

LEGISLATIVE ASSEMBLY

Tuesday, 10th December, 1991

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

Mr Speaker offered the Prayer.

COASTAL PROTECTION (AMENDMENT) BILL (No. 2)

Second Reading

Mr MOORE (Gordon), Minister for the Environment [9.31]: I move:

That this bill be now read a second time.

A high priority of this Government is its continued commitment to preserving our coastline for the future by co-ordinated and effective planning and management. In 1988 the Government made the decision to reconstitute the Coastal Council of New South Wales. The Coastal Council had functioned until 1985 when the then Minister, now the Leader of the Opposition, failed to reappoint that council. This Government's commitment to coastline management is greater than that evidenced by the previous Government. We recognise the great potential of the Coastal Council and therefore the need to amend the Coastal Protection Act to allow the council to function effectively. As an interim measure the New South Wales Coastal Committee was established in March 1989 under the Environmental Planning and Assessment Act until the Coastal Protection Act could be amended.

Under the Government's coastal policy the reconstituted Coastal Council will take on responsibility for monitoring and implementing policy and ongoing policy review, which is currently vested with the New South Wales Coastal Committee. It is through the Coastal Committee-cum-Coastal Council that the Government will continue to overcome the fragmentation of responsibility of ad hoc decision-making that hampered coastal management in the past. The membership of the new Coastal Council will be expanded from 10 to 16 with a quorum for a meeting being nine members. Local government will be represented by three members of councils on the coast who will be selected from a panel nominated by the Local Government and Shires Association. Local councils have a crucial role in planning and controlling the development, use and protection of the coast. This representation will ensure that local government has a forum in which coastal issues can be discussed with representatives of government departments.

The Coastal Council is also to have a representative of the Department of Local Government and Co-operatives as a further reflection of the important role local government plays in the planning and protection of the coast. The addition of a representative on the council from the State Pollution Control Commission, which is to become part of the Environment Protection Authority, is recognition of the increasing importance of the control and prevention of pollution on our coast and the need to consider this at an early stage in the planning and management of the coast. The proposed representation of the Tourism Commission recognises the attractiveness and importance of our coast for tourism and the contribution that tourism can make to the economy of New South Wales, if well planned to be sensitive to the coast's

environmental attributes. The Government's willingness to take seriously natural environmental protection on the coast will be reflected in the addition of a representative of the Nature Conservation Council of New South Wales. This will mean that the views and knowledge of the many constituent bodies of the Nature Conservation Council can be made known to the Coastal Council during its deliberations. An amendment made to the bill by the Legislative Council provides for a representative of industry to be a member. The inclusion of such a person is consistent with the Government's commitment of having broad representation on the council. As there is not an established peak organisation or umbrella group that comprehensively represents all sections of industry the person to be appointed will be someone who, in the opinion of the Minister, represents as far as possible the broader interests of industry in the coastal zone.

The seven representatives of government departments presently provided for in the Act will remain. These are now referred to as the Department of Planning, Office of Fisheries, the Soil Conservation Service, the National Parks and Wildlife Service, Department of Conservation and Land Management, Public Works Department and the Department of Mineral Resources. The appointment of an independent chairman who has expertise in coastal protection remains the same. The expanded representation on the Coastal Council will provide access to the conservation groups and the major public authorities involved in the setting of policy for the New South Wales coast. The proposed definition of the coastal zone will remove a relatively unwieldy and vague prescription and replace it with a definition that will ensure that the Coastal Council's deliberations are focused on the immediate coastal strip, which faces the greatest pressures. The coastal zone defines the council's area of operation. It will be the coastal waters of New South Wales, which extend three nautical miles from the coast, and one kilometre inland from the coastline and, for definitional reasons, any land or water between these areas. To provide the flexibility to allow the Coastal Council to consider other areas that are closely related to the coast or affect it, the bill provides for extensions to the coastal zone to be made. The Minister for Planning will be empowered to adjust the western boundary of the coastal zone so that it conforms to the line of a road, railway, watercourse, watershed or other topographical feature, or an allotment boundary, that is close to either side of that western boundary. He will also be empowered, by order published in the *Government Gazette*, to extend this zone to include a specified area of waters contiguous with the landward side of that landward boundary and a specified area of land located within one kilometre of those waters.

The bill will amend the functions of the Coastal Council to ensure that its advice, reports and recommendations to the Minister for Planning are directed towards policies that should be adopted by the Government and public authorities; the implementation of these policies and management of the coastal zone; and co-ordination of the activities and policies of the Government and public authorities. The council will be directed to achieve these functions through being a forum for the exchange of information between the Government, public authorities and community organisations; advising councils on the management, protection and use of the coast; and advising the Minister for Planning and the Director of Planning on major development proposals. The Coastal Council will be guided by the overall requirement of contributing to the attainment of the objectives of the Environmental Planning and Assessment Act. Part III of the Coastal Protection Act is administered by the Minister for Public Works. Proposed section 38 will in certain circumstances require the concurrence of the Minister before a public authority may carry out development in, or grant consent to the development, occupation or use of, an area within the coastal zone. Proposed section 39 deals specifically with the carrying out of coastal development within any part of the coastal zone that is not within a local government area.

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At present there is a degree of duplication in existing sections 38 and 39 with the Minister and the Governor, acting on the recommendation of the Minister, having overlapping functions. Under proposed sections 38 and 39, the Governor's only function will be that of

making regulations regulating, controlling or prohibiting the development, occupation or use of a specified area that is within the coastal zone and not within a local government area. Additional provisions, not in either of the existing sections, will require the Minister to keep a register containing copies of orders in force under proposed section 38 and to notify councils of those orders. The register will be required to be made available for public inspection without fee. The bill will also make a number of consequential amendments, and the opportunity has been taken to make some existing provisions consistent with current drafting practice. This bill is another example of the responsible and forward approach being taken by this Government towards the conservation of our precious coastline. The Coastal Council will assist the Government in the wise environmental management of our invaluable coastal resource. I commend the bill.

Debate adjourned on motion by Mr Knowles.

**ENVIRONMENTAL PLANNING AND ASSESSMENT (CONTRIBUTIONS PLANS)
AMENDMENT BILL**

Second Reading

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

That this bill be now read a second time.

The bill deals with the need to provide some accountability for developers' contributions under the Environmental Planning and Assessment Act. The need to provide services and infrastructure in all areas where new development is occurring is well understood by this Government. The plight of residents of new release areas, with no access to transport, isolated from social contact and with no services or facilities for the community is not part of this Government's vision for Sydney. For councils currently experiencing a high level of growth, such as those in western Sydney and on the North Coast, the early provision of services in response to this growth is essential to avoid the physical and social problems associated with a lack of support facilities. High growth in an area results in large numbers of newcomers who need their local council to provide the community facilities that bring them together and help develop social networks. They also need, of course, the usual services such as roads and drainage, as it is no good having a brand new house if access to it is over a potholed road.

Since the introduction of the Environmental Planning and Assessment Act in 1979, section 94 has assisted local councils in providing the services and amenities needed as a result of new development. Under this section councils may require contributions from developers to help pay for these many new services and amenities without placing a burden on existing ratepayers. Section 94 is equally applicable in developed areas, particularly in regard to larger redevelopment sites. For example, it is anticipated that in the Ultimo-Pyrmont area, to be known as City West, section 94 contributions will play an important role in the revitalisation of this old inner city area by providing funding for the services and amenities which will be needed for the workers and residents as a result of the new development. The provisions of the bill are designed to provide greater accountability for contributions under section 94 of the Environmental Planning and Assessment Act. I commend the bill and in order to assist honourable members to understand the legislation better, I seek leave to table some further detailed explanatory material for incorporation in *Hansard*.

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Leave granted.

*Environmental Planning and Assessment
(Contributions Plans) Amendment Bill*

Problems and Criticisms of s94 - Commission of Inquiry

Since s94 has been available to councils, many improvements have been made. In Sydney's west one finds new suburbs which have good community facilities and superior infrastructure. Often standards are higher than in the older areas, built before s94 was available.

However, recent experiences of councils in other areas, have not been satisfactory. These councils have been less than rigorous in their implementation of s94 and have seen it as a source of general revenue to be spent where they choose.

Contributions have been spent on facilities where the link between those facilities and the new development is not established, and interest has been creamed off and used for unrelated purposes.

An inquiry chaired by Commissioner Simpson investigated the many problems associated with s94 and the criticisms levelled at councils' administration of it.

Among these criticisms was the lack of justification for how contributions were arrived at, the inappropriate purposes for which they were being raised and the fact that many services or amenities were not available within a reasonable time.

Special investigations under the Local Government Act have subsequently borne out some of these criticisms. Coffs Harbour City Council for example, has been shown to have millions of dollars of unspent contributions invested, and no firm plans about how or when they will be spent. Yet, this area is notorious for water shortages and inadequate treatment of sewage. The need was there, the funds were collected but council did nothing.

Baulkham Hills shire is an example of another council found to have no clear expenditure plans and no satisfactory system for recording and monitoring s94 contributions.

The intention in introducing this draft bill is to eliminate such problems and to ensure that councils administer s94 in a more consistent, professional and accountable way.

Proposed Changes

The amendments proposed will achieve these objectives and will address the concerns highlighted in the Simpson commission of inquiry.

The bill amends section 94 to provide that, when granting consent to a development application made on or after a day to be proclaimed, a council may impose a section 94 condition only if it is of a kind allowed by, and is in accordance with, a contributions plan approved by the council.

These contributions plans will be drawn up by way of public participation and ratified by full council. In this way, accountability will arise from councils' s94 policies being explained and justified in a public document.

Improved consistency will be achieved through the establishment of principles in the levying of contributions, also made clear in the contributions plans.

Greater certainty will be provided through the contributions plans. Developers will know in advance the level of contributions which will apply to any development and council's intentions regarding expenditure. People buying into an area will know the level of s94 contributions required and what services and facilities they can expect.

These contributions plans will not reduce the autonomy of local councils. In fact, councils will be able to decide to make the number and type of plans to suit their area, and focus on the specific local needs generated by new developments. These plans will be local plans, drawn up through community involvement.

Contributions plans can then be amended in response to the changing needs of an area and

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be the vehicle for the planned, efficient provision of services and amenities likely to be required as a result of, or to facilitate, new development.

Accounting Practices

Regarding the use of monetary contributions the bill amends section 94(3) by removing the requirement that councils hold monetary contributions "in trust".

Councils are currently required to hold contributions "in trust", but this has served to produce neither an efficient nor equitable system. Why is this?

Although the words "in trust" appear very strong they have not hindered many councils from holding money and treating the interest as general revenue. This is wrong in three ways:

It defeats the purpose of s94 to provide infrastructure early in a development

It leads to the erosion of the value of the funds through inflation

It is unfair to those who pay the contributions, who are in effect subsidising the general ratepayer.

The removal of the reference to "trust" will allow councils to embrace the new Australian Accounting Standard 27, which recommends full accrual accounting, and a streamlining of councils' financial arrangements.

In this regard, both the Department of Planning and the Department of Local Government and Co-operatives, are working in close liaison.

In their financial statements, councils will be required to demonstrate full public accountability through disclosure of all receipts and expenditure of contributions.

As a result of this amendment contributions can be used to provide services and facilities in a systematic way, and councils can establish priorities depending on local needs.

Further, councils will be given a degree of flexibility in the way they apply contributions towards service provision and will have the opportunity to provide the required services and facilities according to an agreed works program in a phased, systematic way.

Most importantly, the bill requires that any interest earned from the investment of any monetary contribution levied under s94, be held by the consent authority and applied for the purpose for which it was levied within a reasonable time.

Use of S94 by the Minister or the Director

Finally in the light of the new requirements for contributions plans, it was considered necessary for the bill to define the powers of the Minister for Planning and the Director of Planning when imposing conditions under s94.

Details of each Clause Proposed by the Bill

I turn now to the provisions of the bill which can be conveniently examined by reference to each clause.

Schedule 1(1)(a) amends section 94(3) to provide that any monetary contribution received for the purpose of providing, extending or augmenting a particular public amenity or public service, together with any additional amount earned by its investment, is to be held by the consent authority and applied for that purpose within a reasonable time.

Application of contributions plans

Schedule 1(1)(b) amends s94 to provide that when granting consent to a development application made on or after the day proclaimed in that regard, a council may impose a s94 condition only if it is of a kind allowed by, and is in accordance with a contributions plan approved by the council.

A condition of a kind allowed by a contributions plan remains appellable as unreasonable.

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Section 94 conditions imposed by the Minister or Director.

Schedule 1(2) inserts new section 94AA. The proposed section states that the Minister for Planning or the Director of Planning may impose a section 94 condition when granting consent to the carrying out of development

- * on land that is within a growth centre (defined as including a "designated area" under the Albury-Wodonga Development Act 1974); or
- * on other land that is within a single local government area.

In the case of land within a growth centre such a condition will be able to require a contribution towards the provision of public amenities or public services for the whole of the growth centre (regardless of local government boundaries).

When imposing a s94 condition in any case, the Minister or Director must have regard to, (but is not bound by) any relevant contributions plan. Any money received as a consequence of any such condition must be transferred to the development corporation for the centre or the council of the area concerned and must be used within a reasonable time for the purpose for which it was levied.

Making and effect of contributions plans

Schedule 1(2) also inserts new sections 94AB and 94AC of the proposed sections.

Section 94AB provides for the making and approval of contributions plans.

It requires that such a plan be consistent with any relevant ministerial directions made under section 94A. It leaves most of the subject-matter (together with requirements for the drafting, exhibition and approval procedures) to be determined by regulations and provides a presumption that those procedures have been complied with.

Section 94AC provides for judicial notice to be taken of a contributions plan and of the date it came into effect. It also prohibits a challenge to the validity of the procedures followed in making a contributions plan unless it is commenced in the Land and Environment Court within three months after the plan came into effect. The effect of anything duly done under a plan before it is amended or repealed is preserved.

Conclusion

Councils' powers to obtain developer contributions are extremely valuable. Indeed, without such powers councils would find it impossible to respond to the needs generated by new developments in their area.

However, the key issue in the successful operation of s94, must be the accountability, both public and financial, of local councils. The changes I propose will ensure that this important area of councils' powers is redefined to permit effective use in the future.

Debate adjourned on motion by Mr Knowles.

NATIONAL RAIL CORPORATION (AGREEMENT) BILL Second Reading

Debate resumed from 9th December.

Mr BECKROGE (Broken Hill) [9.42]: I support the bill because it gives legislative effect to an agreement made between Queensland, New South Wales, Victoria, Western Australia and the Commonwealth to rationalise the rail freight industry in Australia. The bill approves the agreement struck and authorises and requires the parties to give effect to it. The bill will make necessary provision for the implementation of the agreement. Certain powers will be referred to the Commonwealth as a result of the agreement. I am keen to support the legislation because I believe in co-operative

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federalism. In Australia, with a population of 17 million and with nine governmental institutions, we must rationalise and introduce microeconomic reform through our parliaments. I believe the country is overgoverned by parliamentarians as well as by bureaucrats. This bill will go before the respective parliaments and will put in place a method of trying to bring about microeconomic reform that is necessary for our nation to advance.

Once the National Rail Corporation is established certain savings will be made, as inevitably they are following rationalisation; but I am a little worried that there will be a black cloud on the horizon for the people I represent, in particular those who live in the city of Broken Hill and along the railway line west of Bathurst. The cloud to which I refer is a matter included in the report of Booz Allen and Hamilton, that is, the route that rail freight will take east and west across the country. The results of the study do not auger well for towns to the west of Bathurst. Booz Allen and Hamilton ask what is the point of maintaining a line which, certainly to the west of Parkes, is used only by transcontinental traffic, that is, traffic travelling west-east.

That is true because a train known as the *Silver City Comet* used to operate on that line, but that train no longer operates. We used to have three Indian Pacific services on that line also. One of those services no longer operates and we will probably lose them all, because, according to the report of Booz Allen and Hamilton, costly maintenance on that line should not continue and money should be spent on rerouting the line through Victoria and standardising the line between Melbourne and Adelaide. The New South Wales Government must be careful that, as part of this corporation, it does not sell short its responsibility to the people of New South Wales in a bid to gain the objective of rationalisation of freight movement in Australia.

The national rail freight initiative is a grand scheme, though I suppose it is a century too late. In Australia we have grown up with weird and wonderful rail gauges. We now have a standard gauge, though there are links, such as the Melbourne to Adelaide line, that is not standardised and remains a broad gauge link. It will cost a lot of money to standardise that line. Booz Allen and Hamilton report that the standardisation of the Melbourne to Adelaide gauge is an attractive proposal if the Broken Hill line is eliminated. Its report states that the present net value of the project would exceed \$125 million. It will put forward to the National Rail Corporation the proposition that the Broken Hill line should not become part of the national rail freight operation because that link will be required only until the Melbourne to Adelaide gauge is standardised. It says that no investment should be made on the route between Bathurst and Broken Hill through to the west and points out that on the Sydney to Melbourne corridor construction and investment should be undertaken to provide maximum flexibility in order to match increasing traffic volumes. However, jobs would go in the Junee area.

The Junee to Goulburn upgrading program will eliminate a number of jobs along that line. I suppose that is the price we pay for the rationalisation of our services, but I hope that any redundancies to result from this proposal will be treated more sympathetically and with more understanding than occurred with the downgrading of the freight centre in Broken Hill, with long trains now going from Peterborough right through to Parkes. As I said, this legislation puts a cloud on the horizon. Broken Hill residents are very concerned about it. The Government should ensure that it is not seen to be in concert with other governments in doing away with jobs. Only recently the Premier said that it is very important that the State create a climate for private industry to create jobs. No one would argue with that. I put to the Minister that the National Rail Corporation, in a bid to be commercially viable, should take account of the lives of those who will serve it. Governments should not look just at the bottom line. They should not consider only reports such as the Booz Allen and Hamilton report and decide to build a new line rather than to upgrade an existing line.

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This agreement could result in New South Wales losing jobs to Victoria by the upgrading of the line through Ballarat. I do not find that a pleasant prospect for any government and this Government should not be part of an agreement that will result in jobs going from the State. I come from a remote part of New South Wales where all jobs matter. The loss of a job is the loss of a family; and the loss of a family is the loss of income to the city of Broken Hill. That is what is happening at present. Any railway carries freight more efficiently than road transport. I do not believe it is an either-or proposition between having a railway that transports freight through Broken Hill east-west and a railway that takes freight east-west through Victoria. It is necessary to maintain the shortest route across Australia, from Sydney to Perth, and that rail line should be maintained. I ask the Government to ensure, when it becomes a shareholder of the National Rail Corporation Limited following the passing of this bill by the Parliament, that the line through Broken Hill remains open and is maintained.

In the past all governments have allowed rail routes to become run down. This has resulted in fewer people using the rail service. Governments argue that as the people are not

using the service it should be discontinued. I ask the Government to ensure that the line through Broken Hill is maintained as a good service and it is not discontinued, as Booz Allen and Hamilton suggest. The Government should invest in that line to ensure the shortest possible route across Australia is available as a passenger service and a freight service. No one believes that the present deregulation of the airlines and the resultant low air fares across Australia will go on for ever. Airlines are going out backwards. They are getting more passengers but they are not making money. The other day Compass Airlines announced that it proposed to introduce corporate class flights. It is doing that because it desperately needs more money to run the airline. Airlines want more expensive bottoms on seats, the corporate sector, not the leisure sector. Within a year or two the present low air fares will not be available for long distance travel across Australia. Therefore, the temporary setback that we are experiencing on the Melbourne to Sydney rail route and the Sydney to Perth route via Adelaide and Broken Hill will improve. The glaring cost relativities between air and rail services will diminish and people who find airline travel so attractive will not be so attracted in the near future. The airline industry will settle down and decide to make money instead of headlines.

I urge the Government when it is part of this corporation, to take into account that its first duty is to the people of New South Wales. Though we are one nation, the people of New South Wales look to what their Government has done - even those in Broken Hill who are sceptical about governments that govern in Sydney. They wonder what the Government has done for them. At present many people are worried, not only those in Broken Hill but also those along the line, at Condobolin and Bathurst, that services on that line will be discontinued. There is an alternative. Rather than use the route between Bathurst and Parkes which has low tunnels, steep grades and sharp bends, the route via Cootamundra, though it is a slighter longer run, could be used. That is the route that the Indian Pacific now uses, and it would be a far better prospect for freight purposes once the loop sidings were extended. I hate to think that this expensive report by Booz Allen and Hamilton has any credence with the Government of New South Wales. I urge the Minister to give the people living along the rail line, including the people I represent, an indication of the Government's attitude to the maintenance of and the investment in that rail line.

Mr BAIRD (Northcott), Minister for Transport [9.56], in reply: I thank those honourable members who participated in the debate on the National Rail Corporation

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(Agreement) Bill. This is a most historic move by all States to come together and form the National Rail Corporation Limited. It is significant that this corporation should become the flagship of the microeconomic reform that is taking place around the country. It is true that New South Wales is leading the way in railway reform. The initiative for the establishment of the National Rail Corporation began in New South Wales. Discussions within State Rail led to further discussions with Queensland and Victoria, and it was originally thought that those three States would establish the National Rail Corporation. Eventually the Commonwealth Government and other State governments, some reluctantly, became involved in the venture. This proposal is about establishing a more efficient freight system - getting freight off the roads and back on to rail. The rail freight area has lost a significant market share to road freight, partly because of lack of marketing, care and the pursuit of opportunities in the freight area.

Though growth in freight across the nation has continued, there has been a decline in the volume of rail freight. This bill attempts to redress that imbalance. Undoubtedly part of the reason for the loss of the market share to road freight is the fragmented nature of the rail systems around Australia. It is only through a co-ordinated marketing approach to the rail systems and by using innovative technologies in such marketing that we can be sure as we approach the next century, and especially during the 1990s, that there will be significant reform in the rail freight area which will result in a reduction in costs. The total accumulated losses of \$400 million, of which \$165 million has been attributed to State Rail's freight activities - and on a fully distributed basis it is \$240 million - need to be addressed. Though that calculation has

been questioned, the losses have been clearly quite large. New South Wales needs to reduce its long-term freight rate losses in the freight arm, and the rail systems round Australia need to be reformed. Only then will our economy function better and our rail systems become competitive. The manufacturing, agriculture and service sectors will benefit from the major reforms to be implemented. I turn now to comment on the various contributions that have been made by honourable members from both sides of the House. Government speakers made some good contributions and established the need for the National Rail Corporation. I thank the chairman of the transport committee, the honourable member for Albury, and the honourable member for Burrinjuck and the honourable member for Gladesville for their significant contributions. One thing distinguishes the contribution of the honourable member for Kogarah from all the rest: his speech was prepared by someone outside the Parliament and he read it word for word.

Mr Langton: Mr Acting-Speaker, I take offence at that and I ask that it be withdrawn.

Mr ACTING-SPEAKER (Mr Tink): Order! I ask the Minister to withdraw that assertion.

Mr BAIRD: I withdraw. Nevertheless, whoever wrote the speech, it smacked very much -

Mr Langton: Mr Acting-Speaker, I asked for an unqualified withdrawal.

Mr ACTING-SPEAKER: I ask the Minister to withdraw.

Mr BAIRD: I withdraw. The member's speech took the line of the trade union movement. There was no attempt at a balanced approach and no reference to what the National Rail Corporation would do for Australia as a whole. The honourable member for Kogarah did not even deal with the State issue. His speech focused only on the union
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perspective, its complaints and its problems. I would have thought that the honourable member, leading for the Opposition, would have been more statesmanlike in preparing his speech and would have taken a more balanced approach to this whole issue. There are areas of concern that the Government must pursue. Every time I attend transport Ministers' conferences the only contribution of one Minister is: "Have the unions been consulted? What is the view of the unions on this?" Heaven help this State if the honourable member for Kogarah ever became the Minister for Transport. I hope he would have more sense than to say: "What is the union view on all this? What is the union's perspective?"

One of the criticisms made by the honourable member for Kogarah was that the criteria in the bill for corporate strategies and capital investment are not explicit. The honourable member for Kogarah has missed the point. The National Rail Corporation is not a statutory corporation. The bill is a vehicle only for establishing a truly commercial corporation subject to the full rigour of the normal commercial market and law. The National Rail Corporation board will establish its corporate plan in January-February. As I have said, this bill is a vehicle to enable the corporation to be established. Every State in Australia is going through the same process. Throughout the speech of the honourable member for Kogarah there was a recurring theme - which, undoubtedly, is union driven - that there should be more investment. The honourable member said that the 10-year investment program is not enough. Travers Morgan and B. T. conducted a fairly extensive analysis of expenditure required for the capital program.

Mr Martin: More consultants.

Mr BAIRD: The Federal Government asked them to do it, as it asked Booz Allen and Hamilton to conduct a survey. It is interesting to note that honourable members opposite criticised the choice of Booz Allen and Hamilton -

Mr Martin: More consultants.

Mr BAIRD: And it is well to remember that they were worth their salt. They are worth what they were paid because we are saving \$1 million a day in operating expenses. Because other rail systems saw value in what we were doing they also chose Booz Allen and Hamilton. Travers Morgan and B. T. reviewed the capital works program and determined what amount of money was needed. Rail unions have said, "What we have is not enough". Of course, they always want more whether or not it is needed. As a result of the review that has been carried out we will have a capital program that is related to our needs. A model of what is needed to bring rail freight up to world class standards is being implemented in this legislation. Members of the Opposition have referred to an amount of \$1.2 billion which is to be spent in the first five years. An amount of \$1.2 billion will be required but \$1.7 billion will be spent over a 10-year period - a 50 per cent increase in the capital grants that have been referred to by members of the Opposition. That significant amount of money will be spent on capital works and not on other things. This Government will ensure that that money is spent in the right places.

In the past different governments have spent money on their own rail systems without looking at the overall system and without deciding how the money could best be allocated on a national basis. This is a national scheme and this Government wants

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national efficiency. In anyone's language \$1.7 billion is a large amount of money. Independent consultants said that this was the amount of money that was needed. That is not the union view. Of course, the union mates of Opposition members might take exception to that view, but it is the right view. Experts have decided that that is the amount that is required. The members of the board who reviewed that decision were recommended by all State governments to oversee such decisions. The honourable member for Kogarah said that the National Rail Corporation would have to use part of its \$1.2 billion to fund operating losses. All of the \$1.7 billion -

[Interruption]

Mr BAIRD: It is not in my second reading speech; it is in the speech of the honourable member for Kogarah. I am just commenting on what he had to say. All of the \$1.7 billion will be used for new capital investment. All operating losses will be underwritten by existing rail operators. When honourable members opposite were in government they did not implement new capital works; they made provision only for maintenance so that they could make their figures look better than they actually were. The honourable member for Kogarah referred in his speech to the comments made by Tom Burton of the *Sydney Morning Herald*. He said that Tom Burton was critical of the program and that it would not reduce the usage of road. Tom Burton is not a noted transport expert. All the States and the Commonwealth agree that the National Rail Corporation will attract major new business to rail from road, particularly between Sydney and Melbourne. So the statement of the honourable member for Kogarah is a total furphy. He does not know how to tell the right story; that is why his name is Loose Lips.

The National Rail Corporation will significantly benefit New South Wales. In 1989-90 the State Rail Authority lost \$179 million but we expect to break even or make a profit. New South Wales is committed to an equity funds contribution of \$75.6 million by the end of the five-year establishment period, with the first contribution not due until the third year. If the National Rail Corporation were to be wound up at the end of the establishment period New South Wales would still be \$140 million better off. Expressed in current dollar terms, that is \$110 million after allowing for cash equity contributions and redundancy costs. More important, after the establishment of the National Rail Corporation, ongoing savings are expected to be in the order of \$100 million or more - a significant saving. I know honourable members opposite support this bill so I will not be too critical of them. I simply wish to respond to some of the comments that were made. Opposition members also said that, under the amendments, private operators

will be able to use rail lines. No such proposals are before the Government. However, if in future innovative proposals are put forward the Government will look at the merits of those proposals. No decision has been made in that regard.

I return to the theme which has been repeated by the honourable member for Broken Hill and the honourable member for Bathurst. I must say that the contribution of the honourable member for Broken Hill made a bit more sense than the contribution of the honourable member for Bathurst. The honourable member for Bathurst has made it his life's work to live off scare tactics that the railway will go around Melbourne and Adelaide. He has not listened to the comments that are being made by this Government. In responding to these comments it is important to recognise that the National Rail Corporation will make its decisions on a commercial basis. It is being set up on a commercial basis. All State governments decided that it should be set up on a commercial basis and that is how it will operate. No decision has yet been made, though the Booz Allen report on the route between Melbourne and Adelaide has been made

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available to the corporation.

The Government strongly believes that the route should be via Broken Hill. As the distance is 400 kilometres shorter, travelling time would be cut by 10 hours. How on earth could it be cheaper for the line to pass through Melbourne? A vast amount of money would have to be spent building a standard gauge line between Melbourne and Adelaide. A line to Broken Hill is already in place. Such decisions should be made on a commercial basis. One does not need the advice of consultants to know that it would be cheaper for the line to pass through Broken Hill, and the Government has made it abundantly clear that the National Rail Corporation route should be via Broken Hill. Standardisation of the line would be marginally viable. A number of concerns were raised about assumptions made in the consultants' analysis, in particular about the significant overestimation of capital expenditure requirements and maintenance costs on the Lithgow to Broken Hill section of the line and beyond into South Australia. Concerns were expressed also about the underestimation of the effects on operating costs and on rail freight demand of the additional 400 kilometres involved in the movement of freight between Sydney and Perth. I advise the honourable member for Bathurst that the decision should be arrived at sensibly and be commercially based. Some doubts have been cast on the assumptions arrived at by Booz Allen and Hamilton. The Government will not support the provision of capital funds for the construction of a standard gauge line between Melbourne and Adelaide. All State governments will have to make a decision in that regard. They will have more than enough costs without having to worry about a standard gauge line.

I wish now to refer to the issue of redundancies. The contribution of the honourable member for Bulli in this regard was amazing. He believes that the National Rail Corporation should provide sheltered workshops for its employees. Most railway authorities throughout Australia have twice as many employees as they require. When the coalition came to government in New South Wales, that was the situation in the State Rail Authority. The Opposition believes in the 2X factor - having twice as many employees as are required. The honourable member for Bulli wants a sheltered workshop for all his mates. He has ignored the efficiency of operations. It does no one any good for an organisation to have too many employees. In the SRA it is expected that between 1991-92 and 1997-98, in the authority's interstate freight operations, there will be 1,800 redundancies. It is the view of the New South Wales Government, the Inter-State Commission, the Federal Government and the National Rail Corporation that these redundancies should take place. Does the Opposition want an efficient operation or a sheltered workshop? About 1,200 of the 1,800 redundancies would have occurred under the authority's program to reduce staffing levels to achieve higher productivity. The additional 600 redundancies will result from productivity gains as a consequence of the removal of duplication, the implementation of new work procedures in accordance with a national best practice industrial agreement, capital investment on infrastructure upgrading, investment in improved locomotives and rolling-stock, and bringing interstate rail freight under

one management structure. All affected employees will be entitled to a payment which has in other cases averaged out at \$86,000 for each employee, and that includes a redundancy payment of between \$15,000 and \$20,000.

The honourable member for Kiama asked about the amount of the redundancy payment. Though the actual redundancy payment is between \$15,000 and \$20,000, each employee will leave with a cheque for \$86,000. Employees will have the benefit of superannuation. The payment will be discounted having regard to the differential between the amount payable at the date of early retirement on redundancy and the amount that would have been payable on the date on which the employee would normally have

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retired. Employees will leave with a larger amount than had they left of their own volition. The Commonwealth and all States agreed that each system would be responsible for its own redundancy package. SRA has 2,000 people on a waiting list seeking voluntary redundancy. That is all part of becoming a commercial organisation. The honourable member for Bankstown expressed concern about the inadequacy of the amount of \$1.2 billion to be spent during the establishment period on upgrading rail infrastructure. As I said earlier, \$1.7 billion will be spent in a 10-year period. That amount will be completely adequate for our needs. An amount of \$1.2 billion will be spent during the five-year establishment period. After that period it is expected that the organisation will be fully commercialised and responsible for its own financing and funding. The honourable members representing the electorates of Kogarah, Bankstown and Auburn referred to auditing. It is expected that after the initial establishment period the National Rail Corporation will be a commercial organisation responsible for its own welfare and funding. The Government will be out of it. To suggest that the Commonwealth auditor rather than private sector auditors will be responsible is a gross insult to private sector auditors.

The honourable member for Auburn asked where the \$1.2 billion will come from. I advise him that \$414.5 million will come from shareholders and \$670 million from borrowings and internally generated funds if there is an operating surplus. The contributions to the corporation's funding requirements are as follows: the Commonwealth Government, \$295.8 million, or 54.3 per cent of long-term equity; the New South Wales Government, \$75.6 million, or 27.7 per cent; Victoria, \$53.1 million, or 13.1 per cent; and Western Australia, \$8 million, or 4.9 per cent. Queensland has been invited to contribute also at a later date prior to the formulation of the commercial organisation. That is the position at the moment with regards to funding requirements. It was obvious that the honourable member for Auburn did not research the matter before he spoke in this debate. The board will be competent to do, and will do, a first-rate job of managing freight operations to ensure that freight is won back to rail throughout Australia.

I resent the suggestion of the honourable member for Auburn that Vince Graham was appointed merely to prop up Ross Sayers, who is once again in good health. Every honourable member should recognise the contribution that has been made by Vince Graham. When the coalition came to office he was an employee of the Grain Handling Authority. He is an outstanding performer whose talents are recognised throughout Australia. Under his guidance State Rail Authority has implemented microeconomic reform and performed effectively. That is why he was offered the position with the corporation and why the headquarters of the corporation will be located in Sydney. We have seen how reform in New South Wales can be achieved by the Government's microeconomic program. We look forward to similar achievements and reforms with the National Rail Corporation. We wish the corporation well and look forward to its establishment and dominance in freight activities throughout Australia for many years to come. I thank honourable members for their contributions.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MARINE (BOATING SAFETY - ALCOHOL AND DRUGS) BILL

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Second Reading

Debate resumed from 4th December.

Mr LANGTON (Kogarah) [10.21]: The Opposition supports the bill, which obviously is based on the Traffic Act. By way of background, under previous legislation the offence of drink-driving by motorists was described as driving under the influence. Everyone acknowledges that policing of that offence was spectacularly unsuccessful in curbing drink-driving and the resultant accidents, injuries and deaths. In 1978 the offence of driving under the influence was replaced by the offence of driving with more than the prescribed concentration of alcohol, for which the level was 0.08. The creation of that offence failed to make any impression upon the road toll or the incidence of accidents. In I think 1980 the 0.08 limit was reduced to 0.05, but that change was not accompanied by random breath testing. At about the end of 1982 or the beginning of 1983 random breath testing was introduced and that, together with the 0.05 limit, had a significant effect upon reducing the number of accidents and therefore the number of injuries and deaths. The measures in the bill make good sense. One could ask why such legislation has not been introduced previously. That is not a criticism of this Government: any government should have introduced this legislation a long time ago.

The bill provides for drivers of vessels to be tested for alcohol and drugs in the event of an accident involving serious injury, death or property damage or where in the opinion of water police, officers of the Maritime Services Board or the waterways authority the operator of a boat has been operating it in a dangerous way. I would ask the Minister in his reply to outline exactly how that measure will operate. The boating industry and boat owners generally have no objection to the bill and I accept the Minister's assurance to the House that there has been extensive consultation with the industry. They appreciate that. But some reservation has been expressed to me about how exactly the water police or officers of the Maritime Services Board or the waterways authority will determine what constitutes operating in a dangerous way. The officers do not want to be seen to be picking on someone operating, say, a lairy boat, as is often the complaint raised by the drivers of red sports cars or other vehicles that seem to attract the attention of police. The bill prescribes a limit of 0.05 for a recreational boat owner and 0.02 for a person under the age of 18 years and for the operator of a commercial boat. Obviously the 0.02 limit is in line with the limit for drivers of trucks, buses and trains. The Opposition has no objection to that aspect of the bill. The bill provides also that a master in charge of a vessel who permits a juvenile to operate it will be subject to a limit of 0.05. That also is in line with a measure in the Traffic Act, and is a good measure.

I raised with the Minister's office a question about clause 7, and I was satisfied with the explanation I received. The clause provides that a second or subsequent offence is deemed to be such if committed within five years of a previous major offence. Otherwise a subsequent offence will be treated as a first offence with regard to penalty. The Minister's office assured me that those measures have been lifted direct from the Traffic Act, where they operate successfully. I have one other minor problem. Clause 10(2) provides that the holder of a licence who is convicted of an offence under part 2 is automatically disqualified from holding a licence or being recognised as the holder of a licence for three months if it is a first offence, and for 12 months if it is a second or subsequent offence committed within five years of a previous major offence. Though I have no problem with that measure, subclause (3) provides that the court before which the person is convicted may order that the convicted person be disqualified for a shorter period specified in the order. My understanding of the Traffic Act is that the court has

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no power to reduce the minimum disqualification period applicable under that Act. I wonder why this bill will permit a court to impose a disqualification period that is less than the mandatory minimum period of disqualification of three months for a first offence and 12 months for a second offence. The Opposition believes this to be timely legislation. With the Minister's good will I am sure it will be in place for summer. I firmly believe that it will be of great benefit in reducing accidents and injuries resulting from the operation of boats by people who are under the influence of alcohol.

Mr GLACHAN (Albury) [10.28]: It has always been an offence for a person to operate a vessel under the influence of alcohol or drugs. This bill will define the blood level at which an offence is committed. A person under the age of 18 years and a person operating commercial craft will be subject to a limit of 0.02, and all other operators will be subject to a limit of 0.05. The provisions of this bill, including the regulations and rules, are similar to those in the Traffic Act. It is important to realise that the only people who will be authorised to apply breath tests will be police officers. Tests will be applied to operators of a vessel involved in an accident that causes serious injury, death or property damage, and to operators who are drawn to the attention of persons in authority, such as water police or Maritime Services Board inspectors. The honourable member for Kogarah wondered how that measure will be applied. It is simple. Officers of the water police and the Maritime Services Board are conscious of how craft should be operated. From their experience and common sense they quickly will be able to identify people who they believe may be affected by alcohol. The bill empowers those officers to apply a breath test to those people. That is a common sense and practical measure, and it will be easy to implement.

Some time ago a serious accident occurred when the vessel *N'Gluka* foundered and five young children lost their lives. The State Coroner, after inquiring into that loss of life, recommended that random breath testing should be applied to operators of vessels on our waterways. The fact that the bill does not introduce random breath testing on our waterways should not be construed as an indication that the Government is ignoring the views of the coroner. Those views were given careful consideration and a decision was made, as boating is a leisure activity and not enough data is available at this stage to determine the role of alcohol in accidents on our waterways, to introduce this first measure which sets limits on breath testing. When more data is collected and more is known about the effect of alcohol in waterway accidents, the matter can be reviewed. If the Government is of the view that random breath testing would add significantly to safety on our waterways, that measure would be given consideration and introduced if and when necessary. Many people believe that random breath testing would provide greater safety. The Government is not ignoring that strong argument but believes that at this stage it cannot be proved conclusively, and at present these provisions are adequate and will introduce a higher level of waterway safety.

Only police officers will be able to conduct breath testing. Officers of the Maritime Services Board who believe a test is required will ask vessel operators to wait in a particular place until police can arrive to conduct the test. The first test will be similar to that undertaken by car drivers. If boat operators have or appear to have a level of alcohol higher than the approved level in their bloodstream, police will take them to a police station where they will be asked to take a test on a more accurate machine. If this apparatus shows that they are affected by a high level of alcohol, they will be detained by police. Licensed boat operators - some operators need licences because of the speed of their boat - will run the risk of losing that licence. Those who operate craft for which a licence is not needed will be in the same position as bicycle riders who drink alcohol to excess: they will face the prospect of heavy fines comparable to those that

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apply to traffic offences involving alcohol. The bill provides that drug testing may be conducted also. That is a timely addition to measures that will improve safety on our waterways. Much thought has been given to improving safety. The Government has considered the views of those interested in pleasure boating and does not want to harass them unnecessarily. The

police and the Maritime Services Board are not interested in harassing those enjoying our waterways but will have the opportunity, when strictly necessary, to use these provisions with common sense. These measures are practical, sensible, easy to apply and will greatly improve safety on our waterways. I support the bill.

Mr MARTIN (Port Stephens) [10.34]: Her Majesty's loyal Opposition in this House will support the proposed legislation, but the honourable member for Waratah, the honourable member for Bulli, the honourable member for Charlestown and other members of the Opposition will seek to highlight aspects of the Government's performance in drawing up the bill, how the bill evolved, why it has been introduced, and its technical weaknesses. The electorate of Port Stephens, which I represent, includes the Port Stephens waterway, which is three times the size of Sydney Harbour in surface area. The electorate shares the Myall lakes, with a surface area six times that of Sydney harbour, with the Myall Lakes electorate to its immediate north. The first Myall lake, in the Port Stephens electorate, is the Broadwater. The Myall River, up to Bulahdelah, forms the boundary of the electorate. Beyond Bulahdelah, in the adjoining Myall Lakes electorate, are the other Myall Lakes. A 16 nautical mile length of the Myall River joins the Myall Lakes to Port Stephens. The Karuah River is navigable and tidal to about 12 nautical miles from beyond Karuah. The waters off Port Stephens are used extensively. During the last week of February and the first week of March every year Port Stephens hosts the largest game fishing tournament in the world.

Port Stephens is a great place for boating but has been the scene of three tragic accidents in 15 months. In the first accident, the *N'Gluka*, a grossly overloaded 36-foot Steber pleasure boat carrying 49 people, capsized on a return journey from a restaurant luncheon, and the lives of five children were tragically lost. That accident happened in the Port Stephens electorate and created much anguish. The Opposition supports breath testing to reduce the risk of such accidents. One month later, close to midnight, a group of 11 or 12 men and one woman left the Tea Gardens Hotel for a barbecue on an island about a nautical mile and a half away. Their boat capsized and the woman drowned - within one month of the *N'Gluka* accident. A few months later, a week before last Easter, a boat travelling down the Myall River with three people in it, one of them riding in the bow, came around a corner and collided head on with another boat. The person sitting in the bow of the boat was killed. That group of people had been on the river and Myall Lakes for a barbecue and luncheon. I do not suggest that alcohol was involved in all three accidents but every indication is that alcohol had been consumed. For that reason the Opposition supports the bill.

That brings me to the next vital point. Port Stephens has one police boat at Nelson Bay, a 43 foot Steber water craft with a draught of about one and a half metres. That boat would take about half an hour to three quarters of an hour to travel at its optimum speed up the Myall River from Tea Gardens to Nelson Bay. Due to the shape and depth of the river that journey would take close to two hours on the river and further lengthy travelling time on the Broadwater. A runabout police boat is stationed at Tea Gardens. At the time of that accident the runabout had been broken down for 15 months. The Minister's last response about that in Parliament was that he was embarrassed, that he was hurt because that failing was highlighted by me and by the honourable member for Myall Lakes, continually badgering him about it. That boat has more than 600 hours

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on its motors and is not reliable. Furphies spread and the Government victimised police because word got out. The right thing must be done if police are to be expected to respond to a call to breath test a boat operator. Police must have facilities and be available to carry out that task. Does the Government seriously think that a boating officer can tell boat operators to wait until police arrive to breath test them when it takes half a day for police to get to the scene? That issue must be considered seriously.

I built a 28-foot boat which could travel at eight knots, using two gallons an hour and was capable of travelling at 13 knots using five gallons an hour. I had 10 enjoyable years

boating in the waters around Port Stephens with that boat. I am aware of many activities of the boating fraternity. Having worked in the Fisheries Division for 17½ years I am aware of the antics of high-speed boat users, and their effects on skiers and oyster racks. A high-speed motor boat is more dangerous than a car because many unpredictable obstacles may be present. Drivers of those high - powered boats need to take great care. That is why the Opposition supports this legislation. There will be a backlash from those who associate total relaxation with drinking excessive amounts of alcohol while using boats. I am sure the Government also appreciates that. However, as parliamentarians, we have a moral obligation to make sure that the public is aware of why this legislation has been introduced and to encourage the public to be responsible. It is important to address these matters with co-operation and education.

During the last weekend of February until the first weekend of March 240 boats from all over New South Wales, and some interstate, visit Port Stephens to enter a game fishing contest. Those people have an occasional drink on their boats. It will be important to inform them of the proposed ground rules. They contribute financially to the economy of my electorate and many others and it is important that they understand the law. We do not wish to discourage people from using boats because they fear being subjected to random breath testing on returning home. Though I support this legislation I shall highlight the weaknesses due to the lack of availability of police boats and gross understaffing of police in my electorate. The *Sea Eagle* sank on 8th August, 1988, and was never replaced. The Port Stephens electorate is short of one police boat. The honourable member for Liverpool, the shadow minister for police, put a question on the Questions and Answers paper as to the disposition of insurance payout from the *Sea Eagle*. Some of the funds went into the design of a new boat and the remainder is in a deposit account and has been there since the Government Insurance Office paid it in 1988.

Mr Price: The Government is keeping it for the next centenary.

Mr MARTIN: It will be for the tricentenary. We must ensure that the police are adequately boat equipped and are able to respond when required. The Minister for Transport should not totally rely on the Minister for Police and Emergency Services to supply the necessary boat resources because his record on police facilities has been absolutely shocking, whether in Dubbo, Port Stephens or anywhere else in the State. I ask the Minister for Transport to address that issue and to assure the House that police facilities will be adequate.

Mr SMALL (Murray) [10.44]: I congratulate the Minister for Transport, his department, the Maritime Services Board and the police for these proposed legislative initiatives, which are a step in the right direction, but which may need future reconsideration. I have spoken on this issue three or four times over the past six or seven years. I have been keen to have random breath testing introduced in the Murray River waterways. The legislation provides a blood alcohol concentration limit of 0.02

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for those under 18 years of age and for commercial boat operators. For those over 18 years and for boat operators the limit is 0.05, the same limit that applies to motorists within our State. New South Wales has beautiful waterways. We have an excellent coastline with some of the best beaches, inlets and harbours in the world. We also have some of the best river systems in the world - the Murray, Darling, and Murrumbidgee rivers constitute one of the best valleys, the fourth largest valley in the world. Those areas are becoming more and more attractive - in particular the Murray River - for recreational purposes. In these difficult economic times many tourists travel from Victoria to visit Lake Mulwala and Lake Hume. Victoria has Lake Dartmouth. That State already has legislation for random breath testing of boat operators.

The Murray River waters lie wholly within New South Wales and unity between the States is needed for water user regulations. South Australia has laws similar to Victoria for testing boat operators. During holiday periods, specifically in the Christmas-New Year and

Easter periods, boating activities on the waterways across the State increase. This is particularly so on the Murray River, the popularity of which is remarkable. This encourages tourists to put dollars into the local business houses suffering so badly because of the rural and economic downturn. No one wishes to discourage boating because it is an important part of our lifestyle. However, we must protect other river users. Visitors from other parts of New South Wales believe they have a right to ignore users of the local waterways - I refer to boat users, canoeists, fishermen, swimmers and members of rowing clubs. Unfortunately, some of those water users consume large amounts of alcohol. On a hot summer's day, on the lovely sand beaches lining the Murray River, it is natural for those people to drink alcohol. However, little do they consider other people when using their high-powered motor boats, pulling perhaps one or two skiers. On an annual basis about 11 per cent of waterway accidents in the State, including mortality, occur on the Murray River.

