LEGISLATIVE ASSEMBLY

Wednesday, 11th December, 1991

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

Mr Speaker offered the Prayer.

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

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

Bills read a third time.

SUPERANNUATION ADMINISTRATION BILL

Bill read a third time.

LOCAL GOVERNMENT (BUILDING APPLICATIONS) AMENDMENT BILL

Bill read a third time.

GOVERNMENT PRICING TRIBUNAL BILL

Bill introduced and read a first time.

Second Reading

Mr MOORE (Gordon), Minister for the Environment, [9.33]: I move:

That this bill be now read a second time.

The purpose of this bill is to establish a government pricing tribunal to determine the maximum price for monopoly services supplied by nominated government agencies and to report on the pricing policies of those agencies. Its principal aim is to ensure that the interests of the citizens of New South Wales, as both consumers and taxpayers, are protected and are seen to be properly protected. Many government businesses in New South Wales are monopoly suppliers of services: for example, electricity, water and transport. As a result, these agencies are not subject to competitive forces and are able to set their prices without reference to the prices of substitutes for their services. In the absence of regulation, those monopolies can charge prices which are higher than they would be if set in a competitive market. A competitive market would drive prices down towards the cost of production where these costs include an appropriate return on the investment. Where prices are higher than warranted by the cost of production, this will result in a misallocation of community resources.

The pricing tribunal established by this bill, with power to review and determine prices charged by monopolies, will ensure that monopolies do not abuse the power which they have by virtue of being the sole supplier of a good or service. The tribunal will provide a proxy of conditions which would operate were the monopoly in a competitive market. It will ensure that the price setting process is depoliticised and rational, unlike the short-sighted and flawed proposal put forward by those opposite. Their approach

would not encourage efficiency or appropriate allocation of resources in either the short or the long term. The introduction of such a price formula could encourage a mind set within authorities and government whereby government charges are simply allowed to increase by consumer price index adjustments each year. Whilst this approach might be justifiable in a short-term context in some cases, it is an unsound basis for long-term price reform. It would undermine any incentive to drive prices down through increasing productive efficiency.

The bill of the Australian Labor Party represents an insurmountable barrier to microeconomic reform and is nothing more than a political stunt. By contrast, the bill now introduced to the House will ensure that government monopolies are prevented from abusing their monopoly position. But at the same time it is designed to ensure that proper price reform and efficiency gains are encouraged, not discouraged. The tribunal, in making its determinations and recommendations, will have regard to a number of matters. The cost of providing the services concerned will be only one relevant factor taken into account. Other matters the tribunal must consider are: first, the protection of consumers from the abuses of monopoly power in terms of prices, pricing policies and standard of services; second, the appropriate rate of return on public sector assets; third, the effect on general price inflation over the medium term; fourth, the need for greater efficiency in the supply of services to reduce the cost to consumers and taxpayers; and fifth, the protection of the environment by appropriate pricing policies which encourage conservation of scarce natural resources.

The tribunal will not therefore be constrained by strict efficiency and cost issues but will take a broader range of matters into account when making determinations or recommendations. This will ensure that environmental and social issues form part of the equation. The tribunal will need to weigh these matters against strictly cost related factors. Honourable members will be aware that any reasonable analysis of the price or pricing structure of monopoly services such as electricity, water and sewerage must take into account the externalities relevant to the supply of these services. For example, the cost of avoiding or minimising any environmental damage which might occur as a result of the supply of monopoly services should be taken into account when determining the appropriate price to be charged. This action will promote sound environmental practices and decisions as well as determining economically appropriate prices for the benefit of the people of New South Wales. It will be a further factor operating to discourage and minimise environmental degradation.

[*Interruption*]

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

Mr MOORE: The bill establishes the Government Pricing Tribunal, which will consist of three members—a full-time or part-time chairperson and two other members. The members will be required to have a knowledge and understanding of economics, the interest of consumers and the interests of government as the owner of the agencies. The tribunal will be able to call in specialist advice to assist it in determining the right level of prices and the right pricing policies. The tribunal will also be empowered to report on matters arising from its investigations of prices and pricing policies. This will be a valuable source of information for the Government in determining the direction of further reforms of government monopoly businesses. Price determinations of the tribunal will not be able to be overturned by the Government. Determinations will be published in the *Government Gazette* and will take effect from the date of publication unless a later date is specified in the determination.

