the shadow minister for agriculture is highlighted by the extent of outstanding liabilities, of the order of $13 million, that were run up during the term in office of the previous Labor Government. That debt will be fully funded by

the development of stage two of the Australia Centre at Homebush, and it will be eliminated by the financial year 1995-96. That will be possible because of the financial management expertise of this Government. The previous Labor Government never had that expertise. You have adopted scaremongering tactics by telling the residents of Sydney that the price of meat will increase by $1 a kilo. That is absolutely disgraceful.

Mr ACTING-SPEAKER (Mr Chappell): Order! The member for Coffs Harbour will address his remarks through the Chair.

Mr FRASER: Some of the remaining staff of the corporation, 30 in number, will transfer to the new corporation. Those who will not be required by the new corporation will be offered redundancy arrangements that have been approved by the Public Employment Industrial Relations Authority. Funding for such payments to the staff of the corporation was set aside in 1988. I commend the Minister for pursuing the wind up of the Homebush Abattoir Corporation in such a purposeful and efficient manner. The previous Labor Government intended to wind up the corporation but it never got around to it. It was more intent on wasting money. When in government the Labor Party did not have the guts to introduce initiatives to realise savings and efficiencies similar to those achieved by this Minister. I support the legislation and congratulate the Minister on its presentation to the Parliament.

Mr AMERY (Mount Druitt) [8.32]: I inform the House that the Opposition supports the bill. I make the observation in passing, however, that Government
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supporters always seem to be congratulating themselves on creating unemployment. The honourable member for Coffs Harbour spent most of his time congratulating the Minister and the Government on winding up this corporation. The Government continually congratulates itself on putting people out of work. The object of the bill is to dissolve the Homebush Abattoir Corporation and to establish a new corporation to manage the Homebush site, which will include the sporting facilities to be constructed for the year 2000 Olympics. The Opposition has had two briefings with the Minister and his advisers about a number of matters. I was advised that the long service and superannuation entitlements of employees of the old corporation will be protected by the provisions of the bill. Thirty employees will be affected in that regard. Meat industry operations on the site will be phased out. I shall have more to say about that later in my contribution. Subclause (1) of clause 7 provides:

> 7. (1) A person who was employed by the Homebush Abattoir Corporation immediately before the transfer becomes, upon transfer, an employee of the Ministerial Corporation.

The provisions of part 4 will guarantee the superannuation, long service and employment-related entitlements of employees. I accept the advice of the Minister and his advisers about those protections. I was advised also during those briefings that the new corporation will be involved in the management of the Homebush site and, therefore, the Olympic bid that New South Wales has made. On 23rd September, 1993, in Monaco the city that will host the year 2000 Olympics will be named. The New South Wales bid is strong and well co-ordinated. All athletes who will take part in the Olympic Games in the year 2000 will need to be accommodated in the one village. The Homebush site has the capacity to provide that essential accommodation. Nineteen sporting venues will be located within 10 minutes travel of the Olympic village. The central location of the site is a strong feature of the bid. Most of the training facilities for athletes will be available at the site also. The marathon event will conclude at Homebush. Along with Darling Harbour - which has had its share of criticism from Government supporters - and the Penrith Lakes scheme, Homebush will play a significant role in the New South Wales bid to host the Olympic Games.

Though the Opposition supports the bill, it has some concerns about a number of matters. The Meat and Allied Trades Federation's wholesale meat distribution centre at the site must be relocated. Surely the Government can provide assistance in that regard. It would be in

the best interests of consumers, producers and wholesalers if a market for the distribution of meat in the Sydney metropolitan area centrally located. That important aspect was argued strongly by the honourable member for Port Stephens. The court action that was initiated by the wholesalers was not influenced in any way by this legislation. It contains no provisions for retrospectivity. Producers and wholesalers agree that the legislation should not be delayed. The Opposition is eager, therefore, to have the legislation pass through the Parliament to enable the new corporation to get on with the task of managing the site. As my colleague the honourable member for Port Stephens said, the Opposition is concerned about the situation so far as consumers are concerned. It is concerned also about the Minister's apparent unwillingness to reconsider other options for a distribution centre, and that no assistance has been offered by the Government in this regard. That is an appalling state of affairs. Though it may be necessary for the meat distributors to move from the Homebush site, no assistance is being offered by the Government for that relocation.

The Minister seems unwilling or unable to acknowledge that consumers will pay more for meat if there is no central market. The honourable member for Port Stephens was interrupted continually by members of the National Party who scoffed at this point.
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From statistics gathered by the Opposition it is estimated that consumers in western Sydney could pay an extra $300 a year for red meat for a family of four people. That figure is based on increased costs associated with meat distribution if there is no central city facility. However, the Minister ignores this fact and scoffs at the claims. Apart from this gigantic and unnecessary impost on ordinary working families, the Minister's stubbornness will also cause hardship to suburban butcher shops and other retail outlets. Nothing that has been said by the Minister will relieve this hardship. Butchers are concerned about the apparent loss of a central meat distribution point. The industry is stunned by what it sees as misrepresentations by the Minister of its arguments. In a briefing note made available by the Minister's office to members of the coalition no mention is made of the offer of the industry to build, at its own cost, a modern and efficient new distribution centre if some assistance is provided to relocate to suitable land.

I understand that Mr Bill Patterson of the Meat and Allied Trades Federation has claimed in correspondence to the Leader of the Opposition that the Minister's briefing notes make no reference to the constant message to the Government, that is, to lease State Rail Authority land at Chullora which would enable the industry to build a new meat market at no expense to the Government. The industry has made it clear that it has not requested that the land be given to it, nor has it requested the building of a new market. The proposition is to the contrary, yet the Minister's head remains in the sand on this issue. The Minister continues to ignore these concerns and to scoff at the claims made by industry spokesmen and by the Opposition. Can the Minister imagine the chaos and confusion if Sydney did not have a centralised fruit and vegetable market? Can the Minister imagine what the agents and growers at Flemington would say if they were told that the market had to close because the land was wanted for something else, and if those agents and growers were offered assistance to relocate to land at Chullora on the basis that they purchase the land for up to $6 million and, as well as that, build their own markets? One can imagine the outcry from market operators at Flemington were that to occur. This is a ludicrous alternative that is being offered to the meat industry. It is vacating land of about 400 acres, valued at about $250 million. It is land which has been used by the meat industry for more than 70 years.

I should like to place on the record a few matters of importance. It is important for the wholesale meat industry that these issues be recorded because the dispute is between the Minister and the meat industry. On 6th November, 1990, the then Acting Minister for Administrative Services, the Hon. Ian Causley, officially advised that Chullora land of approximately 4.5 hectares - 11 acres - was available for purchase for $7.2 million or at the outrageous rental of 11 per cent of that value. In both instances the nominated values were in excess of market-value, as subsequent events have proved. On 27th November, 1990, the Property Services Group advised that the Chullora land was available on the basis of full

commercial rates for the occupation of the site. On 14th January, 1991, a delegation of wholesalers met with the Minister for Agriculture and Rural Affairs and stated that the success of the Chullora project required a joint effort between government and industry and that, if a satisfactory agreement could not be reached on the land valuation of 11 acres, the Minister's assistance was sought to intervene to ensure the success of the project. On 2nd May a letter was sent to Minister Armstrong seeking an urgent meeting to report on the feasibility study completed by Civil and Civic. No reply or acknowledgment was received to this material which emphasised that the $7.2 million land valuation was excessive and that on such a valuation there could be no likelihood of a meat market becoming a reality.

[*Extension of time agreed to.*]

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On 1st July, a few months before the Opposition was briefed by the Government on this issue, a letter was sent to the Minister again seeking an urgent meeting and referring to the May correspondence. On 10th July an industry delegation met the Minister who expressed disappointment with what was referred to as the industry's lack of progress and its alleged failure to negotiate with the Property Services Group which was still adamant that $7.2 million was the value of the land. This is contrary to the claims that, since this issue has been on foot for the past year or so, the industry has been slow to respond to the many calls from the Government. I am told that at that meeting the Minister indicated he was not willing to make any recommendations regarding land valuations. On 18th July, after a three-week delay, industry representatives met with a Property Services Group officer, Mr Andrew Cappie-Wood, and the advice still was that the land value at Chullora was $7.2 million. They could not shake the $7.2 million. The industry was told that only a very minor reduction could be considered and that the Property Services Group could work only on current commercial values - without exception.

On 28th August an industry delegation met with Minister Peacocke and Property Services Group officers. The Minister offered a stepped rental for the early years of occupancy, to be recouped in later years. The Minister was informed that the revised valuation of land at Chullora - now reduced to $6 million - could not be financed by the wholesalers who would be responsible for financing a new $10 to $12 million meat market built at no expense to the New South Wales Government. The proposal to lease the land at a peppercorn rental with industry responsible for the construction, management and supervision of the market is not an unreasonable proposal. This is so when it is understood that ownership of the land was vested in the Crown. If for whatever reason the project was not successful, the Government always owned the land. I understand that reference has been made to a cold storage facility at Prospect as a possible alternative site. The industry claims that the site is not suitable and further refutes that its alleged suitability was confirmed by the Meat Industry Authority. In fact, it has been drawn to my attention that the chairman of the authority, Mr Carter, has complained of the unknown American entrepreneur - this Minister always seems to find unknown entrepreneurs - who is canvassing this project and about the misuse of the name of the Meat Industry Authority and promotional material issued. Opposition members might think this a familiar story - shades of the Dutton trout hatchery.