The river is very narrow. It is a popular waterway. The law provides that there must be 30 metres of water between a skier and the bank. It is difficult below Mulwala, down to Barham or even Euston for a boat user to manoeuvre his boat so that he allows 30 metres on either side. The Maritime Services Board is having great difficulty in pursuing its management role while allowing people to enjoy themselves. The few incompetent people make it difficult for others to have a pleasurable time on the river, in the same way that irresponsible drivers make things difficult on the roads. The councils of the shires of Murray and Berrigan have written to me strongly supporting random breath testing on the waterways. I support random breath testing and feel it should be paramount on the Murray River. The Minister has agreed to look at the results of the introduction of the bill to see how the new legislation performs. The Minister has said that he is willing to reconsider full random breath testing. If it is not required right across the State, it may be that the Minister will consider introducing random breath testing on the Murray River, where most of the dangers lie.

The proposed legislation is a wonderful step forward in the protection of passive river users. People living along the river are beginning to experience noise pollution from the large number of noisy boats that use the river. People choose to live or holiday near the ocean or on a bay or inlet for the tranquillity. Many people who paid large sums of money to live on a waterway have had their wonderful lifestyle spoiled by a few irresponsible people who have boat engines that have a high decibel level. Many of them litter the river and venture on to private property. It is an advancement for a policeman to be able to breath test irresponsible boat users. Following an accident a blood sample can be taken to prove the alcohol level in a person's blood, in exactly the same way that a motorist can be tested. A person can be charged if the level is more than 0.05. I

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congratulate the Minister and the department on this tremendous step forward that will limit alcohol consumption by boat users. Many people have asked me whether alcohol is the problem. I have assured them that it is, because I have proof from the police who operate along the Murray River. On many occasions they have patrolled the river with representatives of the Maritime Services Board and found that the consumption of alcohol is a major problem.

Clause 30 defines the powers that police officers and officers of the Maritime Services Board may exercise. An offence will occur if a person fails to comply with certain requirements if the person has been warned that failure to comply with the requirement is an offence. That will give the police force and the Maritime Services Board the power to police improper actions. The Government is pleased that the Opposition intends to support the bill. Police from both sides of the Murray border work in unity. To make Australia successful governments must recognise areas of need. The States must support each other. Random breath testing on the State's waterways is important, and it is essential that New South Wales works together with Victoria on the Murray. Many people believe that the border between New South Wales and Victoria lies down the centre of the Murray River. It does not. The border is on the high bank on the left-hand side travelling upstream. Therefore, New South Wales police and the Maritime

Services Board have jurisdiction on the river. Victoria already has random breath testing on its waterways, and New South Wales must align itself to that State. I support the bill.

Mr FACE (Charlestown) [10.57]: My remarks will be fairly brief. I support the bill and take this opportunity to thank the Minister for recently making available some of his officers to talk to me about recreational boating and my specific concerns about alcohol use and conduct on the waterways of New South Wales. I am the Opposition spokesman on licensing, which comes under the Chief Secretary's portfolio. I hope the proposed legislation will be monitored and ongoing. The consumption of alcohol by boat users, in a similar way to alcohol consumption by motorists, has long been a concern of mine. Successive governments have failed to address the issue. Alcohol has been part and parcel of fishing and boating. People who are in a relaxed mood do not regard alcohol consumption as harmful. Masters and licensed boat owners can get in a state drinking with the sun beating down on them in a small open boat. It is a recipe for disaster.

I should like to ask the Minister to consider expanding the legislation to apply to boats that ply for hire in and around Sydney Harbour. I recently took that matter up with his officers. Numerous boats ply for hire in Sydney Harbour and on other waterways. People board those boats in a party mood. The police and Maritime Services Board officers have told me that once the boat leaves the shore, the chances of breaches of the Licensing Act being discovered are virtually nil. I had not thought of that previously. No police board those vessels. At present I represent part of beautiful Lake Macquarie. A recent incident on the lake involved year 11 and 12 students, who in some cases were under-age. The situation could have become nasty. It would not have been a great spectacle to witness those young people, many of whom were under 18, disembarking from a boat in a state of inebriation. Therein lies the problem when the master of the vessel or the person in charge of the vessel holds the licence. I am not attributing blame. Everyone has known about the problem for many years but failed to take action because it is not such a common occurrence.

In the period leading to 1988 a multitude of boats were registered for the purpose
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of holding functions on the harbour. That industry has continued to develop. It is a part of the tourist and hospitality industry that has prospered and done great things for Sydney. People welcome the opportunity of being able to get out on the Harbour on boats. When large amounts of alcohol are consumed problems related to the control of conduct and anti-social behaviour on vessels will arise. I do not suggest that everyone behaves in that way, but all of the ingredients are there for that type of problem to occur. Apart from addressing the problem related to those who are in charge of vessels, the Minister should bring forcefully to the attention of the officers of the recreational boating section of the Maritime Services Board the need to examine carefully the difficulty created when the master of a vessel is not the licensee. The master of a vessel has specific obligations, and that is only right. This legislation will require the person in control of a boat to be licensed, but though the licensee, that is the holder of the licence related to serving or selling alcohol, has obligations under the Act, those obligations are unenforceable. I am not a lawyer, but my understanding of the legal interpretation is that the master has little control over the licensee. If a function being held on one of these vessels gets out of hand, I doubt whether the master of the vessel would have any powers to make demands on the licensee. I do not want to be a spoilsport, but all of the ingredients are there for trouble to occur if action is not taken.

Hire boats have increased in number and these issues must be dealt with. I do not suggest for a moment that hordes of officers from the Maritime Services Board and police should be boarding hire vessels without cause. I have attended several functions and seen people in various stages of sobriety or insobriety on boats. I cannot understand how someone

has not fallen overboard. Licensees of these function vessels do not have much responsibility placed upon them. The obligations of holders of function licences should have been dealt with in the green paper. Therein lies a problem for the Minister's officers and the police. The doubt about the control a master of a vessel has over the licensee will lead to difficulties. Invariably the master of the vessel and the licensee are not one and the same person. I support the proposed legislation but the matters I have raised should be considered. I do not believe they can be addressed in legislation but they should be monitored in the future. With the increasing use of Sydney's waterways, antisocial behaviour caused by the consumption of alcohol will muck up the scene for other users of those waterways. I ask the Minister for Transport to bear these matters in mind.

Mr PRICE (Waratah) [11.4]: I support the Marine (Boating Safety - Alcohol and Drugs) Bill. I note initially that the legislation does not involve a random breath testing proposal but provides for breath testing following an accident or when there is a suspicion that a person involved in a boating incident is under the influence of alcohol. Certain provisions of the police regulations will be extended to cover boating service officers. The need for breath testing has become glaringly obvious following various incidents that have been mentioned in this debate. I refer specifically to the operations of speedboats, the supervision of juveniles in charge of vessels, the rather riotous behaviour that occurs on pleasure craft such as houseboats and large cruisers, on occasions, and the concerns of the boating public about maintaining a reasonable standard of conduct on the State's waterways. The Opposition supports the proposed legislation and is enthusiastic about its introduction. The legislation will apply to commercial and recreational boating. In his second reading speech the Minister said:

A unique feature of the bill concerns the responsibility which lies with the master or person in overall control of a vessel. The legislation provides for such persons to be guilty of an offence if they allow another person to participate in the vessel's operation when they know that person to be under the influence of alcohol or a drug.

That is a plausible way of putting the matter, bearing in mind the magnitude of disasters

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that have resulted from a number of incidents that appear to be drink-related. One of the worst in Australian maritime history was the collision of a cargo vessel with the Hobart bridge in the early 1970s. The master of that vessel was found to be incapable of controlling the vessel because of the consumption of alcohol prior to the ship's departure. Though statistics are lean, sufficient grey areas exist to cause concern that alcohol has played a greater part in tragedies that have occurred on the State's waterways than statistics suggest. Comments have been made about the *N'Gluka* boating tragedy in Nelson Bay and the difficulties that have occurred on the Murray River. The Myall Lakes accident in which two speedboats collided was a classic case in point. The difficulties in administering and controlling behaviour on the State's waterways will be alleviated to an extent by the legislation. In his reply the Minister might make it clear whether boating service officers have what amounts to the power of arrest in certain circumstances. If they do, it is important that it be made clear. There is a limited number of those officers. If the bill has a defect, it is in the way that aspect will be administered.

Boating service officers number less than 50 in New South Wales. If those officers have to call for assistance from the police in order to carry out the compulsory testing or analysis, it may be that the time frame fixed - two hours from the time of apprehension to the time of testing - will be exceeded, first because boating service officers acting alone may not feel competent to undertake those duties, and, second, the officers may not be able to contact the Water Police to give assistance in more remote areas. That may make it nigh on impossible to obtain assistance within the prescribed two hours. I refer again to the comments made about the ability of the Water Police to respond to such calls. Undoubtedly there has been a winding down of services provided by the Water Police. The Government has made no real attempt through the Minister for Police and Emergency Services to bring the various units of the Police Service up to scratch. Vessels that have been taken out of service will remain out

of service for budgetary reasons. That is incredible when one has in mind that police are now in control of the State Emergency Service. That service seems to be confined to the provision of helicopter and land-based assistance and in many regions of the State is incapable of providing any emergency support for Maritime Services Board officers. That causes me considerable concern.

I am apprehensive that accidental drownings, which often accompany boating tragedies, may increase for want of additional personnel or because an officer is unable to radio for assistance. Various comments have been made in this House about the dangers associated with swimming pools. The problem of insobriety has been mentioned in connection with those dangers. In recent times a number of relatively famous people died because of their inability to respond to particular circumstances when under the influence of alcohol. For example, Natalie Wood, the film star, drowned alongside a boat when she was within earshot of other people. She was physically incapable of getting back on to the vessel from which she fell. The drowning of the late Robert Maxwell, the United Kingdom newspaper magnate, was associated with alcohol. I support those provisions of the bill relating to drugs but I am concerned about the testing facilities. I do not expect officers of the Maritime Services Board or police officers to have access to the spectrometers required for drug testing, and I wonder how officers who are not necessarily trained in ascertaining whether people are under the influence of drugs could be expected to detain someone they believe may be under the influence of drugs and not competent to be in charge of a pleasure boat or commercial vessel. If someone in charge of such a vessel is under the influence of drugs, the risk to the community is much greater. By and large, I support the legislation and I look forward to its early application. Hopefully the legislation will lead to a reduction in the number

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of boating accidents in this State, particularly during the summer holidays.

Mr McMANUS (Bulli) [11.12]: I support the bill in principle. However, it is obvious even at this early stage of the debate that members of the Opposition now realise what I realised when I read the bill and the Minister's second reading speech. Though the bill will provide some protection to people using New South Wales waterways, it is clear that a person in charge of a craft will not be subject to the same laws as a person driving a motor vehicle. The honourable member for Albury has said that some of the laws to which the drivers of motor vehicles are subject had been withdrawn from this bill because boating is a recreational sport and it was therefore unnecessary to include the same laws as apply to the drivers of motor vehicles. People who use the roads on Sundays are recreational drivers and are expected to comply with the 0.05 rule. People driving boats will not be expected to comply with that rule and yet they have the same moral obligation as a person behind the wheel of a car. It seems to me that this bill, as is usual with the Government, is ill-conceived and ill-prepared. For reasons unknown to the Opposition, it is a gutless bill prepared by a Minister unprepared to assume his full responsibilities.

People in charge of craft on our waterways have exactly the same responsibilities as people who drive motor vehicles. I and my family water ski regularly. I enjoy the recreational use of New South Wales waterways. I totally abhor the fools on our waterways who destroy my recreation and that of my family. On average people using our waterways on weekends and in holiday periods feel exactly as I do. They are entitled to enjoy recreation with their families knowing they will arrive home safely and not have their lives destroyed or their bodies injured by fools. This bill simply does not go far enough to demonstrate that the Government has taken hold of the issue. As a member of the Joint Standing Committee upon Road Safety, I was keen to see what the bill would contain. I hoped that the Minister would have the intestinal fortitude to say to the people of New South Wales: "We will protect your recreational rights. If you want to take your families water skiing or boating or fishing, you will have the absolute unfettered right to do so in absolute safety". The Government has copped out again. Government members claim that random breath testing may be introduced at a later time.

Reports of the Staysafe committee have established that a person with a blood alcohol reading of 0.06 may not necessarily appear to be sufficiently intoxicated for someone to claim that he or she is drunk. A reading of 0.06 is over the legal limit.

Mr Baird: What are you proposing? Do you want random breath testing?

Mr McMANUS: You have not introduced that. That will be done at a later date. The Minister should have had the intestinal fortitude to bite the bullet.

Mr Baird: Move an amendment if you believe that.

Mr McMANUS: When the Minister introduces legislation in this House, he and his advisers should understand the rights of the people of New South Wales and act accordingly. It is not for me as a member of the Opposition to draft the Minister's legislation for him. The Minister shows the same level of competence in relation to waterways as he does in relation to railways. Honourable members will remember the recent discussion about train timetables. The Minister displayed the same incompetence then as he has in introducing this legislation. Legislation such as this has no forethought, planning or guts.

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Mr Cochran: On a point of order. Mr Acting-Speaker, the member is obviously straying from the essence of the bill. I ask that you draw him back to the scope of the bill.

Mr McManus: On the point of order. I made passing reference to one other issue and then continued with my contribution to the second reading debate.

Mr ACTING-SPEAKER (Mr Chappell): Order! On this occasion I accept that the honourable member for Bulli made only a passing reference to another matter. He will now resume his contribution to the debate on the bill.

Mr McMANUS: As I mentioned, I have some experience in the recreation of water skiing. What difference is there between an intoxicated water skier and an intoxicated boat driver? Why has the Minister not realised that a skier, if intoxicated, is as dangerous, if not more dangerous, than the person driving the boat? Why has the Minister not addressed the whole issue rather than a single issue? The Government should realise that it has a responsibility to save lives. If it introduces legislation, it has the responsibility to ensure that all matters are dealt with. Once again this bill demonstrates the Government's failure to recognise its responsibilities. I was totally amazed when the Minister said in his second reading speech that officers for whom the Minister for Police and Emergency Services is responsible will enforce the legislation. The Minister in the other place has no control over his own staff. This is indicated by the shortfall in staff in holiday periods. As members of the Opposition have said, the craft used by the police and the emergency services are either useless or in need of repair and when there is a shortfall in staff because of holidays the waterways cannot be policed properly. This bill is a total fabrication. The Opposition has had to support it because the crux of the bill is good, but once again the Minister has not gone far enough. I do not know whether this is because of the Minister's own incompetence or whether someone has convinced him that he should not go any further because that would not be politically opportune at the moment. The approach of the Minister is, "If this works, later on we will do a bit more". He should accept responsibility, take the bull by the horn, and do his job properly just once. Opposition members would certainly appreciate that.

Mr Baird: You should move an amendment.

Mr McMANUS: I have told you before. It is your job; it is your responsibility. You are in charge of your administration. If you cannot do your job, you should get out of your portfolio.

Mr ACTING-SPEAKER: Order! The honourable member for Bulli and the Minister should address their remarks to the Chair.

Mr McMANUS: An issue dealt with by the road safety committee that should also be dealt with in this bill is drugs. Honourable members would be quite well aware that the Staysafe committee is looking not only at alcohol but also at drugs. Alcohol is not the only problem drug in our society. For the younger and middle-aged group marijuana is of serious concern. If we are to address the use of alcohol when driving on the roads and on the waterways, we will also have to address the fact that a large percentage of the population use other forms of drugs.

Mr Baird: That is in the bill.

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Mr McMANUS: It is not in the bill. The Minister has said that he will address that issue at a later date. Dr Starmer of the University of Sydney has indicated to the Staysafe committee that drugs are a problem. He has been looking at ways and means of testing for drugs. It is time that the Minister spoke about this with the Staysafe committee, which deals with him quite regularly. He could implement an overall program rather than have a piecemeal approach, using press releases at Christmas to kid people that they will be all right. In essence, we support the bill but the Minister does not have it right yet.

Mr BAIRD (Northcott), Minister for Transport [11.22], in reply: I thank all honourable members for their contributions, although the last speaker, as usual, has not read the bill and has shown no understanding of what the Government is trying to achieve. He is perfectly free to move amendments, but he does not have the guts to do that. He comes in here in a blustering way -

Mr McManus: It is the Minister's job.

Mr ACTING-SPEAKER: Order! The member for Bulli has already spoken in the debate.

Mr BAIRD: It is a significant bill. It has been introduced because of the tragic *N'Gluka* accident at Port Stephens. That accident led the coroner to recommend that there be blood testing for alcohol. This is what we have implemented. Extensive consultations have taken place with representatives of the boating industry. We canvassed the introduction of random breath testing, but at this stage we believe that it is appropriate to test those who have been involved in serious accidents and those whose erratic behaviour attracts attention. This bill brings boating legislation predominantly into line with the Motor Traffic Act. Very significant fines can be imposed. In the worst situation, imprisonment can result. Licences can be removed. The blood alcohol level is 0.05 for those over 18 years of age; it is 0.02 for masters of commercial boats and for those under 18 years of age. The bill is timely. It should have been introduced before now. One of the benefits of the recent spate of accidents is that a decision was able to be made on the correct approach. Obviously, this bill is in response to those requirements.

The honourable member for Kogarah asked also why we had not introduced the bill before. That is an appropriate question to ask. The impetus of recent events led to this legislation. I congratulate members of the Opposition for their level of support. The honourable

member for Kogarah also asked how Maritime Services Board officers will know what is dangerous driving by an operator. Undoubtedly a subjective judgment will be involved. If an operator is driving a vessel at very high speed in a congested area, weaving from one side of the fairway to another or navigating in an erratic way, that would constitute dangerous or reckless driving. The same actions would be seen as dangerous when driving on the roads. The honourable member for Kogarah also commented that the court has a discretion to reduce the period of disqualification under proposed section 10(3). The bill does not directly mirror the Motor Traffic Act and the clause the honourable member refers to does not appear in that legislation. It has been included in this bill because the overall risk on waterways is not as great as on roads. This clause will give the courts flexibility in awarding penalties for offences as they see appropriate. Because there is perceived to be less danger on the waterways than on the roads, that greater flexibility is provided.

The honourable member for Port Stephens said that if we expect police to respond efficiently we have to improve the mobility of the water police in the Port Stephens area. As a result of the introduction of this bill, I have had discussions with my

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colleague in another place, the Minister for Police and Emergency Services. We are aware of the necessity for improved mobility. We have agreed that water police will co-operate with the Maritime Services Board to ensure a greater and speedier carriage of the legislation as it affects waterways generally. This of course includes the Port Stephens area. The facilities of the Maritime Services Board can be used where required. That co-operative approach will continue in the area of breath testing. The honourable member for Port Stephens was concerned also about the need to inform recreational boaters who consume alcohol about the provisions of this bill and the penalties so that they are not caught off guard or worried about going out on the water. I have instructed the Maritime Services Board to include the provisions and requirements of this bill in its safety campaigns - especially those conducted on the radio - so that people who go out on the waterways will know that if they exceed 0.05 and have an accident or if they drive in a manner which suggests that they have consumed too much alcohol, they may be apprehended, tested and fined, and could lose their licences or incur an even worse penalty in the case of an accident.

The honourable member for Murray touched on the potential need to introduce random breath testing to reduce the problems caused by hoons in speed boats. As I mentioned in my second reading speech, the Government recognises that boating in the State is mainly a leisure activity. The tensions and pressures of the roads are not present on our waterways. In the case of the Murray River, the Government has insufficient data to justify legislation differing from that enforced in the rest of the State. However, at the end of the current boating season we will look at the data collected to see whether additional measures for the Murray are necessary. The behaviour of the rowdier elements makes them liable to breath testing. Even though testing may not be random, it will cause them to moderate their antics once they realise that the Government is serious about enforcing this legislation in the interests of the safety of all users of State waterways.

The honourable member for Charlestown raised the question of charter vessels being licensed to sell liquor and the licensee not being present to control what goes on. Those are valid points but they are outside the scope of the bill. However, I shall raise the matter with the Chief Secretary to see what can be done to tighten up the arrangements for the distribution of liquor on vessels, and to prevent under-age drinking and excessive alcohol consumption. The honourable member for Waratah was concerned about what would happen if police were unable to analyse a boater's breath within the two-hour limit. In such a case the boater would normally be released, but if the behaviour of the boater was such as to indicate to police that he was under the influence of alcohol they could charge him with this traditional offence. However, my second reading speech points out the difficulty of this procedure.

The honourable member for Waratah was concerned also about Maritime Services Board officers having power of arrest and detention until police arrive. The bill does not give the Maritime Services Board officers power to detain a vessel; the only power that the bill gives officers is to direct a boat owner to stop his vessel or to take it to a specific place. This is consistent with current marine law. If a boat owner chooses to ignore a direction, prosecution action can be taken. Maritime Services Board officers have been instructed in the proper use of this power. Further, the honourable member for Waratah was concerned as to how an MSB officer would determine whether a boat operator was under the influence of drugs. As I stated in the second reading speech, all prosecutions will be carried out by police and not by MSB officers. When an operator, having taken the breath test, shows himself to be below the prescribed limit and is not obviously under the influence of alcohol, the police will assess his behaviour, and if they

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believe him to be acting under the influence of a drug they may require him to have his blood or urine tested for the presence of drugs.

Despite the huff and puff of the honourable member for Bulli, there are provisions in the bill for drug testing. The honourable member for Bulli referred to random breath testing, skiing and drugs. He is perfectly free to move an amendment in relation to RBT if he is so disposed. This bill will tighten up the operation of boats on our waterways. Undoubtedly, this should have happened before. Those who operate on our waterways will now be required to be under the 0.05 level. They have the threat of being charged if they are not. Testing will normally take place after an accident or when the behaviour of the boat operator calls attention to the need for action. There is provision for drug testing also. Ski boat operators as well as drivers will be covered by the bill. The bill is about making the State's waterways safer during the holiday and festive season. Whilst we want to see people enjoying themselves on our waterways, we also want greater responsibility and safety for the boating public.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MARINE POLLUTION (AMENDMENT) BILL

Second Reading

Debate resumed from 13th November.

Mr LANGTON (Kogarah) [11.35]: The Opposition supports the Marine Pollution (Amendment) Bill. The bill provides for the recovery of the cost of cleaning up after ships have polluted our waterways. Under the Marine Pollution Act 1987 the Maritime Services Board can only do the clean-up and then recover the actual costs. There is no provision in the existing legislation for estimated costs to be recovered. Of course, the vessel which has caused the pollution has often departed port before the costs could be recovered. This bill provides that a security can be gained from the vessel which is believed to have caused the pollution based on an estimate of what the clean-up costs would be. If that security is not forthcoming, the ship can be detained until the security is lodged. Obviously, the security provided for by this amendment will enable penalties, including costs, to be recouped from polluters. There is no point in having tough penalties and imposing clean-up costs if it is impossible to recover those costs.

I wonder whether the penalties for pollution provided are tough enough in view of the penalties applying in other States and the Commonwealth. In August this year the *Australian* newspaper reported that the Queensland Government would consider introducing legislation to gaol the captains of vessels that cause oil spills and fine their shipping companies up to \$1 million. On 8th March this year the *Newcastle Herald* reported that fines of up to \$500,000 and two years' gaol await ships, companies and chief executives who are found guilty of polluting

Victorian waterways under legislation to go before the Victorian Parliament in the following week. In the *Sydney Morning Herald* on 15th June this year it was reported that shipowners would face penalties of up to \$1 million for serious pollution at sea under amendments to Federal legislation passed by the Senate in the previous week. The Minister for Shipping and Aviation Support, Senator Collins, said that most penalties for pollution in Australian waters would be increased by 400 per cent. It is clear that much stiffer penalties apply in other areas than apply in New South Wales. There is obviously room for the legislation to be

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strengthened with increased penalties. In 1978 the House of Representatives Standing Committee on Environment and Conservation presented a report entitled "Oil Spills: Prevention and Control of Oil Pollution in the Marine Environment". The report states:

Environmental damage caused by frequent, small oil spills (chronic) is often as great, if not greater, than large, once-only spills (episodic):

- not enough significance is attached to preventing small spills and dealing with them in an environmental acceptable way; and
- for smaller spills there is a need to upgrade physical recovery capability for sheltered and open waters.

This point was reiterated by the Bureau of Transport Economics in its report entitled "Marine Oil Spill Risk in Australia", in which it stated:

The general context of Australia's marine oil pollution potential may be summarised in terms of:

. . . a wide range of port activity levels leading to possible localised and transient congestion.

Under these circumstances it becomes apparent that the absolute level of risk of oil pollution is comparatively quite small. But the consequences of an oil pollution episode or series of episodes can be very serious in both economic and social terms, depending on location. Chronic pollution (the long-term slow release of oil from repeated spills) can be serious where sensitive ecosystems may not have sufficient opportunity to recover between pollution episodes. An Australian Parliamentary inquiry in 1978 . . . found that the environmental damage caused by frequent small oil spills is often as great, if not greater than that caused by large (catastrophic) spills, and that not enough significance was attached to preventing small spills or dealing with them in an environmental acceptable way.

I make the point that there is often as much long-term damage caused by small but frequent spills as there is caused by large spills which grab the attention of the media. What are we doing about these chronic spills? Even last month Elcom was found guilty of polluting in the Hunter Valley with a spill of 50,000 litres of diesel fuel. If a State Government organisation is neglectful in that regard, what hope can we have for private boat owners? Accidents can happen but most so-called accidents are not accidents at all. They are incidents of neglect, of lax standards, not to mention those actions which are deliberate on the part of a polluter who thinks either that he will not be caught or that the penalties for being caught do not outweigh what he might regard as the convenience of the incident or the accident. Another factor needs to be considered when determining whether penalties are high enough, and I refer to the cost of cleaning up oil spills. Some oil spills do not require cleaning up and, therefore, no cost is involved. Again I refer to the 1978 report of the House of Representatives Standing Committee on Environment and Conservation, which stated:

Governments must have the strength to do nothing in the face of a serious spill if this is deemed the best approach. Decisions that would cause greater environmental damage must not be taken as a result of ill-informed public pressure.

In other words, if there is no cost involved in cleaning up the pollution, the penalties must be higher because sometimes trying to clean up the pollution, particularly oil, will cause more damage. How fair is it that a major polluter gets away with only a fine because the nature of the spill is such that it is preferable that it not be cleaned up? What about costs involved that are not incurred in the actual clean-up itself? What about a major chemical or oil spill? What about the costs to tourism or to the fishing industry? I am sure honourable members are aware

that the majority of Botany Bay is located within my electorate, as are the oyster farms in the bay. I am very well aware of the
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economic damage caused to oyster farmers as a result of an oil spill, and I am aware also of the cost to a range of other activities carried out on the waterways. The Greek tanker *Kirki* broke up off the coast of Western Australia in July. On 23rd July a report in the *Sydney Morning Herald* stated:

Fishing boats were helping to break up the giant oil slick left by the crippled Greek tanker *Kirki* as coastal settlements yesterday awaited a forecast wind change . . .

Damage from the spill will depend on a program aimed at breaking up the oil slick . . .

Among conservationists, concern eased for young sea lions and birds that inhabit the area . . . and for the crayfishing industry.

The problem was not as bad as it might have been, but the cost is not only that involved in cleaning up the spill. Many other economic and environmental factors must be taken into account - the cost to tourism, to the fishing industry and so on. I am not trying to be comprehensive in including those issues but I reiterate that the price paid is more than simply the cost of cleaning up. We must take this legislation much further if we are to have any hope of deterring people from polluting New South Wales waters. As I said, the Opposition supports the bill. I am sure the legislation will have a beneficial effect. It certainly is an improvement on what exists at present. I am troubled by the Minister's assertion of his concern about pollution on the waterways. I wonder if he would give to the House his explanation as to why the Maritime Services Board is seeking to relocate or possibly to sell one emergency response tug from Port Jackson. That tug has been effective in assisting to clean up oil spills and pollution. The Opposition supports the bill and looks forward to these measures being in place as quickly as possible to avoid a repetition of incidents that have occurred recently, particularly in Sydney Harbour.

Mr D. L. PAGE (Ballina) [11.46]: I strongly support the Marine Pollution (Amendment) Bill. I note the Opposition supports it also. No one of sound mind could fail to support such good legislation. I commend the Minister for introducing this bill and note that it is another proactive measure by this can do Minister in a can do government. This legislation puts New South Wales at the forefront of the protection of our ports, our waterways and the Australian coastline. Though the honourable member for Kogarah would like to see tougher measures introduced, it is worth reminding honourable members that this legislation is landmark legislation for Australia. New South Wales is the first State to introduce such tough legislation. Only a handful of countries have taken the measures that this Minister is introducing. They are the United Kingdom, the United States of America, Canada and The Netherlands. Whether we are talking about reforming State Rail or the public sector in New South Wales, once again this Government is leading the way by providing environmental protection for marine environments.

This legislation is consistent with the Government's philosophy that the polluter must pay. No longer will it be possible for masters of vessels to pollute our waterways and ports and to sail off into the night without any fear of being held responsible for the mess they have made. The legislation strengthens the existing legislation. It also removes some of the weaknesses in the existing legislation. Over the past 10 years or so we in New South Wales have been very fortunate and have had a pretty lucky trot so far as marine pollution is concerned. However, I make the point that the strengthening of this legislation will put the Maritime Services Board in a much better position to deal quickly with a major oil spill, and it will enable the Maritime Services Board and the taxpayers of New South Wales to recover the cost of cleaning up pollution. No cost will

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be borne by taxpayers. It will be paid for by the insurance company that owns the vessel.

The deficiencies of the previous legislation were twofold. First, under the previous arrangements the polluting vessel would have to be positively identified before it could be detained. In reality, frequently it would take, say, three or four days before the sample taken from the offending material was matched to the pollutant and to the source of the pollution. In the meantime the ship would have sailed, in which case there would be no recourse. This legislation changes that situation so that the Maritime Services Board now has to have only reasonable cause to suspect that a vessel polluted. Second, under the previous arrangements the Maritime Services Board had to incur real costs before it could take measures to detain the vessel and to seek security. This legislation changes that situation so that it no longer has to incur costs but has only to have reasonable cause to detain a vessel.

I remind honourable members that the aim of the bill is to amend the existing Act, and to set an enabling mechanism in place whereby the Maritime Services Board is authorised to detain a vessel which it believes has caused pollution without clear evidence being available at the time and without necessarily having incurred any clean-up costs and expenses. Such vessels will be released after the owner lodges security in a form acceptable to the board to cover the estimated clean-up costs, expenses and the maximum penalty recoverable under the Act. Essentially this legislation does two things. First, it overcomes the shortcomings of the existing Act introduced in 1987. Second, it sends a clear signal to vessel owners who are tempted to pollute New South Wales waterways and ports that in future such action will incur significant costs. This legislation will be welcomed strongly by the people of the North Coast and coastal New South Wales generally. The North Coast has some beautiful beaches which, fortunately, in the past have not been affected by any major oil spills. If major oil spills occur in future the Government will be in a position to act quickly to ensure that the clean-up costs are fully recovered from the polluter.

It is fair to say that the legislation gives the Maritime Services Board fairly wide powers of detention and the ability to recover clean-up costs. One could say that these powers are too strong, but having perused proposed new section 52A(1) and (2), I believe the bill provides for a balanced approach. Subsection (1) of proposed new section 52A sets out clearly the conditions under which a vessel may be detained. There is absolutely no doubt about those conditions. Further subsection (2) of proposed new section 52A sets out the conditions under which the vessels may be released. The rules for the game are clear. The circumstances under which the MSB may detain a vessel and the circumstances under which a vessel may be released are set out clearly in the bill. As the bill provides for a balanced approach no one should be overly concerned that shipping companies will be detained by the MSB without good reason.

I have made inquiries about the procedures to be implemented should a vessel be suspected of polluting our waterways. I wish to place that procedure on record: a suspect vessel will be served with a notice of detention, which will outline the facts and state therein the amount required to be lodged as security before a vessel can be released. This amount will be based upon the estimated clean-up costs, expenses, and the maximum penalty which can be imposed by the Act. For a company the maximum penalty is \$250,000 and it is \$50,000 for an individual. Upon receipt of the notice of detention the master would be expected to immediately inform his owner of the facts. Regardless of the time of day the owner will immediately contact his protection and indemnity club, which will instruct its local representative - usually a law firm in New South Wales - to

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investigate the incident and file a report covering the main details. Based upon the correspondent's advice, the club will issue a letter of undertaking to the MSB confirming that it will pay whatever amount the owner is found to be legally liable to pay but not exceeding the amount stated in the notice of detention. If the letter of undertaking is issued by a club belonging to the International Group Agreement - 95 per cent of shipowners belong to that agreement - and is drafted in a manner acceptable to the MSB, it will be treated as acceptable

security and the vessel will be released. If the vessel's club is not a member of the agreement, the MSB may elect to accept only a bank guarantee.

The other relevant issue is whether the MSB would be legally liable if it detained a vessel and it was subsequently revealed that there was no reason for its detention. That is not likely to be the case for the simple reason that the conditions under which a vessel can be detained and or released are quite clearly set out in proposed new section 52A. Therefore, it could be concluded that no one would have any claim against the MSB for detaining a vessel, because the legislation specifically empowers the MSB to detain a vessel that it suspects to have caused pollution. However, it also provides for the vessel to be released upon receipt of an acceptable form of security. The rules are clear. Owners of vessels should think seriously about the possibility of their polluting our waterways in future. In the event that pollution occurs accidentally, the taxpayers of New South Wales will have every confidence that the polluter will pay for the clean-up. I congratulate the Minister for Transport on bringing forward this legislation. Again, New South Wales is leading the way, as it has in so many areas of public sector and maritime reform, and I strongly support the bill.

Mr PRICE (Waratah) [11.56]: I support the bill. I am pleased that the Government is strengthening the existing legislation. It is extremely important that those who use our ports and harbours and ply the coastline of New South Wales are aware that we will not accept second best. The provision giving power to the MSB to detain a vessel, even though there has not been a definite identification that the vessel concerned was the cause of the pollution problem and that clean-up expenses will not be incurred by the MSB is correct. If a vessel is detained it is virtually arrested. That is not an unusual power. Certainly from time to time the Commonwealth customs people use that power with devastating effect. Oil pollution or pollution through any toxic or obnoxious chemical is unconscionable. We have turned that particular corner. I can remember earlier times of my own involvement as a merchant seaman when deballasting of oily bilges occurred at night, either near the coast or at sea, without any thought given to its effect. I recall also in my shipbuilding times the introduction of oily water separators, and sewage treatment and retention tanks.

One matter that I wish to mention, which is possibly out of context but nevertheless relevant, is the environmental requirement that the Maritime Services Board should police certain terms and conditions that have been imposed on ferries, pleasure boats and older commercial vessels. However, we should be a little careful about how those regulations are imposed and enforced. Reasonable support should be available to owners of commercial vessels or people in poorer circumstances who may have retired and own a boat that needs updating. The quantity of pollution from smaller vessels, though important, is relatively insignificant in the total picture. Though I acknowledge that this amendment is designed to deal with pollution by the larger commercial ships, I caution the Government to be flexible in the enforcement of the legislation in respect of those other vessels. Environmental considerations are paramount. Damage to the shoreline is extreme in certain cases, particularly from oil pollution. I wish to read for the record a brief comment taken from *Time* magazine earlier this year. The article

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refers to the pollution of Prince William Sound in Alaska as a result of the oil spill from the *Exxon Valdez* tanker, and it states:

The mammoth slick that oozed out of the Exxon Valdez tanker into Alaska's Prince William Sound two years ago may have been tough on otters and seagulls, but it was black gold for the legal profession. The 1989 disaster generated more than 300 lawsuits. Last week the largest was settled barely a month before it was due to go to trial, as Exxon reached an agreement with Alaska and the U.S. The cost: a guilty plea to three criminal charges that the company negligently discharged crude oil into navigable waters and killed migratory wildlife, and fines that may eventually total \$1.1 billion.

I accept that we have a fine ceiling of a quarter of a million dollars. I also acknowledge that the honourable member for Kogarah said that Victorian legislation is being updated to provide fines

of \$1 million. Our fines compare poorly with international fines. Obviously we are way off mark; perhaps we cannot conceive of the magnitude of a clean-up. Clean-up costs resulting from the 11 million gallon oil spill from the *Exxon Valdez* are roughly \$2.2 billion. It is mind boggling to comprehend a clean-up that would require an expenditure of \$2.2 billion. Publicity impacts poorly on industry and it puts special strains on governments and communities that they could well do without. I refer to another international example, the recent Middle East war and the attempts at using oil spills to try to deter United Nations forces. Ultimately oil-well fires dumped tonnes of soot on to the surface of Gulf water. The impact of that is still being calculated and the clean-up will take several years. I do not know whether honourable members have seen seabirds die as a result of being coated in oil. It is a terrible way to die. I strongly support any government action to reduce the incidence of these deaths.

A few months ago the Greek tanker *Kirki* broke in half and had to be towed away from the coast. Though that slick was contained by towing the hulk out of the coastal currents, that did not solve the problem. The oil slick still had to be disposed of. Again, that will take time. It will damage not only bird life; it could interfere with Western Australian crayfishing beds, which the Western Australian economy relies heavily upon. It could ruin a number of fishing communities along the Western Australian coast. Some time ago the *Iran Afzal* was suspected of causing oil pollution of Bondi Beach. In that case the company did the right thing in spite of the fact that it could not be quickly identified. At the time of apprehension no expenditure had occurred. Not every company would wish to pay for clean-up costs and not every company would be in a position to do so. If a major disaster occurred in Botany Bay - pollution has already caused dieback in significant areas of remaining mangrove swamps and coastal wetlands - we could be faced with an incredible environmental disaster. It could make life extremely unpleasant for the fishing industry, for the local residential community and for vessel users of that waterway. I referred earlier to the maximum fine of a quarter of a million dollars that can be imposed. I will read two brief extracts from the 1988 and 1989 annual reports of the Maritime Services Board. The 1988 annual report, under the heading "Oil Spill Prosecutions", states:

Prosecutions brought as a result of oil spills during the year totalled eleven, with eight guilty verdicts and fines of \$4,450 imposed.

Another ten prosecutions are pending from spills during the year while six cases from the 1986/87 year and one from 1985 are also waiting to be dealt with by the courts. These include a number of foreign-owned vessels.

With fines of only \$4,450, we wonder what the exercise has been all about. The 1989 annual report of the Maritime Services Board, under the heading "Oil Spills", states:

A total of 180 oil spills were reported during the year. Each was assessed by and, where

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necessary, treated by trained MSB emergency response crews in each port. Five of the reported spills required more than eight hours work to remove oil from the water. The source of each spill was investigated, resulting in 13 prosecutions. Of these, three convictions were recorded and fines totalling \$2,600 imposed. Prosecutions from six spills which occurred during the previous year resulted in fines totalling \$11,750 being imposed. In May, MSB crews travelled to Mildura to assist local authorities to deal with 8,000 litres of diesel and sump oil released into the Murray River.

The legal costs associated with recovering those fines beg the question: is it worth while? Why are the fines so low? We are talking about massive clean-ups; we are talking about extraordinary damage not only to the waterways but also to marine life and the shoreline environment. These fines reflect nothing; they are the maximum for cost recovery. They are certainly not a deterrent. Given these costs and fines and given international reaction to the costs and dangers associated with marine pollution, I urge the Minister to reconsider these fines in future legislation. It is quite obvious that the fines are insufficient to cause a potential polluter to think twice. If someone can get away with significant pollution that requires only eight or 10 hours clean-up, a fine of \$2,500 will not worry that person too much. I hope the

Government will review its regulations and legislation and beef up the fine levels. Deterrence is a much better alternative to cleaning up after the damage has been done.

Mr MARTIN (Port Stephens) [12.7]: In the spirit of co-operation my contribution will be short. I support this legislation. I will ask the Minister to address some matters that relate to smaller vessels. I recall talking to my colleagues about this very issue. Maritime service people tend to think of ocean-going international trading craft as coastal trading vessels. The same mentality is used in regard to the maintenance of lighthouses and port access for shipping. The definitions in the Marine Pollution (Amendment) Bill should identify trading vessels, fishing vessels and ships. All that the definitions say about ships is that they include seaplanes, but the legislation does not clearly define what sort of craft. Having dealt with people from the Maritime Services Board in the past, I believe it is the intention of the legislation to describe these vessels as international trading vessels. I interpret the legislation in that way because all it refers to is ships. The Marine Pollution Act defines Australian fishing vessel, Australian ship, fishing vessel, pleasure vessel, ship and trading ship. This matter must be clarified and addressed by the Minister.

Before I entered politics I had some involvement with the fishing industry. Some years ago vessels pumped out oil from their bilges at sea. That is no longer the practice. It used to happen in waters off my electorate and the electorates of other honourable members. I had a responsible attitude as a boat owner. I constantly advised people in the fishing industry of the dangers of that practice. The expressions "quantity of oil" and "type of vessel" must be defined clearly. Too often maritime vessels are regarded only as oceangoing vessels; smaller vessels have not been given consideration. Wooden vessels have a tendency to take a lot of water and build up oil in their bilges. Too frequently the owners of such vessels pump out their bilges in enclosed waters, and that creates havoc. The honourable member for Kogarah referred to the need to protect such expanses of water as Botany Bay and coastal estuaries.

Mr BAIRD (Northcott), Minister for Transport [12.12], in reply: I thank honourable members for their contributions. The speech of the Assistant Minister for Transport, the honourable member for Ballina, in particular, was outstanding. I compliment also the honourable member for Port Stephens on his contribution; it was one of his best. This is vanguard legislation - the first of its kind to be introduced by any State government, to complement legislation introduced federally and in Canada and the United Kingdom. I remind honourable members of the unsatisfactory state of affairs

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when the vessel *Iran Afzal* left the port of Sydney before proper testing could be carried out. That highlighted the fact that the Government did not have the power to detain vessels suspected of being major polluters. Oil pollution has become a major focus of attention throughout the world. The Federal Government has attempted to address the problem by introducing legislation. The *Exxon Valdez* incident highlighted the problems associated with major spillages. This legislation will empower the Government to detain vessels until testing can be carried out, or, alternatively a bond is posted by the owners of vessels to enable costs incurred by governments in the clean-up of any spillage to be recouped. The Protection and Indemnity Club provides insurance coverage of \$625 million, extendable to \$875 million. Vessels that post bonds need not be detained. About 90 per cent of international vessels have posted bonds with the club. Those who have not may seek bank guarantees so that they can get on their way. People who reside around the various ports of New South Wales - Sydney, Newcastle and Port Kembla - can rest assured that in future the Government will have the power to take action against vessels that pollute.

The honourable member for Kogarah said that in his view the level of penalties for the offence of polluting should be increased. The penalties provided by the legislation were consistent with those provided by Commonwealth legislation. However, earlier this year the Commonwealth penalties were increased substantially. Consideration is being given at the moment to increasing the level of our penalties to bring them into line with those of the

Commonwealth. The honourable member for Kogarah asked why the Government had not retained all three emergency response vessels owned by the Maritime Services Board in the Sydney area. There is a requirement for one emergency response vessel in Botany Bay and one in Port Jackson. Though the third vessel is useful, it is not essential. Contrary to the claim of the honourable member for Kogarah, no decision has been made about whether that vessel should be moved or sold. The honourable member expressed concern about the effects of numerous small oil spills as opposed to one large spill. Obviously there is a cumulative effect of small oil spills from merchant shipping. However, it must be borne in mind that on a 24-hour basis the officers of the Maritime Services Board are highly trained and well equipped to combat small to medium spills. Oil companies have similar organisations to assist in the clean-up of spillages. Large spills, such as that from the vessel *Kirki* off the Western Australian coast, are dealt with under the national plan, which is funded by the Federal Government. The frequency of small spills in New South Wales ports is diminishing over time as the marine pollution legislation, which was proclaimed in 1990, takes effect.

Concern was expressed also by the honourable member for Kogarah about the cost of clean-up operations and other long-term effects of pollution. As I have said on other occasions, we have been fortunate that no major oil spillages have occurred around our coastline. Australia has been extremely lucky in that regard. Inquiries of those involved in the *Kirki* operation off Western Australia reveal that the actual amount involved in clean-up operations to date is less than \$100,000. That is surprising. The costs associated with the *Iran Afzal* incident were less than \$5,000. To date there is no conclusive evidence of long-term adverse effects on the marine environment resulting from the spillages from *Kirki* and *Iran Afzal*. However, I am aware of the potential long-term adverse effects of marine pollution. This legislation is yet another means the Government can use to combat pollution and bring polluters to book. The honourable member for Port Stephens and the honourable member for Kogarah referred to the impact of pollution on such industries as the rock oyster industry. Such costs will be recoverable also from the protection and indemnity club, which provides insurance for that purpose. The protection and indemnity club has commenced a long-term study on the effects of the spillage from *Kirki*. This legislation will enable action to be taken by governments when

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it can be proved that there is a direct link between major oil spills and damage to an industry. The honourable member for Waratah referred to the fines provided by the bill. The fines are quite substantial: \$250,000 for a company and \$50,000 for an individual. I remind the honourable member that coverage is available through the protection and indemnity club up to the amount of \$785 million.

The honourable member said that the annual reports of 1988 and 1989 of the Maritime Services Board suggested that fines were too low. I acknowledge that in those years the penalties were much less than they are now. The maximum fine was \$100,000. The Marine Pollution Act 1987, which was proclaimed in mid-1990, prescribes a maximum penalty of \$250,000 and unlimited liability for clean-up costs. Consideration is being given to increase those fines further, in line with Commonwealth legislation. The honourable member for Port Stephens asked about the size of oil spills and to which vessels the measure would apply. Clearly, common sense must be applied. A spill could come from any vessels, but a large oil spill would necessarily come from a large vessel. Under present MSB penalties, action can be taken with regard to smaller spills and on-the-spot fines can be imposed. That is not a problem. I am talking about large spills and large-scale pollution off-shore and damage in the harbour. The legislation will allow action to be taken to detain in the harbour a vessel and its master until a bond is posted through the protection and indemnity club or by bank guarantee. That will provide for all clean-up costs. When spilled oil is matched against oil in a vessel, action can be taken. There have not been recovery problems in the past but this legislation will ensure that the environment continues to be of the utmost importance. Though the legislation will not restrict the activities of commerce and shipping through the port, it will ensure that

clean-up action can be taken and that the cost to industry and the environment is recovered. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

HARNESS RACING AUTHORITY (APPEALS) AMENDMENT BILL

Second Reading

Debate resumed from 14th November.

Mr FACE (Charlestown) [12.21]: In this debate I lead for the Opposition, which will not oppose the bill. The object of the bill is to amend the Harness Racing Authority Act 1977 by inserting a new section 19A to enable an inquiry to be held even if a final and conclusive decision has been made on an appeal to the Harness Racing Appeals Tribunal. The bill will modernise the powers of delegation at present conferred by the principal Act upon the Minister and the Harness Racing Authority. Under the provisions of the Harness Racing Authority Act, industry participants aggrieved by decisions of racing clubs, the Harness Racing Authority or its stewards may appeal to the Harness Racing Appeals Tribunal. The Act provides that the decision of the tribunal is final and conclusive. Therefore the tribunal is unable to rehear a matter even if there comes to light new evidence that was not available at the time of the initial inquiry or appeal hearing. Such a situation arose in 1990 with regard to three disqualified trainers. The former Minister for Racing was required to take remedial action by ordering that special independent inquiries be conducted. Several horses had eaten stockfeed containing poppy seed and returned positive swabs.

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The persons charged continued to protest their innocence and had gone through the entire appeal system before the presence of the poppy seed was detected. The Minister commissioned Judge Goran to hold an inquiry. Though rare, such an occurrence may happen, and it is unwieldy for the people involved to have to approach the Minister. And, frankly, I believe it is inappropriate for the Minister to be involved. The legislation will provide a mechanism whereby the Harness Racing Authority, its stewards or a special tribunal appointed by the authority may rehear a matter. The power will be limited to cases where a person has exhausted all existing avenues of appeal and subsequently there comes to light further evidence that may, in the opinion of the authority, have resulted in a substantially different decision if it had been available at the original inquiry or appeal hearing. The authority will have the power to vary a decision based on the findings of the rehearing. The Harness Racing Appeals Tribunal and the Harness Racing Authority support the legislation. It will assist in maintaining the credibility of the appeal system and will ensure that obvious miscarriages of justice are remedied, as it was in the matters to which I referred. I support the bill.