The bill provides a procedure for the implementation of price determinations which requires Ministers and agencies to act in accordance with the determination. The only mechanism provided by the bill which would enable a determination to be overturned is a

resolution of both Houses of Parliament disallowing the determination. The bill also requires the tribunal, when determining maximum prices, to report on the likely cost to the Consolidated Fund if the price of the service were not increased and the revenue forgone to the government agency concerned were to be compensated by an appropriation from the Consolidated Fund. This will ensure that Parliament is fully informed of the budgetary implications of any disallowance. The tribunal will be empowered to conduct investigations and hearings. It is intended, however, that the tribunal will operate as informally as possible. It will hold hearings only when this is necessary for the purposes of investigation. There will of course be opportunities for public submissions, seminars and workshops. Initially, the agencies in relation to which the tribunal can make determinations will include the electricity and water supply authorities, government public transport authorities, public hospitals and the TAFE commission. Other government monopoly services may be added to the schedule from time to time by regulation.

The Government is of the view that those major agencies whose prices have the greatest impact on families ought to be tackled first. The tribunal's initial focus will therefore be directed at monopoly services such as water, sewerage, electricity, transport and health services, which affect households universally throughout the State. The tribunal's activities will result in greater efficiency in the delivery of monopoly services in the State, which will directly benefit all families in New South Wales both in the short term and in the long term. The Government is confident that the tribunal proposed by this bill represents the most sensible way of containing the prices of government monopoly services. It will ensure that resources are rationally allocated and that in the longer term these agencies operate at least cost and at maximum efficiency, taking into account all relevant factors. However, it is not the Government's intention to rush important legislation such as this through the legislative process without first allowing a period of time for community discussion and submissions. It is therefore proposed to allow the bill to lie on the table for the purpose of enabling parliamentary and community consideration of the terms of the bill. I commend the bill.

Debate adjourned on motion by Mr Beckroge.

AUCTIONEERS AND AGENTS (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr SCHIPP (Wagga Wagga), Minister for Housing [9.42]: I move:

That this bill be now read a second time.

The main purpose of this bill is to simplify and modernise the licensing and registration schemes administered by the Real Estate Services Council. The council was established in June 1990 and charged with the task of assessing who should be regulated in the real estate services sector and the form that such regulation should take. At my request the council initiated a three-stage review, the first part of which involved a complete reappraisal of the licences, certificates and registrations administered by it. In keeping with the requirements of the Government's business licence reduction program, the council sought to assess whether some licences could be terminated or merged, whether the period of licences could be extended and whether administrative procedures associated

with licensing could be simplified and streamlined. Stages two and three of the review will address the broader issues of industry co-regulation, involving a complete review of the Auctioneers and Agents Act 1941 and, if necessary, the Valuers Registration Act 1975. This bill therefore represents the first step in a major restructuring of the real estate services sector to meet the requirements of the coming century.

Too much of the present Act contains the vestiges of nineteenth century forms of government intervention, and the proposed overhaul is well overdue. The bill is the product of an extensive consultation program conducted by the council to gauge industry and community opinion on appropriate licensing schemes for the sector. After preliminary consultations with a wide range of industry and consumer organisations, key industry figures and individual licence, certificate and registration holders, the council issued a comprehensive set of regulatory impact statements for further public comment. These contained recommendations for the retention, termination or modification of the present 16 categories of licences, certificates and registrations. More than a hundred submissions were received in response to the statements and the council reviewed its proposed reforms in the light of these submissions. The effect of the bill will be to reduce the number of licence classes from 10 to five—including the corporation licence—the number of certificate classes from five to one, and to terminate an outmoded registration category.

There are four parts to the bill to allow the proposed licensing reforms to be phased in at different times. Schedule 1 contains amendments to abolish certain classes of licences, certificates and registration that have become redundant, ineffective or unnecessary. The auctioneer-primary products licence, for example, is held by only one person. The stock buying agent licence and trainee stock buyer certificate were introduced in 1980 following an inquiry into alleged malpractice at cattle auctions but the review has established that self-regulatory practices adopted by the industry are more effective in controlling the market than the licensing scheme. Similarly, the registration requirements for real estate dealers were introduced in 1975 to protect the public when there was a booming development market but the small number of registrations and the absence of complaints in this area suggest that there is no longer a necessity for government regulation of persons selling their own land.