Mr Martin: Not Jacques le Suave!

Mr AMERY: Not another Jacques le Suave!

[*Interruption*]

Mr ACTING-SPEAKER (Mr Merton): Order! The honourable member will be heard in silence.

Mr AMERY: The relevance of this debate is that the Government has not honoured its pledge to assist with the retention of a wholesale meat market in Sydney. It is clear to me and to the Opposition that the wholesalers are not seeking a taxpayer subsidy to prop up a commercial operation. Industry discussions as long ago as 18 months show what the position is - lease the land at Chullora and the industry will ensure the new market is built. The suggestion that Homebush supplies between about 10 per cent and 15 per cent of Sydney's meat is incorrect. Current throughput averages 1,500 tonnes weekly, which is approximately 35 per cent of the Sydney meat market. The Government has not addressed the issue of what will happen to that meat when the cental

market facility ceases to exist. The Government has not addressed the question of what will happen when the inevitable prohibition occurs of large refrigerated meat wagons delivering direct from country abattoirs to Sydney's already choked suburban streets. The Government has not addressed the issue of Sydney's future needs for a central meat market.

The Opposition supports as inevitable the measures in the bill to close the abattoir and stockyards, and the wholesalers offer the same support. We do not like certain aspects of it, but we accept that it is history. However, the Minister agrees there will always be a need for a modern, centralised meat market despite his strenuous efforts to deny this undertaking. Unfortunately those assurances have not borne fruit. I ask the Minister to address those concerns when he replies to this debate. The Opposition supports the bill. It supports the role of the Homebush Abattoir Corporation in the Olympic bid. We are concerned about the meat industry. We are concerned about the removal of toxic waste from the site. We were assured a few days ago at a briefing by officials from the Public Works Department that the removal of toxic material from the site is going ahead as planned. With those assurances we are happy to assist the Government in getting this bill through the House. The Homebush site will be the central plank for the Government and the community's bid for the Olympic games to be held - we hope in Sydney - in the year 2000.

Mr NAGLE (Auburn) [8.51]: I wish to contribute to this debate because the Homebush abattoir is in my electorate. Part 3, clause 5, subclause (2) of the bill deals with the dissolution of the Homebush Abattoir Corporation and its assets, rights and liabilities. I am concerned about the blue asbestos at the old Homebush abattoir site. Paragraph (b) of subclause (3) states that on transfer the following provisions have effect:

> (b) the rights and liabilities of the Homebush Abattoir Corporation comprised in the business undertaking . . .

And paragraph (d):

> (d) any act, matter or thing done or omitted to be done in relation to the business undertaking . . .

Paragraphs (a) and (b) of subclause (4) also refer to the assets, rights or liabilities of the Homebush Abattoir Corporation. The honourable member for Mount Druitt referred to assurances given for the removal of toxic waste, but I would like an assurance from the Minister that the blue asbestos will be removed from that site in accordance with regulations. Any government department or individual that does not comply with environmental protection requirements will be in breach of this legislation. In accordance with clause 11(1) of the bill the Governor will have the power to make regulations. I want an assurance that the blue asbestos will be removed from those buildings and disposed of safely so that the people in the Auburn electorate will not suffer as they suffered when the buildings on that site were partially pulled down a few years ago.

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [8.53] in reply: I thank the honourable member for Coffs Harbour, who spoke in the debate on behalf of the Government. The honourable member for Coffs Harbour is a first-termer in this Parliament but already he is making outstanding contributions. This is probably because of his knowledge of

rural affairs, and his capacity to research matters and present a balanced case. I thank also the honourable member for Mount Druitt, who has done his homework - and he obviously does most of his own preparation - on agricultural and
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rural matters. As usual, the honourable member for Port Stephens, the Opposition shadow spokesman on agriculture did not do his homework. He did not understand what he was talking about and he did not address the bill. What did he do? He plagiarised the briefing notes given to him by some meatworkers at Homebush abattoir. I have the same notes. He made what is called a multiple speech; the notes can be used by multiple speakers. Of course, we know a fair bit about the honourable member for Port Stephens. He used to work for the Department of Agriculture so we know how good he was. I rest my case. I understand - and I have this on good authority - that recently there have been strong moves to ensure that the honourable member for Port Stephens remains in his position as Opposition spokesman on agriculture. We believe that if he remains in that position the Opposition will not be able to claim one vote in rural New South Wales.

[*Interruption*]

Mr ACTING-SPEAKER (Mr Merton): Order! The Minister has the call. He will be heard in silence.

Mr ARMSTRONG: Let us see whether we can put in *Hansard* a bit of truth, a bit of common sense and a bit of balance in regard to the Homebush abattoir. I will address some of the points that have been made tonight by speakers in the debate. Earlier three speakers identified the reasons for the closure of Homebush abattoir. The works are old and inefficient; they were designed at the turn of the century. The Opposition does not understand that the facilities were designed in the days of train transport - before motor transport - and in the days of seasonal abattoir operation. There is no need for works of that size in the 1990s, let alone the next century. There is no doubt that the Homebush abattoir was a blight on this city and it created massive pollution problems.

Mr Martin: What about the cost of meat?

Mr ARMSTRONG: The honourable member for Port Stephens had his go and he did not do very well; he made a fool of himself.

[*Interruption*]

Mr ACTING-SPEAKER: Order! I call the honourable member for Mount Druitt to order.

Mr ARMSTRONG: Homebush abattoir discharged into the Sydney sewerage system an amount of animal fat that was equal to the entire contribution of the rest of the city. For 12 years the former Labor Government did nothing. Its Minister for Agriculture did not have the capacity, the courage or the ability to address that major environmental problem or the fact that the abattoirs were outmoded and certainly not necessary. As I have said, the works and the facilities have a colourful history. Tonight we have in the Chamber Mr Terry Hukins, a long-time employee of the Homebush Abattoir Corporation. Earlier I was thinking about some of the other colourful personalities, such as the Riddell brothers. I do not know whether honourable members remember some of those people - some of the greatest stockmen this country has ever seen. Bernie Steege is one of the greatest stock auctioneers this country has ever seen.

[*Interruption*]

Mr ARMSTRONG: I bet the honourable member would not be game to say that to his face. Bernie Steege is over 80. He is probably one of the greatest livestock experts in this country. We have seen the passing of a whole era. Most of the

opposition to this bill concerns the future of the present operators at Homebush. Opposition members have failed to state - probably because they do not understand - that the Flemington fruit and vegetable markets and the Sydney Fish Market are producers' markets designed to service producers and to provide them with a market-place. Members of the Opposition do not understand that sheep, goats and cattle are marketed at the point of production through the saleyards provided, in the main, by local government and, in some cases, by State governments - in many cases as a result of the county council development in the Askin-Cutler years. Some of the most successful meatworks in New South Wales are the legacies of that county council development in the 1960s. Opposition members do not understand that when we talk about the lessees at Homebush at the moment, it is a normal, commercial operation to do with the processing of meat. That is the second stage of meat industry distribution. Honourable members opposite are asking for a special deal - a sweetheart deal for a select group of people. They are used to doing this. The Labor Party specialises in sweetheart deals.

[*Interruption*]

Mr ARMSTRONG: Honourable members opposite made it an art form. The record shows that. Let us get the facts straight. This Government has set aside a portion of land at the former site of the State Rail Authority at Chullora for the development of a central meat complex to replace the current operation at Homebush Bay. This land is available to the Homebush lessees at appropriate commercial rates, subject to negotiation with the Property Services Group. The Property Services Group is prepared to negotiate with the lessees on all their issues of concern. The Minister for Local Government and Minister for Cooperatives, for example, has undertaken to appoint an independent third party to arbitrate on the valuation of the Chullora land. Members opposite failed to mention that because it was not in their briefing notes. The Minister has agreed to arbitrate the valuation of the Chullora land, the value to determine the rental. Though the lessees' view is that the valuation by the Property Services Group is too high, to my knowledge the lessees have not yet responded to the Minister's offer. The lessees probably did not tell the Opposition about that so I will not accuse it of fudging the figures. If the lessees do not wish to utilise this option, there is at least one other cold storage site in Sydney, at Prospect, close to their current operations and ready for occupation after some minor preparatory work. The Meat Industry Authority has made a preliminary inspection of the Prospect site and has confirmed its suitability. Indeed, I understand that at least one operator has already moved into that facility.