Mr NEILLY (Cessnock) [12.24]: I support the legislation, which was well outlined by the Minister during his second reading speech and by the shadow minister. The key to the legislation is the recommendation from Judge Goran, who is well acquainted with the harness racing industry and has been associated with a number of inquiries relevant to the industry. As the Minister said, the legislation is in no way intended to be a reflection upon the Harness Racing Appeals Tribunal. Rather, it will merely provide an additional mechanism of appeal in the event that there is a miscarriage of justice and further evidence becomes available. The matter might not necessarily be dealt with by the authority; it may be referred to the stewards or another body that the authority deems appropriate. The circumstances that gave rise to Judge

Goran's recommendations were a little unusual, though I am surprised that such matters have not previously been made public. No doubt similar circumstances have arisen previously but perhaps the people affected were not familiar with their options and did not pursue them. For example, marihuana has been found growing in lucerne crops along the Hunter River. The honourable member for Charlestown referred to a matter involving poppy seed. Ultimately justice prevailed in that matter but the course was long and difficult for those people to obtain it. The bill is supported by all sectors of the harness racing industry and deserves the support of the Opposition.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.26], in reply: I thank the honourable member for Charlestown and the honourable member for Cessnock for their support of the bill and their outline of its aims and essential objectives. I thank particularly the honourable member for Charlestown for his support of the bill and his summary presentation. The bill is a simple measure. It will remove what for a long time has resulted in an injustice and will allow within the harness racing industry a full appeal mechanism with a genuine commonsense recourse. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BOOKMAKERS (TAXATION) AMENDMENT BILL

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Second Reading

Debate resumed from 14th November.

Mr FACE (Charlestown) [12.28]: I lead for the Opposition, which does not oppose the bill. At present a bookmaker who wishes to operate at a race-meeting in New South Wales is required:

- (a) to register as a bookmaker with the appropriate registration authority (i.e. a racing association or similar body) for the relevant racing code (galloping, harness racing or greyhound racing); and
- (b) to pay a bookmakers registration tax imposed by either the Racing Taxation Act 1937 (for galloping or harness racing) or the Finance (Greyhound-racing Taxation) Act 1931 (for greyhound racing) or both.

Under those Acts a bookmaker may be required to pay several taxes depending upon the location of the race-meeting and the racing code. A bookmaker is issued with a bookmaker's tax receipt on making each of the payments. The taxes are required to be paid for each year the bookmaker carries on business as a registered bookmaker. The Bookmakers (Taxation) Act 1917 established the Bookmakers Revision Committee. The committee has power to direct a registration authority to cancel or suspend the registration of a bookmaker if it is satisfied that the bookmaker has been convicted of an offence under the Act or has failed to pay certain taxes relating to his or her business as a registered bookmaker. The amendments result from a critical review of the need for bookmakers' tax receipts. The review was carried out as part of a licence reduction program undertaken for some time by this Government and the previous Government. The primary objective of issuing tax receipts is to protect government revenue by exercising control over which persons may field as bookmakers. The review found that controls are still necessary but recommended simplification of the licence process by the introduction of a single perpetual tax receipt.

At present a bookmaker may be required to take out as many as five tax receipts ranging from \$20 to \$280. Existing tax receipts may be renewed annually. The proposal is that

there will be a perpetual tax receipt which will cost only \$100. The proposed licence will lessen regulatory impact of present licensing procedures while retaining necessary controls. The new arrangements will provide cost savings to both the bookmaking industry and the Government. The bookmaking industry is happy about the proposed measure. This should alleviate some of the financial burden bookmakers are presently enduring. Bookmakers holding existing tax receipts for galloping and harness racing will be allowed until 31st January, 1992, to take out new tax receipts. Greyhound bookmakers will have until the expiry of existing licences on 30th September, 1992. The bill rationalises the legislation relating to the licensing of bookmakers. At present four Acts contain provisions relevant to this matter. The bill will incorporate those provisions into the Bookmakers Taxation Act and repeal the other three Acts.

Bookmakers were canvassed for their views. Of 700-odd bookmakers more than half replied - an outstanding response to this type of survey - that they were in favour of a particular move to achieve cost savings, though a small minority, as one would expect, wanted no control whatsoever, which of course would be most inappropriate. The cost of collecting the \$90,000-odd per year is slightly in excess of \$50,000. It is believed that within five years collection will probably cost more than the amount actually collected,

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as occurs with many taxes that have survived their useful lives. In fact, of the approximate total of \$310 million collected from racing tax, revenue last year for bookmakers was only \$12.5 million and is likely to be reduced this year as a result of the recession. In the overall context, bookmakers' revenue in itself is only a very small amount. The Opposition does not oppose the bill.

Mr PACKARD (The Hills) [12.33]: I support the bill. The measure is part of the Government's licence reduction program, to which it has been committed since gaining office. The Government should be applauded for introducing this measure. Under previous legislation a bookmaker was required to have up to five licences to operate. The proposed legislation will fix that. Revenue generated by the issue of tax receipts, amounting to about \$90,000 per annum, is offset largely by the cost of issuing licences. The Government was not getting anywhere with that exercise. The bill provides for a lifetime licence. Existing tax receipts must be renewed annually. The range of costs currently is \$20 to \$280 for each licence. The bookmakers support the proposal. I thank the Opposition for its support of the bill.

Mr NEILLY (Cessnock) [12.35]: I support the Bookmakers Taxation (Amendment) Bill. I agree, as have the two members who have spoken on the bill, that a single licence is far preferable to the multitude of licences required under previous legislation. The measure will streamline administration and make a happier lot for bookmakers. Bookmakers stick to one facet of betting or in some instances two but rarely do they delve into betting on horses, greyhounds and trotters. In the past licences have had various expiry dates. On occasions bookmakers have arrived at a course and not produced a valid licence to stewards due to an error in the licence date. Bookmakers sometimes become confused in the administration of their own affairs, and the bill's commonsense provisions will make life simpler for them. Though it may not fall within the jurisdictional ambit of the Minister, I suggest that those who work with bookmakers be registered, to remedy a similar problem to that addressed by the measure. I support the bill wholeheartedly.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.36], in reply: I thank the honourable member for Charlestown, the honourable member for The Hills and the honourable member for Cessnock for supporting the bill. Each of those members referred to the commonsense rationalising nature of the bill. Each member referred to great difficulties being experienced in routine administration associated with

a multitude of licences. The measure will provide financial benefit to the bookmaking industry, which is undergoing hard times. The proposed legislation will relieve the administrative burden, introduce common sense, achieve substantial cost savings for the industry, reduce government revenue, but correspondingly reduce administrative costs. Those savings, perhaps not in the first year but in subsequent years, will lead to a revenue neutral position for the Government. I thank honourable members for their contributions supporting the measure. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GAMING AND BETTING (AMENDMENT) BILL

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Second Reading

Debate resumed from 3rd December.

Mr FACE (Charlestown) [12.37]: The Opposition does not oppose the bill. The Gaming and Betting (Amendment) Bill is designed to raise money towards the Sydney Olympic 2000 bid. At present under the Gaming and Betting Act 1912 race-meetings for horse, greyhound or harness racing throughout the State may not be held on Sundays. The bill amends the Act to allow for race meetings to be held on no more than eight Sundays during the period commencing 1st January, 1992, and ending 1st December, 1993. Honourable members would readily understand the need for urgency in enacting the proposed legislation. The dates and places where these Sunday race-meetings are to be held will be determined by the Minister. The bill requires the Minister to calculate, and notify the Treasurer of, the amount of public revenue raised from Sunday race-meetings held in accordance with the bill. Appropriation of money for the purpose of the Sydney Olympic 200 bid is subject to the usual parliamentary appropriation process.

By way of background, various options have been put forward for the raising of the necessary finance to fund Sydney's bid to hold the Olympic Games in the year 2000. The Government and Opposition are united in supporting that bid. One option which has been advanced involves the conduct of a number of Sunday race-meetings, with revenue which would otherwise accrue to the Consolidated Fund from the operations of on-course and off-course totalizators and bookmakers being directed towards the bid. Unlike the position in the majority of other States and Territories of Australia and in many other countries throughout the world where Sunday racing is legal, the conduct of Sunday race-meetings in New South Wales is prohibited under the provisions of section 53 of the Gaming and Betting Act 1912. Although tentative approaches have been made from time to time by several clubs seeking the lifting of restrictions on Sunday racing, successive Labor and coalition governments have indicated they were not willing to take this action. At the same time, it has never been an issue of major consequence.

In pursuance of the current proposal, discussions have been held with various racing clubs and industry bodies, and with one exception at that time there appeared to be significant support from within the industry for the concept. In fact, a great number of clubs have already expressed interest in holding Sunday race-meetings. I have been contacted by many clubs which have expressed support for the proposal. The Australian Jockey Club, in its dual role as controlling authority for the galloping industry and as the racing club which conducts race meetings at Randwick and Warwick Farm, in the past has expressed reservations about holding Sunday race-meetings. That concern no longer exists and the AJC supports the proposed legislation. On the other hand, the Sydney Turf Club, which holds race-meetings at Rosehill and Canterbury and which for a long time has supported the concept of Sunday racing, has indicated that it is favourably disposed to the proposal.

Rather than transferring existing meetings to suitable Sunday dates - which I understand at one time was proposed - it is proposed that additional meetings be granted to the metropolitan racing clubs to enable them to gain maximum benefit from the proposal. At the present time the maximum number of days on which meetings for horseracing may be conducted on metropolitan racecourses is prescribed in the fourth schedule to the Act. Provisions do exist, however, for the Governor to issue a proclamation increasing those numbers. In addition to the metropolitan galloping meetings, it may be appropriate also for approval to be given to other New South Wales galloping, harness racing and greyhound racing clubs to hold complementary meetings,

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thereby assisting with the overall viability of the venture and the maximising of revenue. Naturally it would be a requirement for the TAB to operate on those days in question and provide a full off-course betting service. Following discussion with the TAB a range of meetings is needed for that to be viable. At present there is no legislative provision prohibiting the TAB from operating on Sundays. The TAB has indicated that its operations would not be affected by industrial difficulties as all applicable agreements contain special conditions for Sunday work. In fact, that provision has been in the Totalizator Agency Board Act since its inception. No impediment exists to operating on a Sunday. However, the TAB would need to reach an agreement with its various agents over the payment of appropriate fees and special arrangements may need to be made with some local councils regarding the opening of agencies on Sundays.

On the basis of one metropolitan galloping meeting, one provincial or country harness racing meeting, one provincial or greyhound racing meeting and minimal interstate coverage on each of the eight Sundays, it has been estimated that off-course totalisator turnover would be approximately \$76 million. In addition, it can be expected that a further \$25 million would be generated from on-course totalisator operations. This would result in \$7.35 million being raised for the bid, with a further \$500,000 being generated from the operation of bookmakers, taking the total to \$7.85 million, say about \$8 million. I understand that people have different opinions on that figure. Some say that amount will not be realised. Quite frankly, it is a matter of just how much further the gambling dollar can go. One does not know whether it will be extra revenue or be taken from other areas of gambling within the community. Only time will tell. Some people within the racing industry believe that the revenue will be more than \$8 million. I have received privately an assurance from the Minister and I hope in his reply he will consider whether if the amount exceeds the projected \$7.85 million it will go to the bid and not be syphoned off to consolidated revenue. We do not know whether it will be more or less than the projected figure. In addition, the TAB has estimated that its operations will generate additional profits in the order of \$3 million for the racing industry. Naturally that will go towards the propagation of the racing industry itself.

These figures would increase significantly should a decision be taken by interstate authorities to conduct metropolitan galloping meetings in other States or Territories to coincide with Sydney meetings. It is well known that Canberra has a considerable program of Sunday racing. If races were to coincide with meetings in the populous State of Victoria, that would provide a significant program, but we do not know where it will all end. Concerns have been expressed by country people that the dates of country meetings, as distinct from provincial and metropolitan meetings, should be lessened rather than increased. Country people realise that a race-meeting attracts extra revenue to country towns. If those country areas were given the right, it would result in the transfer of money from one place to another. As an example, several registered clubs in a country town stated that if a country meeting took place on a particular day the amount of revenue derived at the course, on entertainment, poker machines, keno, alcohol and recreation may be at the expense of others. I mention that as a word of caution because I have two shadow ministry responsibilities. The Minister for Sport, Recreation and Racing and Minister Assisting the Premier should liaise with his colleague the Chief Secretary to monitor that situation if it occurs.

I am not moving amendments to restrict country meetings by requiring them to lose a date but I put on record the concerns of some people. I repeat for the third time that there is only so much money to go round. It could arise that those attending the racecourse will not return to their normal activities. This will involve a loss of revenue, but they must work that out themselves. I do not think the clubs individually have

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realised that. They will see it as an erosion of their income. I ask the Minister to monitor the situation. I refer now to unregistered meetings. It may arise that several racing-meetings in New South Wales could coincide with similar events in Canberra and Victoria - quite a heavy betting card. Unregistered meetings will not have on-line what will happen. As one with experience as a police officer in No. 21 Division I see here all the hallmarks of an SP bookie being able to home in if unregistered gymkhanas and sports days are regularised on those days. It is not a matter of being a spoilsport. This gambling must be made legal or the Minister for Police and Emergency Services will have to clean it up.

These events are usually called charity days when in fact they are benefit days for a variety of sporting organisations. Money is raised under the guise of the event being a gymkhana. It is not a registered meeting because registered picnic meetings are held only on registered courses throughout the State. These are different. These meetings are announced as race-meetings when they should not be. A race-meeting that holds an egg and spoon race becomes a gymkhana or a benefit day. I do not wish to deprive those communities of that money, but if they wish to obtain it, they must do so within the confines of the law. It is illegal to have someone holding the bookmakers' bag. The local constable invariably finds he is part and parcel of those charity organisations and will not interfere. Someone must take responsibility to stop this, because revenue is being lost. Such betting must be made clearly legal or illegal. I have brought this matter to the attention of the Minister and his colleague the Chief Secretary, because some organisations are conducting these events under the guise of a charity.

I echo another word of warning. If I am any judge, gymkhana sports days and benefit days will be held when race-meetings are held on a Sunday. Honourable members do not know what will happen in the fullness of time. I should put on the record that the Government should make sure that the meetings are held legally. Church groups will have objections to the proposal, and members of the Australian Labor Party have concerns about the proposed legislation because money that will be used for gambling will disappear from household budgets. I have extensively surveyed the community and am assured that an overwhelming majority of citizens support the proposal because of the benefits that will accrue to the State should the Olympic Games bid be successful. Most recreational and leisure pursuits are available on Sundays, including those available in clubs and hotels, such as poker machines and club keno. One can even buy lottery and Lotto tickets on a Sunday. The Government does not propose to provide for a complete relaxation of the present restrictions on Sunday racing, which makes the legislation more acceptable to the community. The Government suggests that the legislation will specifically restrict Sunday race-meetings to a maximum of eight days between 1st January, 1992, and 31st December, 1993. The bill should provide authority for the Minister to determine when and where race-meetings may be held and the racing clubs that may conduct the meetings. All the revenue will go towards the Olympic bid. Therefore, the Opposition supports the bill.

Mr DOWNY (Sutherland) [12.52]: I support the contention of the honourable member for Charlestown that the community is concerned about racing being extended to Sundays. I have some concerns about that myself. However, I am assured by the bill and by the Minister that the legislation will allow no more than eight meetings to be held between 1st January, 1992, and 31st December, 1993. I hope the proposed legislation is not the thin edge of the wedge. The purpose of the bill is to allow money to be raised for the Olympic Games, which is a worthwhile cause. In 1990 the three codes of racing

staged race-meetings that raised more than \$300,000 for the Nyngan flood victims. If this legislation will allow enormous sums of money to be raised to support the Olympic bid, I fully support it.

Mr NEILLY (Cessnock) [12.54]: I support the bill also. However, I have one reservation. Once a foot is in the door, despite the bill containing a sunset clause, after the two years have expired and the fund raising for the Olympic 2000 bid is finished, other causes will approach the Government to pursue a similar path to allow them to raise funds. I have noted the projections contained in the background paper to the bill founded on the metropolitan race-meetings being shared equally on four occasions by the Sydney Turf Club, the Australian Jockey Club, a provincial or country trotting meeting and a provincial or country greyhound meeting. The Government optimistically expects the eight fixture dates over the two-year period to produce approximately \$91 million, or an average of \$11.5 million a meeting. Sunday race-meetings may produce an initial surge of betting, but the novelty may wear off. People have only a limited number of dollars in their pockets. If they have done their dough on a Saturday, they are not likely to saddle up again with their pockets empty on a Sunday.

When the Totalizator Agency Board is deciding where the race-meetings should be held I remind the Minister that the Hunter Valley would be ideal because miners on fire panel rosters enjoy their weekends during the week. They live a lifestyle different from people engaged in Monday to Friday activities. The miners' Sundays often leave them at a loose end. I hope that the proposed legislation will allow the Government to achieve its revenue goal for the Olympic 2000 bid. The income projected is \$8 million. Unless adequate interstate race-meetings are held to coincide with the Sunday meetings to be held in this State, it will be difficult to achieve the projected figures. Generally, I agree with the legislation but point out that, despite the sunset clause, groups will approach future governments to sponsor community projects or allow fund raising for a contingent to go to the Olympic Games. Before the two years have expired, other groups may request one or two days just to get on the bandwagon.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [12.57], in reply: I thank the honourable member for Charlestown, the honourable member for Sutherland and the honourable member for Cessnock for their contributions to this debate. I particularly thank the honourable member for Charlestown because I have discussed with him for some months the various provisions and the method of operation of the eight Sunday race-meetings over the two-year period to benefit the Olympic bid. I should say for the record that if I had not received the support of the honourable member for Charlestown and the Australian Labor Party, it is unlikely that the bill would have been introduced. The question is one for consideration as an Olympic measure, and it would not have been appropriate, nor would it have been considered appropriate by the Government, to continue on a partisan political basis that would tarnish the Olympic Games. Therefore, I am thankful to the honourable member. I know that within the Australian Labor Party, as is the case in the coalition, some reservations remain. Perhaps I should quit while I am ahead.

Questions have been raised about country racing. Since the proposal was made public, country race clubs have applied to hold a meeting. Obviously, a compulsory allocation would not be recommended to me by the Australian Jockey Club for my approval and a reluctant country race club would not have to hold a race-meeting on a particular Sunday. The opposite is occurring. Many country race clubs are asking to be

considered for allocation of a day. The proposal, therefore, should be successful not only in the Sydney area but also in the country. Honourable members are aware that the bill is limited in the number of racing days and also the period during which the eight days will be allocated. A committee is liaising with the Sydney Turf Club and the Australian Jockey Club to determine appropriate days. It is thought that perhaps two days before the winter carnival and two days after the winter carnival in each of the two years would be appropriate, though I am led to

believe that in the first year it may be possible to produce only a workable one-day meeting before the winter. That would necessitate the holding of three race-meetings after the winter. Either two before and two after or one before and three after will provide a working arrangement.

I understand that following the giving of notice of the introduction of the bill some time ago considerable inquiry has occurred from interstate, and that the other principal clubs in the Australian Capital Territory, Victoria and South Australia have sought details, particularly regarding the date, so that they can co-ordinate their programs. I am advised further that in Queensland legislation has been drafted and may have been introduced into the Queensland Parliament. That makes provisions that coincide with the New South Wales race days. We are encouraged that we can expect success on these eight race days over the two years. The Government is confident that it will receive the estimated \$7.75 million. That figure may be higher or lower, but the honourable member for Charlestown asked me to comment specifically on that matter. The Olympic bid will cost of the order of \$22 million. In consultation with the Olympic bid committee - which coincidentally meets again today - it has been determined that the Government will provide up to half of that amount, \$11 million, and the corporate private sector would be expected to provide the remaining \$11 million. Consequently we hope that the \$8 million will be well and truly exceeded. The determination as to whether the money will be allocated to the Olympic bid does not hinge on whether \$8 million is raised, because that money would ordinarily be raised by the Government, but the \$8 million is simply an estimate. We hope that the amount raised will be 50 per cent more than that, so that all of the Government's contribution can be met from that source. Time will tell.

The honourable member for Charlestown referred also to unregistered race meetings. So that the record is clear, I know he is aware that I have requested my department to examine the circumstances in which some charity or benefit Sunday meetings are conducted at which illegal betting activities occur on horseraces interstate and in other cities. Until I receive that report I will have to wait and see what happens. If the practice is found to be prevalent, it will require discussions between my colleague the Minister for Police and Emergency Services and me to ensure that it does not continue. I agree with the honourable member for Charlestown that this illegal activity cannot be ignored. In the interim, I must wait until I receive the report from the department before any action can be taken. I thank the honourable member for Charlestown for his considerable work through his party. I thank also the honourable member for Sutherland and the honourable member for Cessnock for their contributions to the debate. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GAMING AND BETTING (RACE-COURSE LICENCES) AMENDMENT BILL

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Second Reading

Debate resumed from 14th November.

Mr FACE (Charlestown) [1.4]: There will be no opposition to the Gaming and Betting (Racecourse Licences) Amendment Bill. I lead for the Opposition in this debate. The object of the bill is to amend the Gaming and Betting Act 1912 by dispensing with the need for annual renewals and annual fees for existing racecourse licences while retaining the power of the Minister to cancel a racecourse licence for any good cause; by imposing a fee of \$100 for a new racecourse licence issued on or after 1st July, 1992; by enabling the Minister to subject a racecourse licence to a condition; and by including non-compliance with a condition of a racecourse licence among the grounds for cancellation of the licence, whether the condition is

imposed by the regulations, by the licence, or by the Minister. The principal Act uses the expression special licence to distinguish a licence for a racecourse used for greyhound racing from other racecourse licences. Apparently race clubs are happy with this amendment. However, they did indicate that while annual licensing is to be abolished, they want some form of licensing to be retained. Naturally there would need to be some licensing system so that there can be some control. The special conditions would be endorsed; for example, when two race clubs operate on a particular racecourse, the special conditions would be that so many race meetings would be held by one club and so many by the other club. Meetings for horseracing, harness racing and greyhound racing may be conducted only on racecourses licensed under the Gaming and Betting Act. At present licences are issued annually. As I said when speaking to earlier legislation, the Government has a commitment to regulatory reform.

A review was undertaken of the appropriateness of retaining racecourse licences. That review concluded that the licence should be retained, as I believe it should be, in some form that will enable the Government to maintain its general oversighting of the racing industry and thereby protect the viability of the industry and the livelihood of persons employed in it. The issuing of a perpetual licence will enable this oversighting to be maintained and at the same time reduce the administrative burden on race clubs and the Minister's department. A perpetual licence will subject licence holders to the same controls as are imposed by annual licences, for example, by restricting the maximum number of race days, ensuring that race meetings are conducted only by non-proprietary associations. The Minister will have the power to cancel licences for failure by licence holders to adhere to the provisions of the Act or any conditions imposed on the licence. As revenue obtained from licence fees is minimal, it is proposed to levy a one-off fee only for a perpetual licence. That is probably similar to the provision debated earlier in relation to bookmakers. If the truth were known, it probably costs more to collect the fee than is received in revenue from the fee. Current licence holders will be charged at existing rates, ranging from \$2 to \$100, depending on the location of the racecourse and the code of racing conducted, and any new licences will be issued at a set fee of \$100. The opportunity has been taken also to delete from the Act references to pony racing, as licences for that form of racing ceased to be issued many years ago. I support the bill.

Mr MORRIS (Blue Mountains) [1.7]: I support the bill. Horseracing, harness racing and greyhound racing meetings may be conducted in this State only on racecourses licensed by the Minister for Sport, Recreation and Racing in accordance with the provisions of the Gaming and Betting Act. As part of the Government's commitment to regulatory reform a licence reduction program was introduced whereby all licences were

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required to be repealed unless their retention was justified by an impact assessment cost-benefit analysis. The licensing provisions of the Act enable the Minister to provide controlled options to illegal betting activities, restrict the number of racecourses to a level appropriate to the needs of the racing industry and the community, specify the maximum number of days on which race-meetings may be conducted on a racecourse and restrict the actual days on which race-meetings may be held. The provisions will enable the Minister to ensure also that racecourse licences are issued only to organisations that are non-proprietary, that is, organisations that direct their profits back into the industry and not to members. I support the proposed legislation.

Mr NEILLY (Cessnock) [1.8]: I also support the Gaming and Betting (Racecourse Licences) Amendment Bill. In the latter part of his contribution the Opposition's shadow spokesperson said that in essence the bill is similar to the earlier legislation regarding bookmakers. I agree with that comment. The legislation will make registration of racecourses simpler, as the previous legislation made registration of bookmakers simpler. I have been associated with the administration of an agricultural association which conducted galloping, trots and greyhound racing. I am aware, as a consequence, of the dilemma that confronts

bookmakers, because a similar incident occurred in regard to that association which under its umbrella attempted to look after the three facets of racing. The licences issued in regard to those three types of races had different expiry dates. Renewal of the licences connected with greyhound racing had to be made before 30th September.

It was not possible to get the necessary data to have the licences renewed in compliance with the licensing requirements before the annual general meeting of the association in September. It was difficult to get the necessary information from the Totalizator Agency Board so that the annual meeting could be held, because distributions were not announced until September. There was always a rush to comply with the requirements for licence renewal. Though the legislation simplifies things by providing for what will be virtually a perpetual licence relevant to each form of racing, I presume that the same requirements in relation to the submission of information for the obtaining of such licence will continue. The slight hassle that takes place in September each year will probably still occur but it will take longer for the licence to be withdrawn. I presume also that though the licence will be perpetual, there will be power to amend or vary the licence should the Minister decree that additional racing dates are to be granted or stripped from a club. In that event the existing licence will be modified. I support the legislation.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [1.10], in reply: I will not speak at length in reply. I thank the honourable member for Charlestown, the honourable member for Blue Mountains and the honourable member for Cessnock for their contributions. The bill is commonsense, rational legislation and has been viewed in precisely that light. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TOTALIZATOR (OFF-COURSE BETTING) FURTHER AMENDMENT BILL

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Second Reading

Debate resumed from 14th November.

Mr FACE (Charlestown) [1.11]: I lead for the Opposition in this debate. The Opposition does not oppose the Totalizator (Off-course Betting) Further Amendment Bill. The objects of the bill are to enable the Totalizator Agency Board to receive investments placed with authorities in overseas countries, to pay the proceeds of such investments into totalisators used by the board, and to provide that profits from commercial undertakings of the board are to be shared between the board and the Consolidated Fund on a 50-50 basis. At present the Totalizator (Off-course Betting) Act provides that any profits from commercial activity of the TAB must be paid into consolidated revenue. That provision was contained in the Act when it was drafted in 1964. Since then the market-place has changed completely. As TAB moneys invested in commercial ventures would otherwise have been distributed to the racing industry from the board's surplus, the board argued that any profits from its commercial activities should be directed to the industry. The legislation will allow for profits from the board's commercial ventures to be shared between the Government and the TAB on a 50-50 basis. That is an innovation that will give the board some incentive to become commercially oriented in appropriate areas.

The only commercial activity being undertaken by the TAB at present is the supply of a computerised betting system to Hungarian racing authorities. I compliment the TAB for what it

has been able to achieve in that regard. The board underestimated the success of PubTAB and ClubTAB when those schemes were introduced. The Flight machines that are now being introduced will provide a better turnaround and better service to those who bet with the TAB. The TAB is considered by world authorities to be the forerunner in the development of totalisator facilities and thus it was able to dispose of certain machinery to the Hungarian authorities at a profit. That machinery probably could not have been sold anywhere else. The return of part of the proceeds of the sale of that equipment to the racing industry is also to be commended.

Though the TAB may establish an office in an overseas country, the existing legislation does not allow the board to accept amounts received from overseas authorities for payment into a totalisator used by the board. Recently a tentative agreement was reached between authorities in Las Vegas under which Sky Channel will broadcast Sydney and possibly Victorian horse race-meetings to Las Vegas on a trial basis. Investments placed in Las Vegas on those meetings will be transferred into New South Wales TAB betting pools. It is proposed that any agreement between the New South Wales TAB and overseas authorities will require the approval of the Minister. That will enable the Minister to ensure that the interests of the State are best served. It is unlikely the trial will generate any profits and the TAB is seeking only to recoup its operating costs. The potential exists for the TAB to receive investments from throughout the world with resultant benefits to this State's racing industry and the State. I support the bill.

Mr RIXON (Lismore) [1.15]: I support the two objectives of the Totalizator (Off-course Betting) Further Amendment Bill. The first objective of the bill provides that the profits from commercial ventures of the Totalizator Agency Board will be shared between the TAB and the Government on a 50-50 basis. In 1985 the Totalizator (Off-course Betting) Act was amended to enable the TAB to enter into commercial undertakings. That legislation provided specifically that any profits from such commercial undertakings were to be paid into consolidated revenue. Clearly the previous arrangement offered no financial incentive for the board to enter into commercial undertakings. It has been pointed out that funds utilised by the board for commercial

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ventures would otherwise have been distributed to the racing industry. That was clearly a disincentive for the board to become involved in commercial undertakings. The Government has seen merit in the argument that the board should receive a portion of these profits. However, the Government was also mindful of the financial difficulties presently confronting the State.

Accordingly, though the Government did not support the board's proposal to retain 100 per cent of any profits, it supports the proposal in the bill to allow a 50-50 sharing of such profits. The second objective of the bill is to enable the TAB to receive investments from overseas countries. Though the Totalizator (Off-course Betting) Act 1964 empowered the TAB to establish and operate offices in overseas countries, it did not enable the board to accept amounts received by overseas authorities from investors for the purpose of paying such amounts into totalisators used by the board. It should be noted that recently the board, in conjunction with major metropolitan race clubs, has been negotiating with various overseas countries on a variety of proposals. These proposals will now be brought to fruition. The overseas advertising of Australian race-meetings will also create potential demand overseas for Australian-bred racing stock. That should greatly assist the State's breeding industry. Because the objectives of the bill are designed to support the racing industry and the State Government, I strongly support it. The bill will clearly enable overseas funds to benefit the New South Wales racing industry and the New South Wales Treasury.

Mr NEILLY (Cessnock) [1.18]: I also support the legislation. As has already been stated, the bill seeks to clarify the commercial activities of the Totalizator Agency Board. The bill also provides that any profits derived from such commercial ventures be shared between

the TAB and the Government. In his second reading speech the Minister referred to what I regard as the disposal of certain equipment in Hungary. I do not regard that as a completely commercial venture. I regard it as the selling off of secondhand equipment. A deal has been entered into with Hungary to utilise certain equipment and in the sixth or seventh year of operations, when the turnover reaches a certain figure, we will start to reap some reward from the sale. It is almost selling off secondhand equipment as a residual. The equipment was originally purchased with funds provided by the TAB. I believe the whole of the profits of that sale should have been returned to the TAB.

As for future commercial endeavours, I am quite happy to go along with the proposed sharing arrangements. I have a few questions that are pertinent to what the Minister stated about other overseas commercial ventures, particularly those in Taiwan. The time lapse between Australia and Taiwan has been spoken about on a number of occasions. Greyhound racing and trotting in Australia, and particularly in New South Wales, could be ideal for a venture in Taiwan. Reference is made to the sharing of funds derived from commercial ventures. If trotting and greyhound coursing is transmitted from New South Wales to Taiwan, will racing clubs be a beneficiary at any point through providing the entertainment that will generate income to both the Government and the Totalizator Agency Board? I do not believe that racing clubs should be a major beneficiary, but they are providing the entertainment and should receive some consideration. I do not want to go overboard on that. I would just like to know what is in mind should that occur.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [1.21], in reply: I thank the honourable member for Charlestown, the honourable member for Lismore and the honourable member for Cessnock for their contributions to the debate. We have had a marathon five-bill session
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this morning. I thank the Opposition especially for its co-operation in ensuring that all of these bills and the provisions therein have been put properly and that the various aspects of the bills have come out during debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

[Madam Deputy-Speaker left the chair at 1.22 p.m. The House resumed at 2.15 p.m.]

MATTER OF PUBLIC IMPORTANCE

Mr SPEAKER: Order! I have this day received from the member for Port Stephens the following notice of a matter of public importance:

That this House notes with alarm and dismay:

the totally inadequate amount of \$50,000 for relief measures and the lack of co-ordinated action being taken to combat the spread of toxic blue-green algae in our river and water supply systems;

the failure of the Government to properly co-ordinate education awareness programs for river users, including Aboriginal citizens; and the

failure of the Government to allay community fears that the toxic algae will not spread into the Sydney water supply system.

Pursuant to sessional orders, I set down the motion for debate at the conclusion of formal business.

QUESTIONS WITHOUT NOTICE

SECONDHAND LOCOMOTIVES PURCHASE

Mr CARR: My question without notice is directed to the Premier. Is the State Rail Authority considering importing locomotives instead of placing orders with New South Wales companies? Would this be a blow to local engineering and cause the loss of 450 jobs in the Hunter Valley? Given the failure of his Minister to intervene, will he perform another of his U turns and tell the State Rail Authority board it is not on?

Mr GREINER: All I can say is that there are another three days this week and another three next week and if that is the best question the Leader of the Opposition can come up with, then it is an indication of just how bankrupt he is. The very same question was asked yesterday and as always the Minister for Transport gave a remarkably accurate and very full response. No doubt the ordinary tender processes will be followed and I am sure that as usual the Government will make the right decision.

HAWKESBURY RIVER ALGAL BLOOM

Mr PACKARD: My question without notice is directed to the Minister for Housing. What action is the Government taking to control the algal bloom in the Hawkesbury River near Sackville? Are local water supplies threatened by the outbreak and what health checks are being made on the river?

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Mr SCHIPP: The member for The Hills has asked a very important question and I appeal to all members not to exaggerate on this particular issue because not only -

[Interruption]

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

Mr SCHIPP: Again we can go back into history and that will show that honourable members opposite did nothing to clean up that river whatsoever.

[Interruption]

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

Mr SCHIPP: What we have at stake here is not only the calm out there in the community, but also the livelihood of people who operate businesses along the Hawkesbury system. Ski lodge operators are appealing to anyone who makes a public statement to obtain the facts and not just try to make political capital out of this situation. As of an hour ago there had been no toxins identified in the regular tests that have been taken along the Hawkesbury River. That ought be kept in focus. The fact is that conditions in the Hawkesbury are ideal for toxin blooms to flourish. The hot dry sunny conditions, the two wet summers that preceded this summer, the build-up of silt in the river and the absolutely ideal conditions with high nutrient levels, have caused this situation. Water Board scientists have recorded a significant growth of algal bloom on the Hawkesbury River near Sackville. The bloom was first reported on Thursday, 27th November with 17,000 cells. Testing on Monday, 9th December showed that the bloom had grown to 473,000 cells. The scientists detected also some small patches of scumming. The bloom now occupies a 30-kilometre zone between Cattai and Lower Portland. No evidence of toxicity has been detected in the bloom. Water Board scientists and the Department of Agriculture will continue to test for toxicity.

All relevant authorities are being kept up to date on the changes in the bloom. The Department of Health will issue warnings should the bloom become toxic. I would add to that that there is already a health hotline - telephone number 8906060 - for people to make inquiries about the health conditions they might be worried about. The water quality in the Hawkesbury River is the responsibility of the State Pollution Control Commission. In the interests of public health the Water Board feels obliged to issue details of its findings on the algal bloom. There is no threat to local piped water supplies, which are drawn from the river at North Richmond. I might add that that supply is fitted with the appropriate mechanism for activated carbon filters. The inlet point for the piped water supply is well upstream of the bloom. In addition, the North Richmond water treatment plant is fitted with treatment processes which remove the algae and toxins if encountered.

The Water Board is ready to provide assistance should the Department of Health issue health warnings about the river. The board has already assisted the National Parks and Wildlife Service by providing drinking water supplies for the Cattai National Park. The board is considering the possibility of flushing the river. There are problems with flushing if that bloom is located in a tidal section of the river. This means that a large amount of water would be needed to flush the system and there is still a strong possibility that the bloom could be carried back into the river by the tide. In addition, should the weather conditions which have led to the development of this bloom prevail, another

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bloom could simply grow to replace the existing one. The Water Board is having discussions with the Public Works Department about such options as filtering river water for stock watering. The ski lodge operators are very concerned about the negative publicity, which has been devastating for business. Locals along the river believe that the water quality at the moment is normal for the Hawkesbury at this time of the year and have pointed out that it was far worse in 1982, which is a fairly relevant sort of year, when people continued to water ski without any apparent health risk. The statement from the association was:

We believe that alarmist statements made by Dr Hughes and others are not supported by case studies.

Earlier I mentioned the health hotline. It is suggested that people avoid swimming where heavy blooms occur because of the possibility particularly of dermatitis. Where algae is submerged and one sees the olive colour of the water, people should not swim in that water. That is the advice given from the health point of view. The special environmental levy program will have long-term effects but it will clean up -

Mr Gibson: Why don't you open Warragamba and flush it?

Mr SCHIPP: We have over here the idiot from Londonderry. I just mentioned that the Water Board will flush the river if it believes that that is the answer. The problem is that if we start flushing now we could have a continuous flush from now to evermore. What about the drinking water? The Water Board is seriously considering the option of flushing the river. The Public Works Department is considering skimming the river. A cross-government department task force has been established. The problem does not affect the Sydney system; it is occurring across the State. In fact, the phenomenon is occurring worldwide. The Government is doing everything possible in difficult circumstances. There is no threat to health at the moment but such a threat could occur at any time. Nowhere in the world does anyone know what triggers toxicity in this type of algal bloom. I make this appeal to everyone: if you do not know what you are talking about, keep quiet.

[Interruption]

Mr SCHIPP: That reaction shows what a pack of jokers Opposition members are. They have no public responsibility whatsoever.

HOMEFUND LOANS

Mrs GRUSOVIN: Will the Minister for Housing give an undertaking that the commitment made by FANMAC Limited on 12th December, 1986, that the State of New South Wales will purchase all defaulting mortgages will be honoured by his Government, and assure all co-operative housing societies that the Government will meet any losses incurred under the HomeFund program?

Mr SCHIPP: I do not know of that commitment. Let us get it into context. Many questions have been asked about FANMAC.

[Interruption]

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

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Mr SCHIPP: Many attempts have been made to flog a dead horse. They are only attempts; the Opposition is not getting the mileage in the newspapers.

[Interruption]

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

Mr SCHIPP: The honourable member may be able to produce evidence of the commitment. Many of the commitments made by the previous Labor Government were not worth honouring. There is no problem with the HomeFund program. The honourable member knows that. She is trying to undermine a program that is working beyond what was hoped for it.

[Interruption]

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

Mr SCHIPP: The honourable member even got it wrong in regard to the director's remuneration. That decision was made totally at arm's-length from the Government and the honourable member knows it. She waves papers around.

[Interruption]

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

[Interruption]

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

Mr SCHIPP: The compensation paid to the managing director was a decision of the FANMAC committee members who made up the compensation committee.

[Interruption]

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

Mr SCHIPP: They have been named. The compensation committee unanimously recommended the decision to the board which endorsed it and then referred it to the general meeting of shareholders, which approved it by proxy on 22nd January, 1990. With regard to the particular issue raised in the question, I do not know of it and I cannot see that it has any merit in the circumstances.

[Interruption]

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

[Interruption]

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

Mr SCHIPP: I would not have the honourable member as a director of
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anything, let alone of a co-operative housing society.

[Interruption]

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

Mr SCHIPP: There have been 62 defaults on loans, and the honourable member knows about some of them. There is no collapse in the system and the question really has no relevance.

MATERNITY AND CHILDREN'S HEALTH SERVICES

Mr MORRIS: Is the Minister for Health Services Management aware of claims made in the *Sydney Morning Herald* today about maternity, neonatal and paediatric services in Sydney's west? If so, what action has the Minister taken to improve maternity and children's health services in the Sydney metropolitan areas of growth?

[Interruption]

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

[Interruption]

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

Mr PHILLIPS: I have no problems with the article in the *Sydney Morning Herald* this morning. It highlights the needs of women, their babies and children in the western and southwestern parts of Sydney. It also highlights the need for this Government to continue to take action to address the needs of the people of west and southwestern suburbs - needs which honourable members opposite when in government failed to take heed of. The article this morning relates to a report from the New South Wales Department of Health prepared in 1990. So it is not new information. But it is important that the information be brought to the attention of the public because it highlights what we are doing. Since this Government was elected it

has concentrated much of its effort into improving the maternity and paediatric or children's services in the Sydney metropolitan area, especially in Sydney's west and southwest. It took this Government no less than a year to establish a blueprint for the transfer of maternity and children's services to the west, something the Opposition failed to do over its 12 years of government. This blueprint was based on the Shearman report. The Government has embraced the Shearman report, which emphasises equity of access to maternity care, including services for non-English speaking families and young pregnant women; improved facilities; improved neonatal care; increasing safe choices; and care of the mother and new baby. The progress to date shows that this Government is addressing the issue of maternity services in the west. So far more than 80 per cent of the recommendations of the Shearman report have been acted upon.

More than \$10 million in capital funding has been provided in the three western Sydney areas to upgrade and establish new maternity and neonatal facilities; and more than \$2.8 million of recurrent funding per annum has been provided to allow new and expanded services, which include: the beginning of construction of a new 20-bed

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Tresillian mothercraft centre at Nepean Hospital at a cost of \$4.6 million; the upgrading of the maternity unit at Auburn District Hospital at a cost of \$1.5 million; the establishment of the Blacktown birthing centre at a cost of three-quarters of a million dollars - one of nine birthing centres in Sydney; a new delivery suite at Bankstown Hospital costing \$250,000; the re-establishment of the Karitane mothercraft centre at Fairfield at a cost of \$4 million; the new neonatal intensive care unit at Nepean Hospital at a cost of \$3 million; the refurbishment of the Blacktown nursery costing \$200,000; and the relocation in the next five years of the Royal Alexandra Hospital for Children to the Westmead campus at a cost of \$400 million, which is essential to the people of the west. The transfer of the associated children's medical research foundation will cost \$10 million. The western Sydney area will become the Southern Hemisphere centre of excellence for maternal and childhood health services. Upon coming to office this Government saw the need for these services and that need is being met, which is in stark contrast to what the former Government did for the people of western and southwestern Sydney in its 12 years of office. That Government left us with a legacy that will take some years to address fully. This Government is addressing the issue by spending \$200 million on Liverpool Hospital, \$100 million on Nepean Hospital and \$70 million on Hawkesbury Hospital. The funds and services are being moved to where they are needed, which is something the former Government failed to do.

[Interruption]

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

Mr PHILLIPS: In 1987, the last year of the former Labor Government's neglect of the west, Nepean Hospital had an annual birth rate of 3,000 babies, but the hospital did not even have an ultrasound machine. Let us look at that Government's forward planning. In its document entitled "Health 2000" no mention is made of the Nepean Hospital. The former Labor Government walked out of that situation but it is a situation that this Government has been addressing and will continue to address.

MANLY JETCAT FERRY SERVICES

Dr MACDONALD: My question without notice is directed to the Minister for Transport. Will the Minister confirm whether the State Transit Authority intends to flaunt the New South Wales Industrial Commission's ruling of Friday, 6th December, regarding the operation of JetCat services to Manly at night, and plans for 40-minute turnarounds rather than 70-minute turnarounds, in defiance of safety considerations?

Mr BAIRD: I thank the honourable member for Manly for his question, but he was wrong when he said it was a ruling. It was a recommendation of the Industrial Commission. Commissioner Fogarty handed down his recommendations relating to the plans by the State Transit Authority to replace night ferry services with JetCats. Though the honourable member for Manly and the honourable member for Kogarah might enjoy their romantic cruises to Manly -

[Interruption]

Mr BAIRD: I am merely quoting what the honourable member for Kogarah said. In reality, after eight o'clock at night ferry services mainly transport fresh air. The larger ferries have a capacity to carry 1,100 passengers. However, the average loadings for services after eight o'clock at night are 90. It was therefore decided to put on smaller
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JetCats, which can do the Circular Quay to Manly run in 12 minutes - considerably shorter than other ferry services - at the same fare as the larger ferries. This was a way of providing a faster and more cost-efficient service, which has resulted in a \$1 million saving per year. Opposition members continually talk about how they would use money in various ways. The introduction of JetCats on the Manly run after eight o'clock at night was a genuine attempt to save money. A poll carried out after eight o'clock last Friday and Monday nights revealed that more than 70 per cent of commuters preferred to travel on the JetCat at night because of the faster service.

[Interruption]

Mr BAIRD: The question was asked and I am answering it.

[Interruption]

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

[Interruption]

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

Mr BAIRD: It is not your question. Just wait for it, loose lips. You asked your great question about Trackfast, the great outrage about parcels, and why the Government made these dramatic increases, but it was the former Labor Government that was responsible. The commissioner has failed to find a prima facie case that there are safety problems. His jurisdiction involves industrial matters and not operational issues. The Maritime Services Board licenses JetCats, which run 24 hours a day, 365 days a year, at a top speed of 34 knots. For years hydrofoils operated at night during the winter months without any radar and did not encounter any major problems. For the past year JetCats have been operating without any problems. They are equipped with radar. They have operated at night during the winter months and have experienced no operational problems. In reality, it is a furphy by unions, who when they see that their overtime is being reduced, raise the issue of safety. Safety problems are not involved. The honourable member for Manly knows that there is not a safety problem.

[Interruption]

Mr BAIRD: If the honourable member for Manly wanted a safety ruling, he should have asked for advice on safety. The commissioner ruled on an industrial matter and said the safety matter might be examined. If the Government brings back the larger ferries, it will lose an additional \$1 million a year. The State Transit Authority has operated high-speed vessels on more than 32,000 trips during the past 20 years without a single incident involving another vessel. If the Government were to axe the number of services operating after dark, as was suggested by the commissioner, it would seriously disrupt the available services to people who

live in communities represented by the honourable member for Manly and the honourable member for Wakehurst. I am sure they would not enjoy that experience. The Government has decided to press on, put out rosters and wait and see what the unions will do. Honourable members should bear in mind that no safety problems are involved. All JetCats are equipped with radar and the various buoys on the harbour are equipped with lights following regulations set by the Maritime Services Board. As I said, JetCats have operated at night during winter months.

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The issue is about overtime. Many industrial rorts were encouraged and perpetrated by the former Labor Government. If one wanted a job as a deckhand or a ferry worker the only way to obtain such employment was to go to the union and ask for the job. This Government has only just stopped that rort. That was the type of racket that Opposition members perpetrated during the administration of the Labor Government. The Leader of the Opposition said he wanted to stop restrictive work practices. However, for 12 years the former Labor Government allowed that situation to go on. Unions were allowed to do what they wanted day in and day out, year in and year out. The minute a reduction in overtime is threatened, the unions raise the issue of safety. The Government is pressing on with its reforms. As a result of those reforms it will save \$1 million a year. More than 70 per cent of commuters wish to have the fast service - 12 minutes between Circular Quay and Manly, and at the same price as the normal ferry fare. That seems a pretty good deal.

WESTERN SYDNEY REGION BUSINESS INVESTMENT

Mr JEFFERY: I direct my question without notice to the Minister for State Development and Minister for Tourism. What action is the Minister taking to secure the long-term economic future of the western Sydney region? Specifically, what is being done to encourage the creation of more jobs in the west and to increase business investment in the region?