The bill also proposes to abolish the business agent licence and the business salesman's certificate. When I introduced the Real Estate Services Council Bill in 1990 I indicated that the question of the necessity for this licence was to be a priority for the council. The licence had already been the subject of extensive review and its termination was first canvassed in 1987. Abolition of the licence will increase the range of services to the public. Accountants and merchant bankers who cannot meet the experience requirements for the business agent licence but who are licensed securities dealers under Australian Corporations Law will be able to handle business sales brought about by the transfer of shares in a corporation. Those purchasing businesses can continue to rely on the protections afforded by the Crimes Act, the Fair Trading Act and the Trade Practices Act in relation to fraud or misleading and deceptive conduct, and, in practice, the loss of access to the council's compensation fund will have a negligible impact. The sale of freehold or the assignment of a lease in connection with a business must be dealt with by a real property agent in future and as 98 per cent of current business agents will be eligible for this licence, deregulation will be achieved with minimum hardship to industry or the public.

With the commencement of schedule 1 to the bill a general auctioneer licence will continue in force as an auctioneer licence and the Act will only regulate the conduct of auctions of real property and livestock. The chattel auctioneer licence is to be abolished. The licence which allows persons to auction fine arts, furniture, motor

vehicles and so on does not fall logically within the scope of the Real Estate Services Council. It is not considered necessary in most developed countries as the majority of buyers at auctions are experienced dealers who do not need the protections of a licensing system. Remedies will continue to be available under the Fair Trading Act, the Crimes Act and the common law in relation to the conduct of auctions and auctioneers and the principles of agency. Schedule 2 to the bill introduces further significant licensing reforms. The key changes are the modification of two current licences. The real estate agent licence will become a real property agent licence and will authorise its holder to conduct real property auctions and to handle all real property

transactions including those for rural stations. The stock and station agent licence is to be replaced by a livestock agent licence which will authorise its holder to auction livestock and to handle transactions in respect of livestock only. With the commencement of these provisions, the remaining auctioneer licence will be terminated as the functions of this licence will be carried on by real property agents and livestock agents respectively.

This part of the bill introduces a new licence, that of on-site residential property manager. The holder of this licence will be authorised to act as an agent for the letting of premises that are ordinarily used for holiday purposes, but the licence may be held only by persons whose principal place of residence is situated at the premises to be let and who own or have a prescribed interest in the premises. This type of property management has emerged over recent years in holiday destinations on the North Coast, the South Coast and the Central Coast and the volume of rents involved suggests that a licensing system is needed to protect unit owners. Another key reform in this part of the bill is the abolition of the present five classes of certificate of registration covering employees training for a licence. Currently an employee who wishes to obtain all five licences must hold a certificate of registration in each class for two years. Persons who are already licensed often have difficulty obtaining registration as an employee in other areas in which they would like to be licensed. Under the new system there will be only one class of certificate of registration. Employees will still be required to demonstrate that they have sufficient experience to qualify for a licence.

The bill specifies the classes of unlicensed employees who must hold a certificate to carry out activities on behalf of a licensee. These include livestock salespersons, real property salespersons and trainee managing agents. An applicant for a licence—other than an on-site residential property manager—will be required to have held a certificate of registration for at least two years. The introduction of one certificate class is a cost saving and efficiency measure that will also facilitate career development for employees in the industry without any reduction in levels of protection for consumers dealing with employees rather than licensed agents. To enhance professionalism within the industry, the bill also provides for the phased introduction of minimum educational requirements for new certificate holders. With the commencement of schedule 2, the Act will become known as the Property and Livestock Agents Act 1941. Schedule 3 to the bill introduces various administrative reforms in connection with licensing as well as some minor funding reforms.

Chief among the administrative reforms is the decision to extend the term of licences from one to three years, a measure which has widespread industry support. The maximum contribution payable by licensees to the compensation fund has been increased to reflect the requirements of a three-year term. The bill also provides that an application for restoration of a licence is to be dealt with by the general manager of the council rather than the full council at its regular monthly meetings. Applications for restoration of a licence come about because an applicant has failed to renew a licence on time—despite reminder letters and late fees—and the delays associated with referring the matter to the full council compound the problem. Enabling licensees to share commissions with

persons licensed under a corresponding Act of another State or Territory recognises the market realities of agents operating in border areas.