The Government has pledged every possible assistance to the lessees other than financial assistance or assistance in kind. The Government believes it is not appropriate for the taxpayers of New South Wales to subsidise what is purely a commercial operation. Currently the Government - that is, the taxpayers of New South Wales - is subsidising rentals at the present site by 25 per cent. I bet the lessees did not brief the Opposition about that. The lessees have been given an undertaking that if they produce tangible evidence of their plans to relocate from Homebush Bay, consideration will be given to extending the date of lease termination by an appropriate period of time. To date representatives of the lessees, notably Mr Bill Patterson, Executive Director of the Meat and Allied Trades Federation of Australia, have not produced concrete plans for relocating the lessees from Homebush. Those lessees claim that the Government has an obligation to provide a central meat industry complex similar to the fish market at Pyrmont and the Sydney markets at Flemington.

This has been rejected on the basis that no such undertaking has ever been given and the Government does not believe that the taxpayers should be subsidising a commercial operation. The operations at Flemington and Pyrmont were commissioned

by the previous government and had different circumstances applying to their operations. Additionally it should be noted that these markets are growers markets, not commercial

markets as proposed by Meat and Allied Trades Federation. The lessees at Homebush Bay currently supply between 10 and 15 per cent of Sydney's meat - not the figures quoted by members opposite. The honourable member for Port Stephens quoted from his cheat sheet, which I have in front of me, because he cannot string three words together himself. The eventual termination of the leases at Homebush Bay will not affect the supply and pricing of meat in Sydney. Meat supplies can be sourced directly from country abattoirs and that is currently happening. With approximately 85 to 90 per cent of Sydney's red meat supplies coming from country abattoirs, or from interstate in some cases, there is no reason why 100 per cent of these supplies could not be supplied, if necessary, in this fashion. There is no validity or logic in the argument being put forward by the Opposition.

[*Interruption*]

Mr ACTING-SPEAKER (Mr Merton): Order! The Minister will be heard in silence.

Mr ARMSTRONG: The Opposition claims that the Government has reneged on its election policies and promises. The Government has bent over backwards to endeavour to accommodate the interests of these lessees. The Homebush site has a wonderful future. I hope it will be chosen to allow Australia to host the Olympic Games in the year 2000. I look forward with anticipation to the Royal Easter Show under the prestigious Royal Agricultural Society being held on that site. A great jewel in the crown of the Government in years to come will be the setting down of foundations for a permanent home for the most versatile and well-recognised royal show in the world.

[*Interruption*]

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

Motion agreed to.

Bill read a second time and passed through remaining stages.

PRISONS (SYRINGE PROHIBITION) AMENDMENT BILL

Second Reading

Debate resumed from 18th September.

Mr DOYLE (Peats) [9.7]: The Prisons (Syringe Prohibition) Amendment Bill is the latest diversion introduced by the Government under the guise of genuine reform. The Government says that this measure will lead to a more secure environment for prison officers and prisoners alike. But even a brief look at the proposed legislation reveals that it will do no such thing. In the words of an eminent Queen's Counsel, a man of no particular party political affiliation, whose opinion among those of others I value in the evaluation of legislation of this nature, this bill is a bandaid job with no regard to principles of proper law reform and is for instant political purposes only. The opinions of the prison officers themselves are also important. Their response, when I met with their senior representatives and discussed the bill, was simply that the bill is a direct

attempt to reduce industrial conflict. It has been presented to them in this way and it is, as such, a gimmick of the worst kind.

It is important to examine the bill and discuss some of the claims made by the Minister in his second reading speech. Those claims and comments, and the bill itself, represent the clearest possible admission of failure and incompetence by the Government in its administration of the New South Wales prison system. The Government is incapable of introducing any genuine prison reform, such is the shambles to which the Government reduced

the prison system in this State. The patch-up job in the bill will not alter that one iota. We are aware of the general prohibition in the Prisons Act against the introduction of contraband into New South Wales prisons. No special offence has been created of introducing a syringe into a prison or supplying a syringe to a prisoner in custody. It is widely recognised that such contraband causes special problems. The Minister himself conceded that the proposed legislation arose as a result of what could only be described as an appalling assault against prison officer Geoffrey Pearce. It is agreed that in certain circumstances it is appropriate to introduce this type of legislation. The bill introduces new section 37A, which creates two special offences and specifies a penalty of two years, a somewhat more substantial penalty than for the general offence in the current Act of introducing contraband, namely six months. The Minister said in his second reading speech, and every member would agree, that that penalty is completely inadequate.

Considered on that basis in isolation the spirit of the legislation is reasonable, but there is a problem about the way in which the only likely defence would have to be proved. I shall refer to that later. The present provisions for prohibiting the conveyance of weapons into prisons are inadequate. The Minister put that view and I do not think any of us would disagree with it. Section 38(1)(c) of the Prisons Act deems that conveyance into prison of anything that is not approved carries a penalty of imprisonment for a term not exceeding six months, or a penalty not exceeding $1,000, or both. In such circumstances a prison officer has the same powers of arrest as a police officer. The regulations under the Prisons Act are related to this bill, and a consideration of the bill requires a consideration also of the regulations.

Regulation 104(1)(a) requires a visitor to submit to a search of possessions; 104(3)(a) requires a visitor to leave personal possessions and, in accordance with 104(3)(b), any other possessions in storage facilities provided for the purpose of the visit; 104(4)(a) enables a visit to be refused to a visitor who refuses to submit to a search and, under 104(4)(b), fails to leave property in storage; 104(5) requires that if a visitor is prevented from proceeding, a report must be made to the director-general on the reason; 105 makes it an offence to deliver proscribed articles into prisons. A person who carries an article that is a prohibited weapon under the definitions of the Prohibited Weapons Act, for example a firearm, is prosecuted under the Act. So, we must consider this amending legislation on the basis of the present Act and the regulations.

This bill will insert proposed new section 37A into the Prisons Act. New section 37A(1) provides that a person who introduces or attempts to introduce a syringe into a prison, or who supplies or attempts to supply a syringe to a prisoner who is in lawful custody is guilty of an offence and is liable to imprisonment for a term not exceeding two years. New section 37A(2) provides that a person is not guilty of an offence if the governor of the prison consented to the introduction of the syringe. Under new section 37A(3) a person is not guilty of an offence if the person satisfies the court that the supply was authorised on medical grounds by a registered medical practitioner and, if the prisoner is in lawful custody in a prison, that the governor consented. Subsection (4) of

this section will enable the powers of arrest of a police officer to be exercised by a prison officer or an employee of a private prison. Under subsection (5) the provisions of the Act will apply to a prisoner being transferred under escort. Subsection (6) defines syringe as a hypodermic syringe, including anything designed for use or intended to be used as or in connection with a syringe.

So far so good: those measures are all very reasonable. The bill overcomes the failure of the Prohibited Weapons Act 1989 to define a needle as a prohibited weapon. Presumably the definition was not included in that Act as a proscribed article must be defined, and that might require the proscribing of all needles. Section 5(1) of the Prohibited Weapons Act provides that if a person possesses or uses a prohibited weapon without authority he is subject to a maximum penalty on summary conviction of 50 penalty units or imprisonment for two

years, or both; or to a maximum penalty on conviction on indictment of imprisonment for 14 years. Section 6 provides that a person who possesses a prohibited article without authority is subject to a maximum penalty on summary conviction of 50 penalty units or imprisonment for two years, or both; or to a maximum penalty on conviction on indictment of 7 years.

The penalty imposed by the bill is equivalent to the lesser summary provisions of the Prohibited Weapons Act. That is not out of kilter or inconsistent with the provisions, for example, of the reformist European administrations in the operation of their correction services, where the potential for abuse of a syringe is recognised. That potential must be acknowledged here. Given that the penalties are the equivalent of the summary provisions of the Prohibited Weapons Act, I do not think that anyone would believe they are overly punitive. There is some concern that the scope of the bill is limited to the extent that it does not provide for stabbing implements, such as knives or other cutting implements. Even the Minister might concede that that is a weakness in the bill, which will have to be addressed at a later stage. I share the concerns expressed by a number of people with an interest in prison reform and in the way the correction service operates. One particular concern is that the onus of proof has been reversed. I shall address that aspect later. As to the intention of the bill, one can only refer to the Minister's second reading speech. He said:

> The intention of the legislation is threefold. First, it will enhance the safety of prisoners and staff in the New South Wales correctional system. Second, it is a measure designed to reduce the opportunity for syringe-related offences which may be committed by prisoners. Third, it represents a strategy to further restrict intravenous drug use among prisoners.