Mr YABSLEY: The question asked by the honourable member for Oxley, for which I thank him, refers to the launch this morning of the Western Sydney Economic Development Committee at Panthers Leagues Club. The launch was attended by a number of honourable members from the Government side of the House, including the honourable member for Blue Mountains, the honourable member for The Hills, and the Chief Secretary and Minister for Administrative Services. One member from the Opposition side of the House managed to straggle in late and leave early - which is typical of the interest shown by the Opposition for the western suburbs of Sydney. The launch of the Western Sydney Economic Development Committee constitutes a can do package for the western suburbs of Sydney that will generate employment, investment and economic growth. A singularly distinguished line-up of leaders of the business world and the general community will spearhead the economic growth of western Sydney. The committee will be chaired by the distinguished former chairman and chief executive of Westpac Banking Corporation, Mr Stuart Fowler. He will be assisted by people of the ilk of the Vice-Chancellor of the University of Western Sydney; John David, the Chairman of Davids Holdings; and Mr McNamara, a leading figure in the construction world.

[Interruption]

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

Mr YABSLEY: They will be joined by such people as Jim Bosnjak from Westbus - people who understand what makes the western suburbs tick.

[Interruption]

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

Mr YABSLEY: That is indicative of the commitment this Government has -

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Mr Rumble: Is Alan Jones on it?

Mr YABSLEY: Alan who?

Mr Rumble: You know.

Mr SPEAKER: Order! The Minister will answer the question.

Mr YABSLEY: Alan who? He will be interested. That is indicative of the commitment the Government has to ensuring economic growth and development in the western suburbs of Sydney. I wish to advise the House of the type of investment the Government would like to see encouraged. I am talking about businesses of the ilk of Cablemakers, IBM, Inghams, Arnotts, Parker, Memtec, Sharp, Opus and Volvo, which are the real pacesetters in the western suburbs.

[Interruption]

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

Mr YABSLEY: They will continue to invest in the western suburbs. Without doubt the Western Sydney Economic Development Committee will identify other opportunities in key areas such as telecommunications and food processing, which represent -

Mr Anderson: Mark Latham?

Mr YABSLEY: It is interesting that the honourable member for Liverpool should mention Mark Latham. Not only is Mark Latham a member of the committee that I launched this morning, he is also the architect of the Leader of the Opposition's capital gains tax. Obviously this is a sensitive matter so far as the Leader of the Opposition is concerned. A well-known publication that circulates throughout the Central Coast, entitled "Bob's Beef", reported accurately that the Opposition has a capital gains tax proposal, drafted by Mark Latham, on the drawing board.

Mr Greiner: A capital gains tax on the family home.

Mr YABSLEY: Indeed, on the family home, as the Premier correctly points out. So sensitive is the Leader of the Opposition to the capital gains tax that the well-known legal firm, McClellands, sent a letter -

Mr J. H. Murray: On a point of order. The question referred specifically to the western suburbs of Sydney. The Minister is referring to the Central Coast, which is outside the ambit of the question. I ask that he be directed to cease referring to the publication and to return to answering the question.

Mr Yabsley: On the point of order. The nub of what I am saying is twofold. It relates to Mr Latham, who was mentioned by the honourable member for Liverpool, and to a capital gains tax. I submit there is nothing more germane to the people of the western suburbs of Sydney than the threat of a capital gains tax.

Mr SPEAKER: Order! There is a thread between what the Minister for State Development and Minister for Tourism has been referring to and the question asked. A long tradition of this House is that Ministers may respond to interjections. If honourable

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members do not wish the Minister to be diverted from answering the question asked of him, I suggest that they do not interject.

Mr YABSLEY: Under the heading "Mr B. Carr M.P." a representative of McClellands law firm wrote:

Under the heading "Stop Press" you allege "the New South Wales Opposition plans to introduce a secret tax on the family home". He said further:

Your remarks concerning this matter are likely to cause our client considerable damage . . . we would appreciate it if you would contact Mr Keating of this office in order to discuss the terms of such correction.

Mr Latham's capital gains tax proposal makes honourable members opposite, particularly the Leader of the Opposition, precious on the question. It is little wonder that they seek a correction such as that requested in the letter from McClellands. The Government is about maximising opportunities for investment for economic growth in the western suburbs. The committee comprises top flight people who will set a cracking pace, notwithstanding the bit of lead in the saddlebag - people like Mark Latham. I am sure that in 12 months, which is the timetable nominated for a report of the committee -

[Interruption]

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

Mr YABSLEY: The crumpled crime fighter from Londonderry. Having the honourable member for Londonderry as the local crime fighter is somewhat like putting Jack the Ripper in charge of the local pre-school. Great things will come from the Western Sydney Economic Development Committee.

HOMEFUND LOANS

Mrs LO PO': I address a question without notice to the Minister for Housing. Last week did the Minister inform the House that families battling to meet their HomeFund mortgage repayments could refinance their loans for \$1,000? Is the Minister aware that housing co-operative societies estimate the cost of this exercise to be of the order of at least \$4,000?

Mr SCHIPP: My answer is yes to the first part of the question. I have concrete evidence that many institutions offer a refinance package for \$1,000. If the honourable member would care to contact my office, information will be supplied to her.

ABORIGINAL LAND COUNCIL ELECTIONS

Mr ZAMMIT: I direct a question without notice to the Premier, Treasurer and Minister for Ethnic Affairs. What action is the Government taking to ensure that the 11 recently elected members of the New South Wales Aboriginal Land Council can take their seats as councillors immediately?

Mr GREINER: I thank the honourable member for his question and for his continuing efforts with regard to Aboriginal policy. Honourable members will recall that on 16th November a highly successful election was held for Aboriginal land councils throughout New South Wales. Unfortunately in the aftermath of that election the Electoral Commissioner - who under the legislation that passed through this Parliament

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on a bipartisan, non-partisan basis was responsible for the conduct of the election campaigns - was threatened with an injunction if he declared the successful candidates in the Sydney, Newcastle and South Coast regions. Last Friday Mr Justice Bannon of the Land and Environment Court decided that the former New South Wales Aboriginal Land Council was still in existence. That means that the newly elected councillors, all but two of whom have been declared elected, cannot sit as members of the new council. Unfortunately it has not been possible to sort out the matter on the basis of goodwill. I had hoped that perhaps the old councillors and the new councillors - and there is a small overlap, about two people - might do the reasonable thing in that the old councillors would invite to the council the new councillors, despite a number of technical problems, and that they might in a co-operative and sensible way hand over the affairs of the old council to the new council.

That turned out to be a vain hope and expectation on my part, so I have acceded to a request from the honourable member who asked the question and indeed from the honourable member for Keira and Reverend the Hon. F. J. Nile in the other place that we do something to enable this situation to be resolved. Accordingly, with the co-operation of the Opposition the Government will immediately introduce legislation - and I have to say with considerable reluctance on my part because it ought not be necessary - to amend the Aboriginal Land Rights Act with respect to the 1991 election to make it possible for the 11 democratically elected councillors who have been declared elected to take their seats. I understand that the shadow minister has indicated to the assistant Minister the Opposition's support for this proposed amendment. It is expected that the bill will go through all stages before the House rises for the Christmas break. That will mean that the 11 councillors who have been elected and about which there is no dispute will be able to take their places and that there will be at least a semblance of a smooth handover of power from the old land council to the new one. I have to say how disappointed I am that we have this sort of farce going on when clearly the Aboriginal people have made a considerable step forward. There has been a great deal of bipartisanship not only in this Chamber but also in Canberra and between Federal and State governments about the changes in Aboriginal affairs. It is a great pity that some individuals do not have the maturity to enable the processes to take their ordinary course and to allow the changeover to occur in a proper manner. Probably later today the Government, with the co-operation of the Opposition, will be introducing legislation -

Mr Whelan: Always with our co-operation.

Mr GREINER: Always with your co-operation? I shall resist.

Mr SPEAKER: Order! The Premier will continue with his answer.

[Interruption]

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

Mr GREINER: Did the honourable member for Ashfield say something? I have been resisting saying something about this pie floater. I was doing my very best until the honourable member for Ashfield interjected. The honourable member was quoted in the *Sun-Herald* as being "a notorious ALP Right bomb thrower". According to the *Sun-Herald*, which could be said to be the honourable member's private newspaper, he was so notorious that on Sunday he failed to show up at the conference, nor did he answer his telephone. The article stated, "Sources said that he had been told to keep his head down".

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[Interruption]

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

Mr GREINER: It is not often that I am indebted to the *Sydney Morning Herald* but I am indebted to that newspaper for the information it published the following day saying that the article I have just referred to came as a surprise to "some heavyweights in Sussex Street who normally refer to Mr Whelan as a 'pie floater'." It is not true that is with tomato sauce, as the Leader of the House tells me. This quirky little tag is for someone who has floated with factions in the past.

[Interruption]

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

Mr GREINER: I return to the Aboriginal question. I thank the honourable member for his question. With the co-operation of the House we will fix the problem. I hope that the new council goes not only by the letter of the law but that it - more than the old council that has been voted out in large part - goes by the spirit of the proposed legislation. Unless it does that, the improvement in the reputation and standing of the land councils that every member in the House wants to happen will not occur.

WATER BOARD OUTSTANDING ACCOUNTS

Ms ALLAN: I direct a question without notice to the Minister for Housing. Does the Government's report reviewing the performance of government business show that outstanding accounts of the Water Board have risen from \$27 million in 1988-89 to an estimated \$85 million this financial year? Does this reflect the impact of the Government's new usage charging system? What action is the Minister taking to ensure that disadvantaged ratepayers are not subject to hardship?

Mr SCHIPP: The honourable member for Blacktown has continued her barrage against the Water Board. As I have said previously, I know where she would finish with a lot of people from the Water Board. The other day I attended a function at which a number of people received awards for 40 years' service to the Water Board. Their families are most offended by the attack by the honourable member on their credibility, dedication and commitment. The Water Board, which is so badly run according to the honourable member for Blacktown, has been awarded a triple-A credit rating by Australian Credit Ratings. The Water Board has also been awarded a triple-A international credit rating, a distinction which currently has been awarded to only four Australian corporations, seven Commonwealth authorities and three other State authorities.

[Interruption]

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

Mr SCHIPP: The honourable member for Blacktown should get her facts straight. When charging policies were changed recently, an extra \$2 million was put into the hardship fund. That fund is available to help people who have difficulty paying their accounts. The honourable member knows that very well. The fact is, judging by my correspondence, that few people are not getting that assistance when they require it.

Mr TURNER: My question without notice is to the Minister for Local Government and Minister for Cooperatives. For what reasons have local council finances and charges been the subject of recent scrutiny by the Government? What response has there been so far to the recent publication of these figures for examination by ratepayers?

Mr PEACOCKE: I thank the honourable member for Myall Lakes for his excellent question. The honourable member has a close interest in local government and does a wonderful job as chairman of the backbench committee on local government. One of the pledges made by the Government to the people of this State was that it would make reform of the local government sector a major priority. In an effort to improve the monitoring and performance evaluation of local government in New South Wales, the Government decided as far back as 1989 that every council that applied for a rate increase in excess of the rate-pegging limit would be subject to a performance review. As part of this process we developed, in conjunction with various government agencies, broad performance indicators for councils. The next stage of the reform process was the release in August of our discussion paper on the reform of local government, to which we received more than 1,200 responses in the discussion period, and those responses indicated very strong support for these reforms.

Our aim is to make the operation of councils more transparent to ratepayers and residents and to make councils more accountable for these operations. The latest stage in that process is the publication of comparative performance data. In the past councils have found it very easy to keep ratepayers in the dark because there were no readily available figures which allowed the performance of councils to be compared with each other. That factor enabled the staffs of councils, town clerks in particular, to hide behind the veil of secrecy and tell their councillors and the ratepayers of their communities that they were going great guns and that, though expenditure was high, that is par for the course, when that was not the case. The first set of comparative performance indicators went public on Friday of last week. The largely ominous silence from the usually very vocal local government sector must mean that finally local government has seen the writing on the wall; it has to come clean.

No longer will councils get away with their kind of arrogant "no comment" on matters of vital interest to ratepayers, and the figures will be released annually. Councils ought now to get used to the fact that every year their performance will be put up in neon lights and compared with that of their peers in local government. That move is welcomed by conscientious councillors and councils that are performing well. Council finances will be a much more open book. Ratepayers will be able to know how much a council pays for garbage collection; for instance, councils such as Woollahra council pay \$168 per head - double the average. Strong questions will be asked as a result by the ratepayers - and rightly so.

The level of indebtedness of every council and its impact on ratepayers means that councils such as Goulburn and Orange councils will have to explain debt servicing levels of more than 30 per cent - a remarkably high and dangerous figure. The explanation will include what individual councils spend on health, community education and roads and indicate the entrepreneurial successes and failures of various councils. Ratepayers and aldermen are entitled to know those figures. A number of councils faced with an informed public have decided already that attack is better than defence and have complained that the figures were wrong. The figures were supplied by the councils themselves. How can they be wrong unless the councils jockeyed the figures and made

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them wrong? Staff at Orange and Goulburn councils have recently indulged in a State Government bashing exercise because of the cutting of their borrowing levels. With debt servicing ratios of 30 per cent and more in those council areas, I am sure that any ratepayer, any member of Parliament and any sensible counsellor would agree that enough is enough. I should say once again that the percentage of indebtedness and the repayment requirements were supplied by the councils themselves.

Newcastle council has accused the Government in the media of misleading its ratepayers by claiming that it lost approximately \$108,000 on its caravan park. The council claimed that the money was surplus. The figures supplied to the Government clearly show a minus, and the council must answer to its ratepayers for that discrepancy. If the council wants to have its performance correctly assessed, it must supply the correct figure. On the other hand, many councils emerged from the assessment smelling like roses. That is a good thing, because a good council ought to be recognised for the good things it does and for its good performance. Many ratepayers who have been critical of various councils can now see that their own councils are pretty good when compared with their peers. That is how it should be. Many more councils will no longer be able to hide their overcharging, overservicing and general inefficiencies. The Government believes that will lead to councils concentrating on making themselves more efficient. Ratepayers will be able to front council meetings with the figures and demand to know why their garbage costs have increased or voice their objections to the council spending money on extravagant building programs when its debt levels are already far too high. Ratepayers and citizens should have that information.

This is real ratepayer power - and it is just the beginning. The mayor of Concord, Peter Woods, who is also the President of the Local Government Association of New South Wales, said that the Government has been rushing the reform package. That is true. The reforms have been necessary for the past 70 years. If the Government did not rush the reforms through, it would be another 70 years before there was a reasonable change. Honourable members know that. I hope the mayor of Concord will be too busy explaining to his ratepayers why garbage charges in Concord are above average to comment on the disclosure draft of the new Act, which should be released within the next few weeks. The reform of local government is inevitable. This Government is making it a consultative process. I am pleased that the Opposition has approached the reform, by and large, on a fairly bipartisan basis, which is excellent. But there is no way known to man or beast that the Government can keep everyone happy - particularly aldermen. I believe the Government is doing its best for the ratepayers of New South Wales. Ultimately, local government should not be responsible to other governments; it should be accountable and responsible to its own community. These comparative figures have been released so that councils will be just that.

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 Nagle, Mr Shedden and Mr Ziolkowski**.

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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 Ziolkowski**.

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**.

Cooks River Pollution

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

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**.

Steel-jawed Leg Hold Traps

Petition praying that the House legislate to ban totally the manufacture, sale and use of steel-jawed leg hold traps in all areas of the State as they cause great suffering to all animals and birds, both target and non-target, caught in them, received from **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**.

Water Rate Payments at Post Offices

Petition praying that for the convenience of customers, particularly the elderly and those without private transport, the Minister for Housing reappraise the facilities

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available for the payment of water rates to include post offices, received from **Mr Rumble**.

Shipley Water Reservoir

Petition praying that because of the danger to the lives and property to the residents of the Shipley district and Blackheath in the event of a major bushfire, the House prevent the Sydney Water Board relocating the Shipley water reservoir to Mount Victoria, received from **Mr Morris**.

Public Schools Middle Management

Petition praying that the Parliament not sanction the downgrading of existing middle management positions which are vital to the maintenance of quality education in the New South Wales public school system, received from **Mr Merton**.

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**.

Balmain Hospital

Petition praying that the Balmain Hospital remain as a district hospital service providing casualty, medical and surgical beds, received from **Ms Nori**.

[Interruption]

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

BUSINESS OF THE HOUSE

Printing of Reports

Motion by Mr Moore agreed to:

That the following reports be printed:

Director of Equal Opportunity in Public Employment for the year ended 30th June, 1991.

Wiradjuri Regional Aboriginal Land Council for the year ended 30th June, 1988.

Wiradjuri Regional Aboriginal Land Council for the year ended 30th June, 1989.

Wiradjuri Regional Aboriginal Land Council for the year ended 30th June, 1990.

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

Police Board for the year ended 30th June, 1991.

Privacy Committee for 1990.

Public Trustee for the year ended 30th June, 1991.

Murray Valley Citrus Marketing Board for the year ended 30th June, 1991.

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Rural Assistance Authority for the year ended 30th June, 1991.

Wine Grapes Marketing Board for the year ended 31st May, 1991.

Addendum, being the Auditor-General's opinion, to the report of the Forestry Commission for the year ended 30th June, 1991, dated 14th October, 1991.

Dumaresq-Barwon Border Rivers Commission for the year ended 30th June, 1991.

Earth Exchange Geological and Mining Museum Australia for the year ended 30th June, 1991.

Fish Marketing Authority for the year ended 31st March, 1991.

Mine Subsidence Board for the year ended 30th June, 1991.

Department of Minerals and Energy for the year ended 30th June, 1991.

Upper Parramatta River Catchment Trust for the year ended 30th June, 1991.

Department of Water Resources for the year ended 30th June, 1991, Volumes 1 and 2.

Department of Sport, Recreation and Racing for the year ended 30th June, 1991.

PROTECTION OF THE ENVIRONMENT ADMINISTRATION BILL (No. 2)

Bill read a third time.

BUSINESS OF THE HOUSE

Questions Upon Notice Unanswered

Mr SPEAKER: Order! In accordance with sessional orders, I draw the attention of the House to the following unanswered questions upon notice: Nos 212, 558, 573 and 574 standing in the name of the Attorney General, Minister for Consumer Affairs and Minister for Arts, representing the Minister for Police and Emergency Services; No. 583, standing in the name of the Deputy Premier, Minister for Public Works and Minister for Roads; and No. 586, standing in the name of the Minister for Health Services Management.

Mr COLLINS: I again report to the House on the progress of the answer to question 212 which stands in the name of the Minister for Police and Emergency Services. I am able to report that the question has indeed been answered, as I believe have the other three questions standing in the name of the Minister for Police and Emergency Services. If that is not the case, I will rectify the matter when I leave the Chamber.

Mr PHILLIPS: The answer to question No. 586 was lodged today.

Mr W. T. J. MURRAY: I will have an answer to question No. 583 shortly.

BLUE-GREEN ALGAE RIVER INFESTATION

Matter of Public Importance

Mr MARTIN (Port Stephens) [3.12]: I move:

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That this House notes as a matter of public importance its alarm and dismay at:

- (1) the totally inadequate amount of \$50,000 for relief measures, and the lack of co-ordinated action, being taken to combat the spread of toxic blue green algae in our river and water supply systems;
- (2) the failure of the Government to properly co-ordinate education and awareness programs for river users, including Aboriginal citizens; and
- (3) the failure of the Government to allay community fears that the toxic algae will not spread into the Sydney water supply system.

This House should record with alarm the lack of relevant action being taken by the Government to combat the spread of toxic blue-green algae in our river systems and should implore the Government to properly co-ordinate its state of emergency operations not only in the Darling River system but in the Hawkesbury River system and other river systems in New South Wales. The urgent remedial works that are so essential to resolve the short-term disasters are in danger of being botched by the lack of co-ordination and by departmental rivalries. This week the *Land* newspaper, which is not known for hysteria or beatup headlines, carried a full-page headline spread. The headline read, "Algae AIDS Threatens Our Rivers". Though honourable

members may not agree with that dramatic and powerful analogy, it is clear that the problem is of monumental proportions. When the most conservative rural newspaper in the State speaks in the highly emotive language of that headline, matters must be bad. Serious accusations have been made that a mind boggling array of departments, authorities, councils, committees, commissions, water user groups and now the Army are attempting to put their stamp on clean-up operations. Accusations have been made about the percentage of run off that Queensland contributes to our river system. Some people in New South Wales claim the figure is 20 per cent. In Queensland it is claimed that the figure is four per cent. That matter must be addressed.

It is high time for members of the National Party to have words with their colleagues in Queensland in an effort to persuade them to support a proposal that the Queensland Government should become a member of the Murray River Commission. It is important that National Party members in Queensland, who have previously played games with this proposal, be brought into line. We must find the truth. State, regional and user rivalries must be put aside. We must get on with the job of fixing this disastrous state of affairs. A matter of months after the coalition parties in this State attained office in 1988, the former Minister for Lands, now the Minister for Natural Resources, issued a directive to the department which, among other things, had the effect of abandoning the previous conservation policies in relation to Crown land that had been introduced by the previous Labor administration.

Mr Chappell: Nonsense!

Mr MARTIN: If the honourable member for Northern Tablelands wants to debate that issue with me, I am only too happy to do so. That directive of the Minister gave a clear signal which today is loudly defended by the Deputy Premier. It resulted in landholders and land users being able with impunity to do virtually what they liked with lands adjacent to rivers, creeks and their tributaries.

Mr Chappell: Utter nonsense!

Mr Causley: Total garbage!

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Mr W. T. J. Murray: Absolute lies!

Mr MARTIN: Members of the Government are very sensitive. They are reacting as though I have struck a nerve. Like the Deputy Leader of the National Party, Ian Armstrong, they are showing their slips, they are becoming upset.

[Interruption]

Mr SPEAKER: Order! There is far too much interjection from the Government benches.

Mr MARTIN: The Crown land conservation policy of the previous Labor Government meant that a certain amount of land on each side of a waterway was preserved not only to provide access to the waterway for recreational fishing but also as a nature buffer strip. The purpose of that buffer strip was filtering, the protection of the integrity of the river or stream, the keeping out of anything that washed off agricultural land. The scrapping of the previous

Government's Crown land conservation policy meant that stock could more freely graze on the banks of rivers and creeks.

Mr W. T. J. Murray: They could even drink the water!

Mr MARTIN: The Deputy Premier has interjected with a comment about stock drinking the water. Honourable members will remember how his colleague Michael Cobb came to drink 245T. I have a little surprise that will put the Deputy Premier to the test. Honourable members will see how good he is at drinking some of the samples.

Mr W. T. J. Murray: Your girl over there has got it in a bag. Why does she not give it to you now and we can all taste it?

Mr MARTIN: Because I am saving it for you. The scrapping of the previous Government's Crown land policies hurt the inland of this State deeply. More importantly, that conservation policy had meant that the planting and maintenance of trees along rivers and creeks, trees whose root systems would act as a filter -

Mr W. T. J. Murray: On a point of order. The motion refers to problems associated with blue-green algae at present in the river system. It does not refer to the land management policy of the previous Government. What happened 100 years ago has no relationship to the land management policy of the Labor Party, with all its faults. The motion refers to the problem of blue-green algae and seeks Government co-ordination of education awareness in relation to it. It refers also to the danger to the Sydney water supply system.

Mr Martin: On the point of order. I do not want to debate the issue, but I am pointing out that the problem of blue-green algae has been caused by changes of Government policy. That is obviously upsetting Government members.

Mr Amery: On the point of order. The point of order is absurd. The problem of blue-green algae is not only caused by poorly flowing rivers. It has much to do with land management policies. Land management policies co-ordinate various things such as the fertilisation of agricultural land and the flow-off from that land. It is absurd to take a point of order claiming that this major problem does not relate to land management.

Mr W. T. J. Murray: Further to the point of order. If the Opposition wants to debate the causes of the problem -

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Mr SPEAKER: Order! The honourable member for Port Stephens will resume his seat while members are speaking to the point of order.

Mr W. T. J. Murray: If the honourable member had wanted to debate the issue of land management as it affects blue-green algae, he should have referred to that in the motion. The motion contains nothing about the causes of the problem. The motion relates to the response of the Government to the problem since it has occurred. I suggest the Opposition should return to the substance of the motion.

Mr SPEAKER: Order! I am indebted to the honourable member for Port Stephens and the honourable member for Mount Druitt for explaining carefully to the House why the point of order taken by the Deputy Premier should be upheld. As the Deputy Premier said, the motion is carefully couched in specific terms. It relates to matters of education, community concern and the relief that should be afforded. The motion has nothing to do with land management or the causes of the blue-green algae problem. I direct the member for Port Stephens to return to the terms of the motion.

Mr MARTIN: We will educate people to take long-term measures to avoid land degradation, thus avoiding runoff into the rivers and the water pollution problems that are being encountered today. If this Government does not do that there will be a greater problem than we now have. Very little water is in storage on farms today; very little is in reserve. Major problems have occurred because there is no flushing of the river; the nutrients in the water are building up. Thus we are getting the toxic algal blooms. The present climatic conditions are perfect for this kind of outbreak, and it will continue to get worse unless we do something about it. In the past week I have received many concerned calls from people badly affected by this problem. Under this Government environmental and economic protection are no longer a priority. The result is that our rivers are in crisis. That is a very pertinent point right now.

Mr W. T. J. Murray: Are you going to make it rain?

Mr MARTIN: If you give us government we will make it rain. It is a matter of great public importance that despite the Premier's posturing in the media, despite the fact he has asked the Commonwealth for financial remedial assistance and despite the fact he has made available only a relatively small amount of money for activated carbon filters, the Government's so-called emergency actions are simply not working. The people living along the Darling River have reached desperation point. They are dismayed at the unco-ordinated manner in which the river rescue is being conducted. Despite the Premier's assurance that 10 bores will be sunk to produce drinking water for stock, landholders and townspeople, there is a fear there that the Water Resources Department will not continue to bore for water if it is found that not all 10 bores produce water. In other words, it is understood that the department will make 10 bore holes only, regardless of whether some fail to produce water. This is unacceptable. The people there are in a state of emergency. They deserve better than they are getting, which is very little. They are living in fear of disease and worse. They have made representations to the Minister for Natural Resources and are angry at a lack of notice being taken of their problems. I have a letter to the National Party which happened to reach us. The letter underlines major river pollution problems out there and the competing forces for water usage. The National Party branches are writing to party officials to register their dismay and disarray.

Mr W. T. J. Murray: On a point of order. I ask that the honourable member be directed to table the document to which he refers.

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Mr Martin: On the point of order. I would like to do so, and have it incorporated in *Hansard*.

Mr SPEAKER: Order! There is no provision for members to table documents. The member should clearly identify the letter, the source, the signatories and the date.

Mr MARTIN: The letter is from the Wilcannia branch of the National Party. I will have to inform the House later as to its date.

Mr SPEAKER: Who are the signatories to the letter?

Mr MARTIN: It is very hard to work out. It is something beginning with Mac. I will show the Minister in a moment. The letter is very clear. Let me go on:

Our river is in a mess. Over recent years the deterioration of the water quality . . .

Mr Cochran: On a point of order. The member quite clearly made reference to a letter which must bear identifying marks. I very much suspect the verification of the letter. Some authorisation must be given for the remarks made by the honourable member. Otherwise, the points that he has raised have no validity at all.

Mr MARTIN: The letter states that the president is a fellow called John Elliott.

Mr SPEAKER: Order! A difficulty is created for the Chair when the veracity of a letter, the contents of which are being referred to in debate, cannot be fully determined. However, sufficient points of order have been taken perhaps to place the letter in the correct context.

Mr MARTIN: The letter continues:

Our river is a mess. Over recent years the deterioration of the quality and quantity along the unregulated section of the Darling River has increased significantly so now for the summer of 1991-92 we are plagued with blue-green algal blooms. Unless the river is flushed out immediately the water levels will continue to fall and with the onset of warmer weather the problems will escalate dramatically. The construction of dams and weirs has also reduced the flushing effects which have occurred dramatically.

The letter went on to say:

We believe the philosophy that the stored water in the dams at the headwaters of the Darling-Barwon system belongs totally to the irrigation valleys around these dams is so wrong as to border on severe breach of human rights.

These landholders went on to criticise the Department of Water Resources for not recognising in its policy the needs of downstream users, particularly the needs of domestic users and stock. The writer on behalf of the Wilcannia branch of the National Party concluded the letter by saying:

Without quality and quantity of water from our river, we cannot survive, nor can the residents of the villages, towns and cities. The water that we use from it is essential and is more precious to us than gold.

Much more can be said about this matter and had I not been so rudely interrupted by the Deputy Premier much more could have been put in this debate. It is a matter of great concern. Members of the Wilcannia branch of the National Party, unlike National Party members opposite, are greatly concerned about the health of the Aboriginal people out

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there. I hope that my colleague, the shadow minister, will get a chance to speak on that matter.

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

Mr W. T. J. MURRAY (Barwon), Deputy Premier, Minister for Public Works and Minister for Roads [3.27]: If ever I have witnessed a complete and utter waste of the time of the Parliament, it is a speech, on the Opposition's motion, which shows that the shadow minister for agriculture is desperate to say something about agriculture. In fact, where is the shadow minister for water resources? He is not even coming up. He is not even leading on the motion. He has not got the capacity to lead on it. The Opposition has put up someone who knows nothing about the issue, someone who is talking about a subject which he has not even been to see yet. He has not been out there. He has not been to look at it. What a strange circumstance! It is typical of the Labor Party. As for the member for Broken Hill, the so-called member for the area, where was he last Saturday when the Premier and the Minister for Water Resources visited Bourke? Where was the Labor Party? We did not see you. You have not

been near it. You do not know where it is. The stupidity of the motion by the shadow minister from Port Stephens is a gross insult to the people of the Western Division.

Mr Martin: On a point of order. The Opposition set out to have a constructive debate to try to assist the people of New South Wales. All the Minister has done so far is personally castigate members of the Opposition. I ask that you direct him to confine himself to the subject of the debate, to discuss the incidence of blue-green algae in the western river system.

Mr SPEAKER: Order! The member for Port Stephens, when making his contribution, strayed considerably from the subject of the motion. He can hardly complain if other members take a certain amount of licence. The House is here to discuss a very important subject. I ask the Deputy Premier to come to the substance of the motion.

Mr W. T. J. MURRAY: The statements made by the member moving the motion are so far from fact, as to be described as unmitigated lies. It is rather a shame that members of the Labor Party who come forward with these wrongly based motions, who have failed to do their homework, are unaware of the damage they do to other corrective proposals for algae problems in the Darling River system. The shadow minister talked about runoff from Queensland. Queensland has had no rain. How is this genius, this person of unmitigated and enormous capacity, going to create a runoff from rivers into the Darling basin when it has not rained in Queensland? Even the shadow minister, the honourable member for Port Stephens, should realise that unless it rains between Bathurst, Toowoomba, Warwick and up into central Queensland there will not be any natural runoff along the river systems. That is just a simple, basic truth. Southwestern Queensland is suffering the biggest dry ever. For the first time in history there are no crops on the Darling Downs. The Paroo, the Warrego, the Condamine and the other rivers in the system in Queensland have not contributed to the flow of the Darling. One would reasonably expect that the honourable member for Port Stephens would have a vague knowledge of the problems associated with rainfall in New South Wales, where there has also been a shortage of rain.

I thoroughly believe Queensland should be a member of the River Murray Commission. However, there will be a few years yet for the Labor Government in Queensland to join the commission. There is nothing to stop it; we would be delighted

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if it came in. The honourable member did not get around to talking about 20c in the dollar Bob Carr in respect of land transfers and so on. He talked about land use along rivers and suggested that stock should be prevented from getting to the rivers to drink. What a ridiculous proposition! The people of the Western Division are dependent upon stock being able to drink at the rivers. Two-thirds of the stock along the Darling drink from it. Very little tank or trough water is available and the stock are dependent on the river. Even my six-year-old grandson would have a vague idea that access to the river for stock is essential for the land management of the Western Division. I hope the honourable member for Port Stephens will be able to recognise that point.

The honourable member referred to the failure to flush the river. Where does he suggest the water will come from? I presume he has in mind the cotton growers and all those who have rights to river water who have been guaranteed quotas for the production of their crops this year and who will be wiped out. That is what the honourable member for Port Stephens wants. He would delight in the irrigated cotton crops of the north and northwest - the only area of production in this State that is showing a substantial profit at the moment; I do not know how long this will continue - withering in the ground. Cotton growers have contributed income and employment to this State. He wants to renege on agreements giving a water allocation to the people along the river systems of the north and northwest. After people have been given an allocation and put in crops, he would take their water away. What a poor apology he is to raise this matter today, a matter that is his area of responsibility. A solution to the problem would be to make it rain. I do not know how to do that. I suggest that the

honourable member for Port Stephens does not know how to do it. I think even Bob Carr does not know how to do it, and after all he knows everything. Until such time as it rains well and the rivers run there will be a problem. There will be a problem until the winter when the weather gets cold and the algae disappears. If there is any water left in the river and if the algae has not flowed through the system, the problem will reappear next year. The honourable member for Port Stephens has a total lack of knowledge of matters he has talked about. It is a shame that the people who have done such wonderful work in the area have been denigrated.

Mr Amery: When were they denigrated?

Mr W. T. J. MURRAY: In the idiocy of the motion. I know Opposition members support idiocy; they have that capacity. The motion states that \$50,000 should be provided for relief. The figure spent so far is \$1.5 million. The motion is rubbish. The honourable member does not even have the capacity to research what he is talking about. The Government of New South Wales declared an emergency when the problem arose. I make no bones about its being an enormous problem. It is a problem for the people living along the river, a problem for the people with stock along the river, a problem for the irrigators and a problem for everyone involved. The Government has taken action but not at the suggestion of the Opposition. The honourable member for Broken Hill is supposed to represent people in the area. Where are the suggestions from him as to how the problem should be solved? There has not been a word. The problem affects his electorate but he has done nothing. We brought the Army in. We are now servicing all the Aboriginal communities along the river.

Mr Beckroge: I sent a nice letter.

Mr W. T. J. MURRAY: It is a top letter, but the honourable member cannot make it rain. Every community along the river has been contacted, including Aboriginal villages. All the town water supplies are working well providing water to meet the needs of the towns. Only last week the president of Bourke shire, Wally Mitchell, wrote to me thanking me for the work that had been done in the area. I know that the honourable

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member for Broken Hill has not contacted him. Mr Mitchell thanked us for getting the water into Louth and north Bourke. The people have said that it is the best water they have had for years and they want us to leave the facilities there. We probably will, but that will be discussed in future. The pipeline and water supply are there.

There is a lack of precise scientific knowledge about blue-green algae. The best qualified people, theoretically, in the nation cannot give a definitive answer on blue-green algae. The Minister responsible for water resources has established a task force which will give the State, the country and people around the world information on blue-green algae that has never been available before. We intend to make sure that the whole process continues. One of the really bright ideas put forward by the Opposition and the Australian Democrats - and their fellow travellers, the Nature Conservation Council, which these people adore and get down on their knees to - was that we should not build any more storages on the river. I opened Pindari dam and turned the valve for the first time on Saturday. If there were no dams at Pindari, or on the Severn, the Gwydir, the Namoi and the Macquarie and so on, all those rivers would be in exactly the same state as the Barwon-Darling river system is today.

None of those rivers contained blue-green algae. It has been removed from the vast area of the central northwest of New South Wales through the construction of dams on the river systems, dams that the honourable member for Port Stephens is now condemning. The Department of Agriculture has just completed a survey on blue-green algae which revealed that about two-thirds of all stock owned by people whose properties adjoin rivers are totally dependent upon that water. The producers covered in that survey run 230,000 sheep, 4,600 cattle and about 100 horses. Their losses were in the vicinity of about 1,000 sheep and 40

head of cattle but they are not sure that the stock actually died from the blue-green algae. By extrapolation these losses compare with an estimated 600,000 sheep and 16,000 head of cattle that depend on the river for their water yet the survey carried out in the past week revealed the loss of only 1,000 sheep and 40-head of cattle.

Only about 60 per cent of producers have or will install domestic filtration plants for their homes. Not one is a carbon filter. The Government has made it clear that it will support this filtration process by a 50 per cent subsidy, as it is doing with the various town water supplies. The Walgett branch of the Aboriginal land council informed the Government today that it is pleased with the work that the Government has done. Isabelle Flick of the Collarenebri Aboriginal land council informed the Government that she was pleased with the excellent water supply, which is better than the normal water supply.

Mr SPEAKER: Order! The Deputy Premier has exhausted his time for speaking.

Mr AMERY (Mount Druitt) [3.42]: I am pleased to support the motion of the honourable member for Port Stephens. I am of the view that perhaps a couple of paragraphs were missing from the motion. The motion should have read "That the Government be condemned for putting the Deputy Premier in charge of the project". The object of motions of public importance is to save the Government from being ambushed. The Deputy Premier had two hours notice of this motion but was still ambushed. Obviously from his 15-minute contribution to the debate, 11 minutes of which was used condemning the Opposition, the Government should have chosen the Minister for Natural Resources, who is certainly on top of his portfolio, to be in charge of the state of emergency.

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First, the Opposition supports the decision of the Premier to call a state of emergency on this issue. There can be no argument about that. This important matter must be dealt with through a co-ordinated approach between the State and Federal governments. We are at one with that decision. Second, the Opposition agrees with the comment by the Premier which appeared in the *Sydney Morning Herald* on 9th December under the heading "The Premier has called on the Queensland Government to take responsibility for its role in polluting the Darling River system". The Opposition supports strongly the Premier's call on the Queensland Government to take a responsible position on this major problem. However, the issue I wish to raise is this: though the Government has announced a state of emergency in New South Wales, there has been no co-ordination between the various government projects now under way. Last Saturday, only five days after announcing a state of emergency, the Deputy Premier and the Minister for Natural Resources visited northern New South Wales to announce the tender for the commencement of the enlargement of the Pindari dam. The Opposition asks the Government to assure the House that if the dam is to go ahead -

Mr W. T. J. Murray: It is three years down the track.

Mr AMERY: If it is three years down the track the Deputy Premier has more than two hours to give this assurance. He should give an assurance to the House today or at another time that this project will not in any way exacerbate the problem of blue-green algae bloom on the northern rivers in New South Wales. The Opposition is placing the onus on Government supporters to put on the public record that the enlargement of the dam will have no effect whatsoever on the river systems.

Mr W. T. J. Murray: I agree totally. It would not even get to Mungindi.

Mr AMERY: If the Deputy Premier will not give that announcement formally, he should cancel the project immediately. The Darling River system is already under stress. The algae problem will not go away in the short term. I urge the Deputy Premier to defer progress on any

water storage construction until there has been a full assessment of these projects and also to defer any decisions until the state of emergency is over.

[Interruption]

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

Mr AMERY: If the Government mucks this up, it will be because of its decision to put the Deputy Premier in charge of the project. The project has had poor planning. In the past three years water quality management, funding and staffing have been cut back, which has resulted in a major environmental problem in our northern rivers. All the rot that the Deputy Premier has instituted in the past three years has hamstrung his departments in dealing with the problem. However, this motion should be passed. The Government should be condemned not only for the matters outlined by the honourable member for Port Stephens but also for putting the Deputy Premier in charge of the project.

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

Mr CAUSLEY (Clarence), Minister for Natural Resources [3.47]: Almost a month ago I was warned of the potential outbreak of blue-green algae in the Darling-
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Barwon River system. However, it has taken until now, after a dozen media reports, before anything is heard from the Opposition. Who did the Opposition put forward to speak about this problem of blue-green algae - the honourable member for Port Stephens. He raved on about the problems of blue-green algae that he considers have suddenly come to light. Blue-green algae has been around since the dawn of time. The present problem has been building up for decades. The natural conditions associated with the blue-green algae bloom are: no rain; no flow in the rivers; hot, still conditions; and a build up of phosphorous in the water. They are the ideal conditions for blue-green algae. That is nothing new for the Darling-Barwon River system. It has nothing to do with conservation principles, which Opposition members and the green groups keep on lying about. It is absolute rubbish to say that the Government changed the land conservation rules. River bank protection conditions and what can be done within 20 metres of a river have not changed. They are still the same. We must tackle this massive problem. It will not go away. In years of normal weather conditions the rivers will flow and their waters will be muddy. Under those conditions blue-green algae will not be seen.

The problem remains. Rather than pointing accusing fingers at one another we should be finding solutions to the problem. The honourable member for Port Stephens has caused alarm by suggesting that the Government has done nothing to address these difficulties or to warn the public of them. I assure the honourable member that warnings were given by the Government. I remind the honourable member for Port Stephens that three weeks ago I issued a warning to landholders about the problems. They were informed about the blue-green algae and how it can be treated. Every landholder received from the Public Works Department an instruction on how to set up a filtration plant. When I alerted the Deputy Premier about the matter he immediately committed more than \$1 million to the supply of water to country towns. The honourable member for Port Stephens is talking about \$50,000 only. Obviously he cannot remember past last Saturday's newspapers. On Saturday reference was made to the Government providing even more support with regard to water supplies to isolated homesteads and for domestic stock. People on isolated homesteads, who draw water from rivers, face a problem with toxins in the water. The Government has provided assistance to these people by making available, at a cost of \$50,000, deactivated carbon for use in domestic filtration plants. In addition, 10 bores are being sunk in the sand lenses adjacent to the riverbank to search for fresh water. Already two bores have shown good water.

Mr Beckroge: Will the Minister guarantee that 10 bores will be sunk?

Mr CAUSLEY: Yes. Two are operating already, and were before the Opposition thought of moving this motion. Recently the honourable member for Broken Hill had his yearly visit to the area; he went out and had a look around.

Mr Beckroge: I am still here though, aren't I?

Mr CAUSLEY: Only just. We thought we had you. The Government has acted. On Saturday the people in the region told the Premier and me that they were delighted with the Government's reaction. I discussed with the Deputy Premier also the literacy difficulties experienced by Aboriginal communities. It is no use erecting signs for the Aboriginal communities to read; many of them cannot read. Officers from the Public Works Department spoke directly to Aboriginal communities warning them of the dangers associated with the river. It is hypocritical of the honourable member for Port Stephens to suggest that the Government has not acted in this regard. It has acted. The problem began decades ago -

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

Mr BECKROGE (Broken Hill) [3.52]: I wish to put the record straight about an important matter. The Deputy Premier said that the Opposition and I, in particular, have shown no interest in this matter. On 10th November a meeting of people at Louth agreed on a number of recommendations. The next day, 11th November, I was contacted and I wrote to Minister Causley. On 25th November I received a reply from him. They are the relevant dates. On 2nd December I received a fax from a Mr Ted Davis from "Murphy" station, which stated:

I am faxing a copy of a letter I will be circulating to people who I think might be able to help. I have a copy of your letter to Ian Causley on our behalf and his reply. We very much appreciate your assistance in the matter. We have to keep on fighting.

This Government took action because of the headlines of the journalist Peter Bowers. It has taken action because the algae has found its way into the Hawkesbury River system. This city-based, North Shore Government said, "Goodness me, if it going to get into our water supply in Sydney, a whole lot of votes will be lost". So the Government acted. I support the action taken by the Government; I have no argument with it. But the Government and the Department of Water Resources stand condemned for providing too many water licences to allow people to take water from the river. The Government stands condemned also for the development on the banks of the river which has caused stress to the system. The Government is requiring more of the river than it is able to provide.

[*Interruption*]

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

Mr BECKROGE: Even eight-year-old children, who have written letters to me, realise that we cannot keep taking away from the river without giving back. That is the nub of this motion. The New South Wales Government should not go crying to the Federal Government every time it botches something. There has been no planning in relation to this matter. Departmental rivalries have created problems and bad government. I welcome the establishment of an authority to oversight the entire Darling-Barwon river system. It should be given a new lease of life. The development of the riverbanks should be monitored. I have been a strong supporter of the turning back of the surplus waters of the Clarence River. I

would welcome also more development in my electorate, but not at the expense of the environment or the natural habitat, which we hold in trust for future generations. The contributions of honourable members from the Government side of the House were disappointing. They were nothing but personal attacks on the honourable member for Port Stephens, the honourable member for Mount Druitt and me. Long ago the National Party gave away any rights it believed it had to speak for the people of the western region of the State. The Minister for Natural Resources made fun of me when he said that I visit the region only once a year. But as I said in my interjection, they still have not got rid of me. And the reason they will not get rid of me is that I care about people in my electorate. Members of the National Party only acknowledge the existence of Bourke when there is a problem. I am holding the hands of those who live in that town and along the river system to try to solve their problems. The National Party only turns up when there is a headline to be gained.

Mr PACKARD (The Hills) [3.57]: I too would like to put the record straight. It is not only recently that members of the Government and I have realised that the Hawkesbury River exists. You, Mr Speaker, have been a protector of that waterway for
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many years. Debate in this Chamber is widely publicised and members of the press feed off what is said by members of Parliament. In the Hawkesbury region many business people are gearing up for the Christmas period. The most dangerous thing that can happen for those business people is for the public of New South Wales to think that the Hawkesbury River is off limits and not useable. Clearly that is not the case. Everyone acknowledges the seriousness of the algae infestation in the Hawkesbury. However, it is restricted to that part of the river between Cattai and lower Portland. A letter written by the Hawkesbury Holiday and Ski Park Association has expressed concerns about cancellations from people who have booked holidays in the region because of concerns about the condition of the river. The letter stated:

Dr Keith Mullette of the Water Board said today that the River in its present condition was safe for swimming. If the present scare campaign and negative publicity continues over the next few weeks quite a number of Park operators would be forced out of business. Already Parks have received substantial cancellations for the Christmas period. The Park operators believe the river at present is in the same as it has been for the last 20 years and is therefore safe for water skiing and swimming.

The association has requested the Government to take some action. As the Minister said earlier, the Government has taken action already. During any term of Parliament a new expert emerges all of a sudden. The expert at the moment is Dr David Hughes, who recently, with a former education Minister, visited my electorate. Had I announced to my constituents that he would be coming to the electorate, he would have been strung up. However, he was left alone. But Wayne Merton and I were criticised for not attending. We were not invited to attend. I assure members of the Opposition that I do not attend Labor Party beefups if I am not invited, though I attended many times before I became a member of Parliament. The Minister said that initiatives have been taken by the Government to monitor the situation and report to the people about it. I am sure the honourable member for Mount Druitt will understand that when he checks the record. The task force is in place. The Government is co-ordinating the efforts of all departments to contain the problem, which has received enormous publicity. The motion will create even greater publicity. A health line is available on 890 6060. Anyone who believes a problem exists should ring that number and will be told the facts.

The honourable member for Mount Druitt suggested also that there was a problem with the water supply. That is not so. There is no threat to local piped water supplies which are drawn from the river at North Richmond. The inlet point for the piped water supplies is well upstream from the bloom. In addition, the North Richmond water treatment plant is fitted with treatment processes which remove the algae and its toxins. I state clearly for the record that the bloom is not toxic. If the bloom is not toxic, it is not poisonous. This Christmas people should not avoid the Hawkesbury River. People should go to the Hawkesbury if they have made arrangements to holiday there. Mr Speaker, you would agree that the Hawkesbury River is one of the most beautiful places in New South Wales. It would be tragic if, due to the beefing

up of the issue, people avoided the Hawkesbury, which is a wonderful location for holidays. The Water Board is monitoring the situation and will act if necessary. The board is ready to provide assistance should the Department of Health issue health warnings about the river. The Water Board has already assisted the National Parks and Wildlife Service by providing drinking water supplies for Cattai National Park. The Hawkesbury River is a marvellous place. Those who grandstand almost always forget that business people in the Hawkesbury area employ people on the Hawkesbury in your electorate, Mr Speaker, and out of The Hills electorate. I recommend that people check with the Department of Health, keep their eyes and ears open in case the bloom turns toxic, but at this stage it presents no danger to the public.