The bill repeals the power to restrict the operation of a licence to a specified region or place and provides that licences that are restricted as to purpose may be renewed once only. Fewer than 200 persons hold restricted licences and restrictions are usually imposed because a licensee has not met the educational requirements for the licence or has insufficient experience to perform the full range of functions of the licence. The provision ensures the integrity of the licensing system by obliging all licensees to meet minimum competency standards, while giving holders of restricted licences sufficient time to upgrade their skills. The funding reforms have been introduced at the request of the Auditor-General and the Treasurer. The bill provides for the annual transfer to the Consolidated Fund of a specified component of

the application and renewal fees paid by licensees and certificate holders. It had been the practice of the former council of auctioneers and agents to remit that part of the fee known as the prescribed application fee to the Treasury and the bill regularises this transfer. Similarly, the bill provides for unclaimed money in licensees' or former licensees' trust accounts to be paid to the Consolidated Fund rather than to the council and for the Treasurer to meet any claims by persons entitled to that money. This will bring the Act into line with the Unclaimed Monies Act 1982 and the Public Finance and Audit Act 1983 which generally govern the treatment of unclaimed money.

The bill also allows regulations to be made requiring licensees to publicise their commissions, fees or other charges. This will ensure the ongoing protection of consumers when the present regulations prescribing the maximum scale of fees and commissions that may be charged by agents for residential property transactions are repealed. In a deregulated market agents will be free to set fees related to the actual costs of their services, creating better opportunities for price and service competition. However, the present scale of fees will not be repealed until regulations can be put in place requiring agents to publicly display their fees, commissions and charges for residential property transactions and to provide consumers with an estimate of the agent's total remuneration at the time of effecting an agency agreement. The proposed regulations will enable homebuyers to compare fees easily and to negotiate terms in an atmosphere of genuine competition. An added protection will be the retention by the council of the power to review fees and commissions, on application, to determine whether they were reasonable for the services provided. Schedule 4 to the bill deals with savings and transitional arrangements. It establishes procedures whereby persons who currently hold a general auctioneer licence but who are experienced in auctioning livestock or real property may be granted a livestock agent licence or a restricted real property agent licence so as to continue their livelihood. Persons who currently hold the real estate agent licence will be issued with a real property agent licence on the commencement of schedule 2 and stock and station agents will be issued with a real property agent licence and a livestock agent licence.

Employees who are registered under the current scheme will be deemed to be registered under the new scheme. To avoid hardship to industry the bill also allows for the phasing in of the three yearly licence by allowing current licensees to elect to have the licence renewed annually for the first three years only. The bill preserves the right to compensation for persons who have suffered a pecuniary loss by reason of the failure to account by a licensee or real estate dealer whose licence or registration is abolished by this bill. Former licensees will be required to retain for three years certain records which may be needed in the event of compensation claims being received or to finalise investigations into outstanding complaints. In summary, the bill introduces a comprehensive package of licensing reforms which significantly streamline the regulatory burden on industry and government, while continuing to protect vulnerable groups of consumers. Outdated licences have been abolished as have those which were less

effective than self-regulatory measures adopted by the industry or which simply restricted entry to an occupation in the interests of the few. The simplified scheme provides a reliable foundation for the development of co-regulatory models for the future regulation of the real estate services sector. I commend the bill.

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

CO-OPERATIVES BILL

Bill introduced and read a first time.

Second Reading

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [9.57]: I move:

That this bill be now read a second time.

The Co-operatives Bill amends the law relating to co-operatives. The object of this bill is to remove certain co-operative societies from the operation of the Co-operation Act 1923—the 1923 Act—and to provide for their regulation, and the establishment of similar societies, under a new Act. The 1923 Act will continue with co-operative housing societies, Starr-Bowkett societies, non-terminating building societies and several existing societies specified in schedule 2 to that Act. Under the new Act co-operative societies will be known simply as co-operatives. It is now a little over 68 years since the Co-operation Act was introduced into this House by the responsible Minister at that time, the Hon. T.R. Bavin, M.L.A., Attorney General. In introducing the Co-operation, Community Settlement and Credit Bill, as the Co-operation Act was then known, Mr Bavin described it as the most important bill to come before the Parliament that session and continued to say that co-operation possessed the capacity to transform society fundamentally.

In his speech, the Attorney General expressed great optimism about the future of co-operation in New South Wales, and of a new era in the development of co-operatives in this State. I am no less optimistic about the future of co-operation than Mr Bavin. Current thinking in public policymaking leads me to the belief that at a number of levels there is considerable reappraisal occurring regarding the types of ideas which this country needs to pursue to be successful in an increasingly competitive world environment. One response to these needs can occur through further development, strengthening and expansion of the co-operative movement. A set of beliefs, perhaps loosely defined as co-operative beliefs, will, I believe, play an increasingly important role in the identification of opportunities for growth in this State. I believe that the Co-operatives Bill 1991, along with a number of other initiatives which I am currently pursuing, heralds the beginning of a new stage of growth and development in the co-operative sector, one built on the solid foundation of that provided by the 1923 Act.