According to the Minister, they are the objectives of the bill. However, even a superficial analysis reveals that the bill will do no such things. Rather, it bears out the comments of prison officers and others who suggest that it is simply bandaid legislation, simply rhetoric under the guise of genuine prison reform by the Government. If the Government had any rational strategy or policy to deal with what can only be described as rampant drug abuse in gaols, if it had any idea at all of how to deal with the shambles to which it has reduced the prison system - as evidenced by the number of escapes, the overcrowding, understaffing and a whole host of other difficulties that the Government has created, all of which result in security and safety problems for prison officers and other staff - the bill might have meaning. However, the bill does not address those issues. The Minister's second reading speech is an admission of defeat, of the total failure of the Government to attack these problems. Conversely, the Government, in the person of the present Minister's predecessor, added to, if he did not create, these problems. The Minister dealt in his second reading speech with what he termed the rationale behind this legislation. He acknowledged that the little the Government had done to reduce

contraband had totally and utterly failed. The Minister said:

> As honourable members would be aware, intravenous drug users comprise a significant proportion of offenders sentenced to full-time imprisonment. Research conducted by the Department of Corrective Services has indicated that approximately one-third of a random sample of 158 prisoners admitted to having at some point used intravenous drugs in prison . . .
>
> It is patently clear that a percentage of prisoners maintain intravenous drug use with the correctional system. Accordingly, there is a concomitant demand for syringes in correctional centres. This is despite the availability of the prison methadone program, the provision of drug and alcohol counselling services, and measures already introduced by this Government to restrict the availability of drugs in correctional centres. The frequency and detection and the number of syringes discovered in correctional centres indicate that syringes continue to be available to prisoners. Senior custodial staff advise that in 1990 more than 400 syringes were seized in prison searches. In September 1990 the prison property policy was implemented to reduce contraband in prisons and to aid the search process.

It must be noted that the Minister, with those specific aims in mind, has endorsed the prisoner property and possessions policy introduced by his predecessor. It is important to acknowledge that point. The Minister went on to say:

> Despite this strategy the availability of syringes in correctional centres remains unacceptably high. To illustrate this point, in the two months immediately following the implementation of the prisoner property policy, 39 syringes were detected statewide.

In other words, the results have been zero; the Government has failed again. The Minister referred to the Government's strategy involving a methadone program, drug and alcohol counselling and other unspecified programs. He spoke about the deservedly notorious property policy introduced by his immediate predecessor, the tough talking yuppie whom he replaced, the tubby toff from Vaucluse, who put the New South Wales correctional system back a decade. The Minister for Justice defended the former Minister for Corrective Services as the greatest ever corrective services Minister in the history of New South Wales. I shall be interested to see how long he continues to say that. He talked about the property policy introduced by Yabsley as perhaps the major step and as fundamental to the Government's efforts to keep contraband out of gaols. After a year's experience with that policy, I wish to refer to a cross-section of opinion from commentators and those directly involved on a day-to-day basis with the prison system in this State. In doing so, it is important that I say that the bill before the House and the property policy were both introduced, according to the Minister and the Government, to improve the lot of prison officers. No one could have an argument with that objective, but some of the comments I shall refer to will show how successful the property policy has been. I quote initially from an article in the *Daily Telegraph Mirror* of 9th October, 1990 by Ian Horswill. He said:

> Prison officers have been put at greater risk because of the ban on inmates' possessions, NSW jails operations executive director John Horton admits.

I am sure John Horton's name would be instantly recognised by the Minister. The article continued:

> "Right now, their job is much more difficult and, in some places, more dangerous. It was a fairly volatile situation. In a minor way, it still is," Mr Horton said.
>
> "Prison officer are working under atrocious difficulties. They have been psychologically traumatised by anger, frustration and constant abuse.

The *Sydney Morning Herald* published an article by John O'Neill and Sandra Harvey on

16th October in which they quoted Dick Palmer, the chairman of the branch of the Public Service Association that deals with prison officers. Mr Palmer said:

> "It's far more dangerous than it's ever been" -

Referring to the conditions in the State's gaol system:

> "We've had that much tear gas let go; that many officers dressed up in riot shields and batons.
>
> "I'm not saying that we should not have got some of the property out, but the way it's been done means that we've now got open hostility between the prisoners and the prison officers. It's a backward step.

In the *Sydney Morning Herald* of 15th October the Minister made it clear that he was not interested in the superintendent's opinions. The article referred to the lack of consultation by the former Minister in introducing the property policy. Quoting the Minister, Mr Horton said:

> "He said it was a difficult decision to make and he anticipated problems, but his attitude, in my opinion, was: 'You're either with us or against us,'"
>
> "I was quite shocked by it [the policy]. Most of the superintendents left that day feeling quite disappointed and some left expecting serious trouble in their jails."

That expectation was valid because trouble in the gaols was exactly what they got. On 5th October, 1990, the *Daily Telegraph Mirror* said:

A jail superintendent has defied NSW Corrective Services Minister Michael Yabsley's tough property policy by allowing inmates to keep religious ornaments in their cells.

That was an enlightened move in the context of how prisons were being administered in the State in those days. The article continued:

Bathurst superintendent Tim Hickie said yesterday the bans on prisoners' personal items, which led to disturbances at six of the State's jails including Bathurst last month, have been modified.

"The prisoners -

And this was a great breakthrough, again on libertarian grounds:

- are being allowed to keep their religious ornaments and wedding rings," Mr Hickie said.

The relaxation followed the refusal by prison officers to remove religious ornaments.

Despite that lack of consultation by the Minister, prison superintendents in various of the State's establishments demonstrated the courage to stand up against the former Minister. The ones who deal with the prison system on a day-to-day basis say: "To hell with your regressive policy. We know what is right for the prisoners and we won't go along with it". The Probation and Parole Officers Association attacked the implementation of the policy as simply a bad management decision. The *Sydney Morning Herald* of 3rd October, 1990, said:

In a statement, the association accused Mr Yabsley of deliberately putting the safety of prison officers at risk despite anticipated problems.

The statement also dismissed as "nonsense" Mr Yabsley's claim that reducing the property

owned by prisoners would reduce the power of "prison heavies".

"The resulting market forces based on heavy demand and scarce supply in the prisons are more likely to make them even more powerful," it said.

"Moreover, ham-fisted tactics -

Referring to this Government's tactics in prisons:

- such as the removal of prisoners' property with little notice, are guaranteed to give troublemakers the opportunity to exploit discontent."

That is a fairly lucid critique of the Government's policy from the Probation and Parole Officers Association. The editorial of the *Sydney Morning Herald* of 12th September, 1990, read:

But on this occasion there is the ring of truth in the prison officers' complaints about lack of consultation and their expression of fears about their capacity to implement the new measures restricting prisoners' property. The Minister for Corrective Services, Mr Yabsley, does seem to have acted precipitately.

I have already quoted the comments of Mr Dick Palmer, the prison officers' union representative, who deals with the system on a day-to-day basis. He was further quoted in an article in the *Sydney Morning Herald* of 16th October.

Mr Schultz: He changes his mind on a day-to-day basis.

Mr DOYLE: Is the honourable member criticising Mr Palmer?

Mr Schultz: That is right.

Mr DOYLE: The honourable member for Burrinjuck has just criticised Mr Dick Palmer. I think that should be recorded. The *Sydney Morning Herald* said on 16th October:

Mr Palmer says the public does not yet understand the implications of the riots for the management of prisons. "I don't think they understand the future ramifications of what's been done.

Again referring to the property policy. Mr Palmer continued:

> You -

That is, the Government:

> - have put the prison system back 20 years.
>
> "The minister has done better than any prison activist to unite the prisoners. I think his style of management is probably a bit 19th century. It's rule by decree and it simply hasn't really worked.

The policy produced various other ramifications. I shall not quote from any more newspaper articles but simply refer to the *Eastern Herald* in which it was held -

Mr Griffiths: On a point of order. I respect what the honourable member for Peats is saying. We are talking about a former Minister. I have had the portfolio for six months. Could we deal with the present, not the past?

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Mr Doyle: On the point of order. We are considering what this Government has put forward as a measure intended to add to the prisoners' property policy in providing a more secure environment for prison officers and for improving security in the gaol system. The Minister might try to divorce himself from the actions of his disastrous predecessor, but I contend that it is totally relevant in the context of this debate to refer to the property policy, because the syringe prohibition legislation that is before the House is relevant to that policy and to the overall security of the prisons in this State.

Mr ACTING-SPEAKER (Mr Merton): Order! The bill is fairly specific. It deals with two essential elements of legislation. The honourable member for Peats is straying from the ambit of the bill. I ask him to deal with the specific issues raised by the bill rather than the general complex history of prisons in New South Wales.

Mr DOYLE: I understand that these matters may cause great concern to the Government and it is important to recognise the situation the Minister for Justice has inherited as a result of the actions of his predecessor. I shall not refer any further to those actions except to point out that it was the Minister's predecessor who introduced the property policy and he has yet to repudiate it.

Mr Graham: On a point of order. The honourable member for Peats is flouting your ruling by continuing to speak in the same vein as he was speaking before. I ask you to bring him back to the ambit of the bill.

Mr ACTING-SPEAKER: Order! The member for Peats was dealing with the issues. Doubtless he will undertake to continue to deal with the bill rather than the history of prisons in New South Wales.

Mr DOYLE: It is a pleasure to speak after what is probably the last point of order taken by the honourable member for The Entrance - or The Exit, as his seat is referred to these days. He is gone. The effects of the activities of this Government on the prisons of this State are still being felt. There is still reconstruction work going on in Parklea following the damage caused by prison riots resulting from the property policy which I mentioned. The Minister might like to

tell the House in his reply exactly to what extent the taxpayer of New South Wales has had to fork out funds, and is continuing to fork funds out, as a result of that property policy. Exactly how much damage was done at Parklea?