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Mr MARTIN (Port Stephens) [4.2], in reply: I thank my colleagues on this side of the House who have been so positive about the algal bloom problem. Government members, especially the Deputy Premier, Minister for Public Works and Minister for Roads, who disgraced himself, were negative in their contributions on this matter. The Minister for Natural Resources was more on top of the subject than any other Government member and I give him credit for that. In my earlier contribution to this debate my limited time was taken up by rude interjections. We must approach the problem positively. The Minister's own National Party branch was keen that Aboriginal people in that area are given a fair deal. I implore the Minister to continue the important work he is doing for those people. The Minister, who only thinks one minute ahead and constantly looks behind instead of forward, has failed to answer the questions raised by Opposition members. The Deputy Premier said that the problem would continue year after year, yet the Minister for Natural Resources said it had been building for a decade and had been in existence from time immemorial. That proposition is correct. The problem must be solved so that it does not recur. Government supporters are waterhogs and are not addressing the problem positively. Policies must be developed and programs adhered to so that the people of New South Wales are not caught once again. The Minister said the problem will recur this year, next year, and the year after. That will not happen if the Government deals with the problem appropriately.

The Government must redress the problem by doing the right things - by planting suitable trees along the river banks, by reducing the amount of phosphorous going into the river, and by not hogging all the water. The Minister's own National Party branches have said that the people living at the top end of the river think the river is theirs and they show disregard for those living at the other end of the river. Recently a major information paper was received from Victoria. The Minister should acquaint himself with the information in that paper about toxins. I had the privilege of working in fisheries research for 18 years. We had to grow algae extensively under the department administered by the Minister for Natural Resources. The Minister would be very proud of the work being done by fishery researchers, and their algal growing work is a credit to them. Having worked with and studied algal biology I am aware of the difficulty of coming to grips with toxins. People must be made aware, as the task force stated, that boiling drinking water will not remove the toxins. Permanent monitoring of algal blooms, as reported in that paper to which I referred, must be established, in particular for town water supplies. Those water supplies must be tested at least twice a week at several different sites in the same vicinity. The range of solutions must be integrated to remove algae from the rivers. The Minister has offered no suggestions other than how to treat the water to make it drinkable. The Minister has done nothing to reduce or remove the algae. The Minister should listen to his research workers about the range of actions that may be taken to combat the problem and absorb phosphorous in the river.

Mr W. T. J. Murray: Do you want to put more alum in?

Mr MARTIN: The poor dopey Deputy Premier does not know what day of the week it is. He cannot engage in debate. The multiple ways of dealing with algae include algicide. The

Minister should not send his officers flying up and down the river, or establish committees and a task force; he should study the problem positively and come up with answers. The Minister has given the Parliament and the people nothing. He ought to be ashamed of himself.

[*Interruption*]

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Mr SPEAKER: Order! I remind Government members that they are interjecting far too much.

Mr MARTIN: If river flows are not studied long term, the problem will recur every year in the Hawkesbury River and the Darling River systems. Phosphorous in the rivers must be taken out or extracted through flow systems. The poor dopey Deputy Premier does not know how the phosphorous gets into the river. The Minister must bite the bullet.

Mr Cochran: On a point of order. I draw attention to the standing order concerning tedious repetition. The honourable member for Port Stephens has said the same thing for several minutes but has not given any constructive or new information. His remarks fall within the ambit of tedious repetition. I ask that the attention of the honourable member be drawn to that standing order.

Mr Amery: On the point of order. The honourable member for Port Stephens is supposed to reply to the debate. The honourable member for Monaro has criticised his contribution and has asked the Chair to call him to order because he was not introducing new material in debate. To do so would be contrary to the rules of the House. I suggest that the honourable member for Monaro be sent a copy of the standing orders.

Mr SPEAKER: Order! It would be a great advantage if almost all members of this Chamber decided to read the standing orders so that they understood a little of what they are about. The point of order taken by the honourable member for Monaro concerned tedious repetition. It seemed to me that the honourable member for Port Stephens was repeating certain words rather often. However, I uphold the point taken by the honourable member for Mount Druitt that the honourable member for Port Stephens is speaking in reply and should not be introducing new material into the debate. However, when the point of order was taken I was on the point of interrupting the honourable member for Port Stephens. He was introducing material that he would obviously have used when initiating the debate had he not run out of time. I ask the honourable member for Port Stephens, in his reply, to respond only to matters raised during debate.

Mr MARTIN: I do not like introducing new material, but when one looks at this sample of water -

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Port Stephens to order and remind him that to bring such items into the Chamber is outside the practices of the House.

Mr MARTIN: I shall put it away. I know how National Party members like to drink samples of poisonous material to show how bad it is. I had intended to ask the Deputy Premier about it. The Deputy Premier in his speech said that the lack of rain in Queensland is not causing the problem. The article in the *Sydney Morning Herald* said that the Premier of this State blamed Queensland for the current situation. One is telling the truth and the other is not. Which one is telling the whopper? I think it might be the Deputy Premier. The matter should be addressed. Pindari Dam was mentioned and the

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poor old man went into hysterics because he could not answer the question. He said in the House that if it gets cold, the algae will go away and come back next year. If the Government starts to address that issue, it will start to fix the problem. If it does not, it will be back where it was before. The Government creates task forces, appoints committees and seeks publicity, but it does not fix the problem.

The Department of Agriculture did a survey. The Department of Water Resources and the Public Works Department have become involved. The Minister said that \$1 million would be allocated to country water supplies. If one looks at the Budget Papers, one does not need to be a Rhodes scholar or a great accountant to see what the Deputy Premier is up to. He is up to his usual caper of robbing Peter to pay Paul and doing nothing extra for the people. The honourable member for The Hills was more worried about Christmas, the ski garden operators and all the people on the Hawkesbury. I once lived there, and I can assure honourable members that the public health of the people of New South Wales is much more important than selling things up the Windsor road or getting people into the ski gardens. This issue is a matter of public importance. If Australian Labor Party members were sitting on the treasury benches, they would be doing much more than the Government for the people of New South Wales, who would be a lot happier and more confident than they are today.

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

Question - That the motion be agreed to - put.

The House divided.

Ayes, 47

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

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

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

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

Noes, 51

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

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

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

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

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

Tellers,
Mr Beck
Mr Hartcher

Question so resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Question Upon Notice Unanswered

Mr W. T. J. MURRAY: In relation to question No. 583, I advise the House that the Public Works Department does not provide relief to individuals. Its expenditure is via grants to councils. The total moneys paid to councils by way of grants was \$10,409,856.15. The total expenditure in the Auburn and Bass Hill electorates was \$298,399. Question 3 does not apply.

PUBLIC FINANCE AND AUDIT (AUDITOR-GENERAL) AMENDMENT BILL (No. 2)

ANNUAL REPORTS LEGISLATION (AMENDMENT) BILL (No. 2)

In Committee

The CHAIRMAN: Order! The Committee will deal first with the Public Finance and Audit (Auditor-General) Amendment Bill (No. 2).

Schedule 2

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [4.20]: I move:

Page 11, Schedule 2 (1). After proposed section 28(1), insert:

(1A) An appointment under subsection (1) is not to be made unless:

(a) the Auditor-General Selection Committee has recommended the appointment in a report to both Houses of Parliament; and

(b) both Houses of Parliament pass a resolution recommending the appointment.

This amendment relates to the establishment of an Auditor-General's selection committee and the appointment of the Auditor-General. The amendments to be moved by the Opposition result directly from report No. 39 of the Public Accounts Committee. That committee recommended that the Auditor-General's position should be regarded, as it is now, as an independent non-government position. That independence flows through to all the work done by the Auditor-General. As honourable members know, the Auditor-General reports to Parliament. I preface any remarks I make by saying that I do not regard the present Auditor-General as other than a person of the highest integrity: his integrity cannot be challenged. The importance of ensuring that the independence of the Auditor-General is maintained is obvious. The Auditor-General should not in any sense be put under pressure to bow to the needs and concerns of government. The Opposition believes that the Auditor-General should be selected in a bipartisan way. Such a process would allow the House to show its confidence in the Auditor-General and would give the Auditor-General much greater moral support for his or her independence. The amendments to be moved by the Opposition are intended to ensure that that independence is maintained. I repeat that the moving of these amendments is not in any way an attack on the present Auditor-General, in whom I am sure both the Government and the Opposition have the highest confidence. In private conversations most honourable members have probably criticised reports of Auditors-General. Members from both sides of the House when in government have probably criticised the Auditor-General about the same things and have probably been wrong in their criticisms. I commend the amendment.

Mr MOORE (Gordon), Minister for the Environment [4.24]: I oppose the amendment, but not because the Government objects to the concept of parliamentary scrutiny of the appointment of the Auditor-General - far from it. Although I do not have the precise terms of the document before me, to my recollection one significant element of the charter of reform entered into between the Government and the non-aligned Independent members provides that in future the selection of the Auditor-General will be on what is known as an advise and consent basis, that is, a candidate will be selected through the normal government selection processes. That proposition will then be put to the Parliament for endorsement through some sort of parliamentary committee system or directly to the House. The details of that proposal obviously need to be worked out and placed in legislation, which the Government has given a written undertaking will be introduced into the Parliament. The Government does not believe it is appropriate that the Executive Government should not be involved. The concept behind the Government's negotiations with the non-aligned Independents has been a shifting of the balance of power and responsibility between the Executive Government and the Parliament. Measures the Government has indicated it would introduce as a result of that agreement will implement that concept in relation to the appointment of the Auditor-General and a number of other statutory officeholders. The Government therefore rejects the specific amendment as inappropriate but indicates its views on the spirit of the matter that is at present before the Parliament.

Mr HATTON (South Coast) [4.26]: The Minister for the Environment has correctly outlined part of the agreement between the Independents and the Government. There is much merit in the recommendation of the Public Accounts Committee, and therefore the Opposition's amendment, that an all-party parliamentary committee could call for and consider applications, compile a short list, interview applicants and appoint the Auditor-General. The Independent members clearly proposed that positions such as

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the Auditor-General, the Ombudsman and the Commissioner of the Independent Commission Against Corruption should be filled as a result of a process as separate from Executive Government as possible. Obviously that is what the Opposition's amendment is designed to

achieve. The concern was that if appointments were made in that way, that process may lead to an examination - mercifully not a public examination - of candidates. It was thought that it would be reasonable to set up a bipartisan committee to which the Government could recommend appointments for these positions. Though the Government would have the numbers on such a committee, there was a risk of criticism or rejection. It was hardly likely that a government would seek endorsement for an unsuitable candidate. Had that system been in operation, for example, Mr Doyle would have become Commissioner of Police rather than Merv Wood, who was a rather doubtful second-rate candidate in the eyes of many members of the Wran Cabinet. Though I recognise the merit of the Opposition amendment, I believe that the method adopted in the charter of reform will work satisfactorily.

Mr NEILLY (Cessnock) [4.28]: I support the amendment. I recall that not long ago the Public Accounts Committee undertook a process relevant to establishing whether or not local government audits should be controlled by the Auditor-General. I recall also that when giving evidence to that committee, I posed the following questions: who should audit the Auditor-General? Should questions relevant to the Auditor-General be referred to the Commonwealth Auditor-General. Where does the buck stop? In New South Wales, the buck should stop with the Parliament in relation to questions relevant to the appointment and actions of the Auditor-General. The amendment that has been proposed by the Opposition places the onus of selection upon a committee selected by this Parliament, with ultimate sanction by the Parliament. If there is any problem arising from this in the future, the only persons to whom the blame can be directed, other than the Auditor-General, if he is found wanting in his work, are the members of this House who selected him. I support the amendment.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [4.33]: The No. 2 amendment, which will be consequential to amendment No. 1, was intended to set up a mechanism that would ensure the Auditor-General is the best person available for appointment and to ensure that the Auditor-General has the total support of all sides of Parliament. If a committee has only one nomination for appointment coming from Executive Government, the whole selection process has been gone through, and other persons available for consideration have been excluded without the opportunity for review by the selection committee. The Parliament does not have a chance to see who is interested, who is worth while, and whether we have the best. There is just the Executive Government argument that this person is suitable, take it or leave it. There is no option. That is all it is. It is a heavy decision for a committee of parliamentarians to say, "We do not think this person is appropriate". It is easy to decide in that way if the person is thought to be corrupt, but the system proposed would ensure that nobody who was overtly corrupt, or known to be, would ever get through.

It does not allow Parliament to say who will be the best person, most interested in the position, to serve the needs of this State in a role as far from Executive Government as possible, checking on and reviewing aspects of government. The Executive Government should not first make the choice and then foist that choice upon the committee. I am seeking that Parliament choose the best person to do the job. The Executive Government should not first filter through the nominees, and say: "This one is too independent. That one is going to cause us a little bit of a problem. This one is going to be nice and boring, is okay to do the job and nobody is able to complain". Such an appointee might be able to do the job, add the figures and do it, but have no real idea

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of where to go. I point out that the imagination and commitment of the present Auditor-General has led this Government, and the previous Government down the road of accrual accounting and other really worthwhile imaginative changes. I do not think such imagination challenges government too much even though it is a challenge. It is that sort of challenge that we want in New South Wales. We do not want to be stultified by saying, "Let us get the most boring one, one who will not give problems to the present Government, one that a parliamentary committee cannot reject". There would be nothing about such a person that we could reject, for that person's behaviour would have been impeccable, and only the imagination would be lacking.

If we set up the committee that the Opposition is suggesting, we will certainly move more towards the direction of getting the best possible person chosen by Parliament, or using the sovereignty of Parliament to choose the best possible person. I do not in any way disbelieve the Minister for the Environment when he says that he will consider bringing further legislation to set up an appropriate committee which does not have the power to reject, but can merely make some recommendation. That again takes the appointment of this most important position of Auditor-General further from Parliament and closer to Executive Government. I point out that it was the Public Accounts Committee, with a majority of present Government members on it, including the Minister at the table, the Assistant Treasurer and the Minister for Justice, which specifically made this recommendation. They, as backbenchers working on the peak and most prestigious committee of this Parliament, with some freedom of their own decision-making, not locked in by a Cabinet decision, recommended this. I remind the honourable member for South Coast, that there was no imposition of a Cabinet decision locking in three members of the Government effectively, three members of Cabinet from deciding, with the support of Opposition members on this committee, to make this vital recommendation. I point out that this is not recommendation No. 4722; it is recommendation No. 1 from the Public Accounts Committee. This is the first recommendation, the one that the Public Accounts Committee believed was the most important.

Mr Chappell: They are not presented in order yet.

Dr REFSHAUGE: The Assistant Treasurer is not one who does not know about media. We will see all that tonight. He knows how to put up No. 1 as number one. This is the first recommendation. As backbenchers the three present Cabinet members were prepared to stand up in a bipartisan way for what they believed, not being told by somebody "No, we do not want to give too much freedom. We do not want to open up government too much". However, when they are in government, they bring in this legislation. When they see the recommendation for amendments that the Opposition put what do they do? They do not debate it; they pull the bill off - not for a week, but for two months, trying to work out what to do. They take it to Cabinet. What does Cabinet do? Cabinet says: "Don't let them get away with open government. Let's close it off. Let's contract open government. Let's make sure that Parliament does not have its say. Let's give them a Mickey Mouse committee that cannot make any decision but only ratify decisions of Executive Government". That is what is being proposed.

What I am saying is, let us go with the Public Accounts Committee. Let us go with George Souris. Let us go with Phil Smiles and let us go with Terry Griffiths. They are the ones who made this recommendation. They are the ones who specified it. It was not just one recommendation, there were a number of recommendations, very prescriptive of how this should happen. The recommendations specified how many members should be on this committee, how many from each side, and that the chairman of the Public

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Accounts Committee should be on this committee as well, each of them knowing that in the fullness of time they would be on the frontbench, not necessarily on that side, and that there would be others replacing themselves on the committee - that they were not setting up a job for themselves. They believed this was the way for them to go. What we have now is the muzzling of these three independent thinkers by Cabinet solidarity knocking them off and saying: "We do not want Parliament to make the decision. We do not want Parliament to choose the best person. We want Executive Government to do the filtering process, the filtering of who would be there". I am not saying that the next Executive Government would do it because I, as the deputy leader of that government, would never allow that to happen. But an inappropriate government would filter out and favour the least challenging person who could get through a committee.

Again I say to the honourable member for South Coast and the other Independents in this Chamber that we are looking for open government. Anything that we do now to achieve open government will never be able to be ignored. We will never be able to turn back the clock to closed government. We have a chance now to make sure that the Auditor-General is absolutely independent from the Executive Government. Are we going to give up that chance and allow the filtering process which governments are so good at doing, to bring to that office the least challenging person who could get through a committee of Parliament. As I say, it is unlikely that any committee would knock back an applicant unless there was specific evidence to show that person either could not do the job or that his honesty or integrity was under a cloud. And that still allows most control by Executive Government.

In fact, I would go so far as to say that setting up the committee that the Minister for the Environment has suggested would make absolutely no difference to governments of the future in their appointment of Auditors-General. No government would want to appoint as Auditor-General a person whose integrity was under question. That does not mean that they would want to appoint the most imaginative and challenging person as Auditor-General. I believe that we will not get the best person for the job if we follow the proposals of the Government, but we have a chance to do that if the Opposition amendments are agreed to. We will also make a major advance in open government that no future government would be able to back down on. We can do this now. This is not about setting up a Mickey Mouse committee that has no chance of doing anything; it is about asserting the authority of Parliament over Executive Government to ensure the competence and integrity of the most important position of Auditor-General.

Mr CHAPPELL (Northern Tablelands) [4.41]: New waves are in vogue at present. One is the attitude that Executive Government has become meaningless in the management of this State. Everyone wants to be in the act, whether that person was elected to form a government or not. Such people want every action by government to be second guessed by an independent committee or a coalition of Government, Opposition and Independent members. That is a crazy notion. To suggest that the only way in which to get a truly independent Auditor-General appointed - or any other office-bearer of government for that matter - is for it to be done by bipartisan appointment, and so forth, is crazy. That has not been necessary in the past and it is not necessary now. Independence has to do with lines of authority. The Auditor-General is responsible to the Parliament. That is the way it has been and that is the way it will continue to be. The system in the past has delivered us good Auditors-General. The suggestion that this system is in some way deficient is not explainable by the process we have witnessed this afternoon. As a member of the new Public Accounts Committee I would not have agreed to this recommendation, whether it was No. 1 or No. 20. There is something yet to be

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said for the integrity of government.

The Executive Government has the right to govern. That means it has the right to go through all the processes of appointment of staff and everything else. That is not to suggest that every time the government of the day appoints a senior official that person is automatically tainted in the office he performs. It is crazy to suggest that. I have no problem with the suggestion of the Leader of the House that there ought to be a review of the parliamentary process, but to stop the normal functioning of the Executive Government of the day for some crazy notion like this is just silly. If the Australian Labor Party had a better history of offering up the right to govern when it was in government, perhaps the suggestion of the Deputy Leader of the Opposition this afternoon would have had some credibility. The Labor Party does not have that sort of track record. I cannot imagine in my wildest dreams that if Labor got back into government it would voluntarily offer up the right to form an Executive Government to carry out all of the normal functions that executive governments here and all over the world have performed for many years.

Mr IRWIN (Fairfield) [4.44]: The honourable member for Northern Tablelands conceded that the Auditor-General is responsible to and reports to the Parliament but he stopped short of accepting the view of the Public Accounts Committee of the Forty- ninth Parliament that the Auditor-General should assume a broader role than he does. I am a member of the Public Accounts Committee. I am sure that all previous members of the committee would acknowledge the considerable limitations borne by a committee composed and resourced in this way in monitoring and scrutinising all the activities of government. Consequently, that committee is heavily reliant on the work of the Auditor-General. A vital aspect of the scrutiny of the Executive Government is the person who is appointed as Auditor-General. Unless the amendment is accepted, the Executive Government will be able to appoint the Auditor-General with the Parliament having little opportunity to review the appointment although it is the Parliament to which the Auditor-General is ultimately responsible.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [4.46]: I oppose the amendments suggested by the Opposition. We do not want to set up a system in which endless select committees are appointed which almost burden out of existence the processes of the Parliament. There seems to be a proliferation of select and joint select committees. The Parliament has to bear an extra financial and administrative burden because of the costs involved in administration, calling for submissions in advertisements, and so on. But that is only a small point; the main point is that the proposal by the Minister for the Environment, as outlined by the honourable member for South Coast, will achieve a considerable improvement in the separation of powers and visible accountability. Without going into the details of the committee, I think much has been achieved in the way of accountability. The Deputy Leader of the Opposition suggested that the committee would have only a perfunctory review role and not the power to reject. That is wrong: the committee would have the power to reject the nominee of the Government. Thus the committee would have a genuine role, with considerable power. The Government rejects the amendment.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [4.48]: The Minister for Sport, Recreation and Racing and Minister Assisting the Premier said that it will cost money to advertise for an Auditor-General and therefore a committee should not be set up. That will have to be done anyway.

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Mr Souris: I did not say that. I said that the committee has to be set up separately so that it can perform functions -

Dr REFSHAUGE: The committee could rapidly be set up. There is competence available. Parliament is starting to realise the responsibility of individual members working not only for their electorate but as a total team for the benefit of New South Wales.

Mr Chappell: We will see your view when you get back in office one of these days.

Dr REFSHAUGE: Any improvements we make now, future governments will never be able to go back on. However wide we open government today, no government will be able to close it. If we do not open it up now, we will probably have to wait generations to widen the openness which is starting to be shown in this Parliament. I am delighted that the Minister for Sport, Recreation and Racing and Minister Assisting the Premier has said that the committee the Government is proposing will be able to reject a recommendation from Executive Government. I point out that the Executive Government will choose and put to the committee the person most acceptable to it. The Parliament, to whom the Auditor-General is responsible,

will be unable to appoint a person to the position of Auditor-General. It will be able only to express displeasure with the appointment, although that will happen only if the appointee's skills are inappropriate. No Executive Government would knowingly appoint a person with inappropriate skills or someone whose honesty and integrity were in question. Therefore, the role of the committee is zilch. My amendment would assert the authority of Parliament. The employee should be chosen by the employer. The Auditor-General, who is responsible to the Parliament, should be chosen by the Parliament.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 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

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Noes, 50

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

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

Mr Photios
Mr Rixon
Mr Schipp
Mr Schultz
Mr Small
Mr Smiles

Mr Smith
Mr Souris
Mr Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit
Tellers,
Mr Beck
Mr Hartcher

Pair

Mr Greiner

Mr Carr

Question so resolved in the negative.

Amendment negatived.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [4.57]: I move:

Page 12, schedule 2(2)(c). Omit ", except with the consent of the Governor".

The intent of this amendment is to follow exactly the recommendations of the Public Accounts Committee. The Public Accounts Committee recommended that the Auditor-General be appointed for a seven-year term only, and that on the expiry of that term the Auditor-General should not be given employment within the public sector. Obviously this is to ensure that the independence of the Auditor-General is maintained, and there is no expectation of favours later. This measure would concern potential candidates, and possibly the present Auditor-General, because their expertise could be lost to the public sector. If appointed at a relatively young age, they would be forced to retire and their expertise would no longer be available to the public sector. If a selection committee, as suggested in the previous lost amendment, were available, potential appointees could be referred to it to determine whether it was reasonable for appointments to be made. The Government has decided not to establish a committee that would have empowered the Parliament to determine whether a former Auditor-General should have the opportunity of employment in the public sector.

The Opposition would welcome the implementation of all the recommendations of the report of the Public Accounts Committee so that the expertise of a former Auditor-General would not be lost to the public sector in the future. Because the Government, with the support of Independent members, has rejected earlier proposed amendments, it will no longer be possible to set up a mechanism that would guarantee the maintenance

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of the expertise of the Auditor-General to the public sector. The Opposition insists on its amendment, which is in line with the views held by the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, the Assistant Treasurer the honourable member for North Shore, and the Minister for Justice when they were members of the Public Accounts Committee. Those three members have been rolled by Cabinet. This so-called open Government has compelled them to change their minds about recommendations with which they agreed when they were backbench members of the Government. Consequently, an appropriate mechanism that will ensure the maintenance of the expertise of the Auditor-General cannot be established. I urge the Government to support the amendment.

Mr HATTON (South Coast) [5.2]: I agree wholeheartedly with the principle that the Auditor-General should not be able to obtain a position in the public service in the State in which he or she served as Auditor-General. The principle is firm: the Auditor-General must be and must be seen to be entirely independent. It is possible, though not likely - but the possibility must be removed - that towards the end of his or her seven-year term the Auditor-General could be compromised or be seen to be compromised by the offer of a plum job from the Government. I emphasise that I have not seen evidence of that with regard to any Auditor-General during my time as a member of Parliament. Nevertheless, the position of Auditor-General of a State is a privileged one and one where an Auditor-General gains considerable experience. The argument is that that experience ought to be used in the public service and not denied to it. My argument, however, is the reverse of that. If such a person were unable to find a position in private enterprise that would benefit from his or her talents, one would wonder at that person's competence in the first place. I do not believe that there should be any objection to an Auditor-General, upon leaving the services of the State, obtaining satisfactory employment in private enterprise.

The Auditor-General holds a position of considerable trust, responsibility and independence. It is an opportunity to gain unique experience that can be used by private enterprise. It can be used also by public enterprise, but the risk of compromise is involved in that proposition. The principle is sufficiently important to be insisted upon. Former members of Parliament are not denied the opportunity of a government posting. Perhaps the principle that I suggest should apply to Auditors-General should apply equally to members of Parliament. Obviously the principle should apply with regard to former commissioners of the Independent Commission Against Corruption. Similarly, the principle should apply to Directors of Public Prosecutions and Ombudsmen. No objection could have been raised to Mr Masterman, a former Ombudsman with high qualifications and experience, returning to make a living in his profession in the private sector. The Auditor-General should live by the same rules that apply to others in positions of independence.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [5.6]: The Government rejects the Opposition's proposed amendment. So far as the report of the Public Accounts Committee is concerned, the committee recommended a non-renewable, seven-year period but did not recommend that Auditors-General should be denied future public service.

Mr Rumble: It did.

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Mr SOURIS: Did it? My comments were made in all genuineness. I do not have a copy of the report before me. I am surprised that the committee would suggest that New South Wales should be denied the future services of one of the State's highest officeholders. The non-renewable, seven-year term will serve the purposes of the accountability mechanisms that are already in place. I suggest it would be remote, indeed almost unbelievable, that in the latter years of his or her term the Auditor-General would be seduced by the government of the day to throw an audit of a statutory authority or government department because of an inducement that some time in the future - or even immediately following the expiration of the term - the Government would appoint the Auditor-General to a statutory position. That is just so remote as to be laughable. To challenge the integrity of the Auditor-General in such a way defies logic and reality. I suggest the more likely possibility is that an Auditor-General could be seduced more readily by the private sector. After all, the Auditor-General subcontracts many auditing functions to the private sector. It could be argued, remote and ridiculous as it might sound, that that is a more realistic possibility - if one is looking for a possibility - than that put forward by the

Opposition. A private accounting firm, in an effort to obtain statutory or subcontracts audits, might attempt to seduce an Auditor-General with the offer of employment in the private sector.

I hope that my remarks have exposed the stupidity of the suggestion that the Auditor-General could in some way be potentially corruptible by a government but not by any other party. That is a ridiculous suggestion. The office of the Auditor-General is so high in the probity stakes that any suggestion that a government would attempt to corrupt the Auditor-General would be ludicrous. If that did occur, a government would suffer at the hands of the public. The Auditor-General could be relied upon to expose any attempts to corrupt his or her office. To deny New South Wales the services of an Auditor-General on completion of a term of employment - not necessarily paid services but in an unpaid capacity on various statutory or quasi-statutory authorities - would be a sad loss of the talents of an important person of high integrity. The people of New South Wales would be the losers. The Government rejects completely the proposition by the Leader of the Opposition, which would deny the Auditor-General an opportunity to serve the people of New South Wales in any capacity after completion of a seven-year term of office.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [5.12]: I shall read the words of the Minister for Sport, Recreation and Racing and Minister Assisting the Premier, the honourable member for North Shore and the Minister for Justice, encapsulated in recommendation No. 4 of the Public Accounts Committee in its report, which states:

It is recommended that an Auditor-General upon expiration of his or her term of office not be eligible to take up any position in the New South Wales Government.

The Opposition asks those members to live up to their words. That bipartisan report was supported and recommended in general, though not completely, by the Auditor-General. Recommendation No. 4 of that report, I believe, is not supported by the Auditor-General, but he is aware of its intent, hence the proposed amendment. The Executive Government could make a recommendation to an independent Auditor-General parliamentary selection committee, if established, that a former Auditor-General could take up a position in government. The Government, however, has rejected the proposal for the establishment of such a committee. The Minister for the Environment has suggested that a further

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amendment may be returned to this House to establish a form of parliamentary committee to oversee such appointment. At that time the Opposition will give further consideration to the establishment of a committee, if it is set up appropriately, to which the Executive Government may recommend a further appointment for a former Auditor-General. The Opposition, however, is not willing to allow open slather if the Government does not establish a committee. If the Government sets up a selection committee that is acceptable to the Parliament, the Opposition will evaluate the appropriateness of that mechanism. If a suitable committee is established, the Auditor-General should be encouraged to use his skills further in the public sector. Essentially the Opposition insists that an independent Auditor-General be selected by an appropriate parliamentary committee. A system is in the process of being established to allow further appointment of an Auditor-General after completion of his or her term, but until an acceptable committee is established the Opposition is not willing to allow open slather.

The CHAIRMAN: Order! Before calling on the honourable member for South Coast, I call the honourable member for Murrumbidgee to order. Standing orders provide that it is not appropriate for members to use recording devices in the House. The honourable member is using a portable computer. I ask him to desist. That ruling applies to all members.

Mr HATTON (South Coast) [5.15]: There are subtleties and things that are not so subtle in this matter. An Auditor-General who is given a job in the public service could be attached to a government department and come in contact with staff over whom he presided when Auditor-General. How tough can an Auditor-General be? An Auditor-General who is completely independent of the Executive Government, as Auditors-General have been and still are, can take a tough stand. The Canadian Auditor-General took the Canadian Government to court over access to what he said were not Cabinet papers but supporting papers in Cabinet concerning what he believed to be improper dealing in Petrofina shares in Canada. Allegations had been made that friends of the Canadian Government had gained by the manner in which the Petrofina takeover had been conducted by that Government. I hope that the New South Wales Auditor-General, if at any time it became necessary, would be willing to take the Government to court. The Auditor-General is on such a high plane of integrity because mechanisms are in place to keep him on that high plane of integrity. Deeper problems could arise with a national government than with a State government. The head of the Office of Public Management in the Premier's Department formerly was the Auditor-General of Victoria and was able to carry interstate his experience in the public service. I am implacably opposed to any opportunity being extended to an Auditor-General to be appointed by a government to serve in a government department, even if that selection is recommended by a parliamentary committee. An Auditor-General, like the Commissioner of the Independent Commission Against Corruption, must be absolutely independent and be seen to be absolutely independent of the Executive Government and of government in general.

Mr CHAPPELL (Northern Tablelands) [5.18]: I wish to refresh members' minds by reading schedule 2(2)(c), which it is proposed to amend:

The Auditor-General is not to hold any other position in the public sector during his or her term of office as Auditor-General or after the expiration of that term, except with the consent of the Governor.

That is a statement of principle that there ought to be separation between the role of Auditor-General and the likelihood of his ever being offered any other position of any

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kind, paid or unpaid, in the public sector. That is a clear-cut statement that a decision may be taken by any responsible government in the future to put such a recommendation to the Governor. That sensible escape clause implies extraordinary circumstances for the public good. The clause does not defend the principle that under normal circumstances the Auditor-General should have no further involvement in the public sector, but it implies that in special circumstances, when the government of the day recommends to the Governor that special circumstances exist in which an Auditor-General should be allowed to fulfil a further role, perhaps many years after having left the office of Auditor-General, an escape clause should be available. That clause will be sensitively applied and will overcome the absolute embargo that would be applied if the amendment is passed.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [5.19]: I am grateful for the contribution by the honourable member for South Coast, though he is completely and utterly opposed to the Auditor-General serving a government in any capacity after completion of his term of office, irrespective of the existence of a parliamentary committee to make such appointment. The Opposition's amendment differs substantially from the suggestion made by the honourable member for South Coast. The Opposition says it does not necessarily have any objection, but it considers there should be some process whereby a parliamentary committee may make an appointment or approve or reject an appointment. The honourable member for South Coast says it is a matter of principle and the Opposition says it is a matter of process. In relation to the matter of principle, in practical terms there is a greater degree of probability that an Auditor-General could be corrupted by his dealings with subcontract auditors in the private sector. The Auditor-General would undoubtedly have a relationship with the leading half-dozen accounting firms in New South Wales, and there is a possibility, remote though it may be, that an Auditor-General could

be seduced by one of those firms into farming out more work to the firm with a view to seeking employment with a client of that firm or with the firm itself.

It would put greater pressure on an auditor-general to be on the watch and more mindful of opportunities in the private sector on completion of his term and create greater uncertainty in his mind if he were completely shut out from ever serving a government in the future. There is a far greater risk of corruption in that scenario than if it were completely open to him or her to seek employment at some future time. Integrity would be preserved if no discussions or negotiations occurred and no mention was made by either side - either by the Auditor-General or anyone in the Government - of future opportunities for employment. I should say for the parliamentary record that it would be inappropriate for any member of the Government or the present Auditor-General to discuss or even to know what might be in mind during his term of office. That should be a guiding principle for both the Government and the Auditor-General during his term of office. I highlight the point that the honourable member for South Coast was speaking on the matter of principle whereas the Deputy Leader of the Opposition was speaking about the appointment process. It is to the principle that I have by far the greatest objection. There is much greater risk, remote as it may be, in locking out the possibility of appointment to the public service and leaving only the avenue of private service open subsequent to a fixed-term appointment.

Question - That the words stand - put.

The Committee divided.

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Ayes, 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 Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Dr Macdonald
Mr Merton
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 Rozzoli
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, 48

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 Hatton
Mr Hunter

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

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

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

Tellers,
Mr Beckroge
Mr Davoren

Question so resolved in the affirmative.

Amendment negatived.

Progress reported and leave granted to sit again.

PRIVATE MEMBERS' STATEMENTS

SHOALHAVEN HOSPITAL BEDS

Mr HATTON (South Coast) [5.31]: Shoalhaven hospital is critically short of beds. Two and a half years ago it had 125 beds and no day-only beds. It now has 88 plus day-only beds, a total of 96. Each fortnight an average of three patients are

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unnecessarily transferred by ambulance to Wollongong hospital. In the past year 73 patients were unnecessarily transferred. In my previous speech to the Parliament on this matter I emphasised the high cost of these ambulance transfers. Of 293 transfers, 177 or 60 per cent were unnecessary. Even the private hospital at Nowra could not cope. Of the 700 ambulance transfers, 351 patients were transferred to the Nowra community hospital, a private hospital. It is not a question of space. The reopening of 16 beds would restore Shoalhaven hospital to the position it enjoyed six weeks ago. There is room for an additional six beds at the back of the children's ward. Detailed figures were presented to independent auditors appointed by the Minister after he met representatives of the medical staff of Shoalhaven and Milton hospitals. More detailed figures will be presented this week.

The doctors are concerned. In their view the quality of care has been compromised and risks are being taken. The casualty doctors feel particularly stressed. They are under pressure not to admit patients unless they have to and they therefore feel exposed to unsafe

practices. Intensive care beds at the hospital have an 80 percent occupancy rate. The stays of less than two days are creditable and efficiency is high. I should like to refer to some typical cases of people who have been affected. Last weekend myocardial infarct patients could be kept in hospital for only 24 hours and were then transferred to general wards. That practice is considered to be unsafe. One patient suffering from a drug overdose was transferred to the intensive care at Royal North Shore Hospital as there were no night staff at Shoalhaven hospital. Another such patient was transferred to intensive care at Wollongong. Letters have been sent to the Minister. One such letter was from a mother of five whose children are asthma sufferers. She is experienced and is not a person who runs to the hospital for no reason. The youngest of her children is the worst sufferer. She avoids hospitalisation of her children because it adds to the trauma and exacerbates the condition.

She attended Shoalhaven hospital casualty and the doctor told her to go home and persevere with her treatment. No beds were available at Shoalhaven hospital and representatives of the Nowra hospital said the child could not be admitted because of lack of staff. She had had only eight hours of broken sleep during the previous 72 hours. Her son had to sleep upright all night. A second letter to the Minister was from a woman who suffered chest pains and exceptionally high blood pressure. She was taken by ambulance to Shoalhaven District Hospital casualty and had to wait several hours for a bed. She was told that no beds were available at Shoalhaven hospital or the Nowra community private hospital. She is a pensioner who pays the highest rate for private care, \$76.90 a month. That made no difference. In February her husband passed away. As the Minister knows, I have been active in promoting improvements to Royal Prince Alfred Hospital. I believe that patients in Shoalhaven hospital have lost their lives because of the inadequacies there. She was advised by Royal Prince Alfred Hospital that her husband needed two valve replacements and four bypasses. He was in Royal Prince Alfred Hospital for a week and was then sent home. He died in February. Three months later she received a letter saying he could have had the operation in June. I draw these matters to the Minister's attention because they illustrate the human side of the statistics. Shoalhaven has a high growth rate. The number of beds should be increased, not reduced. Patients have been placed in dangerous and traumatic situations.

Mr PHILLIPS (Miranda), Minister for Health Services Management [5.36]: I appreciate the issue raised by the honourable member for South Coast. In his remarks he indicated that he and officers of the board of Shoalhaven hospital had made representations to me. I am pleased to say that early in my time as Minister, I took the opportunity to visit Shoalhaven hospital and a number of other hospitals in that area. It

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appeared to me in the early stages of my time as Minister that on that weekend Shoalhaven hospital was working efficiently but under adverse conditions in terms of infrastructure, stock, et cetera. Work needs to be done at the hospital. Since the coalition parties came to office, the budget for the Illawarra has risen by \$30 million, a real increase of 7.4 per cent over and above the inflation rate. Those figures indicate that growth funding has been going to the Illawarra. Shoalhaven is in the southern part of that area and is the main growth area of the region administered by that particular area health service.

Following representations from the honourable member for South Coast and discussions with the chairman of the board and chief executive officer, I became concerned as to why a growth area such as Shoalhaven was not receiving appropriate growth funding. I wrote to the health service board to express my concern about whether the distribution of resources in the Illawarra was fair and reasonable. Following consultations the board, together with the department and an independent firm of consultants, has undertaken a study of the adequacy of distribution of resources in the area. I assure the honourable member for South Coast that as soon as the report is available, my office, in conjunction with the department, will work with the board and the executive of the area health service to resolve the issue of a proper distribution of resources in the Illawarra area. Apart from that, I can only say that during

these difficult recessionary times and with the cutbacks in funding, from Canberra, it is difficult to envisage substantial growth funding into the future.

SYDNEY TAFE COLLEGE COURSES

Ms NORI (Port Jackson) [5.39]: I wish to speak on cuts to courses in TAFE colleges as a result of restructuring of the TAFE system. The restructuring has led to enormous cuts in both courses and the intake of students. I refer particularly to the Sydney College of Technical and Further Education which is situated in my electorate. In that college there have been enormous cuts, mostly to the so-called non-vocational courses which are considered financially unviable. Financially unviable courses are defined as those courses where industry or commerce - that is the employers of the students - will not fund 50 per cent of the cost of running the courses at the TAFE. Therefore, areas of employment that are government funded, such as the welfare sector, areas funded through private charities and so on, which again is the welfare sector, and areas that are not consolidated to large firms, such as child care and hairdressing, will be drastically affected. I might point out it will affect more females than males, given the nature of the course and the gender that tends to be attracted to those courses. For example, at Sydney TAFE college the budget for welfare courses will be expected to cop a massive 68 per cent reduction. Last year 460 students were at different stages of various welfare courses. It has been estimated that with a 68 per cent budget cut a mere 30 of the 460 students who were enrolled there last year will be able to continue their courses; and some of these students have only a year to go to complete a diploma course. Many of them have paid fees for a number of years. It seems to me almost a breach of contract to be doing that to these students at this stage of their courses. Though other colleges appear not to be cutting back so drastically their budgets for these welfare courses, they will not be able to pick up the cast-offs from the Sydney TAFE college system.

Another disturbing trend at Sydney TAFE college is the dramatic reduction in the special adult matriculation courses - the night courses and the day matriculation courses. The principal told the teachers at that college that pre-vocational courses have the lowest priority. Again, it appears that at the Sydney TAFE college the cutback in the
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intake of higher school certificate students is greater than that at other colleges within the region. I am not quite sure why that is the case. For example, in 1991, 260 students were enrolled in the SAM course. Next year there will be only 92. That is a massive reduction in the number of students. In 1991 there were five English classes; next year there will be only two English classes. That demonstrates just how drastic these cuts have been. The SAM course offers many adults the only chance they will ever have to matriculate. It is a part-time evening course for people who cannot return to school for various reasons - because they cannot afford the two years off work or because it is an inappropriate environment for them as mature adults to be running around with 18 year olds in the school system. Some of the students doing their HSC do not need to study for two years. They may have already done the required amount of study and merely need to update their existing qualifications to Australian standards.

In 1991 there were 700 applicants for the day matriculation course but only 220 could be accepted. The intake next year will be only 125. That is a massive drop. Six years ago the day matriculation class had 600 students. Of course, the night matriculation course, which is the method I used to matriculate back in 1976 or so, no longer exists. It is a far cry from the days when TAFE really did offer a second chance education for many people in New South Wales. Subject choices have also been cut drastically; computer studies have gone; four unit maths have gone; languages courses have been drastically reduced. TAFE is clearly no longer providing a clear subject choice for older students. I am concerned because I think this is the first step toward getting rid of the HSC altogether from the TAFE system. I reject the notion that has been put forward in some quarters that the tertiary preparation courses provide an adequate system that could replace SAM courses. The tertiary preparation courses are not being expanded. The tertiary preparation courses are not as highly recognised by employers

as the SAM courses or the day matriculation courses. In fact, they do not allow entry into all universities, and doing them part time does not allow one to matriculate in the way that one matriculates by doing the special adult matriculation classes. It is also disturbing to note that funding for the English support classes for matriculation students has been abolished for 1992. Those classes will no longer exist. I totally reject the notion that the HSC is not a vocational course, because it is so clearly a prerequisite for so many jobs and careers. Even for a person who wants to be an apprentice carpenter the HSC is now highly regarded; in fact, it is almost obligatory. There are not too many courses that do not require a HSC for study.

Mr YABSLEY (Vaucluse), Minister for State Development and Minister for Tourism [5.44] : I have listened carefully to what the Minister for Industrial Relations and Minister for Further Education, Training and Employment has had to say on the subject of pre-vocational and non-vocational courses being offered through technical and further education colleges, and I think it is worth relating to the honourable member for Port Jackson and other honourable members that, as I understand it, the nub of his concern is that under the circumstances where resources are limited, as inevitably they are, and priorities have to be established, priority is given to many of these pre-vocational and non-vocational courses at the expense of vocational courses that will provide real jobs in the short term for people who so desperately need them, particularly school-leavers. In re-establishing priorities and making difficult decisions about where resources have to go, the Minister has no desire to see educational opportunities limited and has no desire to see people deprived of the opportunity to commence or further their studies. It is a matter of giving careful consideration to establishing what the priorities should be. It is my understanding from what the Minister has said that the review that is currently taking place should in no way affect the availability of matriculation courses. It is very much part of his vision to provide opportunities to young people who want to matriculate,

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who want to get into the job market, who want to have a continuum in their studies while pursuing a vocational career. I simply make the point that I have heard the Minister make on repeated occasions: under circumstances where resources are limited and the choice has to be made between vocational and non-vocational courses - there is no point in just wishing in a very optimistic way that we can have the lot - emphasis is being placed on those vocational opportunities.

BELLINGEN SHIRE GRAVEL EXTRACTION

Mr FRASER (Coffs Harbour) [5.47]: I wish to draw the attention of the House to action taken on 3rd December by the Bellingen Shire Council concerning river gravel extraction from the Kelang and Bellingen rivers in the electorate of Coffs Harbour. It appears that the Bellingen Shire Council, acting on advice from Abbott Tout Russell Kennedy, solicitors from Sydney, decided that in accordance with ordinance 105 of part XIA of the Local Government Act it would cease gravel operations within the shire. It decided not only that it would cease, but also that it would stop all private contractors from extracting gravel from any rivers within the area. In taking that decision I believe the council has taken on an issue which is of statewide importance. It has even noted in its own council minutes as follows:

The implication of Ordinance 105 may even cast doubt on the use of gravel from any pit, even outside the Shire. Council needs to recognise that this uncertainty exists even when using gravel from the Readymix pit.

It is now advocating that it will not take any gravel from within the shire, but that it will take gravel from outside the shire, whether or not it is being obtained illegally, as is suggested by its legal advisers. The actual extraction operation is illegal. By taking this decision it has added a rate burden estimated somewhere in the vicinity of \$300,000 on the ratepayers of Bellingen shire. I believe that there are political motives behind this decision. I believe it is the council's purpose to embarrass this Government over compliance with the provisions of planning and assessment Acts and matters concerning the extraction of gravel across the State. It is trying to appear to be the saviour of New South Wales, while at the same time ignoring the local people employed in the gravel extraction industry. Earlier this year I approached the Minister for

Planning about the fact that the council was not allowing local contractors existing use rights in respect of gravel pits in the area, yet it was claiming existing use rights in respect of several pits out of which it was operating. It was forcing local contractors, Mr Keogh and Mr Raymond in particular, to undertake environmental impact studies and to spend tens of thousands of dollars proving existing use rights. At the same time the council was extracting gravel from parts of the river where, in living memory, gravel had never previously been extracted, and selling it. It did not use this gravel on its own roads, which is the usual practice of councils. The council sold it. In a letter the council wrote to the Department of Planning it said:

Therefore Council does not believe that it is disadvantaging any private individuals by operating outside of the statutory provisions as suggested in your letter.

On 27th November council finally came clean because it knew the Minister and I were looking into the matter. It admitted that it had sold to Readymix \$120,000 worth of gravel, acting totally opposite to what it suggested in its letter to the Department of Planning. It was disadvantaging local contractors who had been removing gravel for years. The council refused to recognise their existing use rights, went over the top of them and approved its own use rights. It was competing against the contractors and selling the gravel to the people the contractors had previously been supplying it to -

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Readymix. The council in this case has acted, and is continuing to act, in a manner contrary to the way in which councils should act. The council has now stopped its gravel extraction. The council is using \$300,000 of ratepayers' money at Bellingen - for a purely political motive - orchestrated probably by Councillor Joe Thompson, who was a member of the upper House of this Parliament at one stage - in an attempt to embarrass this Government over gravel extraction. The council needs the gravel to repair roads and for building purposes. The suggestion that the gravel will be bought from outside the shire when it is admitted that other councils might be acting contrary to ordinance 105 is nothing short of hypocrisy at the very least. I suggest that the Minister for Local Government and Minister for Cooperatives should have a good look at Bellingen council, see how it has been operating and see whether it is now acting in the best interests of the people - not only the gravel extractors but the ratepayers.

Mr YABSLEY (Vaucluse), Minister for State Development and Minister for Tourism [5.52]: I understand the concern raised by the honourable member for Coffs Harbour.

Mr Hartcher: A hard-working local member.

Mr YABSLEY: Indeed, he is a hard-working local member. I will ensure that his concerns are related to the Minister for Local Government and Minister for Cooperatives.