Co-operatives, the subject of this bill, comprise a significant sector of this State's economy. They are the dominant form of corporate structure in the dairy, fishing, sugar, cotton and rice industries—industries worth many hundreds of millions of dollars annually to the New South Wales economy. Agricultural co-operatives are also significant in industries as diverse as orcharding, stone fruit, bananas, meat and eggs. Apart from rural industries, general co-operatives' activities range across areas as diverse as those involving child care, housing, community hospitals, taxis, licensed clubs, and many other groups that provide services in the community. General co-operatives in New South Wales have assets of over $1.2 billion, with an annual turnover of over $2.2 billion and approximately 820,000 members. Although these figures demonstrate that the general

co-operative sector in New South Wales is well established and makes a significant contribution towards the overall development of the economic and social welfare of this State, it was nevertheless perceived that the legislative framework underpinning this sector was due for review. It is considered that good, effective co-operative legislation, if clearly defined and properly implemented, can of itself become an important source of authority for the spread of co-operative and co-operative-like activities.

It was with this in mind, as well as the need to provide for an adequate and effective modern regulatory framework, that the Government in 1989 commenced the first thorough review of the legislation since its introduction in this House in 1923, by the Attorney General of the day, to whom I have previously referred. The firms of Blake Dawson Waldron and Domiguez, Barry, Samuel and Montagu Limited were duly jointly appointed on 27th February, 1989, to carry out the review of the legislation. The Government, in commissioning the review, sought to identify, with a view to amending, any provision in the existing legislation that might be seen to promote inconsistency between efficient business operation and the principles of co-operation, whilst ensuring that the legislation continues to uphold and promote the principles of

co-operation. The consultants produced an interim report along with an executive summary of their recommendations which was circulated for public comment in mid-1989. A large number of written submissions were received by the consultants in response to the public release of the interim report.

Following consideration of public comments, the consultants prepared their final report, which was presented to the Government in early 1990. This report contained a number of significant modifications to those earlier recommendations as a result of those comments received during the public discussion phase of the review process. The bill presently before the House draws extensively on the consultants' final report as the basis for proposed changes to existing legislation. The Government has, however, not accepted all the recommendations contained in the consultants' final report. To some extent this is a reflection of the changing economic and regulatory environment since the completion of the review and this bill's introduction into the Parliament. Likewise, because of the detailed drafting necessary in a bill of this size, requiring almost every section of the existing Act to be redrafted, further refinement of some of the recommendations has occurred. Nevertheless, throughout the review and drafting process either individual co-operatives or the Australian Association of Co-operatives in New South Wales have been widely consulted about the proposed changes. I have welcomed such public debate in the belief that it is only with the active participation and involvement of the co-operative sector that we can arrive at effective and appropriate legislation. It is for this reason that the Government proposes to table the bill and invite further comment on the detail of the new legislation.

This is a large and comprehensive bill dealing, as it does, with every aspect of the formation, regulation and development of co-operatives in New South Wales. The bill before us today runs to 446 sections; the explanatory notes alone number 20 pages. There is far too much detail to be covered in a second reading speech such as this, which is primarily designed to lay the bill on the table of this House and to invite public comment. However, because of the importance of this proposed legislation and the fact that it introduces new and significant amendments to a number of existing provisions which have been in the current legislation for a considerable period of time, I will take this opportunity to detail some of the more important policy issues contained in the bill. The principal policy intentions of the new Co-operatives Bill are:

(a) to provide that incorporation as a co-operative be a right available to any group wishing to have the benefits of co-operation and willing to abide by traditional co-operative principles;
(b) to enable co-operatives to have wider corporate powers, by providing them with the powers of a natural person, a situation equivalent to corporations. Such powers to be exercised within traditional co-operative principles;