Mr Griffiths: On a point of order. There is absolutely no link between this bill and prisoner property. I have never suggested that prisoners have syringes. I am making it illegal. It has nothing to do with prisoner property. The honourable member for Peats is straying far from the subject-matter of the bill. What he says is totally irrelevant.

Mr Doyle: On the point of order. It is interesting to note that in the last week there has been an enlightened move by this Government. Prisoners' thongs have been returned to prisoners. It was initially alleged by the Minister that thongs could be used as a device to hide syringes in prisons. That, of course, relates to property policy, the policy which deals with the possessions prisoners are entitled to keep. Of course that has to do with what prisoners are entitled to have in their possession in gaols. That relates to syringes and the matter before the House. The discomfiture of the Government on this matter is obvious. What I speak of is obviously very relevant.

Mr ACTING-SPEAKER (Mr Merton): Order! I ask the honourable member
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for Peats to conclude his remarks on the point of order. I uphold the Minister's point of order. I have indicated to the honourable member for Peats that this bill is very specific as to the subject-matter. I ask the member to address the bill solely.

Mr DOYLE: I have great pleasure in doing that. This is very relevant to the bill as well as to the continuing investigation in many State gaols about what is and is not permissible with regard to prisoner property. In Parklea, Bathurst, Goulburn, Cessnock, sections of Maitland and the Long Bay Assessment Prison, this is a matter of ongoing investigation. Let us have no nonsense about the effectiveness or otherwise of the Government's policies on prisoner possessions. In similar terms it is widely acknowledged as being indisputable that the drug and alcohol programs, the methadone programs, and the anti HIV-AIDS programs in the New South Wales prison system under this Government are woefully inadequate, if they exist at all.

Mr Hartcher: On a point of order. The HIV program and various other programs in relation to prisoner health are not relevant to this bill, which specifically relates to the prohibition of syringes. I ask that you direct the honourable member for Peats to return to the theme of the bill. If he is not prepared to, having flouted your ruling now on three successive occasions, I ask you to invite him to sit down.

Mr Doyle: On the point of order. I referred to the methadone program, the drug and alcohol program and the anti HIV-AIDS program for one reason only. They were referred to by the Minister in his second reading speech. If the poor gormless goofball from Gosford had read that speech, he would recognise -

Mr Hartcher: On a point of order. I object to, and demand a withdrawal of, those comments.

Mr ACTING-SPEAKER: Order! I ask the honourable member for Peats to withdraw those terms, which I regard as offensive.

Mr Doyle: I withdraw.

Mr Face: Mr Acting-Speaker, the words "goofball", "liar" and various other things -

Mr ACTING-SPEAKER: I have made a ruling. The honourable member for Peats accepted the ruling. The member for Charlestown will resume his seat.

Mr Nagle: On a point of order. In connection with the point of order raised not by the goofball but by the honourable member for Gosford, if the Minister raises an issue in his second reading speech, it becomes a matter to be treated as being at large. If a matter is raised as a reason for this legislation being introduced, members should be able to comment.

Mr ACTING-SPEAKER: Order! I accept that the Minister may well have raised those issues in his second reading speech. As such, the member for Peats is entitled to comment on those issues. However, I would much prefer to have the member return to the ambit of the bill, which is specific, as soon as possible.

Mr DOYLE: It is important, when assessing and dealing with this bill, to consider the prevailing situation in the prisons of this State. In that spirit the Minister has introduced this amendment to try to improve the situation. The Opposition, in a spirit
Page 4689
of generosity, is trying to help the Minister, not hinder him, in the task that he has set himself. It is in that spirit I make these comments. What is the situation in New South Wales which motivates the Minister to introduce this amendment? There can be no doubt that there is a very serious situation in the New South Wales prison system. There is a drug and alcohol problem - as was evidenced in recent weeks at St. Heliers and Emu Plains. The Minister has reacted and introduced disappointing bandaid legislation. I quote very briefly from a prison medical service review submission by the New South Wales Prisons Coalition, which I am sure has the respect of the Opposition and other honourable members of this House. The group made a very detailed investigation into the drug situation in the State's gaols and said:

> Prisoners and staff also complained about the lack of treatment available for all forms of addiction. As one prisoner stated, "We wanted drug and alcohol groups but kept hitting brick walls". Staff of the Drug and Alcohol Service said that staffing was not sufficient to provide an adequate service to all prisoners requesting treatment.

In relation to the methadone program, which the Minister also mentioned during his second reading speech, the comments made in the submission are pertinent. The New South Wales Prisons Coalition made the following finding, detailed on page 23 of its submission:

> The major complaint from both prisoners and staff was the lack of counselling available for those on the methadone program.

That submission quotes comments by the deputy director of the prison medical service. Of course it is relevant to talk about the opinions of the deputy director of the prison medical service in dealing with the question of the availability of syringes in the New South Wales prison system. That gentleman was interviewed on 5th February, 1991, and he commented:

> The Prison Medical Service is now responsible for the Methadone Program but is not funded to provide counselling.
>
> Prior to June 1990 there were no resources allocated to provide counselling. Only assessment and some group work were provided.
>
> . . . The Prison Medical Service is getting much less money than expected for the Prison Methadone Program.

Mr Hartcher: On a point of order. The prison medical service is not relevant to the bill, which is about the prohibition of syringes. The honourable member for Peats has been directed on a number of occasions to speak to the bill. I submit that he is not speaking to the bill.

Mr Doyle: On the point of order. I contend that it is relevant, in dealing with a bill which canvasses the availability of syringes in this State's prison service, to read from a report by the New South Wales Prisons Coalition on the problem of drugs, drug and alcohol counselling services and the methadone program in the New South Wales prison system. It is ridiculous for the honourable member for Gosford, who should learn to keep his hair on, to contend that these matters are not relevant to a discussion on the availability of syringes in the New South Wales prison system.

Mr Nagle: On the point of order. Proposed subsection 3(3) of the bill talks of registered medical practitioners and people being authorised on medical rounds to give syringes. To know exactly the circumstances in which those syringes can be given legally is pertinent.

Mr SPEAKER: Order! The bill is very specific and there is not a lot in the actual text. That, by itself, indicates the restriction on matters about which a member
Page 4690
may speak. An obvious link between the medical supply of syringes and drugs does not gives scope for a wide-ranging debate on drugs in prisons. Although I was not present when the earlier points of order were taken, I believe that the member for Peats should limit himself to the strict medical aspects that relate to whether or not syringes should be used. Certainly that does not include methadone programs. I ask him to ensure that he stays within the leave of the bill.

Mr DOYLE: In his second reading speech the Minister referred to the Government's allegedly wonderful drug and alcohol programs, methadone programs and everything else in the New South Wales prison system. Without quoting further from the excellent submission from the New South Wales Prisons Coalition, I merely point out that the claims made by Minister in his second reading speech have no validity. A range of authorities on all these issues from right across the board, people who deal with the prison system on a day-to-day basis, complain consistently that the drug and alcohol programs, the methadone programs and the HIV-AIDS programs in this State, where they exist at all - and it is very difficult to detect some - are totally inadequate and, where they have been attempted, are a total failure. In his second reading speech the Minister contended that one of the primary objectives of introducing this bill, which is intended to restrict the availability of syringes in the prison system, is to slow the spread of HIV-AIDS in the New South Wales prison system. That is a worthy objective. When making those comments, the Minister referred to the existing HIV programs in the New South Wales prison system. The Minister was speaking absolute nonsense because no worthy or recognised authority agrees with him. The first major national conference on AIDS in prisons was held in Melbourne recently. At that conference Dr Sandra Egger from the University of New South Wales Law School, a highly respected academic, was reported to have said:

> New South Wales provided the rest of Australia with "a wonderful case study in what not to do" to manage AIDS in prisons.

I am quoting from an article that appeared in the *Illawarra Mercury* on 20th November, 1990. Dr Egger, who has been researching prisons for more than a decade and has co-authored two studies on HIV in prisons, said that New South Wales prisons appear to be out of control as a result of the policies of the predecessor of the Minister for Justice. It is in that context that we are dealing with the bill presently before the House. Dr Egger is also reported to have said:

> Far from protecting prison officers, the alleged aim of the confiscations . . . the build-up of anger and violence -

Dr Egger is referring to the property policy.

Mr SPEAKER: Order! The honourable member for Peats is clearly straying from the ambit of the bill and flouting the previous rulings. If he cannot remain within the scope of the bill, I will ask him to resume his seat.

Mr DOYLE: I find it curious that in the context of a debate about syringes in New South Wales prisons I cannot discuss the existing programs in the State prison system. That is the context in which the bill was introduced. In his second reading speech the Minister made repeated references to these programs. However, I will not dwell further on that issue. The point has already been made and the Minister simply cannot deny that those programs are practically non-existent in this State. If the Minister expects anyone to believe that this bill will begin to redress that situation, he is having

himself on. Rather than do that, the bill will simply add to the long list of failures of this Government in trying to control the problems in the prison system. The property policy failed to eradicate the syringe problem. The so-called crackdown on gaol visitors failed to solve the syringe problem. All the other gimmickry and nonsense that the Government has introduced, designed by the previous Minister -

Mr Griffiths: On a point of order. I have been incredibly patient. Mr Speaker, I ask that the member be brought back to the bill, which deals with syringes and nothing else. I ask that he be directed not to canvass your previous ruling.