GLADESVILLE BRIDGE MARINA

Mr J. H. MURRAY (Drummoyne) [5.53]: I wish to draw the attention of the House to the continuing saga of the Gladesville Bridge Marina. Honourable members would be aware of the sham of this Government's actions in handing over a public park to a private developer against the wishes and better judgment of the local residents and local council. In fact, Howley Park is the only park on the Sydney foreshores from which a developer can now earn money. Unfortunately, this will not be a park any longer because it now belongs to the Minister's mates, for only \$7,500 per annum. A proper valuation of the leasing fee would be closer to \$95,000 per annum. Honourable members would also be aware that the actions of the proprietors of the Gladesville Bridge Marina have been the subject of a number of legal actions by Drummoyne council. In case the Minister has forgotten, one of these matters has been decided, with Justice Stein being most critical of the Gladesville Bridge Marina in extending without authority its moorings from 45 to 90. The judgment directed the marina to hand back these illegal moorings but gave it a six-month period of grace. This court case exposed the shady and dubious activities of a number of Maritime Services Board employees and Ministers of this Government.

The proposed sale of this marina now fully supports the stand I have constantly taken over the past three years in relation to decisions by this Government concerning the dubious and unlawful activities of the Gladesville Bridge Marina. At the same time, other matters were before the court relating to illegal use of the park - lack of environmental impact statements and illegal building work. I fully comprehend why this Government has been protecting the Gladesville Bridge Marina but in all my time in Parliament never have I seen such heavy-handed and authoritarian action as that of the Minister for Local Government and Minister for Cooperatives last week when he sent the head of his department, Gary Payne, to coerce the council into dropping its legal challenges. The day before council considered a rescission motion to withdraw all legal actions against the Gladesville Bridge Marina the head of the local government department met with senior officers and the mayor obviously in an attempt to place pressure on the council to drop its actions. Not satisfied with this meeting, the

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departmental head then stayed behind and spoke in confidence with the mayor in the council car park. I understand that two or three days prior to this meeting the proprietors of the Gladesville Bridge Marina also had a meeting with the head of the local government department.

It is interesting to note that now that legal action has been withdrawn and the State Government has legitimised the takeover of public parkland by private developers there is a "for sale" notice in the *Sydney Morning Herald*. It is obvious that the developers are now going to flog off their enhanced development. In summary, the proprietors of the Gladesville Bridge Marina will benefit materially from this Government's actions and the taxpayers of New South Wales will lose parkland which originally was theirs. To compound this sham, recent evidence before the Independent Commission Against Corruption revealed that a past Liberal alderman had been paid money by the proprietors of the Gladesville Bridge Marina to lobby on their behalf whilst in council. To recap, the Government has given public parkland to a private developer. The rent is only a token rent. Objections by the local elected council and local residents have been overruled by the Government. The State Government has undertaken a series of actions aimed at intimidating Drummoyne council into withdrawing its legitimate objections to the actions of the developers. Now the activities of the Gladesville Bridge Marina have been legitimised by the Government the developers are taking their profits and running.

The State Government's actions have created a precedent which will allow any developer to take over public parkland for his own benefit. Tonight I call on the Minister to give an undertaking that when the marina is sold that section of public land in Howley Park given over to the Gladesville Bridge Marina will be withheld from sale and returned to the people of Sydney. Alternatively, if the Government once again caves in to its mates, surely the Minister should seek recompense on behalf of the taxpayers as a consequence of the increased value of the marina arising from the Government's actions in handing over public land to the marina. I also ask that the Minister advise the Attorney General to refer evidence from the Independent Commission Against Corruption regarding the activities of the proprietors of the Gladesville Bridge Marina to the Director of Public Prosecutions.

Mr YABSLEY (Vaucluse), Minister for State Development and Minister for Tourism [5.57]: The allegations of the honourable member for Drummoyne are very serious, but he often makes serious allegations which have absolutely no substance. Whether they have substance or not, what we have just heard must be one of the greatest examples of the pot calling the kettle black. The honourable member for Drummoyne counts amongst his closest friends some of the greatest shonks and con men who have ever operated in the area of local government. Oh how he cringes when we mention the name Fitzgerald, who fits in perfectly to the category of persons I described. Apart from the shonks that the honourable member for

Drummoyne has fraternised with and counted as his close colleagues in local government, let us cast our minds back and focus attention on the arrant hypocrisy of the honourable member for Drummoyne. What did he do or say when the previous Government -

[Interruption]

Mr ACTING-SPEAKER (Mr Chappell): Order! The honourable member for Drummoyne has had his opportunity to speak.

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Mr YABSLEY: - was about to hand over a large slice of the Hermitage Reserve in Vacluse to one of its close mates? There was not a murmur. In one of the most humiliating exposures of a shonky, crook and putrid deal involving the allocation of public land to a private individual, it was forced to back down because the whistle was blown on it by one of my very distinguished predecessors, the member for Vacluse, Mrs Rosemary Foot. In saying all of that I do not seek to make any judgment on the matter that the honourable member brings to the House, because I do not know anything about it. However, I am sure it will be considered in the appropriate way. It is beyond the pale for the honourable member for Drummoyne to make judgments about anyone. He is totally unqualified to do so for the reason that I mentioned: amongst his close friends and colleagues are some of the greatest shonks and crooks local government in New South Wales has ever seen.

TAREE POLICE STAFFING

Mr TURNER (Myall Lakes) [6.0]: My concern relates to police strength in Taree, particularly with the forthcoming busy Christmas period. There is widespread concern by both the police and the community of the reduction in police strength in Taree. Although I would be the first to admit that police were overstrength in Taree, the fairly dramatic decrease in police numbers in the past few months has been alarming. A number of police have been transferred to Port Macquarie. Though I do not have the figures, I am informed by the community that the crime rate in Port Macquarie is less than that in Taree, yet the Port Macquarie police strength is being bolstered. I have asked the Minister for Police and Emergency Services to provide me with details of the crime statistics for Port Macquarie and Taree so that I can make comparative statistics. I have also asked for that information on a statewide basis, to ascertain whether Taree has an equitable manning.

As Taree has a crime and vandalism problem I should not like to see the police strength reduced further. The recent upsurge in crime and vandalism within the community has been disturbing, not the least being anti-social activities at Purfleet on the Pacific Highway, where stones are being thrown at passing cars. This can only lead to serious accidents and possible deaths. It does intimidate many people. The other day one lady told me that for the past three years she has been unable to travel to Taree through Purfleet at night as she is frightened of stone throwing. I hope that beat police will return to Taree. It would be fitting for beat police to return to Taree over the Christmas period and during the currency of this outbreak of vandalism. Beat police provide a deterrent. One of the best initiatives of this Government was to put the police back on the beat. I well remember as a young child seeing police on the beat. It gave me a feeling of security. I know that many adults have a sense of security when they see police on the beat. I urge the Minister for Police and Emergency Services and the Commissioner of Police to return beat police to Taree over this period.

I should also like to see a change in the patrol mechanisms at Taree. Naturally most trouble occurs at night and early morning. As I understand, only one patrol car operates at night in Taree. I realise it is a matter of manpower and of adjusting times to suit people, but it

would appear that crime is rife in the evenings and early mornings. That should be the time when patrols are maximised within the community. Perhaps this should be examined at patrol level. It is important to have beat police presence during the day and patrol police at night to deter vandalism and other criminal activity. I am pleased that the Commissioner of Police has agreed that there should be a police presence this Christmas at Old Bar, an area that has been experiencing considerable problems. I congratulate the Minister for Police and Emergency Services on arranging that through

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the Commissioner of Police. I know that the people of Old Bar are pleased to have that facility.

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [6.4]: On behalf of the Minister for Police and Emergency Services I acknowledge the contribution made by the honourable member for Myall Lakes and I undertake to refer the issue of the presence of beat police in Taree to the Minister so that he may reply directly. I also acknowledge the comments made by the honourable member confirming the impact that beat police have had on the crime rate in New South Wales. The crime rate has been reduced as a direct result of the introduction of beat police, which has been one of the single, greatest measures taken in law and order by the Greiner Government since the 1988 election. There is no doubt that the presence of beat police on our streets has done an enormous amount to reduce crime and will go on reducing crime throughout New South Wales. It has also done a great deal to restore confidence and contact between the community and the Police Service. As to the availability of additional beat police in Taree, I am unable to comment, but I am sure the Minister will reply directly to the honourable member in due course.

Private members' statements noted.

PUBLIC FINANCE AND AUDIT (AUDITOR-GENERAL) AMENDMENT BILL (No. 2)

ANNUAL REPORTS LEGISLATION (AMENDMENT) BILL (No. 2)

In Committee

Consideration resumed from an earlier hour.

Schedule 2

Amendment by Dr Refshauge agreed to.

Page 12, Schedule 2(2)(e). Omit "Minister", insert instead "Governor".

Schedule as amended agreed to.

Bill reported from Committee with amendment, and cognate bill reported without amendment, and report adopted.

DISORDERLY HOUSES (AMENDMENT) BILL

Suspension of certain standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [6.10]: I move:

That this bill be now read a second time.

The Disorderly Houses Act was enacted in 1943 primarily in the interests of national security, to keep American servicemen out of the sly grog shops and unlicensed night clubs that proliferated in Sydney at that time. There was also a concern to protect nearby residents from rowdy parties attended by servicemen visiting such premises. As a result of this legislation a house or premises where drunken or indecent entertainment or behaviour occurs, where liquor or drugs are sold unlawfully, or where criminals consort, can be declared a disorderly house by the Supreme Court. After the declaration has been made a person who enters the premises is guilty of an offence under the Act. So too is the occupier, if he or she allows the disorderly conduct to continue, and the owner, if he or she does not take steps to evict the occupier. A police officer may also enter the premises without a warrant at any time and seize any liquor, drugs or related items found on the premises. An amendment to the Act made in 1968 added "premises habitually used for prostitution" to the classes of premises that can be declared disorderly. This amendment was introduced to prevent prostitutes flouting the law by operating individually from premises and, thereby, being protected by the 1967 Court of Appeal decision that held that prostitution by one woman in private did not constitute indecent conduct for the purposes of the Act.

The Act has rarely been used in recent years. However, in 1988 the Court of Appeal, in *Sibuse v. Shaw*, decided by a two to one majority that a brothel is a disorderly house for the purposes of the Act regardless of whether or not it is actually disorderly in the usual sense of the word. An order was then made by the court declaring the brothel in question to be a disorderly house, thereby effectively closing it down. If police enforce the law as it now stands, well-run, orderly brothels will be closed down, forcing prostitutes back on to the streets of Sydney and other places throughout New South Wales. This will result in more street prostitution, which generally is undesirable. Health and social workers also have more difficulty reaching street prostitutes. Moreover, street prostitutes are more likely to be carriers of the human immunodeficiency virus than prostitutes who work in brothels, where there can be some medical supervision and enforcement of the use of condoms. Though the Government does not wish to regulate brothels closely, it is undeniable that brothels will continue to exist irrespective of their legal status. As brothels are considered at present to be disorderly houses and, as such, are subject to closure, any lack of action by police to close them down will no doubt lead to allegations of corruption. However, as I have suggested, the closure of brothels would have unacceptable implications for public health and the spread of AIDS.

No society or police force anywhere in the world has found a way to eliminate prostitution. Interstate and international police officers advised me when I was a member of the Select Committee upon Prostitution of their inability to stamp out prostitution. They said that if they attack one form of prostitution, it manifests itself in another. The Disorderly Houses Act 1943 was last amended 23 years ago and is in need of revision. The bill will overturn the decision of *Sibuse v. Shaw* so that in future a brothel may be declared a disorderly house only where it offends one of the other criteria of disorderliness set out in the Act. The use of premises for prostitution will not ipso facto be sufficient for those premises to be declared disorderly. The criteria of disorderliness include situations where drunkenness or the unlawful supply of liquor or drugs takes place on premises, or where reputed criminals frequent the premises. In respect of brothels declared to be disorderly houses prior to the commencement of these amendments, the owner or occupier of the premises will be able to apply for rescission of the declaration of disorderliness if he or she can satisfy the Supreme Court that the declaration was made solely because prostitution occurred on the premises. The bill makes consequential amendments to the Summary Offences Act 1988 and the Crimes Act 1900 to make the

law consistent in regard to the decriminalisation of brothels. The Crimes Act will be amended to abolish the common law offence of keeping a brothel or bawdy house. Section 15 of the

Summary Offences Act will be amended to provide that it is not an offence for the owner, manager or employees of a brothel to live on the earnings of prostitution.

Importantly, persons who live on the earnings of prostitution that does not take place in a brothel will still be liable to prosecution under section 15 of the Summary Offences Act. Pimps of street walkers would fall into this category of persons. Once living on the earnings of prostitution in brothels is made legal there will be a need to protect prostitutes from exploitation. The new section 15A of the Summary Offences Act, which is based on a similar provision introduced recently into the South Australia Parliament, will provide this protection. It will apply to any prostitution regardless of whether it occurs in a brothel. Proposed subsection (1) will include in its ambit those who induce a person to become a prostitute for the first time. The Government has taken a mature, responsible stance with regard to prostitution. In doing so I believe the Government has maintained the attitude towards decriminalisation that was demonstrated from time to time by the previous Labor Government. I emphasise that the Government has no intention of legalising and regulating prostitution. Indeed, the Select Committee upon Prostitution, of which I was a member some years ago, did not advocate the legalisation of prostitution, rather that governments should pursue the path of decriminalisation, down which we take a further step with this legislation. Everyone would agree that if prostitution is to continue, which it undoubtedly will in this and every other society, it is better that it should occur in well-run brothels rather than on the street where prostitutes and their clients are prey to the worst of abuses and dangers associated with prostitution. This bill reflects that view, and I commend it to honourable members.

Debate adjourned on motion by Mr Whelan.

[Mr Acting-Speaker (Mr Chappell) left the chair at 6.17 p.m. The House resumed at 7.30 p.m.]

JOINT SELECT COMMITTEE UPON THE PROCESS AND FUNDING OF THE ELECTORAL SYSTEM

Mr MOORE (Gordon), Minister for the Environment [7.30]: I move:

That this House refers to the Joint Select Committee upon the Process and Funding of the Electoral System the following specific matters for investigation and report:

- (i) Mandatory disclosure of the original source of contributions to political parties, groups or candidates, whether financial or in kind;
- (ii) Disclosure to be made annually by a declaration of income and expenditure no later than 30 days after the end of each financial year;
- (iii) Unsuccessful candidates and groups to disclose any donation, whether financial or in kind, after any election in which they were candidates;
- (iv) Mandatory disclosure of all forms of income and expenditure by third parties which involve themselves in the political process;
- (v) Disclosure of all donations made between the previous election and the announcement of the current election no later than two days after the election announcement;
- (vi) (a) Where a candidate or party fails to disclose sources of funding, or makes a false or incomplete declaration of sources of funding, that candidate or party

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shall be ineligible to receive funding from the Election Funding Authority for five years following the date of the election for which there was failure to disclose, or a false or incomplete declaration was made; and

- (b) The Election Funding Authority be restructured to provide for the part-time commissioners to be the Ombudsman and Auditor-General, replacing the nominees of the Government and Opposition parties.

The recommendations to be referred to the committee form part of the charter of reform which the honourable member for South Coast, the honourable member for Bligh and the honourable member for Manly have put to the Government for consideration. The Government and the

Independents acknowledge that many of these proposals for reform are complex and will require detailed examination by the committee in order to ensure that they can be effectively implemented. The Government also acknowledges the need for reform in this area, as is evidenced by its establishment in May 1990 of a parliamentary committee to consider election funding issues. Though it is clear that these matters are already in the terms of reference of the committee, the Government considers that they ought to be specifically referred to the committee for attention. The loopholes in the existing legislations have meant that the desired end of ensuring that adequate disclosure of donations is made has not been achieved. The distinction that currently exists between political contributions and donations for administrative or maintenance purposes is a clear example of an existing provision which provides scope for avoiding disclosure of donations. The removal of this artificial distinction between funds will ensure that all donations made in excess of the prescribed minimum amount would be required to be disclosed. This seems sensible if the legislation is to achieve its objective of ensuring full disclosure. A number of other matters, such as disclosure of expenditure by third parties, raise difficult problems of definition. I am sure that the joint committee will examine these matters thoroughly and will come back in a timely fashion with balanced and workable recommendations. I commend the motion.

Mr WHELAN (Ashfield) [7.33]: The Opposition agrees to the proposed reference to the Joint Select Committee upon the Process and Funding of the Electoral System. The Australian Labor Party is well represented on that committee by the honourable member for Wallsend and the honourable member for Rockdale. The reference is detailed and lengthy but discussions with Australian Labor Party representatives on the committee lead me to believe that much of that work already has been undertaken by the committee. Under paragraph (v) of the motion the committee will examine disclosure of all donations made between the previous election and the announcement of the current election no later than two days after the election announcement. The committee will consider matters such as accounting, costing and penalties that should be applied. Such disclosure to be examined by the committee will prove to be an onerous obligation on members of Parliament. If such disclosure is to be satisfactorily made, sufficient funds should be made available so that members may comply in all respects, as it is implied in the Government's recommendation that such a requirement will become the norm and law. Paragraph (vi)(b) provides that the Election Funding Authority shall be restructured to provide for the part-time commissioners to be the Ombudsman and Auditor-General, replacing the nominees of the Government and Opposition parties. The focus of that paragraph originated in the wish of Independent members that the major political parties have a less authoritative domain or influence. Earlier the Opposition was influenced by decisions of the Public Accounts Committee when the Public Finance and Audit (Auditor-General) Amendment Bill (No. 2) and Annual Reports Legislation (Amendment) Bill (No. 2) were being considered by the House. The Opposition supports the proposed reference to the Joint Select Committee upon the Process and Funding of the Electoral System and looks forward to presentation

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of a report to Parliament by that hard-working body.

Motion agreed to.

Message

Message sent to the Legislative Council advising it of the resolution and inviting it to agree to a similar resolution.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Mr MOORE (Gordon), Minister for the Environment [7.38]: I move:

That this House refers to the Committee on the Independent Commission Against Corruption the following matters for investigation and report:

(i) A review of the adequacy of the existing pecuniary interest provisions applying to Members of Parliament;

(ii) A review of the adequacy of existing pecuniary interest provisions applying to senior executives;

(iii) An examination of the need for and suggestions as to the content of a code of ethics for Members of Parliament. This might take into account the provisions already applying to Ministers and suggestions as to how these provisions might be streamlined and incorporated into a more general code which would apply to all Members of Parliament.

The recommendations to be referred to the committee form part of the charter of reform which the honourable member for South Coast, the honourable member for Bligh and the honourable member for Manly have put to the Government for consideration, with the exception of the last matter mentioned, which arises out of a recommendation of the Independent Commission Against Corruption. It seems appropriate, however, to examine these issues together with a view to determining these questions across the board. It is clearly crucial for adequate pecuniary interest provision to be in place both for members of Parliament and persons in senior executive positions. There has been some criticism of the existing provisions applying to members of Parliament and a number of inadequacies have been identified. These include: the complexities involved in disclosure of interests in corporations; failure of existing provisions requiring members to notify alterations to their financial positions during the year; the discretion which currently exists regarding disclosure of matters which may give rise to conflict between private interest and public duty; and the absence of a requirement to disclose family interests.

I announced as part of my contribution to the debate on the agreement between the Premier and the non-aligned Independent members the intention of the Government and of the Premier and the Independent members to refer the question of a code of ethics to a parliamentary committee. The Premier repeated that intention earlier during the election campaign. The Government considers that there is merit in introducing a code that could guide members of Parliament, particularly new members, on their duties and responsibilities. The Independent Commission Against Corruption recommended the introduction of a code in its report on the investigation of Messrs Neal and Mochalski. That report made the point that members of Parliament lack guidance, particularly in relation to their dealings with their constituents. It would seem appropriate for the committee to examine this issue in conjunction with its examination of pecuniary interest provisions. The Government is of the view that the parliamentary committee is best placed to examine these issues in detail and put forward suggestions for improvement of the current provisions and recommend the matters that ought to be addressed in a code

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of conduct for members of Parliament. I commend the motion.

Mr WHELAN (Ashfield) [7.41]: I am tempted to make some comments about the Premier's much stated disclosure provisions and ministerial accountability. First, I owe the honourable member for Gosford an apology. When speaking to the previous motion I did not refer to other members of the committee, who work so hard - and they do work hard. I have served on many parliamentary committees, including the Committee on the Independent Commission Against Corruption. It is a hard-working committee. Its latest report gave rise to legislation in this Parliament dealing with the rights of individuals. This reference to that committee is an appropriate reference - appropriate, because the committee will have wide-sweeping powers in the Parliament to inquire into and examine the existing laws as well as to research a difficult subject for members of Parliament.

As I keep saying to my colleagues, it is the failure to disclose pecuniary interests that is the problem. The way the present law is drawn, a member of Parliament has an obligation under the law and will offend the law, as you would know, Mr Acting-Speaker, if he does not disclose a bequest that may not have been processed through the court. If the parents of a member of Parliament die and leave him or her their estate, even though probate has not been granted, the member will have committed a technical breach if he or she fails to disclose the

bequest. That sort of ridiculous feature of the legislation has to be analysed. The reference to the committee goes somewhat further. First, the committee will examine the existing policy and the difficulties that arise thereunder. There is no reference to the administration of the Clerk of the Parliaments. It is ridiculous for him to be asked to arbitrate on such a matter and to give advice to members with no guidelines. I can recall the O'Connell committee. Keith O'Connell, the former member for Peats, who was the chairman of the original committee, laid down the guidelines. Those guidelines never became part of the legislation. The members of Parliament went away, having placated what they thought was public pressure, leaving the Clerk to work out how the pecuniary interest provisions would apply. Perhaps the committee could resolve those problems.

The concept that senior executives have an obligation - though I notice that the motion contains the word adequacy - is new. There is no obligation on senior executives to disclose pecuniary interests. That will be a step in the right direction. Perhaps in time to come it will be incumbent on senior executives, as Labor Party policy provides, to disclose pecuniary interests in the same way as do members of Parliament, town clerks, general managers in local government and people in any position of power and influence. That would ensure that they comply in all respects with the provisions of the Act, as members of Parliament do. It is interesting that the same committee is examining, under the auspices of Mr Peter McClellan, Q.C., the guidelines laid down for local government. The Committee on the Independent Commission Against Corruption and its chairman will be smart enough to pick up what Mr McClellan is doing in relation to the disclosure provision in regard to local government. Lastly, I refer to the code of ethics for members of Parliament. I wish the committee every best wish for that.

Motion agreed to.

Message

Message sent to the Legislative Council advising it of its resolution and inviting it to agree to a similar resolution.

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SUPERANNUATION ADMINISTRATION BILL

Second Reading

Debate resumed from 4th December.

Mr E. T. PAGE (Coogee) [7.47]: The major elements of this legislation, foreshadowed previously with the amending bill, concern the separation of the present State Authorities Superannuation Board trustee, management and investment roles. The bill provides for the creation of a trustee board and also a separate statutory corporation to undertake the scheme's administration and investment management on behalf of and at the direction of the trustee board. Though there is no argument that the superannuation board has done a good job, it has been recognised that the demands of the deregulated finance industry require a change in the board's make-up to allow the expertise of the arrangement to be boosted. It must be recognised that with more than 400,000 members and assets well in excess of \$11 billion, the present board administers the largest superannuation scheme in Australia. That is a significant sum in terms of any financial corporation. It is believed that the proposed changes will open the way for professional investors to maximise the scheme's investment potential.

The bill will separate the State Authorities Superannuation Board into a trustee board and the State Superannuation Investment and Management Corporation. That corporation will have a separate board of directors, with a part-time chairperson and a soon to be appointed managing director. The corporation will have a commercial orientation. It will be able to

compete for business on the open market as well as undertake the administration of public sector superannuation funds in New South Wales. It should be recognised that the Commonwealth Occupational Standards Act and accompanying regulations set out the rules under which the system will operate. Schemes that do not comply with those requirements may lose their taxation shelter. Therefore, it must be borne in mind that any alteration to the superannuation board will need to comply with the Federal regulations. I foreshadow that the Opposition will raise in future any anomalies that might put in jeopardy the integrity of the board's operation.

I intend to move an amendment to clause 5(10) which I believe will be accepted by the Minister. The clause provides that those members who hold dual positions will automatically lose their positions at the expiration of 12 months from the date on which the Act comes into operation. The purpose of the amendment is to allow for that decision to be determined in the light of experience. If the appointments prove to be worth while and successful, the amendment provides that they will not automatically cease at the expiration of 12 months. The Minister will retain a discretion whether or not to persist with the cross-membership after the agreed period of 12 months has elapsed. The labour movement has generally agreed about the possible close relationship between the Minister and the board of trustees and the board of the corporation. Concerns still remain about the provision of resources to the board. The legislation provides that the provision of these resources will be restricted to the public sector. The Opposition requests the Minister to undertake to review in 12 months' time both the issue of resources and the relationship between the Minister and the board. After the expiration of that period, sufficient experience should be gained to decide whether there is need for change. On behalf of the Opposition I seek those assurances and indicate that I will be moving the amendment to which I have referred.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Minister for Further Education, Training and Employment [7.51], in reply: I thank the honourable
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member for Coogee for his support of the bill. That support has been a long time coming. There is little doubt that the administration and operations of public sector superannuation in this State needs to be streamlined. A clear distinction needs to be drawn between investment and administration powers and the role that trustees should and must play. The bill will allow that distinction to be drawn. For good reasons the bill will ensure that the income generated from the board's operations will be enshrined for all time for the benefit of members. That is entirely appropriate. I do not believe it has ever been suggested that the Government would interfere with that income for purposes other than those provided in the bill. During the past 12 months that has been the major bone of contention between the Government and those representing the labour movement in this State. Considerable discussion has been directed at overcoming these difficulties. In my discussions with members of the Labor Council, it was always clear that we had the same aim, which was to protect the members and ensure that maximum benefits would accrue to all members of the scheme - I might add those members now include parliamentary members - and that the administration of the scheme should have no other purpose.

The honourable member for Coogee expressed one or two concerns which I am happy to address. The labour movement wanted a separate provision in the bill to ensure resources were available to service the trustee board. It is my view that the trustee board has all the resources it could ever want. It should be noted that the bill provides for a transfer of the present system. The name will be changed but the operation will not alter in the strict sense of administration. At present almost 700 people are employed by the State Authorities Superannuation Board. The resources of those 700 people are available to the trustees. The resources of the Attorney General's Department, the Auditor-General, Treasury and other government departments and agencies are also available. It is open to the trustees to seek advice from those sources. I am concerned that the trustees should not establish their own independent administration. They will control the whole operation on behalf of the members.

The establishment of a specific independent administration would be counterproductive and unnecessary. If difficulties arise, I will be more than happy to undertake a review within 12 months. If the trustees believe that they are not able to obtain the advice they require through the resources of government without additional assistance, I will be sympathetic to any argument they may raise after the bill has been operation for 12 months.

The second matter of concern was the relationship between the powers of the Minister, and the directions he or she may give, and the corporation and the trustee board. In that regard I draw the attention of honourable members to organisations such as the Electricity Commission, the Grain Handling Authority and other corporatised agencies that under the relevant legislation are at arm's-length from government. The Minister will have to accept responsibility. Under the Westminster system, it is ultimately the Minister's throat that will be cut. It would be somewhat silly to remove the connection between the Minister and the operations of the State Authorities Superannuation Board schemes. The bill provides for the retention of the power to give directions. I suggest that is a practical provision which relates to budgets and ensuring that the operation is run efficiently. I am sure the trustee board members will endeavour to deliver the services to members in the most cost-efficient way. However, trustees of any board, of a superannuation fund or otherwise, ought to be accountable. The connection between the Minister and the trustee board is there, and the Minister will have the ultimate responsibility. That is appropriate, because if something went wrong, the honourable member for Coogee and other members on the Opposition benches would pay little regard to claims that the legislation did not allow me to ask questions of the board or indicate that it was appropriate for them to deal with their obligations in a certain way.

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They would say it was my responsibility and I should therefore have the power to ask questions and give directions.

As the scheme unfolds in the next 12 months, I am sure it will be obvious that I am not an interfering Minister. I believe in strict accountability and I follow the operations of my portfolio closely. However, no directions unless they are warranted will be given that will cause the slightest concern to members of the trustee board. Obviously I will have to justify any such directions. I will be happy to review the connection between the Minister and the trustee board at the expiration of 12 months. I am sure that provision will be seen to be entirely appropriate and consistent with the provisions applying to many other government organisations of a similar nature. Throughout the entire period of consultation and discussion about the development of this legislation, there has been some degree of uncertainty about the role of a trustee board, the individual members of such a board, and the duties, obligations and powers of an operation involving administration and investment.

On the appointment of the various boards - that is the board of the corporation to be established by the legislation and the trustee board - I intend to set out very clearly the powers and functions of each member so that confusion can be removed once and for all. The setting out of those powers and functions will ensure that there can be delivery of services, with a clear delineation between the trustee board and the corporation board. I again thank honourable members opposite for their support of the bill. I inform the honourable member for Coogee that the Government will accept the amendment that has been discussed in the past few hours with members of the Opposition. I would specifically like to thank the Secretary of the Labor Council, who has spent many hours discussing this legislation with me. As I have said, we always endeavoured to achieve the same bottom line. In my portfolio I have found that the Secretary of the Labor Council and I are never far apart in what we are trying to achieve. However, the methodology seems to cause the problems. I have no problem with the methodology. The problems are all on the other side. Our objective was the same. A degree of patience was required.

I appreciate that superannuation is a most emotional subject. Every member has an extra special drink on his or her seventh anniversary of being elected to this House, because a member then qualifies for superannuation. I suspect that many members, like myself, did not even know superannuation existed when they were elected to this place. Superannuation soon became a very relevant matter. I have often said to people that if they attack my superannuation I might be out there marching in the streets too. Many of us put in long and tedious hours and often wonder what we are doing here. However, members have to get those seven years up first and somewhere along the line superannuation does assist members. I understand the emotion that it arouses, the sensitivity involved and some of the difficulties that have arisen, particularly with the various unions that make up such a diverse organisation as the Labor Council in this State. Many of them come from different positions, particularly in the public sector. Problems were overcome to a large extent by the objective and rational approach taken by the Secretary of the Labor Council, Michael Easson; and I am grateful for that. I believe this bill will lead to a much more productive era in superannuation investment and administration. I pay tribute to the existing board members, despite the publicity of recent times, including a statement delivered by the Leader of the Opposition. When the Auditor-General congratulated the board for revaluing all of its real estate in the most honest of ways, the Leader of the Opposition went to the media and made statements demanding a short, sharp royal commission in regard to the honesty of the members of the board. He suggested that this Government was playing the gambler with the superannuation rights of small people.

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[Interruption]

Mr FAHEY: The analogy has now come home to roost, because one could argue in that same vein that at any moment the Leader of the Opposition will go to the media and demand a short, sharp royal commission into what is happening with real estate in Sussex Street that is under the control of the Labor Party. Surely that is gambling with the membership fees of the small union members. That did not help. Despite that criticism which was so off the mark, as is often the case with the Leader of the Opposition, I pay tribute to the present members of the board for the efforts they have made in days gone by. I believe that with this restructured administration provided by this bill that we will have greater accountability, certainly more flexibility, and there will be a better return overall for those 400,000 members at present in the public sector. I thank the Opposition for its support.

Motion agreed to.

Bill read a second time.

In Committee

Clause 5

Mr E. T. PAGE (Coogee) [8.4]: I move:

Page 4, clause 5(10). Omit "This subsection expires 12 months from the date on which this section commences."

I thank the Minister for his assurances in regard to the matters that I have raised. He has intimated that he will accept the amendment. I believe it would be worth while in 12 months' time to consider this matter rationally with a view to seeing how the issue of membership has worked out.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Minister for Further Education, Training and Employment [8.5]: As I indicated at the second reading stage,

the amendment moved by the honourable member for Coogee, on behalf of the Opposition, is acceptable to the Government. It relates to the cross-membership which I believe will play a significant role in the transitional period in regard to the trustee board and the corporation. In normal circumstances there is of course some concern about the conflict there may be between a trustee board member and an administration board member, and concern as to how they can be at arm's-length from one another. I believe that will be relevant over the period of the first 12 months. I would also indicate that I have an open mind so far as appointment past the 12-month period. It will have to be seen to be appropriate for an employee and an employer representative to be on the trustee board and for both of those representatives to be on the corporation board. If they have contributed significantly to operations generally - and if those conflicts to which I have referred do not arise - I will maintain an open mind as to whether an appointment should be made past the 12-month period. This amendment in no way interferes with that right, but I am more than happy, as was discussed with the Labor Council, to ensure that those two members remain on both boards for a period of one year from the commencement of this Act. Again, I indicate the Government accepts the Opposition's amendment.

Amendment agreed to.

Clause as amended agreed to.

Bill reported from Committee with amendment and report adopted.

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BILLS RETURNED

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

Courts Legislation (Contempt) Amendment Bill
Statute Law (Miscellaneous Provisions) Bill (No. 2)
Water Board (Amendment) Bill.

ELECTRICITY AND OTHER LEGISLATION (AMENDMENT) BILL (No. 2)

Second Reading

Debate resumed from 13th November.

Mrs LO PO' (Penrith) [8.10]: In the main the Opposition supports the bill but for one aspect. Object (a)(i) of the bill refers to the abolition of area electricity boards. This is supported but I must note in passing that it is a sad fact that they have to be abolished. When they were set up by the Hon. Peter Cox in 1987 they were set up with good will. He said:

Area Boards will be established under the main Bill to provide a forum to maximise co-operation between member Councils and to facilitate liaison with external parties to the benefit of member Councils and their customers and will formalise the existing regional groupings of the County Councils which have been organised within the Local Government Energy Association.

That association now is the Local Government Electricity Association. Ministers both past and present perhaps do not understand that there is great distrust between local government and State government, for justifiable reasons. Perhaps one day a Minister will take local government into his confidence and, instead of imposing on it things it may not wish to have, it will be consulted and the community will benefit from people moving together as one. Had the Minister of the day taken into consideration and consulted the local government arm of the electricity councils he may have been able to come up with something more sure and the electricity boards would not have been the failure that they have been. They have been a failure simply because there was an expectation that they would share resources and do things

together. That is not the way local government works. Electricity councils do not have a history of sharing resources, which is a sad fact. With concern and sadness we support the abolition of the area electricity boards but we hope another framework will come into being.

There is consensus on the next object of the bill: the application of performance agreements to electricity councils. Currently, performance agreements are somewhat secret documents in many electricity councils. Because of that the community has great suspicion about what they are. The electricity council in my area, Prospect Electricity, is the second largest in the State. People suspect that the performance agreement is the prime client of the electricity council. Most members of the community would have thought the community was the prime client. When they see the council doing things that they do not appreciate they immediately think that skulduggery is involved in the performance agreement. The Opposition suggests that performance agreements in electricity councils should be open, public documents so that, instead of second guessing what the performance agreement may be about, the community knows what it is about and may participate in some of the outcomes. My understanding is that the purpose of

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performance agreements is to assist not only the council but also the community. But if the community does not know what the performance agreement is it makes it difficult for it to participate in the process.

The next object of the bill - the establishment of subsidiary companies of electricity councils for the purposes of carrying out joint enterprises - is a hangover of the movement of the 132 kV lines from the Electricity Commission into county councils. Because of the huge debt of Elcom it imposed its 132 kV lines on county councils and expected them to take the staff needed to service the lines. So county councils really picked up the tab for the Electricity Commission. This has been of concern to county councils in country areas. The former Minister for Energy, Neil Pickard, promised that country county councils would not have the 132 kV lines imposed on them, but there is concern that this will happen. It is a veiled threat. If the county councils are not large enough to take on the 132 kV lines and the maintenance staff by themselves, perhaps they will be amalgamated and the lines will be imposed anyway. This is an area in which local government is being imposed upon. As I said, I hope one day in the future there will be a Minister who will consult with local government rather than impose things on it, to the benefit of the community.

The next object of the bill is the abolition of the Industrial Development Assistance Fund. It is a sad fact that Australia does not have a proud record of putting a great deal of money into research projects and technological developments. People wait for governments to carry out such projects and developments instead of being innovative themselves. However, I am pleased that moneys will be retained and put into the electricity development fund to contribute towards the cost of pensioner electricity subsidy payments, rural electricity subsidies, the electricity labelling program, the electricity safety campaign, energy accounts payment assistance and other programs including energy conservation measures. The next object of the bill is prohibiting the sale of certain electrical items that are unsafe, which is a motherhood statement. No responsible person in the community would suggest that electrical items that are unsafe should be for sale.

Another motherhood issue is taking action against the theft of electricity. No responsible person would support the theft of electricity. It is interesting that this occurs mainly with people who work in the industry, people who know exactly how to do it. Another object of the bill is to amend the principal Act in relation to the responsibilities of consumers for the safety of their electrical installations. The bill provides that the consumer must to the best of the consumer's ability and knowledge ensure that the prescribed parts of the electrical

installation, while the electrical installation remains connected to the source of the supply of the electricity, are maintained in accordance with the regulations. Insertion of the words "to the best of the consumer's ability" is very fair. Not many people are wise when it comes to electrical goods. There is general consensus on those objects of the bill. The Opposition also supports the rendering of accounts by electricity councils and the payment of interest on overdue accounts. However, there needs to be a teasing out of the difference between commercial, industrial and domestic consumers. The Opposition believes this matter should be looked into and at some time in the future it might take action on that. The point which I really want to take up is the change to section 8 of the County Districts Reconstitution Act 1979. The section as amended will read:

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

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operation of this Act.

While that is all well and good, I do not think it goes nearly far enough. The original section 8 should be retained. It states:

Subject to subsection (2), a person who on the appointed day for a reconstituted county district is, or who pursuant to Part XXIX of the Principal Act on that day becomes a servant of the county council for that county district may not, without his consent, be required by that county council to be based, as such a servant, at a place outside the county district, or outside the area, in which, immediately before that day, he was based as a servant of a county council or the council of an area, as the case may be.

The reason the original provision is far better than the amendment is that, if we are going to pursue the notion of amalgamating councils in country areas where amalgamations are more sure to happen in the metropolitan area, this wording affords a level of security to people already employed. It does not refer to new employees, so the number of people who would be affected would probably be minimal. It seems to me that the position could be resolved by attrition. Those who need security would be covered by the original wording. This would be far fairer than removing the security provided.

[Interruption]

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

Mrs LO PO': Predominantly the Opposition supports the bill but asks the Government to rethink the section dealing with mobility of county councils workers as constituted on a particular day. The fact is there are many such workers, and their numbers should be reduced through natural attrition rather than force through a new amendment, which in some cases would disadvantage people in the country far more than those in the city. I am happy to support the bill.

Mr CRITTENDEN (Wyang) [8.21]: The Electricity and Other Legislation (Amendment) Bill (No. 2) is commonly referred to as an omnibus bill. It deals with matters such as performance agreements, companies that have 132kV assets, the theft of electricity, and electrical safety. The two issues I wish to deal with are performance agreements and subsidiary companies. I am not entirely sure of the need to enshrine in legislation performance agreements. The last decent Minister for Energy in this State, the Hon. Peter Cox, in September 1987 set performance indicators for county councils. This legislation is a fairfloss option - a lot of froth on the top and no substance to back it up. Another matter of potential concern for people living in rural areas is the establishment of subsidiaries of electricity councils. Turning specifically to performance indicators, basically they have three important functions. First, performance indicators provide an agreed baseline from which to measure trends. Second, they enable comparisons between electricity councils and similar

organisations interstate and overseas. Third, they facilitate the identification of both efficient and inefficient management practices. Of course, disaggregated information is required for internal management monitoring. Monitoring of public sector performance, particularly in areas where market structures do not provide fully competitive incentives for efficiency, can be overcome by using performance indicators. However, this legislation does not specify the performance indicators.

Electricity boards in England have reams of performance indicators so it is easy for a council to find something at which it is competent. On the other hand, as has been said, if performance indicators are kept secret and not open to public scrutiny the public aspect of accountability is undermined. Consultation is essential to prevent electricity

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councils from being done over, with rather disastrous results, by a State government intent on causing those councils problems if there is not an agreed industry standard. Therefore, performance indicators not only provide information to industry and government, they also demonstrate a commitment to ensuring that the industry is efficient and effective. A careful distinction must be made between indicators relevant for the entire industry and those relevant for individual supply authorities or for internal management purposes. The difficulty with intercouncil comparisons is that such comparisons do not take account of disability measures between councils, and that contributes to differences in costs. For example, the added cost per kilowatt hour of a country county council is almost half that of the metropolitan average, despite the general operating advantages of metropolitan councils. Because of a particular customer mix, one customer accounts for half the load in that county council area.

I turn now to the matter of the establishment of the special purpose companies. Though I did not agree with all aspects of the Industry Commission's report entitled "Energy Generation and Distribution", which was brought down in May 1990, clearly every stage of the power process required a differentiation: there had to be a separate generation, transmission and distribution arm. The Government, through political expediency, has decided to impose the transmission system on existing supply authorities. Rural county councils are about to face the wrath of the incumbent State Government. Some dangerous precedents have been set by metropolitan councils. In the annual report of Illawarra Electricity for the year ended 30th June, 1990, under the heading "Notes to the Accounts", it is stated that \$16.4 million was spent on the acquisition of 132kV assets from the Electricity Commission of New South Wales. On the basis of a discounted cash flow analysis, \$14.8 million of the transfer price was subsequently written down. The Greiner Government made Illawarra Electricity buy an item for \$16.4 million when in fact its worth was \$1.6 million. In the case of Sydney Electricity the situation is worse. Under the heading "Notes to the Account", the same report states that 132kV transmission assets of the Electricity Commission of New South Wales located within the county's district were acquired on 28th December, 1989, for \$410 million. It states further that the premium on purchase was \$129 million, which was written off as an extraordinary item. The honourable member for Davidson, when he became an Independent member of this House, wondered aloud where the \$75 rebate earmarked for Sydney Electricity consumers went to. Obviously it went to the Electricity Commission of New South Wales last year. I am not sure whether that came about because the Premier's wife was a member of the board of the Electricity Commission, but that is where it went.

An amount of \$129 million was skimmed off the top to pay off the overseas loans taken out by the Electricity Commission. Special purpose companies will be established in rural areas and those transmission assets will be imposed upon them. As with metropolitan councils, rural county councils, or electricity councils as they are now known do not want these transmission assets imposed upon them. In reality they are not assets; they are liabilities. Illawarra Electricity wanted to write off the asset completely but to keep the auditors happy it was written down by a mere \$14.8 million. The National Party is not interested in people who live in country areas. The facts are that the already high electricity tariffs imposed on domestic and rural consumers will be even greater once these rural county councils are forced to

contribute to the transmission assets that will be imposed upon them. I am sure that farmers, who are struggling because of the drought, will be impressed by this proposal. I hope that the rural press will state clearly what the problems are. Obviously the ramifications will be felt across the board. Businesses will be deterred from relocating to such rural centres as Dubbo. It will have a disastrous effect on decentralisation. The Electricity Commission (Corporatisation) Bill

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will soon be brought before the House. How can a government be trusted -

Mr Turner: On a point of order. The honourable member for Wyong has referred to decentralisation and to the Electricity Commission (Corporatisation) Bill, which have no relevance to the bill being debated.

Mr Crittenden: On the point of order. I am pleased that the honourable member for Myall Lakes has come into the Chamber to take a point of order. I made passing reference only to decentralisation. The issue of financial probity is crucial to the corporatisation of the electricity industry.

Mr Moore: On the point of order. The honourable member for Wyong said that he would be making a five-minute speech. He has been speaking for 10 minutes already. He should have regard for, and adhere to, undertakings given by him to honourable members.

Mr Whelan: On the point of order. The honourable member for Wyong is entitled to address the House in accordance with the provisions of the standing and sessional orders. The honourable member is permitted to speak for 15 minutes and, if he is granted an extension of time, he will be permitted a further 15 minutes. The point of order is frivolous. The honourable member for Wyong should be allowed to continue his relevant contribution.

Mr ACTING-SPEAKER (Mr Merton): Order! The bill is specific in nature. I draw the attention of the member for Wyong to its provisions and direct him to address them rather than become involved in extraneous issues.

Mr CRITTENDEN: I would have concluded my contribution some minutes ago had the honourable member for Myall Lakes not been so sensitive about the National Party's representation of country people. With regard to the financial management of special purpose companies, people in rural areas will be far worse off. The honourable member for Burrinjuck is fully aware of that. He says nothing about that matter, yet yesterday he was prepared to make a pious stand with respect to other legislation. His constituents will be paying more for electricity -

Mr ACTING-SPEAKER: Order! I remind the member for Wyong of my recent ruling. I direct him to address the provisions of the bill.

Mr CRITTENDEN: I have concluded my remarks.

Mr MOORE (Gordon), Minister for the Environment [8.33], in reply: I wish to deal with a matter raised by the honourable member for Penrith, which appears to be the single matter of significant contention with regard to the bill: the power of electricity undertakings to relocate staff. The honourable member for East Hills has expressed concern to the Government about this matter. I understand, for example, that if the electricity depot operated by Prospect Electricity at Springwood were to close, it would not be possible under the provisions of the previous legislation to relocate employees from Springwood to Emu Plains. It would be possible, however, to require them to relocate from Springwood to Mount Victoria, almost double the distance. I suggest to the honourable member for Penrith that the provisions that apply at present - and the honourable member alluded to permitting people to work out their working lives - provide a form of guaranteed employment, similar to paying people to sit around

playing cards or do nothing. Quite clearly the statutory bar that prevents the relocation of employees

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from Springwood to Emu Plains, for example - which relocation might enable them to continue in employment - clearly is preferable to a provision that provides that the employees cannot be relocated because the point of relocation is outside the area of the former Hartley County Council. The employer is left then only with the alternative of retrenching the employees.

Clearly it is open to employees, should the provision to relocate employees from Springwood to Emu Plains be objected to, to notify an industrial dispute under the appropriate provisions of industrial law. The reasonableness of the proposed transfer, given the age, health and occupation of employees, will then be dealt with by a conciliation commissioner in New South Wales. I inform the honourable member for Penrith and members opposite that it is preferable to have, in that type of case, the opportunity to relocate people and have any disputes resolved in the normal conciliation processes of the New South Wales Industrial Commission than it is to put the employer in a position of having no alternative with regard to a guarantee of life-time employment but to take away from employees their status and dismiss them. That would not be in the interests of employees. It would be more advantageous for a provision to be available that permits transfers with normal rights of appeal through the industrial disputation processes to conciliation commissioners in this State. I thank honourable members for their contributions. Despite the outburst of the honourable member for Wyong, he was in part in agreement with the bill, and I thank him for his wholehearted support for measures contained in it.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 2

Mr ROGAN (East Hills) [8.38]: Earlier I foreshadowed the amendment that I now intend to move. I move:

Page 11. Schedule 2. Delete all words on lines 17 to 26 inclusive.

The amendments will remove from the bill the reference to the County Districts Reconstitution Act 1979, which provides:

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

I and the honourable member for Penrith said in our contributions to the second reading debate that an important principle is involved here. About 12 years ago when a number of county councils were amalgamated a commitment was given to the employees of the various county councils at that time that they would not be compelled to move from one area to another to continue in employment. Section 8(1) of the County Districts Reconstitution Act provides:

8.(1) Subject to subsection (2), a person who on the appointed day for a reconstituted county district is, or who pursuant to Part XXIX of the Principal Act on that day becomes, a servant of the county council for that country district may not, without his consent, be required by that county council to be based, as such a servant, at a place outside the county district, or outside the area, in which, immediately before that day, he was based as a servant of a county council or the council of

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an area, as the case may be.