(c) to maintain the principle of active member control of co-operatives, including one member one vote as central to the operation and control of co-operatives;
(d) to provide for co-operatives to have similar general standards to those applying to corporations in regard to dealings with, or reporting on activities concerning third parties. This includes providing for similar general standards for directors of co-operatives as those applying to directors of similar size corporations;
(e) to provide co-operatives with a clearer range of alternatives in regard to determining the optimal capital structure to best service the needs of the members, so ensuring that co-operatives remain competitive with other forms of incorporation. Alternatives provided for include allowing, within carefully defined limits, a form of non-active member capital to be known as co-operative capital units;
(f) to enable co-operatives to be capable of merging or being wholly acquired, but only if the substantial majority of active members, when fully informed, desire such a

course, and that this should be so regardless of whether the other party is local or interstate, another co-operative or corporation;

(g) to provide for New South Wales co-operative legislation to recognise specifically the separate registration and operation of interstate co-operative organisations in this State; and

(h) to provide that the Registrar, the Co-operatives Council—formerly the Advisory Council—and the Minister have fewer general discretionary powers to intervene in the day-to-day running of co-operatives, matters which are more properly left to a well-informed membership.

However, the Registrar's powers to undertake investigations and enforcement are strengthened so as to ensure that the interests of co-operatives, their members and the public generally, are protected. The bill is divided into parts and divisions. The first of 17 parts deals with preliminary matters, including a statement of objects of the bill. These objects are: to enable the formation, registration and operation of co-operatives and federations of co-operatives; to promote co-operative philosophy, principles, practices and objectives; to protect the interests of co-operatives, their members and the public in the operations and activities of the co-operatives and the co-operative sector; to encourage and facilitate self-management and self-regulation by co-operatives, at all levels; and to encourage the development and integration of the co-operative sector. The six co-operative principles are set out in part 1 of the bill. In summary these principles are: voluntary association and open membership; democratic control; limited interest on capital; equitable division of surplus; co-operative education; and co-operation among

co-operatives. The new bill does not depart from the principle of active member control of co-operatives. Part 2 of the bill provides for the formation of co-operatives, associations and federations of co-operatives. It also provides for the registration of foreign co-operatives.

Part 3 of the bill provides for the legal capacity and powers of co-operatives. Traditionally, co-operative legislation has been somewhat paternalistic in character. The new bill, however, encourages co-operatives to assume their full responsibility as equal corporate citizens alongside corporations. It provides for co-operatives to have wider corporate powers than they currently enjoy. Part 3 also sets out the general powers which a co-operative has as a body corporate. The bill provides that a co-operative has the legal capacity of a natural person. A similar regime to that which exists in Corporations Law for persons having dealings with the co-operative is also provided in part 3 of the bill. Part 4 deals with membership of the co-operative. The bill provides for a procedure within this part whereby the Registrar or a member of a co-operative may apply to the Supreme Court for an order, if it is felt the affairs of the co-operative may be being conducted in a manner that is oppressive or unfairly prejudicial to, or discriminatory against, a member or members. Part 5 of the bill provides for the rules of a co-operative to constitute a contract between the co-operative and each member. The part also provides for certain specified matters and regulations to be made by prescribing model rules. Part 6 of the bill deals with active membership. As I have already stated, this bill does not weaken in any way the concept of active member control of co-operatives. The active member provisions were introduced into Parliament during 1987 with some further refinements occurring in 1988. These provisions have been largely left intact by the bill as they have already been the subject of wide public discussion and are strongly supported by the co-operative movement.

The bill does, however, introduce a provision designed to ensure that the rights of inactive or dry members are further protected. This provision provides the inactive member with a right of appeal to the Co-operative Council, if the co-operative decides that it is not able to refund the former member's share capital because the co-operative believes, at the time, that it would cause financial difficulties. Part 7 of the bill deals with co-operative share capital. It provides for the issue of shares, the disclosure of beneficial and non-beneficial interest in

shares and the procedure involved in the transfer of shares, as well as the repurchase of shares. This part of the bill also provides for the conversion of co-operatives with or without share capital. This new section has been added primarily to enable non-profit co-operatives to convert to and from this and other forms of incorporation. Part 8 of the bill deals with voting. This part makes it clear that each member of a co-operative will have only one vote. The right to vote is personal to the member and is not attached to or conferred by any share in the co-operative. This part of the bill also provides for the holding of meetings and the passing of resolutions. A number of new provisions have been added which will enable matters to be dealt with by way of postal ballot rather than at a physical meeting, if this is more convenient to the co-operative. This part also provides for the circulation of proposed resolutions on the requisition of at least 10 members or of members who together can cast at least 5 per cent of the vote. Certain safeguards are imposed to protect against the abuse of this provision.