Mr Doyle: On the point of order. I understand that this is embarrassing for the Minister -

Mr Griffiths: It is not embarrassing, it is boring.

Mr Doyle: The Minister might find these programs boring -

Mr Griffiths: No, I find you boring.

Mr Doyle: - but it is very important -

Mr SPEAKER: Order! The Minister for Justice has made his point.

Mr Doyle: I understand that it is the practice of this House, based on precedent and the standing orders, that a member debating a bill must remain within the limitations of the bill. I contend that the Minister made repeated reference to the Government's programs, and to the present situation in New South Wales gaols which has led to the introduction of this bill. I contend strongly that it is important to discuss those issues. Surely the purpose of the debate is to discuss the merits of the bill. I believe that so far I have been totally in order. I point out that I am about to refer to the specific provisions of the bill. To this stage I have referred, to no greater extent than the Minister, to the prevailing circumstances in this State in which this bill has been introduced.

Mr SPEAKER: Order! The honourable member for Peats concedes that he has adequately covered the matters to which he was referring previously, and has probably matched any contribution by the Minister for Justice. He has stated that he will now come to the specific provisions of the bill. That would be a wise move on his part and I commend that course of action to him.

Mr DOYLE: It is important to understand why, in addition to all the other policies I have mentioned, the Prisons Syringe Prohibition (Amendment) Bill will fail. The Minister is uncharacteristically defensive. I ask him what additional resources and personnel will be provided to police this policy? The answer, of course, is absolutely none. Therefore it is reasonable to expect that the detection rate, that is, the rate at which more syringes will be detected in the New South Wales prison system, will not increase one iota as a result of this bill. The chances of being caught will not increase as a result of this bill. The deterrent effect on people who might be tempted to introduced syringes or parts of syringes into the New South

Wales prison system will not increase at all as a result of this bill. If it does, the end result will be absolutely negligible. If the bill is to be effective, the resources and personnel needed to police it must be increased.

Consistent with the absolute rubbish, gimmickry, rhetoric and bandaid measures

introduced by the Government, the bill contains absolutely nothing to suggest that security for prison officers, prison staff and the inmates themselves will be improved. Unless those resources are increased, the existing situation will continue and about 6 per cent of inmates will continue to use drugs and syringes. The discovery of syringes will continue to be a common occurrence within the New South Wales prison system. The bill will have no impact whatever. I wish to mention also a final piece of hypocrisy on the part of the Government. The Minister referred in his second reading speech to the tragic case of Geoffrey Pearce, a prison officer in the New South Wales prison system. The Minister spoke of that in some detail and suggested that this bill had been introduced as part of a measure to increase gaol security so that no other prison officer would be put in the same position as Geoffrey Pearce. All honourable members would agree that what happened to Geoffrey Pearce was appalling. No reasonable human being could understand how someone could inflict upon another the tragedy that Geoffrey Pearce had to face, of being stabbed with a syringe that contained the AIDS virus.

Mr Hartcher: Listening to the honourable member is almost as bad.

Mr DOYLE: It might embarrass the honourable member for Gosford, but he is easily embarrassed. When this incident occurred the former Minister said that it was tragic. His typical pavlovian response to the media was, "The Government will look after him. There will be a special payment, an ex gratia payment". I am not talking about the Victims Compensation Tribunal award which he received but a lump sum ex gratia payment. The Minister referred to that matter in his second reading speech and correctly suggested that the proposed bill will address that sort of situation. The fact is that Geoffrey Pearce did not receive an ex gratia payment. It is over a year since that payment was made.

Mr Griffiths: On a point of order. The honourable member for Peats has just lied. Geoffrey Pearce did receive an ex gratia payment.

Mr SPEAKER: Order! No point of order is involved. If the Minister for Justice wishes to respond to a statement made by the honourable member for Peats, he will have the opportunity to do so in his reply.

Mr Doyle: On a point of order. The Minister alleged that I lied to the House. I ask him to withdraw that statement.

Mr SPEAKER: Order! The member for Peats has taken offence at the Minister's statement. The Minister will withdraw it. If he wishes, he can then address the matter in his reply. The words are offensive in this context and I ask him to withdraw them.

Mr Griffiths: I will withdraw and explain in my response.

Mr SPEAKER: Order! That is sufficient.

Mr Whelan: On a point of order. The standing orders apply to all members, including the Minister. His withdrawal must be unconditional.

Mr SPEAKER: Order! I made that point. I used exactly the same procedure that I have used with other members who have attempted to qualify withdrawals. Withdrawals must be made without qualification. Once again I draw to the attention of the member for Peats that he is straying beyond the scope of the bill. He has had

numerous warnings. If he is in breach once more I will direct him to resume his seat. This is the final warning.

Mr DOYLE: I find it extraordinary that tonight we have detected all these sensitivities on the part of the Minister and his supporters in respect of prisons in New South Wales. To uphold what the Minister said, I would like to speak more about Geoffrey Pearce. But as you, Mr Speaker, have ruled that the matter should not be discussed further - despite the Minister having mentioned it at great length - I will not dwell on it any longer. The major matter of concern that I have raised with the Minister involves a reversal of the conventional onus of proof. That concern was expressed to me, and no doubt to the Minister and his staff in the course of their evaluation of introducing legislation into this House. I signal to the Minister that in Committee I intend to move an amendment to redress this matter. I would appreciate the Minister's comments at the appropriate time.

To reverse the onus of proof and therefore place on the defendant the onus to justify the possession of a syringe in the New South Wales gaol system, rather than apply the conventional onus of proof whereby the Crown must establish and prove guilt, is a fairly unorthodox measure. Lawyers would concede that such a measure is necessary in some circumstances but that it should be introduced only in extraordinary circumstances. The bill as introduced places the burden on the accused to prove matters that are within the knowledge and control of prison administrators, as found in prison records. Honourable members would not disagree that reversal of the onus of proof in the criminal law is acceptable only, if at all, when matters are peculiarly within the knowledge of the accused. My amendments seek merely to require the Crown to prove as part of its case that no consent was given by the prison governor and a medical practitioner - which I should have thought was a reasonably simple procedure.

On that basis I ask the Minister why it was necessary to introduce this unorthodox step. It has caused concern among many progressive people interested in prison reform and among prison administrators at fairly senior levels. These administrators deal with the administration of prisons on a day-to-day basis. In this case consent is not peculiarly within the knowledge of the accused. It is difficult for the Government to establish why it has taken this fairly unusual step. Why should citizens have placed upon them the burden of attempting to obtain access to prison records and bureaucratic records in order to prove their innocence? The Opposition has one element in common with the Government - a desire to improve the security in the State's prisons and to improve the lot of long-suffering prison officers who in the words of Dick Palmer and others have gone through hell for more than three years because of this Government's measures. If the Minister were to introduce any genuine prison reform to tackle the massive problems facing the prison system after years of administration by this Minister and his predecessor, the Opposition would be only too happy to support it. Once again it is widely acknowledged that this legislation will not have that effect. It is simply a bandaid measure. That will be evident in the months ahead as the results of this bill come into effect in the State's prisons.

Mr SCHULTZ (Burrinjuck) [9.57]: I have a great deal of pleasure in supporting the Prisons (Syringe Prohibition) Amendment Bill. It saddens me when an honourable member on the Opposition benches speaks for in excess of an hour and a half and devotes 24 minutes of that time to the bill he is supposed to be addressing.

Mr Nagle: That is the honourable member's opinion. It is not worth much.

Mr SCHULTZ: It is not an opinion; it is a matter of fact. To enable the honourable member for Peats to be aware of the purpose and features of this bill, I shall read them to him. The bill will amend the Prisons Act 1952 in order to:

(i) provide an effective deterrent and penalty to:

(a) the unlawful introduction, or attempted introduction, into any prison, of a syringe or any component of a syringe, and

(b) the unlawful supply or attempted provision of a syringe to any prisoner;

(ii) reduce the availability and accessibility of potential weapons to prisoners and so enhance the safety of Corrective Services staff, prisoners and other persons having direct contact with prisoners within or outside the prison environment;

(iii) minimise the opportunity for illegal intravenous drug use in custody.

The specific features of the bill are:

(i) for the creation of specific offences of:

(a) unlawful introduction of a syringe, or any component thereof, into any New South Wales prison, and

(b) unauthorised supply, or attempted provision, of a syringe to any prisoner;

(ii) that the maximum penalty for such offences will be two years imprisonment; and

(iii) that in respect of such offences, every prison officer shall have the same powers of arrest as a member of the police force.