The proposed amendment applies only to those persons employed by county councils on the day those councils were reconstituted. The amendment does not apply to persons who may have been subsequently employed by an amalgamated county council. That is an absolute breach of an undertaking given by the Government of the day to those employees. In the other Chamber, where the bill originated, the Hon. R. D. Dyer, on behalf of the Opposition, proposed the amendment and gave much the same reasons as I have outlined in this House. I suggest that the amendment will not affect many employees, but why should employees, whose numbers will be declining as employees retire or leave their county council, be penalised? Regrettably, one county council, which now has a new board - I am pleased that the honourable member for Penrith is now a member of that council - was provocative and had an appalling industrial relations record. The new board of the council will ensure consultation rather than confrontation.

All unions that have any dealing with Prospect County Council say it is the worst council to deal with. Members are aware that Prospect County Council was the principal supporter of the Government moving the amendment in this House and indeed in the other place, where the bill originated. The proposal is a breach of an understanding or a commitment given by the Government. The Opposition strongly recommends that the Government reconsider its original proposal outlined in the bill and accept the Opposition amendment. The Minister said that if the proposal is not accepted and employees do not want to move they may be retrenched. If that is the case, that is a decision to be made by those employees. That is their option, they should be able to use it if they wish but should be afforded the full protection of the legislation that was in place when the county councils were amalgamated. In future other county councils might be amalgamated and assurances might be given to satisfy employees. Those employees will point to this breach of good faith by the Government of the day and will not believe government assurances that can be changed overnight by an incoming government of another political persuasion. That is not playing a fair game. Employees have deep distrust of government assurances that can be easily breached in this manner. Accordingly, the Opposition strongly supports the amendment.

Mr MOORE (Gordon), Minister for the Environment [8.44]: I merely repeat at this stage, before the amendment is tested by the Chamber, the view that it does a disservice to the employees potentially involved if the Act is to require that they are not able to be transferred from an area proximate to their residence because it is not within the boundaries of the electricity authority for which they worked. It would be possible for an employer, for example, within the bounds of the Blue Mountains city council, to create an electricity subdepot at Mount Wilson and require the employees to work there on a daily basis, occasioning them to undertake a journey to and from work of 45, 50 or 60 kilometres. Some employers have been known to undertake such undesirable industrial practices. The honourable member for East Hills knows that I am interested in and involved in labour relations. If the sorts of provisions contained in the bill were to be invoked in this instance with respect to employees at Springwood, and they were sought to be transferred in an unreasonable manner, their unions would have access to the industrial tribunal of this State to deal with the matter. The measure is designed not to allow an accident of cartography to remove a degree of flexibility that might enable those employees to remain in employment for a longer time that might otherwise be denied to them if they were to be made redundant because of these restrictions.

Question - That the words stand - put.

The Committee divided.

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 Griffiths

Mr Hazzard
Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Ms Machin
Dr Methereil
Mr Moore
Mr Morris
Mr W. T. J. Murray
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips
Mr Photios
Mr Rixon

Mr Rozzoli
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, 47

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 Hatton
Mr Hunter
Mr lemma

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

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

Pairs

Mr Greiner
Mr Packard

Ms Allan
Mr Carr

The TEMPORARY CHAIRMAN (Mr Merton): The vote being equal, according to precedent, I cast my vote with the ayes and declare the question to be resolved in the affirmative.

Amendment negatived.

Schedule agreed to.

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

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DIVIDING FENCES BILL

Second Reading

Debate resumed from 13th November.

Mr E. T. PAGE (Coogee) [8.57]: The proposed legislation appeared to be complicated. I was told that solicitors and barristers were concerned about its complexity. I believe some firms put on additional staff to investigate the complexity of the bill. Fortunately, the Minister did away with the confusion when in the first paragraph of his second reading speech he said:

A dividing fence is, of course, a fence that separates adjoining lands.

That clarified the whole issue. Before that, confusion reigned. I thank the Minister for clarifying the matter for the Parliament and for the legal profession. The proposed legislation arose from a referral to the Law Reform Commission of the anomalies of the previous dividing fence legislation. The bill introduces the concept of fencing work, which includes both the construction and the repair of a dividing fence. So that there will be no confusion, the bill defines a fence to include living fences, such as hedges. Fencing work is defined to mean the design, construction, replacement, repair or maintenance of a dividing fence and the surveying or preparation of land for such a purpose. The bill provides that when a Local Court or local land board has to determine the standard for a sufficient dividing fence the court or board is to consider the existing dividing fence, if any, the uses of the adjoining lands, the privacy or other concerns of the owners, the sort of dividing fence usual in the locality, any local government policy on dividing fences and any relevant environmental planning instrument. It provides also that adjoining owners are liable to contribute in equal proportions to the carrying out of fencing work that results in the provision of a dividing fence of a standard not greater than the standard for a sufficient dividing fence. It allows for the additional cost of fencing work to meet a standard above that of a sufficient dividing fence to be met by the owner wanting the better quality dividing fence. The bill provides further that an owner who deliberately or negligently damages or destroys a dividing fence will be liable for up to the whole cost of restoring the fence to its state before the damage or destruction.

The bill provides also that an adjoining owner will be able to carry out fencing work in respect of a damaged or destroyed dividing fence which requires urgent repair. That provision will generally apply to rural areas where there may be an urgent requirement to contain stock. The bill provides also that an owner of adjoining land may, by serving a notice, require the other owner to contribute to the carrying out of fencing work. The notice must specify the boundary line or other line proposed for the adjoining fence, the proposed type of fencing work and the estimated cost. The bill specifies that an adjoining owner is not liable to the cost of fencing work carried out before an agreement is made concerning the work or, if there is a dispute, before the matter has been determined by a Local Court or local landlord. Clause 12 provides that adjoining owners may attend a community justice centre if there is a dispute. That is

reasonable. Clause 13 provides that a Local Court or local landlord has jurisdiction to determine matters arising under the bill.

Generally speaking, the recommendations of the Law Reform Commission have been implemented. The only variation, which is not opposed by the Opposition, is that the Crown will be exempt. That is a thorny issue and I have no doubt that the Minister

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put many hours of thought into it. Where public land adjoins private land, for example, with a council reserve, or the side fence of a corner property, it has been argued that community organisations - the local council, the National Parks and Wildlife Service, the Water Board or the Electricity Commission - should be responsible for half the cost of the dividing fence. As the Minister no doubt decided, that would result in a tremendous cost to the community. By and large properties which have continuous fences with public properties have some sort of inbuilt advantage in as much as it is an asset to have a property adjacent to a park. The argument generally in favour of this proposal in the bill disagrees with the recommendation of the Law Reform Commission and suggests that the status quo should be maintained and the responsibility left with the landowner. The Opposition does not oppose the legislation and will not move any amendments to it.

Mr RIXON (Lismore) [9.3]: I support the Dividing Fences Bill. The bill reforms the law for determining the contribution by adjoining landowners to the cost of a dividing fence and improves dispute resolution mechanisms. These reforms will remedy the potential for injustice that is common under the existing legislation. The bill also replaces the confusing set of procedures based on the type of fencing work with one simple notice procedure that will apply to any situation in which an owner is seeking from an adjoining landowner a contribution for proposed fencing work. Until now, for example, an owner could not claim a contribution if action was taken under the repair provisions when it should have been taken under the construction provisions. The bill replaces the existing philosophy of equal contributions between adjoining landholders with that of a contribution according to the benefit of the fence. Equal benefit is assumed from a minimum standard fence, which is termed a sufficient fence. For example, a sufficient fence in sheep country would be a netting fence; in cattle country, a barbed wire fence.

An owner wanting to fence above that standard bears the additional cost. A landowner wanting to erect a deer fence in cattle country would have to bear the cost additional to sufficient fence standard. The bill provides an expanded definition of "fence" to take into account newer fencing materials and water course and vegetable barriers which may serve as dividing fences. A sufficient fence is to be determined in particular circumstances by reference to the use of adjoining lands, owners' concerns, any existing fence, local council policy, et cetera. As a result of a notice, many owners will readily agree on the kind of dividing fence and the apportionment of the cost of that fence. However, in circumstances in which agreement is not reached, the bill also contains reforms to the dispute resolution mechanism. Fencing legislation not relating to dividing fences will remain outside the ambit of the bill. However, where a reasonable mistake occurs in taking action under an incorrect Act, it will be possible for a Local Court or local landlord to grant leave to serve a subsequent fencing notice, thus minimising an area of current injustice. Because of the benefits of the bill, I am pleased to give it my support.

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [9.6], in reply: I thank the honourable member for Coogee and the honourable member for Lismore for their contributions to the debate on a sensible bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LOCAL GOVERNMENT (BUILDING APPLICATIONS) AMENDMENT BILL

Page 6256

Second Reading

Debate resumed from 24th October.

Mr E. T. PAGE (Coogee) [9.7]: This bill will codify the system for notification by local councils to neighbours of building applications placed before council. The bill gives a defined group of persons a right to be notified of the receipt of a building application and the opportunity to inspect the building plans. It then confers an opportunity for those persons to make submissions in writing to councils about the applications. The bill is an attempt to codify and clarify the provisions of the Local Government Act, particularly section 312A, which has been interpreted by the Court of Appeal in the case of *Hornsby Shire Council v. Porter* as requiring the council to notify all persons detailed in the section as having a right to inspect the building plans. That concept is not new. Many councils, and obviously Hornsby Shire Council was among them, sought to ignore the provisions of the Act. However, many councils did not. The council with which I have been associated, Waverley council, took great pains to notify not only adjoining landowners but also those who would be affected in some way by planning or building approval. That was done without affecting the time process of the application. People were notified as soon as an application was received. Replies to the notification were required before the expiration of the 14-day period. Thus the approval process was not delayed.

In Waverley it was found that people expected that notification should be given. People who were unhappy with the development were, by and large, satisfied if they had been notified and had had an opportunity to voice an opinion. For many years Waverley council followed the interpretation laid down by the Court of Appeal. However, Waverley council was not always controlled by the Australian Labor Party. When it was not, members of the Liberal Party believed also that notification of adjoining owners was the correct procedure to follow. This bill, however, has the effect of limiting the impact of the Porter case in that it does not require all adjoining owners and other detrimentally affected residents to be notified of the receipt of each building application. In essence, the bill restricts the requirement to notify those who own adjoining land and certain others who might, as a matter of policy adopted by council, be notified. The bill avoids the result that notification is necessary at the building application stage, if it has already been undertaken in relation to the development application, provided that the appropriate plans are available at the time of the development application. I have no quibble with this if the notification of the planning approval is given. That would give everyone a chance to express an opinion in the matter. If the building application is in conformity with the planning approval, I see no objection to there being a second notification.

Many community groups have argued that all neighbours should be notified in respect of all building applications and that the notification should not be restricted to adjoining owners. In my view there is certainly a cogent case that a more comprehensive scheme of notification should be contained in the legislation and that the outcome in the Porter case should not be substantially cut down by the Parliament. I intend to move a series of amendments to incorporate such a provision in the legislation. This matter has been under consideration by the Ombudsman for quite a number of years. The Ombudsman has taken the view that there should be comprehensive notification, which is in general conformity with what councils such as Waverley have done and, by and large, with what community groups have espoused. In the annual report of 1991 the Ombudsman said that this bill, if enacted, would probably lead to even greater disputation between councils and the ratepayers, and as such, is extraordinarily retrograde. He further said that the bill does not appear to recognise that anyone other than

neighbouring
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properties could be affected detrimentally by the proposed building. The point he makes about greater disputation is a very valid point.

There is no doubt that in local government matters there is an expectation of what councils should do and how councils should act. There is a belief in the community that councils should notify the community about what is happening. I have certainly found in Waverley that probably the biggest criticism of members of the community is that nobody told them. Where there is proper broad notification to all those interested, at the end of the day - even if the decision goes against those who have a gripe in the area - they feel satisfied that at least they have been notified and they have had an opportunity to put forward a case against the proposal. I think that the wording of this bill would merely encourage disputation and division in the community. The Ombudsman also said this bill fails to introduce a uniform policy across the State. He said it is absurd that ratepayers, resident in different council areas, will again be subjected to diverse policies on the notification to interested parties. It is a relevant point that, if this Parliament is going to legislate on notification, there should be a consistent policy throughout the State. I cannot see why the people of Waverley should have a different expectation of justice from their council than someone, say, at Sutherland - even though there are the mutterings from the member who covers part of that area.

Mr Downy: You wait.

Mr E. T. PAGE: Yes, I will wait; but what the member says will not make any difference. Mr Ian Temby, Commissioner for the Independent Commission Against Corruption, has also raised concerns about this. Members on the Government side of the House trot out the name of the Independent Commission Against Corruption when they want to validate certain things, but the commissioner is expressing criticism of this legislation. I refer to the Government's telecommunications legislation. It was mentioned in the briefing pamphlet I received from the Minister, and also in the Minister's reply to my contribution, that the legislation had been vetted by the Independent Commission Against Corruption. I suppose the Minister can say that. However, I think in that case it was used in a fairly misleading and devious way. I have written to the commissioner about this. It is strange that in one case the Minister is relying on support from the Commissioner for the Independent Commission Against Corruption but Mr Temby is quite critical of the legislation now before the House.

I would ask the Government to be a bit consistent. If the Chief Secretary and Minister for Administrative Services is prepared to say that Mr Ian Temby supports her legislation, I would like the Minister for Local Government and Minister for Cooperatives to say the same thing. Mr Temby advises that a legislative requirement by council notifying adjoining owners affords a greater degree of protection to council and its staff than a discretionary provision. He says that where such discretion to notify exists it is open to abuse. I think it is open to abuse where there is a restriction on those who should be notified. I urge the Minister to sympathetically consider the amendments that I intend to move. They are more in line with the Porter decision, which is consistent with what enlightened people in local government believe the Act meant in the first place. The amendments will ensure that those who have a legitimate reason for being notified are notified. In the terms of what I have read from the report of the Ombudsman, disputation in the community would be minimised. People in the municipalities and shires who believe that the council is there to safeguard them from unsympathetic development, and who believe that the council is there to inform them of what is going on in the community, will believe that they have received proper consideration from the council. I urge the Minister to consider this amendment to extend the scope of the bill

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that he has presented to the House.

Mr DOWNY (Sutherland) [9.18]: I am more than happy to speak on this bill. Having come from a local government background, I am more than aware of the concern that was expressed or has been expressed by councils, particularly the Sutherland Shire Council, as a

result of the judgment of the Land and Environment Court in Porter and Rosenberg against the shire of Hornsby and the subsequent Court of Appeal hearing, which placed a wider interpretation on the previously understood meaning of the law. I am referring to section 312A of the Local Government Act. As a result of the court's decision councils were placed under an obligation to notify the persons detailed in section 312A - that is, the adjoining owner and other owners of land which could be detrimentally affected by proposed building work - of the receipt of a building application, notwithstanding that it was clearly not the then government's intention that they be required to do so. That was a very serious matter. This bill is trying to rectify the problems that arose from those legal decisions.

I shall not detail every provision in the bill but it is worth pointing out that the building application notification system in the bill involves a two-step approach. First, it will require councils to notify adjoining owners, who may be detrimentally affected by the proposed building after its erection, of the receipt of a building application. Second, in respect of the notification of further people, there is a requirement for councils to adopt a policy following a required public consultation process and to give notice to persons to whom notice is required to be given under that policy. In relation to the first step, two accountability mechanisms are provided for to ensure that councils efficiently and effectively implement the legislation in relation to forming an opinion as to detrimental effect. That is an important aspect.

The bill also restricts the extent of notification. If the building work is in keeping with accepted community standards and it would obviously not have an effect on an adjoining owner, it would be most unfair to inflict a delay which would perhaps result in additional cost on the owner proposing building work while an unnecessary notification system is undertaken. In other parts of the bill it is provided that councils must notify adjoining owners who may be detrimentally affected at least 10 days before the council determines the building application. It is also not required that notice be given if the notification procedure had been undertaken in relation to a development application or in regard to the building line if the appropriate building plans were available for inspection at that time. Persons entitled to inspect the plans may make a submission to the council in relation to the building application and all such submissions received are to be considered if they are received before the council determines the building application.

In formulating the required policies on detrimental effect for notification of additional persons the councils will be required to have regard to guidelines prepared by or on behalf of the Minister. The honourable member for Waverley raised the interesting issue of whether local councils should be required to prepare a draft policy or whether there should be a statewide policy. For example, take the Sutherland Shire Council in my area and the Waverley council in the area of the honourable member for Coogee. How can we possibly compare those areas? The Sutherland shire is bounded by rivers on two sides and by the ocean on another side. Most of its development is on a series of ridges and plateaus. The topography along the foreshores is fairly steep. Its housing is of wide-ranging style, which is in contrast with the type of development in the Waverley council area.

There is absolutely no way that we can have a statewide policy which is pertinent to every part of New South Wales. It is part of this Government's commitment to local

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government to provide an entirely different approach in the bill. Under proposed section 317BB councils will be required to prepare separate draft policies concerning two matters. The first will be matters to which the council will have regard when forming its opinion as to whether the enjoyment of adjoining land may be detrimentally affected by a proposed building after its erection. The second will be the giving of notice of building applications to persons other than those to whom it is required to give notice under the proposed section 312A. I have already pointed out that those draft policies will be based on guidelines which will be issued by the Minister. So there is a controlling mechanism whereby the Minister will issue the guidelines and then the council will determine its own draft policies. That is a far fairer way of approaching the issue than that suggested by the honourable member for Coogee by way of a statewide

policy. I support the bill because I think it is most important that the rights of the proponent of any building application are balanced with the rights of neighbours to protect their own property and to ensure that it is not unduly affected by any building application. As a result of the Land and Environment Court case and the subsequent Court of Appeal decision, the balance was tipped in favour of the neighbours.

Mr E. T. Page: And what is wrong with that?

Mr DOWNY: The proponent of the building application, the person who wants to build the home, has just as much right to build that home as the neighbours have to object. There has to be balance: the neighbours cannot have more rights than a person who wants to build a home. I notice that the honourable member for Lakemba is agreeing with me on that point, which is good to see.

Mr Davoren: They have to have the same rights. Everybody is equal.

Mr DOWNY: That is exactly what I am saying: they have to have the same rights. This bill provides that. There is no question that people who live on adjoining properties do have the right to inspect building plans. In foreshore areas people put in a development application and a building application. It was becoming almost impossible for council staff at Sutherland to determine who should be given the opportunity to view plans.

Mr E. T. Page: That is balderdash.

Mr DOWNY: It is not balderdash. Even in those areas where only a building application was required in certain circumstances staff were not sure who should be given the right to view plans and who should be notified of plans. I shall give the example that I have mentioned in the Parliament before. It concerns a carport at Oyster Bay which involved some unused Crown land. A licence was granted by -

Mr E. T. Page: It has nothing to do with notification.

Mr DOWNY: It has a lot to do with it because it proves the point that I have just made. After a licence had been granted by the Department of Lands and an indication had been given by councillors that the carport would be approved it was placed on display for the first time. Two neighbours objected and 15 neighbours supported the application. After the application went before a council meeting it was decided to put the plans on display again. There were then 56 letters of objection, some from as far afield as Cronulla, Caringbah and Engadine - nowhere near the area.

Mr E. T. Page: Not Bondi?

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Mr DOWNY: Not Bondi. People from far afield lodged letters of objection to the carport. They had absolutely no idea what the application was about. The objections were totally vexatious. The council was obliged to take them into consideration in determining the application. Common sense prevailed and the carport was approved. After the council election new councillors introduced a rescission motion.

Mr E. T. Page: Your lot got wiped out.

Mr DOWNY: And look what has happened. The development application was rescinded. Now the matter is before the Land and Environment Court and the ratepayers of

Sutherland shire have to pay to defend this matter in court. I know what will happen: the Land and Environment Court will find in favour of the applicants who wanted a simple carport. This is the type of thing we are talking about. We are not talking about people who have genuine concerns or who want to offer constructive criticisms on a particular building application; we are worried about people who have totally trivial objections or vexatious objections. There must be a balance between those who wish to build a home, and are entitled to build a home, and those who have genuine concerns about a particular application. I should point out that the provisions of the legislation do not deal merely with homes, they deal also with any structure. The honourable member for Coogee conveniently ignored the draft policies. It is most important to emphasise that the bill provides for the preparation of draft policies, which will be subject to guidelines issued by the Minister. Surely that is a fair compromise. With those few words I support the bill wholeheartedly. It is long overdue, and I am sure that the legislation will pass through this House unamended.

Mr NEILLY (Cessnock) [9.31]: I wish to address the Local Government (Building Applications) Amendment Bill without indicating my support or otherwise. I recall the aftermath of what is commonly known as the Hornsby case when local councils began adding costs to building applications through notification requirements. The decision of the Land and Environment Court in the Hornsby case also affected the cost of building applications in country areas. There was a cost associated with notification to a multiplicity of adjoining owners and a cost associated with employment of additional health and building surveyors, which is not relevant to what happens in country areas. I do not wish to be critical of the Minister for Local Government and Minister for Cooperatives, but I believe the effects of this legislation will result in a snow job by local government building inspectors.

The proposed legislation suggests that local government be given authority or power to make certain decisions relevant to notifications of building applications. Having had experience with local government, I believe building inspectors will say to aldermen: "Let the powers of the gods be upon you. Unless you want to do it in a certain fashion you will be responsible". The provisions of this legislation will not necessarily be effective. Unless individual councils take it upon themselves to make cold, hard decisions the proposed legislation will not achieve a great deal more than the present legislation. That is my element of disappointment with this legislation. It is little better than the present Act. It takes the fear of God out of the Hornsby case but it will give the bureaucrats in local government an alternative to making decisions of their own volition. Having had experience in the past with aldermen, my opinion is that they will not have the internal fortitude to make up their own minds. Essentially they will be guided by the bureaucrats. The legislation will not improve the current situation.

Dr KERNOHAN (Camden) [9.35]: I support this bill. I commend the
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honourable member for Cessnock for his interesting and pertinent statements. However, I have great faith that councils will take the hard decisions, do the right thing and not be overpowered by bureaucracy. The honourable member for Coogee was a little out of touch when he said that notification of building applications was ignored by councils. For years many councils, such as Waverley and Camden, have been notifying people of building applications. It was only when the court case of Porter and Rosenberg was dealt with that councils realised they were doing the wrong thing by not notifying. The proposed legislation is highly sensible. Over the years governments of all persuasions have made bad decisions through statewide legislation concerning local government. The situations that exist in the centre of Sydney, on the outskirts of Sydney, and in Broken Hill are different. The rules that apply to those areas should be relevant to the needs of the people living in those areas. Local communities should have a say in what is right for them.

Mr E. T. Page: The people want the notification.

Dr KERNOHAN: The system provides for notification. It provides for councils to notify the immediate neighbours of any building application. It also allows for councils to make their own policies and to decide which people should be notified. These policies will be adopted only after public notification and discussion throughout the community. Therefore they will be policies that suit the particular areas. Councils will then notify adjoining owners and others according to their policies. It is not appropriate to notify all residents of every building application, particularly when a building complies with accepted community standards. Waverley, which is virtually fully developed, cannot be compared with my electorate, which comprises rural areas of large acreage, five-acre blocks and urban development. Honourable members would not be aware of the costs of notifying developments to a population that will double in the next five years. They have no idea of the cost of notifying each new neighbour when, say, 500 homes are being developed. The Parliament has told councils that there will be no rate increases yet it imposes on councils the obligation to perform. That is quite stupid.

Mr Neilly: It is an impost on the existing residents.

Dr KERNOHAN: The existing residents are putting up with the new developments, at considerable cost to them.

Mr Newman: They couldn't give a bugger about them.

Mr SPEAKER: Order! I ask the honourable member for Cabramatta to apologise to the House for his language.

Mr Newman: I did not think it was all that bad but I will withdraw it.

Mr SPEAKER: And apologise to the House.

Mr Newman: I will withdraw it and apologise.

Dr KERNOHAN: I wish to illustrate some of the ridiculous situations that have occurred in my electorate recently since this matter came to hand. A farmhouse was being built on 1,069 hectares and 11 neighbours had to be notified. Not one of those neighbours could see the site of the farmhouse from their properties. St Gregory's college wanted to build a 9-metre by 11-metre shed in the middle of its 3,770 hectare property, and 25 neighbours had to be notified, because a five-acre development was on

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one edge of the college. Honourable members should bear in mind that the college grounds range over the scenic hills and touch upon Campbelltown's urban area on the other side of the hill. I am talking about a property in Camden but should all the people living in the other municipality also be notified? It is ridiculous that neighbours one and a half kilometres away have to be notified of a matter that will not affect them in any way. I do not know whether honourable members are aware that one has to notify one's neighbours of one's intention to install a skylight, which will not infringe on anyone's privacy and will be installed by an approved person. Though alterations done to the side or rear of a dwelling cannot be seen by one's three adjoining neighbours, all neighbours must be notified. If one wants to install an awning, all neighbours must be notified. What a ridiculous impost on ratepayers. Huge costs are involved in the provision of facilities and playing fields near reserves belonging to councils.

I remind honourable members of the number of properties that adjoin such playing fields and reserves. If one undertakes repairs to or upgrading of existing buildings or outbuildings, one's neighbours must be notified. Do honourable members realise that if one wants to replace the wooden-framed windows in one's house with aluminium-framed windows, one's neighbours must be notified. If one wishes to improve one's property by having it clad, one's neighbours must be notified? That is a ridiculous situation. On occasions councils have

notified the wrong people because solicitors have not notified councils of changes in property ownership. Delays are incurred because previous owners are writing back to councils to inform them that they no longer own a particular property. Think of the delays involved when property owners live overseas. The construction of a screened enclosure on a dwelling was delayed for more than two months because an overseas neighbour insisted on sighting the plans. Mention has been made of vexatious people in the community who have, for one reason or another, a set against their neighbours. They raise matters that have little relevance to applications being considered by council. I draw attention to the exorbitant waste of time and money for ratepayers and those involved in the construction of dwellings and improvements. This legislation provides a balance between the interests of the owners of buildings, industry, the community and councils. Its provisions will reduce delays and costs and will permit public involvement where appropriate. I support the bill.

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [9.45], in reply: I have listened with interest to the contributions of all honourable members in this debate. I took particular note of the matters raised by the honourable member for Coogee, who has been an alderman and mayor of a municipality. He would be well aware of matters relating to local government and the effect on local government of decisions such as that handed down in the Hornsby Shire Council case. I accept that the honourable member's remarks were sincere. The reality is, however, that a balance has to be arrived at between the rights of people to legitimately use their property and the rights of neighbours to be notified of any matter that may affect them detrimentally. The legislation is aimed at finding that balance. The extremes referred to in the Hornsby Shire Council case are absurd.

Enormous costs and significant delays are involved in the giving of the notifications. In some instances applications have been delayed for periods of months. The honourable member for Coogee said that different laws will apply to different parts of the State. The legislation clearly sets out the criteria for notification. Councils will be required to formulate and publish a policy in that regard. As the honourable member for Camden said, the requirements of suburban Sydney may be far different from the requirements of Broken Hill or Dubbo. It is absurd to require a person who wishes to build a property miles from anyone to notify his or her neighbours of that intention. The

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Government is not asking the House to pass unreasonable legislation. We have tried to be fair and arrive at a balance. The provisions of the legislation were canvassed thoroughly in the exposure draft. On 6th December the Secretary of the Local Government and Shires Association of New South Wales, Mr Murray Kidnie, wrote to the Director-General of the Department of Local Government and Cooperatives in the following terms:

Re: Building Application Amendment Bill (Notification)

The Associations are fully supportive of the proposed Local Government (Building Applications) Amendment Bill 1991 in relation to the notification of building applications and associated guidelines.

In view of the Land and Environment Courts decision (*Hornsby Shire Council v Porter and Ors* (1990) 19 NSWLR 716) that Councils must give the due notice of the making of building applications to adjoining owners; the proposed amendments relating to:

- * notice of building applications to owners of adjoining land (312A);
- * notice of building applications not received in certain cases (312B);
- * notice of building applications not required in certain cases (312C);
- * amendments to building applications (312D);
- * certain persons may inspect plans (312E);
- * making and consideration of submissions (312F);

- * legal proceedings (312G);
- * subjects for consideration (313);
- * preparation of Draft Policies (317BB);
- * public exhibition of draft policies (317BC);
- * making and consideration of submissions (317BC);
- * amendment of draft policy (317BF);
- * adoption of Policy (317BF);
- * guidelines (section 317BG);

are supported and reflect the consultative discussions undertaken by the Department of Local Government and Cooperatives and the Associations on this matter.

The Association appreciates the co-operative approach taken by the Department of Local Government and Cooperatives on this matter and looks forward to continued liaison.

The letter is signed by Murray Kidnie, the secretary of the association. The association has been well consulted. It is representative of the broad spectrum of aldermen, who in turn represent their communities. The association is not foolish; it has considered the matter carefully. It believes that the legislation is a reasonable and sensible compromise. And so it is. Society must realise that landholders and neighbours have rights. If the community jumps into the deep end following the Hornsby decision nothing will be built. Sydney itself would not have been developed over the past century if construction could have been stopped by a complaint from a neighbour. I had a beautiful view over the river from my house in Dubbo. The owners of a vacant block of land next door wanted to build, as was their right, and obstructed half my view. I have to accept that. People who live in urban areas must tolerate the effect of houses being built in their street. The line of reason has to be drawn somewhere.

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I cannot accept what was put by the honourable member for Coogee. Where does it end? How many people must be notified? What cost does the community, the councils, builders and landowners who want to build a house have to bear? How far do we take this nonsense? The contribution by the honourable member for Coogee was pathetic. On the other hand, the honourable member for Cessnock spoke sincerely, as usual. He fears that building inspectors could have undue power. There are good and bad building inspectors but surely at some point we have to trust someone in these matters. Councils will have to go to the public, under criteria set out in the proposed legislation, to have programs and plans approved. No one could object to that process which covers every need. The honourable member for Sutherland described that two-step approach, as I did in my second reading speech, in a sensible and well-reasoned submission which was truly sincere and on the mark.

Mr E. T. Page: Hitler was sincere too - it did not make him right.

Mr PEACOCKE: The honourable member for Coogee is performing below his normal standard and is not being sincere. As a former mayor, the honourable member knows that the actions of the Government are necessary. Is the honourable member interjecting for fun, to waste time, or does he want to make life more difficult for other people struggling to build homes and pay for them? The honourable member for Camden made a most sincere and sensible contribution to the debate, providing factual material that would impress any listener. I reject the Opposition's opposition to a good piece of legislation that has been thoroughly discussed and exposed in the community for more than a year. The proposed legislation

represents a reasonable compromise in difficult circumstances. Its passage will greatly reduce costs to councils, which will enable them to provide better services to the community, and provide for fairness and equity to neighbours who have genuine complaints and to those who are trying to build homes.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Mr E. T. PAGE (Coogee) [9.55]: I move:

Page 3, Schedule 1 (1). Omit proposed section 312A(2), insert instead:

- (2) The council must give written notice of an application to erect a building:
 - (a) to the persons who appear to the council to own the land adjoining the land in respect of which the building application was made; and
 - (b) if, in the opinion of the council, the enjoyment of other land may be substantially detrimentally affected by the proposed building after its erection - to the persons who appear to the council to own that other land.

The issues have been well and truly canvassed and I do not intend to belabour them. I seek the support of the Committee for the amendment.

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [9.56]: The amendment proposed by the honourable member for Coogee
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is totally unacceptable to the Government for the reasons that were widely debated during the second reading of the bill, and is therefore rejected.

Question - That the words stand - put.

The Committee divided.

Ayes, 46

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

Mr Jeffery

Dr Kernohan
Mr Kerr
Mr Longley
Mr Merton
Mr Moore
Mr Morris
Mr Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips
Mr Photios
Mr Rixon
Mr Rozzoli

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, 48

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 Hatton
Mr Hunter
Mr Iemma
Mr Irwin

Mr Knight
Mr Knowles
Mr Langton

Mrs Lo Po'
Dr Macdonald
Mr McManus
Mr Markham
Mr Martin
Dr Metherell
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

Pairs

Mr Greiner
Ms Machin

Ms Allan
Mr Carr

Question so resolved in the negative.

Amendment agreed to.

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Mr E. T. PAGE (Coogee) [10.3]: I move:

Page 3, schedule 1(1). From proposed section 312A (5), omit "adjoining".

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives
[10.3]: The Government will reject the amendment.

Question - That the amendment be agreed to - put.

The Committee divided.

Ayes, 48

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 Hatton
Mr Hunter
Mr Iemma
Mr Irwin

Mr Knight
Mr Knowles
Mr Langton
Mrs Lo Po'
Dr Macdonald
Mr McManus
Mr Markham
Mr Martin
Dr Metherell
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, 46

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

Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Mr Merton
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 Rozzoli

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

Pairs

Mr Greiner
Ms Machin

Ms Allan
Mr Carr

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Question so resolved in the affirmative.

Amendment agreed to.

Schedule as amended agreed to.

Bill reported from Committee with amendments and report adopted.

TOBACCO ADVERTISING PROHIBITION BILL

Second Reading

Debate resumed from 3rd December.

Dr REFSHAUGE (Marrickville), Deputy Leader of the Opposition [10.13]: The Opposition supports the bill. With regret, we find some significant changes have been made from the original intent of the bill. The major concern is that there is no health promotion foundation. I believe that will cause a significant problem for junior sport, for district sport and for regional sport. I foreshadow that a health promotion sports foundation is likely to be a major part of the policy that the Labor Party will introduce when it comes to office, which I believe will be not many days from now. Obviously the other aspect of great concern to me is that there is no absolute cut-off date for advertising and sponsorship. The intent of the original bill was to set a date after which no further advertising or sponsorship by tobacco companies would be allowed. That is what we must aim for. The potential is there for that to happen if every other State and Territory adopts that course, but the expectation is that it will not happen.

Despite those misgivings, this is important legislation that will be a milestone in public health management in New South Wales. Despite the limitation, it will be the most significant and the strongest antitobacco legislation in Australia. For that I am grateful not only to my colleagues but also to the Independents who have supported me throughout the debates on this issue and to the Government for belatedly but eventually seeing the wisdom of this direction and agreeing that we should ban cigarette advertising and tobacco sponsorship of sport and other events. I believe that by 1995, which is the real cutoff date, and that despite the loopholes, it will be unlikely that a Minister for health will be able to give an exemption for any organisation to allow that organisation to effectively advertise tobacco products through sport or cultural events. Although the loophole is there, I hope that no Minister would feel the necessity to use tobacco money for sponsoring sport, and certainly not for advertising.

I turn next to the health promotion foundation which has been eliminated from the bill. The Government has always said that it would not take money from the health budget to apply to sport in order to replace sponsorships. That is a furphy. The Opposition has never argued that health money should be taken from the health budget and applied to sport and cultural events. We have argued consistently that the wholesale tobacco price should be increased. Before the last State election we estimated that a 3.5 per cent increase would amount to an increase of 7c a packet and would produce of the order of \$20 million. The Retail Tobacco Traders Association said the figure would be \$26 million. That would be tonnes of money to replace any sponsorship. But this Government has seen fit to say to the sporting organisations, to the cultural organisations, to junior sports, to district sports, to racing clubs and so on that it

is not willing to support them at all; it is not willing to allow throughout the transition phase for a reasonable proposal put up by the Opposition to allow those sports to continue by
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replacing the sponsorship. The Government is intent on banning sponsorship but is not willing to find a way out for major sports and cultural events. If there is any destruction of sporting and cultural events, it will be on the heads of Government members because the Government refuses to allow the health promotion foundation to be established. The Government said that could not be done because it has an agreement with other States relating to uniform State legislation on wholesale tobacco tax.

Every State is not the same. There is no reason why a 3.5 per cent increase would make any difference at all to the problems we face of cheap cigarettes coming across the border from Queensland, or the problems with the borders with Victoria or with South Australia. A 3.5 per cent increase would make no difference at all to other States. The Government had to find a way to say that it cares. Time and again the Government's priorities have been wrong; whether it is with the Eastern Creek Raceway, with payouts to the Fairfax organisation or with the education system, the priorities constantly have been wrong. Now we find that the Government has finally realised that it is embarrassing for it to support the tobacco industry. It is embarrassing for a government to support people who want to push this addictive substance. Obviously it would have become more and more embarrassing for this Government as its own members were not willing to stand behind their Premier. They were prepared to cross the floor and to say that they believed it was time to stand up for the kids of New South Wales and to ban tobacco sponsorship and tobacco advertising. Eventually the Government capitulated. I give it credit for its capitulation. It made a worthwhile U-turn. But it should have gone all the way and provided for an absolute cut-off in November 1995.

The Government should have provided a health promotion trust to replace the sponsorships of organisations that may run into trouble until they find other organisations to sponsor them. Some of the players in this debate have played petty partisan politics. I should like to place on record that before the last election on 25th May - of which honourable members will see the final result tomorrow - the Australian Labor Party had a strong and comprehensive policy to set up a health promotion foundation - it would phase out tobacco advertising and sponsorship, and put a 3.5 per cent increase on the wholesale price of tobacco. That led the Retail Tobacco Traders Association to take out a full-page advertisement in the *Sydney Morning Herald* calling on the electorate to vote against the Labor Party. The association asserted that a tax on cigarettes would provide \$26 million to support the foundation. Within months of gaining office after the last election the Government increased the price of tobacco by 15 per cent - not 3½ per cent. The Retail Tobacco Traders Association said absolutely nothing about that. Whatever that association advertises in the newspapers today, it played dirty partisan politics. It was prepared to attack the Australian Labor Party when it intended to tax tobacco only 3.5 per cent, but it said nothing when the Government increased the price by 15 per cent. Until the tobacco industry stops playing dirty politics and starts to face up to the reality that there is a big difference between 3.5 per cent and 15 per cent, it will not get much time from me and the Australian Labor Party team when it gains office a few days after tomorrow's electoral dispute result.

I pay tribute to a person who has helped enormously the tobacco advertising prohibition campaign. I refer to that incredible advertising genius John Singleton. He has contributed positively to the campaign to ban tobacco advertising and sponsorship. His advertisements have shown the futility and hypocrisy of the Tobacco Institute and the inability of anyone with conscience and understanding to say that tobacco sponsorship and advertising is worth while. I pay tribute and put on record my thanks to John Singleton for his efforts on behalf of the Australian Labor Party. The Tobacco Institute has been
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expressing concern for those who may lose their jobs. It is important to put on record what the Tobacco Institute told the Australian Labor Party. It said that \$50 million a year is spent on

tobacco advertising in New South Wales and that \$13.5 million is spent on cigarette company sponsorship of sport and cultural events. As sponsorship and advertising is phased out and finishes, in 1991 terms \$63 million that would otherwise be spent on sponsorship and advertising will become available. I send a message to the Tobacco Institute that it is about time the tobacco industry diversified from cigarette manufacturing into another industry and put its energies into creating jobs that are so desperately needed in New South Wales with the money it will save.

Every tobacco worker and advertising worker who has written to honourable members should put in a claim after the bill is passed to the companies that will save \$63 million a year saying: "You put out your advertisements claiming you were concerned about employment. It is about time you put your money where your mouth is and start looking for real jobs for us, not jobs that are so desperately linked with the addiction of young kids to tobacco". The reason for the proposed legislation is far-sighted. These days young children continue to take up the addictive habit of smoking cigarettes. Of the order of 20,000 children take up cigarette smoking each year, or perhaps even more. It is time for the Parliament to say that should not happen. Honourable members should be working at constructive ways of preventing that. Despite the attempts of the Tobacco Institute to say that smoking and ill health are not inextricably linked, there is no doubt that people who take up cigarette smoking at a young age die earlier. If the Government can stop children taking up the habit, there is plenty of evidence to show that people who do not take up cigarette smoking before the age of 20 are unlikely to take it up. If they do, they are most likely to give it up. It is the children who take up cigarette smoking at the age of 12, 13 and 14, or even younger, who will become totally addicted and a real problem. I know that, having taken it up at the age of 12.

Honourable members can stand strongly and say as a Parliament that they will not be swayed by the money of the Tobacco Institute or the bleatings of organisations that believe they cannot survive without tobacco sponsorship. They can say: "Enough is enough. It is time to stop. It is time to give the kids of New South Wales a chance". It is time to give the hospitals of New South Wales a chance to decrease the incredible morbidity and mortality that is putting so much pressure on the hospitals, particularly in western Sydney, as the newspapers have reported of late. This milestone legislation should get a full airing. Every member of Parliament should be keen to talk to the bill. It is important that this legislation be passed now before the Government spits the dummy tomorrow following release of the judgment of the Court of Disputed Returns. I have asked my colleagues, who have reluctantly agreed, not to add to the debate, so that the legislation will be passed. On behalf of the *Sydney Morning Herald* and the *Daily Telegraph Mirror* I should like to thank the Tobacco Institute for the \$2 million it has spent in advertising. I am sure their revenue has been improved. It might help the Friends of Fairfax out of minor problems. That would be worth while. Despite its flaws, this legislation is the most significant anti-tobacco legislation in Australia. I hope that other States follow our lead so that an absolute ban on tobacco advertising and tobacco sponsorship applies throughout the whole of Australia. When that stage is reached, we will have done something of significance in Australia, something of which we can all feel proud. I commend the bill.

Dr METHERELL (Davidson) [10.28]: I support the Deputy Leader of the Opposition and congratulate him most sincerely for the courageous, thoughtful and sincere way in which he has steered the debate in this House and in the community generally on this vital measure for community health and the public interest. I

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congratulate Reverend the Hon. F. J. Nile in another place for similarly lending his support and his leadership to one of the most important social causes that this Parliament has embraced during my time as a member. I congratulate also those members of the media who have more than counterbalanced the vile and misleading advertising placed by the Tobacco Institute and associated interests and the gross misrepresentations and attempts to intimidate members of Parliament through distorted and perverted opinion polling, all part of an orchestrated campaign - one of the most massively funded campaigns - to which members of Parliament will ever be

subjected. Journalists, both in the electronic and print media, have resisted the campaign magnificently and counterbalanced the influence with intelligent reporting of the issue and of the critics of the Tobacco Institute. They have been able to bring forward the facts of the risk to health and the community interest, and have written perceptive and persuasive editorials on the matter.

I am proud of every member in this place who has lent his or her support and who is committed to this cause. I am proud of them for having resisted, and for showing that they are capable of resisting, that sort of insidious pressure - that quite blatant intimidation that was brought to bear by this pernicious lobby group, the Tobacco Institute, which has covered itself in disgrace and shame. I am saddened by a few aspects which have been raised in debate so far. I am particularly saddened by the role of the two health Ministers. I thought that they, like their predecessor in the previous Government, would have been persuaded, because of portfolio concerns or personal conviction and belief, to be champions of the cause of community health. I thought that in the public interest they would have support for the strongest possible measures that were initially discussed and put forward by the Deputy Leader of the Opposition, and supported by Reverend the Hon. F. J. Nile, rather than working contrary to that interest and doing all that they could, both in the public domain and in this Parliament, to undermine those initiatives, to water them down and to bring forward what unfortunately is still a diluted version of what this Parliament should be dealing with.

I would like the Minister for Health Services Management to take to heart the message that he has failed in that important respect. He may be fulfilling his portfolio obligations in other important respects, but in this important respect he has failed the interests of young people, young girls particularly, by lending himself to the campaign that the Tobacco Institute has been mounting. It also saddens me that the Premier has brought forward such false arguments as he did in relation to the Health Foundation. He was claiming it would draw off money from the health budget. When he made those sorts of extravagant claims he was supported by at least one of the health Ministers. I cannot say that I heard both of them use the argument - certainly one of them did - that not one dollar was to be taken from the health budget to fund the foundation. That is malicious nonsense. It amounts to a blatant lie to try to distort public debate on this important process. The truth is that a very responsible proposal was brought forward by the Deputy Leader of the Opposition and Reverend the Hon. F. J. Nile. I only wish it were still included in this legislation. It was precisely that proposal that the previous Minister for Health brought to Cabinet.

Mr Hartcher: Give us a new Cabinet secretary.

Dr METHERELL: The Government Whip is treating this as some sort of a joke. If he spoke to the present Attorney General he would know that he has lent himself to the undermining of his proposal to the Government - a proposal that I was proud to support as Minister for Education, but which honourable members on the Government side have done their best to subvert. One of the mantles of pride that the present

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Attorney General can wear is that he has been a courageous advocate for the stamping out of this insidious sponsorship of sport and pernicious advertising by the tobacco industry, in marked contrast to present health Ministers, who have both gone in exactly the opposite direction.

Mr Phillips: He did not spit out his dummy and change sides.

Dr METHERELL: No, but it is a pity that he did not always pursue his private views more publicly. If he had, I am sure a stronger form of this legislation would have been in place a lot earlier. When people are courageous in public life they often achieve a lot more than they would have achieved by hiding their real beliefs under the mantle or cloak of Cabinet solidarity. The important point is that there is to be a move in the right direction, and a significant

reduction in the amount of sponsorship. I hope that, in the years ahead, we will see an end to the sponsorship of sport and cultural activities and an end to advertising in all its forms by the tobacco industry. We know what the end result of that will be, just as we know what will be the end result of the health foundation. We would also know the end result if we were able to spend on the education and health portfolios an amount of money equivalent to that being spent by tobacco interests. The result would be a marked reduction in smoking among young people, particularly young women.

Unfortunately, tremendous damage is now being done to the health of young women. The number of young women taking up smoking is surpassing the number of young men who smoke. In turn, that is affecting the pre-natal and neonatal health of the babies they are giving birth to. It is a sad day when a government is responsible for such an adverse impact on community health. This is a first step. Those who have championed the cause should be proud that they were there in the lead. They should be proud that they have pioneered a way that will be followed and pursued to the end. We are only in the first stage of removing the threat of the tobacco industry and all it stands for in our community. I congratulate the sponsors of this legislation and all those who have supported it.

Dr MACDONALD (Manly) [10.36]: The disappointing aspect about this legislation is that it has come so late and has taken so long to get on the agenda. In 1987 - or even earlier - many in the medical world were putting pressure on the Government to introduce this sort of legislation. It is also disappointing that this legislation has come into this House in such a watered-down form. I signal now that some time next year I intend to introduce amendments which I believe will have the support of many in the community and in this House. As a doctor I am outraged at this whole question of tobacco advertising.

Mr Phillips: You cannot be trusted. That is not what you said to me.

Dr MACDONALD: The Minister for Health Services Management has just said that I cannot be trusted. I have no intention of amending this legislation tonight.

Mr Phillips: I am sorry, I misunderstood you.

Dr MACDONALD: No, the Minister did not misunderstand me. I was signalling that at some stage in the next session I should like to discuss with the Minister some fine tuning of this legislation. I have no intention of delaying the passage of this bill. I understand the argument that has been put forward by the Action on Smoking and Health group; it is important that this bill passes through the House tonight. But we have

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had an extremely polarised debate, and it is sad that that has happened with such an important issue. We have on the one hand the community and on the other hand the tobacco lobby. But it really is a matter of light and darkness and truth and fiction. It is about time we started looking at some of the facts. Over the past few months a fair degree of information has come our way, but I have had access to this sort of information for many years. The facts are being clouded by the disinformation that is being put out by the tobacco lobby, but there is no doubt that tobacco is a lethal substance. We know that about 17,000 Australians die every year as a result of tobacco. More people die from smoking than from traffic accidents, fires, murders and suicides.

Tobacco is also very addictive. It has been argued that tobacco is more addictive than heroin. It is strange in that it is a product that kills when it is used exactly as it is intended to be used. That is in contrast with things such as alcohol and motor cars. It takes an abuse of those products to kill, but tobacco, even if used according to the way in which it is promoted, will kill. We live with this problem. It is amazing that it has taken so many years to reach the point where we are seeking to pass legislation to prohibit its advertising. It is sad that most of

the customers of the tobacco industry take up smoking as children. I dispute some of the figures that have been referred to tonight, but certainly the consensus is that every year about 2,500 children take up smoking - and that is due to cigarette advertising. Those facts really cannot be disputed. The consensus of opinion right across the medical spectrum is that tobacco is a lethal substance - a substance which has an effect on schoolchildren, particularly in the 10-year to 12-year age group.