Part 9 deals with the management and administration of co-operatives. In particular, it provides for the election of directors and extends the provisions for external directors to be elected to the boards of co-operatives. Such external directors will bring additional expertise to the operation of co-operatives. The bill makes clear that these external directors may never challenge the concept of active member control of the boards. This part also deals with the duties and responsibilities of the directors, and for the keeping and auditing of accounts and registers, records and returns. Part 10 of the

bill deals with the funds and property of the co-operative. Division 1 of this part makes clear that a co-operative may only obtain finance and accommodation, which includes the leasing or borrowing of money by any means, or give security for the repayment of money as provided by its rules and in accordance with the regulations. The Registrar may give a co-operative directions as to the obtaining, repayment or refinancing of financial accommodation. The bill as drafted provides for deposit taking by co-operatives if authorised by the rules of a co-operative. The rules of a co-operative need, however, to be approved by the Registrar. This is a similar situation to the provisions under the current Act.

The bill, however, provides specifically for increased regulation of this activity and further provides for the regulations to prescribe prudential operating standards for co-operatives, associations and federations of co-operatives that provide financial services to members. Primarily these regulations are designed to regulate the activity of associations which offer significant financial services to members. No co-operative, other than associations just described, which has as its primary activity public deposit taking could be registered under this bill. It is proposed that, in the drafting of the necessary regulations to govern these activities, account will be taken of the relevant non-bank financial institutions legislation. This part of the bill also provides for the issue of co-operative capital units, or CCUs. CCUs were first recommended in the interim report prepared by the consultants and were the subject of considerable discussion and debate within the co-operative movement. I await with some interest the response of the co-operative movement to the detailed provisions of this part of the bill.

Part 11 of the bill deals with restrictions on the acquisition of shares in co-operatives. Division 1 sets out requirements relating to relevant interests in the voting rights or shares of members. A relevant interest is not to exceed 20 per cent of the nominal value of the issued share capital of the co-operative. The Co-operatives Council may increase the maximum percentage in a particular case or approve of a special resolution by special postal ballot increasing the maximum percentage. Division 2 of this part places restrictions on offers to purchase shares in a co-operative. Part 11 is designed to ensure that adequate information on matters relating to shares and voting entitlements is available to all members or other concerned persons. There was considerable concern expressed by the co-operative movement during the review process on the issue of takeovers. The provisions as drafted in this bill do not prevent a co-operative from being taken over. They do, however, ensure that all relevant information relating to such take-overs, including various share or voting entitlements,

are made public, thus enabling active members to make a fully informed decision in any particular case.

Part 12 of the bill provides for amalgamations, transfers of engagements, transfers of incorporations, winding-up, official management, appointment of an administrator, and arrangements and recontracts. One new aspect of this part is that it provides for the amalgamation of New South Wales and interstate bodies corporate. Again, these provisions were the subject of considerable discussion during the review process and I will be interested in the response of the co-operative movement to the detail of these provisions. Part 14 deals with the supervision and inspection of co-operatives and the holding of inquiries into co-operatives. In general terms the provisions dealing with inspection and supervision of co-operatives have been strengthened to ensure that the general interests of members and the public are better protected. Part 15 deals with the administration of this bill and the specific functions of the Registrar and the Co-operatives Council. A number of the discretionary powers that were previously exercised by the Minister will now be either devolved to the members themselves or to the Co-operatives Council. There has been a general rationalisation of the functions of the council and the Registrar. The functions of the council are set out in this part and they include encouraging the development and integration of the co-operative sector and advising the

Minister on matters relating to the co-operative sector.

Part 16 provides for offences and proceedings, and part 17 deals with general matters in connection with the administration of the bill, including applications of the Corporations Law. The bill, either by direct reference or by inclusion, with or without modification, has adopted many of the provisions of the Corporations Law. The layout of the legislation has been completely reviewed, restructured and rationalised, and I hope it is both more readable and understandable as a consequence. Finally, it is a matter of some pride to me that I am able to introduce this bill into the House at this time. I hope it will be seen to be one of the most comprehensive and thorough attempts yet to provide a modern legislative framework for the operation, regulation and development of co-operatives in this State. I would encourage all honourable members, all members of co-operatives, and any other interested parties, to avail themselves of the opportunity that is being provided to make detailed and constructive comments on this bill. Let me assure the House that any worthwhile amendments proposed will be given the utmost consideration. I commend the bill, and table for the information of honourable members the explanatory notes relating to the bill.