The honourable member for Peats talked very little about lethal weapons. He talked very little about syringes. He talked a lot about prisoners' property. He talked a lot about drugs and alcohol in the prison system, and he talked a lot about counselling. I got the impression that he was campaigning for the rights of prisoners to be in possession of lethal weapons capable of killing prison officers and others within the prison system. This bill is all about the protection of prison officers from prisoners with illegal potentially lethal weapons such as syringes. The supply of syringes to prisoners may occur both inside and outside the prison system. It is conceivable that syringes have been introduced to prisons by prisoners who have been removed from the prison to attend court or for medical attention. In such situations the potential must exist for the syringe to be used as a weapon to assault, or facilitate escape from, police or prison staff. The threat of assault by prisoners with syringes on other prisoners, and other people within and outside the prison system, has yet to occur. However, the likelihood of such an event cannot be disregarded, taking into account the number of incidents which have happened in the past. I will come back to them shortly. A reduction in the availability of syringes in the prison system would serve to enhance the safety of prisoners and involved personnel as well as further restricting illicit intravenous drug use.

I turn to the maximum penalty for such offences. Recognition of the potential use of syringes as weapons is not adequately addressed in present legislation. Section 38 of the Prisons Act 1952 provides for a general category of miscellaneous offences. Section 38 (1)(c) states that any person who without lawful authority "conveys or delivers or causes to be conveyed or delivered, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison or prison complex, any money, letter or other

document, clothing or other article or thing" is liable to a maximum term of six months' imprisonment or to a penalty not exceeding 10 penalty units or to both such imprisonment or penalty. Section 38 is considered inadequate in relation to a suitable maximum penalty for the unauthorised supply of syringes to prisoners or the unlawful introduction of syringes into the prison system.

A maximum penalty of two years' imprisonment is indicative to the court of the Government's stance in relation to the potential consequences arising from such offences. On the subject of the powers of arrest, under sections 37 and 38 of the Prisons Act 1952, in relation to trafficking and miscellaneous offences, prison officers have powers of arrest. These sections have been in place since the Act was proclaimed in 1952 and confer on prison officers the same powers of arrest as are extended to all citizens. The powers of arrest proposed in the amendments are not intended to extend these existing powers, only to apply them to allow prison officers to successfully execute their duties in relation to such offences. The honourable member for Peats used words to the effect of suggesting that prison officers were not in favour of the legislation. I got the impression that he was suggesting that prison officers have a double standard. In the *Newcastle Herald* of 13th July there is an article headed "Syringe in Maitland jail: tests ordered" written by Alek Schulha, a Maitland reporter. The article states:

> Twenty-five prisoners at Maitland jail will be urine tested and prison officers have asked for a policy on the internal searching of all incoming prisoners following the discovery of a hidden home-made syringe.
>
> A 22-year-old prison officer pricked his finger with the needle while moving a tarpaulin late on Thursday afternoon.
>
> The needle was hidden in the tarpaulin.
>
> Extensive tests showed the needle was clean and had not been used. . . .
>
> The syringe was made from a needle and a government-issue biro.

That is a classic example of the potential lethal weapon covered by the bill. The article continues:

> The officers have also asked the department to introduce some form of policy to have all new prisoners coming into jail internally searched.
>
> Officers at the Maitland meeting yesterday said they were convinced the needle was smuggled into jail secreted in a prisoner's anus.
>
> Officers do not have the right now to internally search prisoners.

That shows the inaccuracy of the direction the honourable member for Peats was trying to point us in when he said, in part, that the prison officers did not agree with what we were proposing concerning the control of syringes in the prison system. The honourable member for Peats briefly referred to the very sad case on 22nd July, 1990, when prison officer Geoffrey Pearce was stabbed by a prisoner with an HIV infected syringe. I have no doubt that the honourable member was sincere when he said that members on both sides of the House were extremely concerned about that young man and what that incident was doing to him and his family. Enormous compassion was shown to that young man by this Government and by everyone saddened to hear of the incident. It disturbs and upsets me when honourable members opposite play around with a genuine attempt by this Government to protect people such as Geoffrey Pearce.

The aim of the legislation is to deter the introduction into prisons of syringes such as that used to attack that individual. When the incident occurred the Prison

Officers Association made representations about the protection of themselves and others in the prison system. The Government rightly took action in response to what had been said by prison officers about their right to be protected from that type of attack. It behoves all honourable members to consider that incident and its ramifications if this or any other Government in office at the time did not act in response to the genuine concerns of the prison officers. That is what the legislation is about, apart from the so-called bonuses one might get when endeavouring to remove syringes, prevention of the cross-infection of HIV-AIDS and the

problems associated with infections from unclean needles. The bill will endeavour to stop people from being attacked with those weapons.

[*Extension of time agreed to.*]

When the honourable member for Peats was making his contribution a number of interjections were made by members on both sides of the House. One comment of mine referred to prison officers. I do not resile from it. I know Dick Palmer and spent a number of weeks overseas with him inspecting prisons in the United States of America. He is a nice sort of bloke but unfortunately is influenced at times by the weight of numbers and he chops and changes his views. I can understand that under pressure he might express a view contrary to one he would otherwise give in support of the bill. Reference was made also to the problems in the prison system since the Government came to office. History shows that the prison system was in much greater disarray during the term of the former Labor Government than it is today. It saddens me as an individual to hear about problems associated with prison escapes. No one wants people to escape when they are sent to prison for committing crimes. The point I make, though it is a little removed from the present legislation, is that this bill and any legislation that is designed to prevent people from being hurt or prisoners from escaping is only as good as its application by those who are employed in the system. Sadly, diligence and supervision are lacking in some of the State's prisons.

The feeling of the public is that the Government should introduce legislation that will protect innocent people from being attacked and being contaminated with diseases such as AIDS. One strong indicator of the need for supervision - and I know the Minister will not mind if I am a little critical - was the recent escape from Lithgow gaol. That escape would not have been possible if people had been more diligent. I have no problems with making criticisms of the prison system, if they are justified - whether those criticisms relate to the need to remove syringes or for people to be prosecuted for introducing them. Officers should be diligent in their observations of people and possessions within the prison system. Little more needs to be said about the proposed legislation. This is a good bill that attempts genuinely to protect prison officers in the system from attacks by people who are in possession of illegal contraband such as syringes. No one in his right mind could object to the introduction of legislation that will protect people.

Mr NAGLE (Auburn) [10.15]: The object of the bill is to amend the Prisons Act 1952 to make it an offence for a person to introduce or attempt to introduce a syringe into a prison without consent of the prison governor, or to supply or attempt to supply a syringe to a prisoner in custody, except when authorised to do so by a doctor and, if the prisoner is in a prison, with the written consent of the prison governor. For any breach of that provision the maximum penalty proposed in the legislation is two years' imprisonment. I shall return to speak further on that matter because it demonstrates just how wrong the honourable member for Burrinjuck was when he spoke about the value and worth of the legislation. The Minister claimed that the intent of the legislation is threefold: first, to enhance the safety of prisoners and gaol staff; second, to reduce the

opportunity for syringe-related offences which may be committed by prisoners; and third, to further restrict intravenous drug use among prisoners. Will the legislation achieve those aims? Why was it necessary to introduce proposed new section 37A when the principal Act could have been amended by altering a few words in section 37 or by adding to subsection (1) of section 38 another provision related to people who bring syringes into a prison system unlawfully or without the permission or written consent of the prison governor? If a person brings a syringe into a prison system the maximum penalty that can be imposed will be two years' imprisonment. I thought the bill would have provided also for the incurring of penalty points. That shows the hypocrisy of the Minister, who members on this side of the House affectionately refer to as David Hay revisited. Subsection (1) of section 37 is in the following terms:

Any person who without lawful authority brings or attempts by any means whatever -

Mr Griffiths: That is offensive.

Mr NAGLE: Mr Speaker, my time is precious, but David Hay revisited is seeking to interject. Opposition members refrained from interjecting when the honourable member for Burrinjuck was speaking. I request that the same courtesy be extended to me by the Minister and members opposite. I will read this section of the Act because it is relevant to the Minister's supercilious approach to the legislation. Subsection (1) of section 37 provides:

> Any person who without lawful authority brings or attempts by any means whatever to introduce into any prison or prison complex any spirituous or fermented liquor or any drug shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding 10 penalty points or to both such imprisonment and penalty.

I looked again at the proposed legislation in the hope that I would find some provision regarding penalty points to be used as an alternative punishment. If a person brings heroin into a prison, he will get only six months in gaol and or penalty points. If he brings a syringe into a prison, he will get two years' gaol. Why could the Government not have amended section 37(1) to cover that contingency? Alternatively it could have amended section 37(2). The reason this amending bill has been introduced is to allow the Minister to have a big ego trip. He told everyone: "Let me show you what I can do, because I am the new Minister, the new broom. We got rid of the grub, the former Minister, and now I am the Minister. This is what I will do, and I will get a lot of publicity from this".

Mr Griffiths: On a point of order. I find the honourable member's reference to the former Minister offensive. I ask him to withdraw.

Mr SPEAKER: Order! A member cannot ask for a matter to be withdrawn on behalf of another member.

Mr NAGLE: The Minister has been a member of this Chamber as long as I have. He should know the standing orders of the Parliament. If he does not know them he should resign, to quote the honourable member for Smithfield. If it was too difficult to amend section 37, why was section 38 not amended? Section 38(1)(c) reads:

> Any person who without lawful authority conveys or delivers, or causes to be conveyed or delivered, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison or prison complex, any money, letter or other document, clothing or other article or thing.