Recently a New Zealand expert, Dr Murray Laugesen, visited Australia to give a press conference about his study of 22 Organisation for Economic Co-operation and Development countries between 1960 and 1986. The article he wrote in relation to his study was reproduced this year in the *British Journal of Addiction*. He sought to confront the argument about whether restricting tobacco advertising and raising the price of tobacco lowered consumption. Those on the other side of the debate argue that does not happen. Dr Laugesen's well-recognised and authoritative paper on the subject shows clearly that a reduction in advertising results in a significant reduction in consumption. He argued that if the price of cigarettes is continually raised, consumption will be reduced. In 1986 the price of cigarettes in Ireland was the highest of any of the nations he studied. Had the 22 Organisation for Economic Co-operation and Development nations raised the price of cigarettes to the Irish price, a 35 per cent decrease in consumption would have resulted. Proper, balanced research is being undertaken which demonstrates clearly that raising prices and restricting advertising reduces consumption. These issues must be confronted head-on. It is also important to examine local lobbying information to form an opinion about this debate. The tobacco lobby has spent \$50,000 a day on newspaper advertising. It is much like David and Goliath. I have a letter dated 3rd December in which 50 or 55 professors in the Faculty of Medicine at the University of Sydney make it clear that the legislation must be supported. The Minister has probably also received a copy of that letter. Part of that letter reads:

An advertising ban will have the most impact on the smoking habits of children . . .

That has been emphasised by the shadow minister for health and there is no doubt that that particular sector of the community is most vulnerable to advertising and promotion. I should like to quote from an article in volume 152 of the *Medical Journal of Australia* dated 5th February, 1990. The people I am quoting are not radicals pushing for something that is ridiculous; they are the captains of their profession. The article reads:

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There is now considerable evidence that children both see and can easily recall cigarette advertising whether it is on billboards, in magazines or newspapers, on television or at the cinema, or when it is placed propitiously at sports events.

This is interesting:

Importantly, both attention and recall do not extend to the health warning that is mandated to appear with such advertising.

It seems that children have some sort of a blackout. Later in the article the question is posed: where do we go from here? The article reads:

There is enough evidence now, from all different kinds of studies, to justify a conclusion of probable causation for the effect of advertising on the uptake of smoking by children.

How more definite can one be? The April 1989 professional information news sheet of the New South Wales Cancer Council is interesting and the Minister should take note of it. In a sense the extract I should like to quote is an indictment of New South Wales. The news sheet reads:

. . . New South Wales, the Premier State, faces the ignomy of dragging far behind Victoria, South Australia, Western Australia and Queensland in the struggle to break the influence of tobacco companies on their future market . . .

The news sheet reveals that per capita Western Australia spends \$1.21 on smoking reduction programs and New South Wales spends only 22.5c. The Minister should note those figures. The figures produced in that news sheet are frightening. I should like to quote also from an assessment and analysis of deaths due to smoking in the years 1982 to 1986 in my electorate. It makes for alarming reading. The total number of deaths due to smoking in those years was 409. That is a raw figure and it is hard to relate. However, of every thousand people who died in the municipality of Manly in those four years, 208 died from smoking. That is approximately 20.8 per cent. One in five people who died in my electorate in those years died because of the effects of smoking. That is a worrying and frightening statistic. Honourable members are now aware of such figures; they have become part of the public agenda.

Dr Metherell: We have almost become hardened to it.

Dr MACDONALD: That is right: we have almost hardened to it. However, there is no doubt that we need to be reminded of it. That is the message we must send to the community. The cost to the community must also be taken into account. That issue was addressed by the bi-partisan Standing Committee on Social Issues, which issued its report last year. The committee examined the social and medical cost of smoking, and made certain recommendations. The concluding sentence of the report read:

To continue to allow the promotion and advertising of tobacco products would be a dereliction of government responsibility.

I do not understand why the Government ignored that report. Why was something not done in December 1990 when the report was issued? It took the shadow minister for health to get the ball rolling. Perhaps a different Minister was responsible at that time. I do not know, as I was not then a member of this House. In any event, the issue is now up and running. I have dealt with the social and medical costs, and the economic cost must also be considered. It is important to estimate the economic cost of the abuse of tobacco in this country. In a medical sense, tobacco is the most costly of all drugs. It accounts for 47.5 per cent of the costs of all drug abuse. That is \$6.8 billion a year.

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That figure is worth repeating - \$6.8 billion a year. The total figure of \$14 billion represents the minimum cost imposed upon the community. Many of the effects of drug abuse are not quantifiable, and where a range of costs was available a study by the Victorian Health Promotion Foundation adopted the lower costs. The point of view of the tobacco lobby needs to be addressed in the debate. The tobacco sector has strongly lobbied all honourable members.

[
Extension of time agreed to.]

Honourable members have been lobbied by the packaging industry, the tobacco advertising industry and the Retail Tobacco Traders Association. Those organisations have raised a number of issues that need to be addressed. One of the important issues is, if it is legal to sell, it is legal to advertise. That issue was addressed by the standing committee. The issue is a total furphy. Many schedule 3 drugs such as Ventolin and other anti-asthmatic drugs can be legally sold but not legally advertised. That claim can be easily refuted. There is also much talk about the loss of jobs. I have received a letter from the New South Wales Tobacco Traders Association. That association tries to sustain the argument that this legislation will harm businesses and jobs. Display Packaging Pty Limited in a letter stated:

Given our current economic climate . . . I believe there are far more important economic and social issues which should be addressed rather than trying to pass a Bill which has been produced through the actions of a vocal minority group trying to ban advertising of a legal product.

One could not receive a more irresponsible letter. It speaks about a vocal minority group, and it really hangs itself with that remark. I would argue: what about the health of the community? It is also argued that this will result in a loss of revenue. I have received one letter which states:

Clearly it seems to be bad economics to consciously set about destroying an industry from which the state receives \$750 million a year in direct revenue.

That is easily refuted. What about the cost to the community? The cost in this State is \$2.5 billion. Certainly there may well be a loss of revenue but that must be measured against the other side of the equation. The question of sporting bodies is worth considering as they are said to be the beneficiaries of the sponsorship. I have received a letter from the Australian Cricket Board, as have many honourable members. We are being lobbied by the Australian Cricket Board, which I thought represented a healthy sport. The letter stated:

. . . the policy of the Australian Cricket Board is that sport in general and cricket in particular, should be free to accept or reject sponsorship from any organisation operating legally within the community.

That highlights the whole issue of freedom to choose and the argument cannot be substantiated.

Mr Cruickshank: Freedom of choice cannot be substantiated indeed.

Dr MACDONALD: Not on the question of health affecting our children. I have received a letter from David Hill, President of the North Sydney District Rugby League Football Club Limited. He puts this whole matter to rest when he says:

In this context I have been asked about the significance of Winfield sponsorship to the
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financial viability of the "Winfield Cup" Rugby League competition.

It is my view that the importance of Winfield sponsorship has been much overstated.

He makes it quite clear that the benefits meant to flow from sponsorship are not really there. That is an argument that needs to be clearly examined. Also, I express my disappointment that this legislation has been watered down. Those responsible for the watering down of this bill ought to listen to my next comment. This bill will not introduce bans until 1995. Between 1991 and 1995 more people will take up smoking. If the Minister had introduced this bill he might have sought immediate bans. If that were to be done between 1992-95, more than 6,000 children would not take up smoking. That number has been assessed by Action on Smoking and Health. On the basis of epidemiological studies performed in the United Kingdom, of those 6,000 children who will take up smoking in those four years, 1,500 will die. As a result of this Parliament delaying the ban for four years, we will be responsible for the deaths of 1,500 children, and that is worth remembering.

Exemptions may flow on after 1995. I will be asking the Federal Government to introduce, through its corporations power, a bill to ban it nationally and internationally. We are relying on that and I shall not speak further on it. The original bill, which was watered down in the upper House, allowed for a health promotion foundation, and that is needed. Next year I shall be seeking to introduce a health promotion foundation. I move away from the strict context of tobacco advertising and ask honourable members to consider what has happened in medicine over the past couple of hundred years. Medicine has gone through a number of phases. The first phase in medicine was the engineering phase, which is where we looked at public health issues such as good water supply, sewerage and so on. We built the

infrastructures and allowed for that. The second phase was introducing medications and vaccinations. That was probably during and soon after the war. The third phase that we are going through now is the question of lifestyle. The Minister will agree that we have entered a phase of medicine where health benefit does not follow from spending large sums of money on medications and hospitals. It comes from lifestyle considerations.

Lifestyle is influenced by advertising, and that is why the advertising industry now holds in its hands the future of health in this country. That is why it is important to be aware of this move into another area where health promotion and preventative medicine is important. The advertising industry influences health and, equally, if we have a health promotion foundation, it will assume the role of influencing health. That will be one of the arguments I shall be advancing in support of that foundation. Experience in New Zealand shows that in the six months since that country introduced bans, there has been a 10 per cent reduction in tobacco consumption. I am sure that is just the sort of news that the tobacco industry wants to hear. Before I conclude, I wish to quote from a poem, referred to and possibly written by the Associate Professor in Cancer Medicine at the University of Sydney. It states:

The tobacco-stained rulers of sport
Now defending their sponsorship rort
Might more freely concede
The demise of the weed
If their consciences hadn't been bought

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [10.56]: I support the Tobacco Advertising Prohibition Bill, which I believe goes a long way towards addressing a range of issues of which I have been a firm supporter for many years. Smoking-related diseases have long been recognised as
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a major burden on the State's scarce health resources. Any effort taken now to reduce the incidence of tobacco use - in particular among Australians - will have long-term benefits for health care services, while helping to prolong the lives of those most at risk. In speaking in support of this bill I should like to cast some light on the issue of rights and freedoms. In recent weeks the tobacco industry has attempted to muddy the rights issue through a mischievous and misleading campaign. The industry insists that certain fundamental liberties are threatened by this bill, but it is almost impossible to figure out exactly what rights and freedoms are being violated.

The arguments of the tobacco lobby are ambiguous. The rights of individuals have been confused - I suggest deliberately - with the rights of the tobacco industry. The right of consumers to receive information about tobacco products has been confused with the current practice of recruiting new smokers through slick promotion and advertising. This confusion needs to be resolved, and I hope to achieve some clarity here today. Before I turn to the vexed question of rights, let me say from the outset that I am convinced that the medical case against tobacco has been proved beyond question. Tobacco smoking without doubt is Australia's greatest preventable cause of death. In New South Wales alone more than 6,000 people lose their lives prematurely each year because of the substance. The most recent figures show that 1,670 people die from smoking-induced lung cancer, 3,400 from heart disease and stroke, and a further 1,300 from tobacco-related causes of death, such as bronchitis and emphysema. Therefore, when we discuss the question of rights and freedoms, let us also keep those frightening costs in mind. The tobacco industry is guilty of working to derail the essential issues relating to the bill. The New South Wales Government is concerned about the quality of life and the health of thousands of Australians, but the industry appears to be artfully ducking the issue. The industry's John Singleton, for instance, writing in the *Weekend Australian* on 16th November, advised us as follows:

The fight is not about smoking - it is about freedom. The duty of Government is to protect us from public assault, not to prosecute us from personal indulgence.

According to the industry the issue is freedom rather than longevity. But what kind of freedom? Sadly we may never know. Relevant and logical arguments in favour of smokers' rights appear to be relatively rare. Most of the positions held by the tobacco lobby are anti-restriction rather than pro-right. There is a fundamental difference. I believe the freedom of choice position of the tobacco lobby is largely emotive and appears to translate more accurately to freedom from restriction. Few, if any, of the arguments relate to the substance of the real debate, that is, the health consequences of smoking and the effect of advertising. It strikes me that the controversy over the civil and democratic rights of smokers is by no means a unique issue. It is a dilemma that has strong parallels with numerous other popular debates. The smoking issue has features in common with public interest debates over firearms, drugs, information privacy, police powers, social security procedures and health policy.

The tobacco lobby is complaining loudly that it is being subjected to unfair discrimination. I must say that I do not believe the tobacco industry has rights that are even remotely equivalent to the rights of the individual citizen. But if we are to enter into a debate on this question, we should get the ground rules straight: tobacco is a substance that kills if used as the maker intended. Any aspect of its use should therefore be considered a limited rather than an absolute privilege, rather like the activity of driving a motor vehicle. No form of promotion is an absolute privilege, least of all the promotion in question here. The smokers' rights question is being subjected to the same public interest determination process that has become accepted in debates over the rights

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relating to any other intrusive, or non-intimate, activity. In each case the activity is subject to some form of regulation in the public interest. Whether such regulation is effective or even counter-productive is a separate issue.

The tobacco lobby appears to have embraced a conveniently limited definition of rights. Civil rights in a democracy are based on the striking of agreed balances between the expectations of a community and the rights of individuals and classes of individuals. But when the tobacco lobby speaks of "civil rights" it appears to actually mean "individual rights". So let us proceed a step further. This bill does not seek to limit any aspect of the activity of smoking, so "individual rights" in this context can mean only the individual right of free choice. The Government has no problem with that right. This bill has no problem with that right. There is no market restriction on the range of brands or the packaging. We are dealing here solely with the activity of an industry in promoting a deadly habit. Arguments that advertising is aimed exclusively at brand swapping are clearly erroneous. Since the industry is complaining that thousands of jobs will be lost because of this bill we can conclude that the industry knows that fewer smokers will be recruited as a result of the proposed advertising prohibition.

The tobacco industry often argues that restrictions are unfair or discriminatory because "tobacco is a legal product". This argument ignores the common application of restrictions on nearly all products. Quality control, standards of manufacture, retail restrictions, advertising guidelines and accountability procedures apply across the board to such products as alcohol, pharmaceuticals, food and beverages, manufactured goods and chemicals. Again, a case is being incorrectly made that tobacco products have been singled out for special treatment. The industry's "legal to buy, legal to advertise" argument is illogical. While I am on the subject of discrimination, some commentators have argued that moves to restrict smoking discriminate against minority races and the poor. If it is true that the poor smoke more than affluent people, it is equally true that they are often more vulnerable to manipulation by powerful vested interests such as the tobacco industry. One would have thought it was rather ironic to argue that smoking should be free of restriction because the most powerless in society were its victims.

The tobacco lobby has been strident in its criticism of the proponents of the bill, asserting that the process of law in the matter of tobacco advertising is fundamentally crooked. If, for the sake of argument, we agree that the local lawmakers are not fit and proper people to

pass legislation, and if we are to pretend for the moment that the basis of legislation is fundamentally unsound, we must turn to another set of benchmarks. That is clearly what the tobacco industry is arguing. If we need to look elsewhere for guidance on the rights issue, we can do no better than to turn to the various international human rights treaties. There are quite a number of governing texts that we could look to, all of which support the Government's intentions in this bill, but I will cite just six of them: the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the American Declaration of the Rights and Duties of Man; the European Convention for the Protection of Human Rights and Fundamental Freedoms; and the European Social Charter.

The question of interpretation of international instruments is of course immensely complex. The issue of relevance and application of the governing texts has always been subjected to a variety of influences. The texts often establish differences between rights, duties and responsibilities applying to both nations and individuals. Nevertheless, the texts indicate the right to smoke - a conditional right - is superseded by other fundamental and primary rights. It logically follows that the practice of promoting the activity of

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smoking is also subject to limitations. Before smokers can claim a breach of natural rights their dignity, health, safety, privacy or right of free expression must have been violated. If a smoker is the victim of discrimination or harassment or if a smoker's freedom of association or movement is affected, a legitimate claim can be made. Nevertheless, international and domestic law demand that the practice of smoking should be limited so its harmful effects are minimised. It would appear unlikely that the intimate practice of smoking will be outlawed, as this would contravene fundamental rights and freedoms. There appears, however, to be little support in the international conventions for allowing support of an unhealthy pastime.

I support the Tobacco Advertising Prohibition Bill not just because it fits well with this Government's commitment to a just and workable health policy as outlined earlier by the Minister for Health Services Management but because it will go at least part of the way to limiting a practice that causes needless misery and death in our community. This bill does not meet everybody's demands but it is a breakthrough - a breath of fresh air - in this State's tobacco debate. As such, it is a measure in which all members of this Parliament can feel satisfaction. The bill is a step in the right direction and will place significant pressures on the Commonwealth, States and Territories to introduce supporting legislation to ban totally - by no later than November 1995 - all tobacco sponsorship of sport or arts events of national and international importance. I feel very privileged to be able to support this legislation in the Parliament tonight. It is unfortunate that the legislation should be dealt with so late at night. In my parliamentary career my support of the passage of this legislation probably will be one of the most significant contributions which I will make as a member of the New South Wales Parliament. Accordingly, I commend the bill to the House.

Mr PHILLIPS (Miranda), Minister for Health Services Management [11.10], in reply: I should respond to the comments made by the honourable member for Davidson, the honourable member for Manly, the Deputy Leader of the Opposition and the Attorney General, Minister for Consumer Affairs and Minister for Arts. Reference was made to the health promotion trust. I have grave difficulties with the concept of the health promotion trust. I have no problems with increasing taxation on cigarettes. As the honourable member for Manly said, it has been proved around the world that increasing taxation on cigarettes reduces demand and limits the ability of people to purchase cigarettes. Therefore it is a proved way of reducing the incidence of tobacco smoking in the community. I fail to understand the real benefits to be gained from a health promotion trust, for several reasons. In Victoria, if one attends the Melbourne Cup race-meeting, one opens the race book and sees a page showing that the Victorian Health Promotion Trust sponsors the Melbourne Cup and does many other things. Across the track one sees the Health Promotion Trust tent and all the friends of the trust have been invited to the tent. The trust sponsors many other sports in Victoria and has corporate

boxes and tents. A tremendous amount of largesse is in the hands of parliamentarians across the board. Members from both sides of the Parliament are involved in the distribution of these funds. That causes grave difficulties for me. If taxation on cigarettes were increased by 3.5 per cent, the honourable member for Davidson, the honourable member for Manly and the Deputy Leader of the Opposition would know that I could do much better as Minister for Health Services Management using those funds for other health promotional purposes, which would give far better outcomes for the quality of health in New South Wales than spending them on billboards.

Dr Metherell: It removes cigarette sponsorship, as the Minister knows.

Mr PHILLIPS: That is exactly the point. It is a cop-out. It is a warped
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community that decides it is opposed to cigarette advertising and at the same time takes money for the purpose of removing tobacco advertising from sport sponsorship and replacing it with health advertising. Advertising should be banned. The money saved could be spent in assuring better health outcomes. The honourable member for Davidson is copping out.

Dr Metherell: We support banning. You are the ones blocking that stronger legislation.

Mr PHILLIPS: I am talking about the health promotion trust. The health promotion trust is a cop-out, and I should be interested to debate the effectiveness of the trust with the honourable member for Manly in future. The honourable member for Manly spoke about Western Australia and said that \$1.21 per head of the population was being spent in that State on opposing tobacco usage. New South Wales spends only 61c per head of population. Ignoring the statistical problem of the difference in size of the respective populations, I think it is a warped community that allows the promotion of a deadly drug but wants to spend good dollars on opposing that promotion. I cannot support that principle. Another matter to which I should refer is the grandstanding that has occurred in this place about cigarette advertising. It is as though those members to whom I referred were the only ones who had championed this cause for some time. Honourable members will be aware that a number of debates have occurred in this House and that progressively the line has been pushed against cigarette advertising and the use of tobacco. The subjects debated include the content and control of cigarettes, standards of manufacture, taxation, warnings and television advertising. They are all ways of pushing the line.

Some honourable members have indulged in grandstanding as though they were the only champions of this cause. That is a little despicable. They should give credit for the way the line has been pushed for many years. I make another important point that will be of interest to the honourable member for Manly. The only decent speech made tonight by the person who has total credibility on this subject was that made by the Attorney General, Minister for Consumer Affairs and Minister for Arts. He made the best speech tonight, in which he emphasised the need to oppose industry promotion of a deadly habit and at the same time protect the rights of individuals. As the Minister said, the bill pushes the line once again. Finally, I refer to the hypocrisy in the debate that was highlighted by the Deputy Leader of the Opposition who in March this year wrote to Colin Edgar, the Chairman of the Australian Cricket Board. In that letter the Deputy Leader of the Opposition, this guy who has come along the road to Damascus at the last moment, said:

The Australian Labor Party does not intend banning sponsorship from cigarette companies. I would be grateful if you would inform your members of this policy in your association journal.

That is the height of hypocrisy in this debate. I look forward to further debate in the future.

Motion agreed to.

Bill read a second time and passed through remaining stages.

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COURTS LEGISLATION (CIVIL PROCEDURE) FURTHER AMENDMENT BILL

Second Reading

Debate resumed from 28th August.

Mr WHELAN (Ashfield) [11.18]: Mr Acting-Speaker, you may have a feeling of déjà vu about this debate. The Courts Legislation (Civil Procedure) Further Amendment Bill deals with the abolition of juries in civil proceedings in certain circumstances. Members may recall that a discussion paper on the legislation was issued in 1989. The subject was properly canvassed by me and those who saw the legislation defeated ultimately in the Legislative Council. The arguments that were applicable at that time are relevant to the present proposed legislation. The most important point of which the Parliament should take cognisance is that since the earlier bill was introduced there has been an election. The Government has now introduced legislation that is in terms identical to the original bill. When the Government went to the polls it had no policy that justified the continuation of the proposal to abolish jury trials. In essence, the Government had no mandate for the abolition of jury trials. It did not seek public opinion about this important matter of the abolition of jury trials. Once more the Government has moved to curtail the right of parties to have jury trials in civil matters. The Government accepted defeat the last time this issue was debated, so why is it now seeking to introduce this bill? The bill is being introduced without advance warning, as was the 1989 discussion paper. The discussion paper was issued in 1989 by the former Attorney General. Last year the upper House dismissed similar legislation. We are asked to reconsider defeated legislation.

The most important thing about the abolition of jury trials is that it contributes to a significant but unjustifiable erosion of the rights of citizens to a civil trial before a jury. The Government has no mandate to introduce the bill. The reasons advanced in support of the bill do not justify such a dramatic remedy. Most of the matters I wish to raise were raised 12 months ago when the matter was first debated in this Parliament. The jury service involves citizens in the administration of justice. All citizens entitled to vote are eligible for jury service. There is virtual anonymity of the jury. It ensures that there is no prejudice - no one can approach the jury. Jurors bring with them considerable experience. One of the fallacies that the Government persists in reiterating is that jury trials cause delay in the court system. On the two occasions that the matter has been debated in this Chamber and in the other place, not one scintilla of evidence has been produced to that effect. The listing system is the real cause for delays in jury trials. The Government has not allocated acting judges to hear jury trials; it has allocated acting judges to non-jury cases, which has effectively reduced delays, but no acting judges have been allocated to jury trials to enable those cases to be heard. Both the present Minister and the former Minister made the bland statement to the Parliament that jury trials are the cause of delays in the court system.

The philosophical difference between the New South Wales Liberal Party-National Party and the Australian Labor Party is that the Labor Party wants to preserve jury trials. The Government has no mandate to make the legislation retrospective, because the parties to civil proceedings to be tried by jury have lodged their statements of claim. This legislation will have retrospective effect, and honourable members will know the evils of retrospective legislation. I was pleased that 12 months ago the Labor Party had the support of the Independent members

in the upper House. Unfortunately, the balance of power has shifted. In the past Independent members supported the

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retention of jury trials. I urge them to address this serious issue of the preservation of jury trials. I believe the Minister cannot give me half a dozen reasons for curtailing jury trials or the cost benefits that will result. He cannot say that particular civil litigants will not be prejudiced by the abolition of jury trials. I ask the Minister to tell me how in the future judges who move from the civil jurisdiction to the criminal jurisdiction will be trained. Is this the forerunner to the abolition of juries in criminal trials? Who will be the people to adjudicate on criminal trials in the future? Let the Minister give me the economic rationalist's approach; let him give me a guarantee that the people of New South Wales will have a fairer trial without being judged by their peers. If he can do that then the Opposition will support him. Until the Minister can give that guarantee there is no possibility of the Opposition supporting the legislation.

Mr GRIFFITHS (Georges River), Minister for Justice [11.24], in reply: I thank the honourable member for Ashfield for his contribution to the debate. However, the real question is: who stands to benefit by retaining juries in a small number of civil jury cases? It is not the plaintiffs, who are put to increased cost, delay and pressure to settle on unfavourable terms, and who generally receive lower verdicts if a matter goes to a jury trial. It is not the courts, which must apply significantly more resources to a small category of cases to accommodate civil jury trials, which cause greater delay in the court system. It is not the quality of justice. In fact, there is a strong argument that the use of civil juries derogates from the quality of justice dispensed by courts, because of inconsistency in jury verdicts and difficulties of appealing against them. It is not the jurors, who generally suffer monetary loss and substantial inconvenience through jury duty. It is not the community, which must ultimately pay for what the New South Wales Law Society has referred to as a luxury that the community can no longer afford. It is not the other litigants in the list who suffer additional delays because of the time taken to hear jury matters.

It is not the protection of civil liberties, because no civil liberties are at stake in civil cases, for which it is proposed to eliminate civil juries. It is not the defendants. Though it is defendants who requisition civil juries, they do so in only a small proportion of their cases. In fact, a large insurer, such as the National Roads and Motorists Association, has supported the abolition of juries. It is not the majority of the legal profession who, through the New South Wales Law Society, have supported and even passed a resolution for the abolition of juries. Only a small minority of barristers are left, who seem emotionally or tactically attached to the use of juries, and who act mainly for defendant insurers. In 1987 the Opposition attempted to introduce legislation to eliminate jury trials and it is now attempting to thwart the Government for political purposes by opposing this legislation. I commend the legislation.

Dr METHERELL (Davidson) [11.27]: I wish to make clear to the House why I support the Government on what is a surprisingly contentious matter. I have long held the view that we should consider the removal of jury trials in a larger category of cases than even the Government proposes, in particular the complex commercial cases which still retain the option of having a jury. It is fair to say that most juries would not know up from down, given the complexities of the commercial cases they are asked to examine. Indeed, one might well ask whether in many of those cases the judges really understand the commercial complexities of the matters they are endeavouring to try. I suspect that in a decade or two we will have some other means of trying some of these extraordinarily complex cases, many of which find their way to royal commissions and subsequently come back to court. We are struggling to find an alternative means of trying those cases satisfactorily so that justice is done and the evidence is sifted and examined in an appropriately professional way. It ought to be boldly pronounced that this is but the first step in a quite major, radical but long overdue change to our legal system where jury trials are retained in appropriate cases, where juries assist in the delivery of justice, but

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where juries are removed from those cases where the jury trial is an impediment to justice. We should be open and frank enough to pose the question: in which categories of cases is it appropriate for the jury to be retained? The Government has taken an important first step in this area, but it is only a first step. Not only this Government but future governments of all political persuasions will be seeking to effect major and radical overhauls of the systems, including further reductions in the use of juries.

Mr ACTING-SPEAKER (Mr Tink): Order! The question is, That this bill be now read a second time. All those of that opinion say aye, to the contrary no. I think the ayes have it. The ayes have it.

Mr Whelan: Division.

Bill read a second time.

Mr Griffiths: Mr Acting-Speaker, I ask leave of the House to move the third reading of the bill forthwith.

Mr Martin: The honourable member for Ashfield called for a division.

Mr ACTING-SPEAKER: Did the member for Ashfield call a division?

Mr Whelan: Yes, I did.

Mr Hartcher: On a point of order. The question had been declared carried.

Mr Moore: I suggest that the best way to approach this is for the question to be recommitted.

Mr ACTING-SPEAKER: Before I recommit the question, I note that the division was not called at the appropriate time. The recommitted question is, That this bill be now read a second time.

Question put.

The House divided.

Ayes, 47

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 Griffiths

Mr Hazzard

Mr Jeffery
Dr Kernohan
Mr Kerr
Mr Longley
Mr Merton
Dr Methereil
Mr Moore
Mr Morris
Mr W. T. J. Murray
Mr Packard
Mr D. L. Page
Mr Peacocke
Mr Petch
Mr Phillips
Mr Photios

Mr Rixon
Mr Rozzoli
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

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Noes, 47

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 Hatton
Mr Hunter
Mr lemma

Mr Irwin
Mr Knight

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

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

Pairs

Mr Greiner
Ms Machin

Ms Allan
Mr Carr

Mr ACTING-SPEAKER: The vote being equal, I give my casting vote with the ayes and declare the question to have passed in the affirmative.

Motion agreed to.

Bill read a second time.

Mr GRIFFITHS (Georges River), Minister for Justice [11.37]: I ask leave of the House to move the third reading of this bill forthwith.

Leave not granted.

JUSTICES (COSTS) AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 16th October.

Mr WHELAN (Ashfield) [11.38]: The Justices (Costs) Amendment Bill is opposed by the Opposition. The High Court of Australia, in the case of *Latoudis v. Casey*, overturned what people regarded as existing common law, namely, where a person was charged by the State and the State failed to prove guilt, costs would be awarded against the State. In other words, where charges were dismissed because of reasonable doubt, the costs of those persons prosecuted would be borne by the State. The High Court overturned the decision. The Government's amendment will not overturn the decision, it will only complicate the present position. This legislation received the concurrence of the House on another occasion, but it was rejected by the upper House. The bill is identical to the Justices (Costs) Amendment Bill that was introduced in April and defeated on 2nd May. As honourable members are aware, since that date an election

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has been held and other political events have taken place whereby the majority enjoyed formerly by the Government in the lower House is no longer available, and the minority situation the Government was faced with in the upper House is far less of a problem. The Government now feels sufficiently confident to reintroduce the bill. The principle involved in the legislation is predicated on the proposition referred to in *Latoudis v. Casey* being wrong. It provides that a government that prosecutes a person accused of wrongdoing should not have to pay the costs of the accused's defence if a magistrate rules that there is a reasonable doubt in summary proceedings or that a jury is unlikely to convict in an indictable proceeding.

Similar legislation was introduced in Tasmania, and contemplated by the Queensland Government, to overturn the *Latoudis v. Casey* principle. This bill will introduce two significant amendments that were not included in the first amending legislation. First, criteria whereby costs would be henceforth payable by the prosecution relate to an unreasonable failure by the prosecution to investigate any relevant matter of which it was aware. That criteria was made wider by a second amendment that sought the addition of the words "or ought reasonably to have been aware". Second, this bill specifically excludes the new principles of awarding costs against a private informant. The consequence of this provision would be that *Latoudis v. Casey* would apply to private prosecutions but not to prosecutions sought by the Director of Public Prosecutions. The other amending legislation is not relevant to the principles outlined in *Latoudis v. Casey*. I wish to draw the attention of honourable members briefly to representations I have received from a number of people, setting out their objections to the legislation. Mr Geoffrey Williamson, a solicitor at Campsie, who has urged the Opposition to oppose the Government's proposal, wrote:

If the spokesman for the Attorney General has been correctly reported, then I am appalled by his sole apparent argument in favour of the proposed legislation i.e. that the community would face a bill for "millions and millions of dollars".

If this is correct, then the Government should find further ways to cut waste and inefficiency in other areas of Government spending.

I also received a letter from Tim Robertson, whom the Premier referred to last evening as "my friend". He said that he knew and understood him well. Mr Robertson also requested that the Opposition oppose the proposal. He suggested that the bill will have the effect of depriving successful defendants of their legal right to indemnity against the Crown in criminal proceedings. He said further that the purpose of the bill was to punish persons who are, according to fundamental legal principle, innocent of charges wrongly pressed against them. Representations were also made to me by the New South Wales Bar Association. I heard the Minister's rantings and ravings in this regard. The Bar Association stated, inter alia:

In the light of these submissions, the importance of the principle involved and our concern at the speed with which the legislation has been progressing through the Parliament, we ask the Government to pause and call for submissions in relation to the Bill. We appreciate the Government's anxiety in relation to prospective costs and clearly submissions ought to be provided to the Government within a relatively short period of time.

To deprive defendants of a very substantial right which the High Court by its decision conferred on them is a very serious step. We hope that the Government will be mindful of this and will take these submissions into account when considering further proceeding with the Bill in the upper House.

The Bar Association restated the views of Mr Geoffrey Williamson, the solicitor from Campsie, and the attitude of Tim Robertson and the Labor Opposition. There is no

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justification for the legislation. For some reason the Government has a bee in its bonnet and is seeking to take over the role of the new appellate court in New South Wales by enacting legislation to rescind findings of the High Court. I acknowledge that the decision in *Latoudis v. Casey* was by a majority of three to two, but it is still a decision of the High Court of Australia. The knee jerk reaction of the Government was not to seek to improve the system but to introduce legislation to rescind the decision. Why should those who ultimately are proved innocent not receive an award of costs in the same way that successful applicants are awarded costs in civil proceedings? The Government is seeking to introduce punitive legislation against those who have been wrongly charged. I hope the Minister will not suggest that the bill contains safeguards. It does not. I ask the Minister to explain his reasons for seeking to rescind a decision of the High Court. If he is able to provide the Opposition with one good reason, it may even contemplate supporting the legislation.

Dr METHERELL (Davidson) [11.48]: I support the view of the Opposition with regard to this bill. I do so cognisant of the fact that the Government has good and sound reasons for introducing the legislation. I believe, however, that the Opposition has a somewhat stronger case. It is difficult for individual members of Parliament to make a decision about such a matter. It is a less painful decision for members who are bound by broad party decisions, for or against. They do not have to necessarily sift through evidence that is at hand or could be brought to hand quickly, as occurred in this instance. We are dealing, first, with a divided decision of the High Court - a decision by a majority of only three to two. Obviously the judges of the High Court had different views about the matter. I am at least aware that the High Court was not unanimous in its decision. Honourable members are being called upon to make a second judgment upon something about which judges of the High Court were divided. That is a matter of some concern to me.

I tried to discover the stance that other States are taking on an issue that affects every State in the Commonwealth. The High Court decision presents all governments in Australia with a common dilemma. That dilemma is different in magnitude in New South Wales, which has a bigger court system and more prosecutions, but relatively speaking in relation to budgets, population and so on, the problem is similar across all States. How have the States responded? As best I am advised by the Minister's staff - and I appreciate the advice I had been given - it seems that most States, except New South Wales and Tasmania, have adopted a wait and see attitude. I understand that the Attorneys-General have taken the point of view that they should override the High Court decision but in practice, except in Tasmania and now New South Wales, they have failed to act on this question. First, South Australia apparently has decided to do nothing. It has watched in practice what has occurred as a result of the *Latoudis* case, where costs have not been substantial, and has formed the view that it ought not to proceed at this time. South Australia will not revisit the question if that circumstance changes.

I am informed that a couple of other States are waiting to see what New South Wales does. In other words, they do not feel terribly compelled to act but will look to New South Wales for some sort of leadership, which may be understandable. Tasmania has taken a somewhat different position and has decided to overrule the High Court decision altogether and not even provide escape clauses or provisos such as those contained in the proposals put

forward by the Government. There are four quite distinctive positions. South Australia has decided to do nothing about the case, conscious

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that there are some costs. New South Wales is deciding to override the High Court decision but with certain provisos. Tasmania is deciding to override the decision outright, and several other States are deciding to see what New South Wales will do and make judgment about it accordingly. That is a very confused situation in which New South Wales is being asked to take an important step on a fundamental right of individuals brought before court to recover their costs where they have been found not guilty and have been acquitted.

A number of my colleagues on both sides of the House, and in particular those on the Government side, would say that does not necessarily mean those persons are not guilty but may mean, and in fact could mean, that there was insufficient evidence to prove their guilt beyond reasonable doubt. It is not for us to say that that is so in the majority of cases or that that is a sufficient consideration for the system to be upset. We have to accept that if someone is found not guilty and acquitted, that is the determination of the court. On balance, given that confused situation, we ought to let the matter rest as it is. We ought to see how circumstances unfold. This Government or any subsequent government can return to this issue in the months or years to come. If the blowout in costs feared by the Government results, that fact is one that the Parliament might well take into account. Alternatively, if countervailing arguments can be mounted, they can also be assessed and in the meantime we will know what the other States propose to do. It is a difficult matter of judgment. On that basis I believe at this stage I could not support the Government legislation. I shall be happy to reconsider the matter at a later stage when we have a clearer picture of the results of the High Court decision upon which to make our judgment and when we have clearer evidence from New South Wales about what the apparently feared deleterious effects are going to be.

Mr GRIFFITHS (Georges River), Minister for Justice [11.55], in reply: I thank the honourable member for Ashfield for his considered remarks on this important bill. I ask the honourable member for Davidson to reconsider his decision. The important issue is that, though all other States are completely indecisive, New South Wales is the most litigious State in Australia. We must be decisive. We cannot afford to wait, because it will cost us considerable sums of money. It is clear from a reading of the legislation that the Government is changing the position at law from that laid down by the High Court in the case of *Latoudis v. Casey*. That is not a course that the Government takes lightly or without very good cause. Before that case, costs were rarely awarded to a defendant who had charges against him or her dismissed. The only real exceptions were when the prosecution was launched maliciously or vexatiously. Those grounds were very narrow and the High Court questioned their continuing relevance at a time when society demands greater accountability from our law enforcement agencies. However, the court has opened a floodgate of claims against the State. Some defendants are being awarded costs in cases where it has not been clearly demonstrated that they are innocent of any wrongdoing, but where there is a technical flaw in the police case. This cannot be allowed to happen.

The honourable member for Ashfield would admit that there have been many cases where an otherwise perfectly sound prosecution case has failed when a key witness suffered a memory loss or unexpectedly could not be found on the day evidence was to be given. There have been cases where no reasonable person would say the defendant was innocent. Yet under the law as it now stands they are entitled to their full costs. It is these very cases that are consuming scarce government funds - funds that could be put

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to far more socially useful purposes, such as victims' compensation or more active law enforcement. The bill as it stands is restrictive. However, it is far less restrictive than the law as

it stood in this State for many years. The bill will increase police accountability as it focuses on the prosecution process as the major area where neglect, incompetence or impropriety will ground an order for costs. This bill also addresses the problem of awarding costs in a system where the criminal standard of proof is set as proof beyond a reasonable doubt. This is, and should be, a very onerous burden for the prosecution to carry. It is a well-established principle in our law that it is better that 10 guilty men go free than that one innocent man be convicted. This means, of course, that many well-founded cases do not result in a conviction. This is the price we gladly pay to protect the individual from oppression. But if costs are to be awarded to every successful defendant, irrespective of whether he is truly guilty, that will be an enormous drain on the State's resources.

The final matter that I want to raise is the effect of costs orders on our police. Police officers act under a public duty to apprehend and bring proceedings against offenders. They are not expected to be able to make a snap decision as to the ultimate guilt or innocence of an offender. That is a function reserved for the courts in a democratic society such as ours. Unless this bill is successful, the ordinary constable may well have second thoughts before charging a domestic violence offender, a category that is renowned for victims withdrawing complaints before a case gets to court. That is a serious problem that is being addressed by other means, but the fact remains that this is happening. The police are rethinking their proactive policy on domestic violence because of the fear of costs awards being made against them. This bill seeks to chart a reasonable and considered middle course between two extreme positions. It has been carefully thought out and is, in the Government's view, the best solution to a very difficult problem of balancing competing priorities. I commend the bill.

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

The House divided.

Ayes, 47

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 Griffiths

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

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 Tink
Mr Turner
Mr West
Mr Windsor
Mr Yabsley
Mr Zammit
Tellers,
Mr Beck
Mr Hartcher

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Noes, 47

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 Hatton
Mr Hunter
Mr Iemma

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

Dr Metherell
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

Pairs

Mr Greiner
Ms Machin

Ms Allan
Mr Carr

Mr SPEAKER: Order! The numbers being equal, in accordance with principles established by previous Speakers of this House, I cast my vote with the ayes and declare the question to be resolved in the affirmative.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ABORIGINAL LAND RIGHTS (AMENDMENT) BILL

Suspension of standing and sessional orders agreed to.

Bill introduced and read a first time.

Second Reading

Mr MOORE (Gordon), Minister for the Environment [12.6 a.m.]: I move:

That this bill be now read a second time.

The Aboriginal Land Rights (Amendment) Act 1991 provides for an additional clause to schedule 6 dealing with provisions relating to procedure of the New South Wales Aboriginal Land Council. The bill provides for the Registrar of the Aboriginal Land Rights Act to arrange

the first meeting of the New South Wales Aboriginal Land Council, following an election of all councillors, once the returning officer has publicly declared elected candidates representing at least 10 regional Aboriginal land council areas. The bill further provides for the term of office of those who were members of the council on the date of assent to the 1990 Act to have expired once the returning officer has made the

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declarations. The council is not to proceed to the election of the office-bearers provided for in clause 2 of the schedule until councillors representing all regional Aboriginal land council areas have been elected or otherwise appointed in accordance with the Act but shall at its first meeting elect councillors to act in the place and with all the duties, powers and functions of the officers until an election of the officers can take place. In other respects the council is to proceed to transact business at its first and subsequent meetings in accordance with the Act.

This amendment is necessitated by events that have transpired since the election of all councillors took place on 16th November, 1991. On 23rd November the returning officer declared 11 of the 13 candidates to have been elected. The results of the election in two regional Aboriginal land council areas remained undeclared, that is, the South Coast and the Sydney and Newcastle regions. In both of the instances there are protests being heard by the Land and Environment Court and the returning officer has given an undertaking to the court not to declare the result of the election until there is a judgment on the substance of the protest. Ten of those who have been declared elected sought to have the registrar call the first meeting of council but, when he failed to do so, sought relief from the court. However, the consequence of this action was that the court determined that those who have been declared elected cannot form a new council until all 13 councillors are declared. Accordingly, it was the determination of the court that the council is still comprised of those who were members prior to the date of the election. The Government recognises that this is an unforeseen consequence of the election process and agrees with the Aboriginal people of New South Wales that it is unjust and unworkable. The Government therefore proposes this interim solution by which those who have been declared elected can immediately get on with the business of the land council. I thank honourable members opposite for their co-operation in dealing with the matter this evening. It is in accordance with the conviviality being enjoyed in another part of the building. I commend the bill.

Mr MARKHAM (Keira) [12.10 a.m.]: It gives me great pleasure to support this bill, which is important at this time in the history of New South Wales. It was only some weeks ago that an election was held to elect 13 regional representatives to form the New South Wales Aboriginal Land Council, the governing body that will for the next four years determine Aboriginal affairs and affect the lives and aspirations of Aboriginal people. Last Friday a ruling was handed down by a judge of the Land and Environment Court that indicated that members of the old New South Wales Aboriginal Land Council would retain their positions on the council. I was most concerned how that would affect the two disputed regions in New South Wales. Some weeks ago the previous State land council representatives were, in the main, rejected by rank and file members of the Aboriginal communities in this State. I can assure honourable members that I and many people in New South Wales were concerned that the very people who had been disenfranchised as members of the council by the rank and file members might maintain their positions, possibly for twelve months, whereby they could direct the fortunes of Aboriginal people.

Early on Monday morning I indicated my deep concern to the honourable member for Strathfield. I said that the Parliament must do something to address the anomaly. Aboriginal people in a democratic society will not tolerate the removal of powers from representatives who had been declared elected and their being usurped by people who had just been voted out of office. That is totally unacceptable. I spoke to the honourable member for Strathfield and to Keith Kocken from the Office of Aboriginal Affairs. They agreed with me that something had to be done. I am pleased that the bipartisan co-operation this Parliament has enjoyed in Aboriginal affairs over the past few

years has been maintained. The Government has introduced this bill at my behest because I believed it needed to do something to ensure that the Aboriginal community was not disadvantaged and to prevent an uprising of hate towards the very system of democratic elections that this Parliament tried to introduce to resolve the many problems that the Aboriginal community has faced in this State for many years. The Aboriginal people were saying that an election had been held but justice was not done. They say an elected person should not be disenfranchised by a court that is not directly involved with their election procedures in this State. The Parliament must look closely at that before the next elections for regional land council officers who will form the next State land council. The bill provides no opportunity for a disputed seat to be dealt with. The Parliament and, I have no doubt, the honourable member for Strathfield will look at that closely.

Mr Moore: I am not sure that the honourable member for The Entrance would agree entirely.

Mr MARKHAM: The Minister for the Environment just showed his ignorance of the bill. The honourable member for The Entrance is quite lucky. The person who was declared for the seat of The Entrance is still sitting in this Chamber - possibly until 9.30 tomorrow morning - as a member of the State Parliament. These Aboriginal people were not given that opportunity. They were declared the elected representatives in two regions, but were not given the opportunity to seek a determination from a Court of Disputed Returns. They were told by the Land and Environment Court that they could not take their seats on the State land council and also that the 11 duly elected and declared candidates would be denied that right also. This bill will rectify that anomaly. A major meeting of Aboriginal people was held this morning in Dubbo. About 10 regions and more than 50 per cent of the local land councils were represented. Those people are waiting with bated breath to see what the Parliament of New South Wales - not just the Government - will do to address that anomaly and make sure that Aboriginal people continue to enjoy the democratic rights that the Parliament convinced Aboriginal people last year they would be given to elect representatives across the 13 regions.

I am glad that the Government, in conjunction with the Opposition, has brought this legislation before the Parliament tonight. It is important that honourable members recognise the rights of Aboriginal people at this time when there is some confusion about the elections. Many decisions must be made, and more so at present because of the major problems with our inland water systems. Aboriginal people live on the banks of inland rivers. They require an effective, efficient, and clean water system. Governments have failed for a long time to care for the environment, but the blue-green algae that has infested the major river systems has brought home to us that there are people with all sorts of problems.

Mr Moore: On a point of order. The honourable member for Keira, although not being combative in his remarks, is straying well beyond the very narrow confine of the bill. It was brought in at this late hour in a co-operative and bipartisan spirit, with the understanding that there should not be more than a passing reference to odd matters of policy. A dissertation on sanitary conditions in far western New South Wales, a long way from the two regions in dispute in the election, goes beyond that passing reference. I ask that the honourable member be directed to speak to the leave of the bill.

Mr Markham: On the point of order. During the past few days I have received numerous phone calls from people expressing concern about the infestation of the river

system in New South Wales. If the problem which is confronting Aboriginal people is not solved as fast as possible, decisions cannot be made by the Aboriginal Land Council.

Mr SPEAKER: Order! I have taken account of what the honourable member for Keira has said, but the Minister for the Environment is correct and I uphold the point of order. The scope of this bill is very limited and I do not believe it can be expanded to that extent. Earlier in the day the honourable member for Keira could have spoken in debate on a matter of public importance but did not take that opportunity. I direct him to return to the scope and the very restrictive nature of the bill.

Mr MARKHAM: I do not want to prolong the debate. It is incumbent on me, as shadow minister for Aboriginal affairs, to support this bill to the hilt. I have the total support of the Labor Opposition and I have no doubt that I have the support of the Independents. That will ensure that the bill passes through not only this Chamber but the other place as quickly as possible.

Mr MOORE (Gordon), Minister for the Environment [12.21 a.m.], in reply: I thank the honourable member for Keira for his contribution. There was no need for him to talk about numbers because they appear to be 99 to zero. It is not easy to see where the difficulties arise, even if the honourable member intends to engage in a bit of shadow-boxing at this hour. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

COURTS LEGISLATION (CIVIL PROCEDURE) FURTHER AMENDMENT BILL

Committee and Adoption of Report

Bill reported from Committee without amendment and report adopted.

BILLS RETURNED

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

- Bookmakers (Taxation) Amendment Bill
- Exotic Diseases of Animals Bill
- Gaming and Betting (Amendment) Bill
- Gaming and Betting (Race-course Licences) Amendment Bill
- Harness Racing Authority (Appeals) Amendment Bill
- Protection of the Environment Administration Bill
- Totalisator (Off-course Betting) Amendment Bill

House adjourned at 12.25 a.m., Wednesday