That offence attracts a six-month term of imprisonment and or a penalty not exceeding 10 penalty points. The offence of bringing a syringe into a prison will attract a two-year prison term under proposed new section 37A(1). That section is to be inserted merely to satisfy the egomania of the Minister for Justice. It would have been far simpler to amend section 38 of the Prisons Act. Had that course been followed, the Minister would not have attracted adverse publicity. It concerns the Opposition that under the Westminster system the onus is on the Crown to prove who has committed the offence; this legislation will reverse the onus. The person charged will have the onus of proving that he or she did not breach the proposed section. What is the Government's reason for reversing the onus of proof? Nowhere in the legislation, in the headnote, or the Minister's second reading speech is that explained. It has been said that prosecutions of these types of cases are complex and that it is difficult to obtain a good result.

The Minister has left the Chamber to ask one of his minders why the onus of proof was reversed. He does not know the reason. Any fool would know why the onus of proof has been reversed: it is difficult to obtain a successful prosecution for such an offence. The presumption of innocence is paramount in our system of law. The sooner the Government realises that the better off it will be. Sections 37 or 38 could have been amended to provide that a certificate was prima facie evidence that a prison governor had not given his consent to the introduction of a syringe to a prison. That is how simple it could have been. It is simple logic; but the Minister for Justice does not have that logic. Had he amended those sections, he would not have attracted headlines. He would not have the ego trip of saying, "What a wonderful person I am; this is what I am going to do". It would not be difficult to amend the Act to make it an offence to bring a syringe into a prison. The Governor merely has to issue a certificate for that purpose. Similarly, in a prescribed concentration of alcohol prosecution, a certificate is prima facie evidence of the content of a document. The same thing could have been done in this legislation, but that was too difficult a matter for the Minister.

The honourable member for Burrinjuck spoke about search provisions. Apparently he is unaware of regulation 104(1)(a) of the Prisons Act, which requires a visitor to submit to a search of possessions from head to foot. The honourable member said this legislation was important because very few Acts provide for the powers of search, extensive or otherwise. Regulations 104(3)(a) and 104(3)(b) require a visitor to leave personal possessions and any other possessions in storage facilities provided for the purpose of the visit. Regulation 104(4)(a) and (b) enables a visit to be refused to a visitor who will not submit to a search or who fails to leave property in storage. Regulation 104(5) requires that if a visitor is prevented from proceeding, a report must be made to the Director-General. The honourable member for Burrinjuck said that difficulties arise with regard to prison searches. The regulations provide for searches. When I was acting as a barrister in criminal matters I visited many prisons. During those visits my briefcase and documents were taken from me. The only article I was allowed to bring with me was my brief, which contained prosecution documents.

Mr Graham: They let him in with his underpants.

Mr NAGLE: The honourable member for The Entrance interjects. At least my clients would have had more sense than to answer in the affirmative when asked, "Do you think that the fact that you took the how-to-votes from someone enabled you to win the seat of The Entrance". Only a fool would have answered, "yes". Proposed new section 37A(1)(a)(b) reads:

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> 37A.(1) A person:
>
> (a) who introduces a syringe into a prison or attempts to introduce a syringe into a prison; or
>
> (b) who supplies a syringe to a prisoner who is in lawful custody or attempts to supply a syringe to a prisoner who is in lawful custody,
>
> is guilty of an offence and liable to imprisonment for a term not exceeding 2 years.

What is meant by the word "introduces"? Does it mean "carries it in" or "hides it"? What is the appropriate definition? Apparently magistrates will have to define that. Subsection (2) reads:

> (2) A person is not guilty of an offence of introducing or attempting to introduce a syringe into a prison if the person satisfies the court that the governor of the prison had consented to the person's introducing the syringe into the prison

A certificate from the governor stating that he had consented to the introduction of the syringe would suffice, because the provision is aimed at registered and authorised medical practitioners. It would show that the prisoner is in lawful custody, and that the governor of the prison consents in writing to the supply.

[*Extension of time agreed to.*]

The bill attempts to overcome problems, but it would have been more appropriate to amend sections 37 and 38 of the Act. The Prohibited Weapons Act 1989 does not define a needle as a prohibited weapon. Presumably it is not in that Act because proscribed articles must be defined, which might include all needles, knives et cetera. Section 5 of that Act deals with possession or use of prohibited weapons, which attracts 50 penalty points or two years imprisonment. However, conviction on indictment might attract 14 years imprisonment. Similar penalties are not provided in this bill. There are no penalty points, merely a penalty of two years imprisonment. The penalty specified in the bill equates to the lesser summary provisions of the Prohibited Weapons Act. Where is it stated in the legislation that prison officers are required to erect signs around a prison stating that it is an offence to bring a syringe into the prison - the penalty for which is two years imprisonment? Where does the legislation require prison officers to warn the public that if they are found guilty of such an offence, they will be imprisoned for two years? Such signs would be a deterrent, but the legislation does not mention signs of any description.

Why were sections 37 and 38 of the Prisons Act not amended to increase the penalties referred to therein? Courts exercise a discretion when imposing penalties. The Government claims that this legislation will afford protection to prison officers. The truth of the matter is that this pup was sold to prison officers in an attempt to reduce industrial conflict. It is a gimmick of the worst kind. The bill will not protect prison officers or prisoners. It is an attempt to improve the poor industrial relations the Minister has with his departmental officers. The same purpose could have been achieved by regulation. Heavier penalties will apply to the offence of introducing a syringe into a prison than for introducing heroin into a correctional institution. The bill is absurd. Subsection (1) of section 38 of the Prisons Act provides:

> 38. (1) Any person who without lawful authority:

> (a) enters or attempts to enter any prison or prison complex;
>
> (b) communicates, or attempts to communicate with any prisoner;
>
> (c) conveys or delivers, or causes to be conveyed or delivered, or in any manner attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison or prison complex, any money, letter or other document, clothing, or other article or thing;
>
> (d) conveys or receives for conveyance or causes to be conveyed or received for conveyance any letter or other document, clothing or any article or thing out of any prison or prison complex;
>
> (e) loiters about or near any prison or prison complex; or
>
> (f) secretes or leaves at any place any money, letter, document, clothing, article or thing, for the purpose of being found or received by any prisoner,
>
> shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding 10 penalty points or to both such imprisonment or penalty.

Where is the consistency? The penalty should be increased to two years and as many as 40 penalty units for those who may be stupid enough to be persuaded to commit such an offence without realising the consequences that may flow from their actions. The legislation has many flaws. The principal Act could have been amended simply, and without the grandstanding of the Minister and the flag-waving of the honourable member for Burrinjuck. If the Government increased the penalties for those offences referred to in section 37 of the Act and offences relating to syringes were increased, they would be similar to those for the offence of introducing a prohibited weapon under the provisions of the Prohibited Weapons Act 1989. That would

have been the more effective way of addressing the matter. Had that been done, the Government would have received a great deal more support for the legislation. Subsection (4) of proposed new section 37A provides:

> (4) In respect of an offence under this section, the powers of arrest of a police officer may be exercised:
>
> (a) by a prison officer; or
>
> (b) in connection with a prisoner (or any other person) at a prison which is managed under an agreement in accordance with Part 6A - by a person employed by the management company as a custodian of prisoners.

Those powers of arrest are provided for already in existing legislation. Was it necessary to spell out those powers for the purposes of explaining the powers of prison officers? It would be absurd if the Prisons Act 1952 did not empower prison officers to arrest those who commit offences within prison complexes. Proposed new subsection (5) provides:

> (5) While absent from a prison in any of the circumstances referred to in section 29A (absent prisoners deemed to be in custody) a prisoner is taken to be in lawful custody for the purposes of an offence under this section only if the prisoner is being escorted by a prison officer or a police officer.

The Government should rethink this legislation. It will not fulfil the matters referred to by the Minister: to enhance the safety of prisoners and gaol staff; to reduce the opportunity for prisoners to commit syringe-related offences; and to further restrict
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intravenous drug use among prisoners. The legislation will have marginal impact on present law as it relates to searching prisoners. The Opposition expresses concern also that the legislation seeks to reverse the onus of proof. It will be incumbent upon a defendant to establish that he or she had a valid reason for supplying a syringe rather than it being incumbent upon the prosecution to prove guilt. What will be the standard of proof?

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

Mr COCHRAN (Monaro) [10.35]: I move:

> That this debate be now adjourned.

Question put.

The House divided.

Ayes, 48

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

Mr Jeffery

Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Ms Machin
Mr Merton
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 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

Pair

Mr Greiner

Mr Carr

Question so resolved in the affirmative.

Motion agreed to.

BUSINESS OF THE HOUSE

Order of Business

Motion, by leave, by Mr Moore agreed to:

That, not withstanding any resolutions of the House, so much of the sessional order relating to the routine of business be suspended as would preclude the grievance debate taking precedence of general business notice of motions on Friday, 15th November, 1991.

House adjourned at 10.48 p.m., until Friday, 15th November, at 9 a.m.