Debate adjourned on motion by Mr Amery.

LOCAL GOVERNMENT BILL

HARMFUL PESTS BILL

IMPOUNDING BILL

LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL

ROADS BILL

Suspension of Standing Orders

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [10.20], by leave: I move:

That so much of the standing orders be suspended as would preclude the consideration forthwith of the following motion:

That:

(1) so much of the Sessional Order on Legislation Committees be suspended as would preclude:

(a) the transmission to the Speaker, by the Minister for Local Government and Minister for Cooperatives, of the draft Local Government Bill, Harmful Pests Bill, Impounding Bill, Local Government (Consequential Provisions) Bill and Roads Bill;
(b) upon receipt by the Speaker, the Bills be deemed to be tabled for the information of Members, and their referral to a Legislation Committee; and
(c) such Legislation Committee comprising six Members, namely Mr Turner, Mr Downy, Mr Rixon, Mr E. T. Page, Mr Harrison and Dr Macdonald.
(2) The provisions of any Parliamentary Committees Enabling Act passed this session shall apply to the Legislation Committee.
(3) The Committee report by 31st March 1992.

The purpose of the motion is to enable an exposure draft of the various bills mentioned in the motion to be released and form part of the deliberations of a legislation committee.
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It is hoped that in this way the bills will be widely debated by the committee prior to their second reading. Both sides of the House agree to this action and I look forward to constructive discussion.

Motion for suspension of standing orders agreed to.

Legislation Committee

Motion by Mr Peacocke agreed to:

That:
(1) So much of the Sessional Order on Legislation Committees be suspended as would preclude:
(a) the transmission to the Speaker, by the Minister for Local Government and Minister for Cooperatives, of the draft Local Government Bill, Harmful Pests Bill, Impounding Bill, Local Government (Consequential Provisions) Bill and Roads Bill;
(b) upon receipt by the Speaker, the Bills be deemed to be tabled for the information of Members, and their referral to a Legislation Committee; and
(c) such Legislation Committee comprising six Members, namely Mr Turner, Mr Downy, Mr Rixon, Mr E. T. Page, Mr Harrison and Dr Macdonald.
(2) The provisions of any Parliamentary Committees Enabling Act passed this session shall apply to the Legislation Committee.
(3) The Committee report by 31st March 1992.

GROWTH CENTRES (DEVELOPMENT CORPORATIONS) AMENDMENT BILL (No. 2)

Bill introduced and read a first time.

Second Reading

Mr PEACOCKE (Dubbo), Minister for Local Government and Minister for Cooperatives [10.25]: I move:

That this bill be now read a second time.

The main purpose of the bill is to amend the Growth Centres (Development Corporations) Act 1974 in order to dissolve the Bathurst-Orange Development Corporation and the Macarthur Development Corporation and to enable the creation of new development corporations for vital urban redevelopments. It is the Government's view that both corporations have now outlived the purposes for which they were established. This should not come as a surprise to anyone. The phase-down of the Bathurst-Orange Development Corporation on a planned basis was announced on 7th June, 1989, and the phasing-down of the Macarthur Development Corporation was announced on 18th May,

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1990. The growth centres at Macarthur and Bathurst-Orange were originally established having regard to the United Kingdom "new town" models where it was always expected that the statutory development corporation, as the name suggests, would operate only during the initial

evolutionary or developmental stages of the new town. It is interesting to observe that in 1974, during parliamentary debate on the principal Act, it was clearly intended that the development corporations would operate for a finite, though not predetermined, period. These development corporations have operated for approximately 17 years, similar to the British new town corporations, which had an average life of 20 years.

As part of the Government's action to wind down the Bathurst-Orange Development Corporation, it granted financial assistance to each of the three local councils to enhance their role in encouraging private sector development and enthusiasm in the region. The Government also ensured that the phase-down of activity was done in an orderly manner, thus avoiding undue effects on land values in respect of regions and extending to the staff of the corporations an adequate opportunity to adjust to the changes. Both areas have benefited, in varying ways and to different degrees, from the extensive planning, land consolidation and development that has occurred since 1974 as a direct result of the activities of the two development corporations. However, the stage has been reached in both areas where direct public sector involvement, as contemplated in the growth centres legislation, is no longer appropriate or necessary. In essence, both organisations have become providers of commercial and industrial land in their respective areas.

The bill provides that the remaining assets of the two development corporations be vested in a ministerial development corporation under the provisions of the Growth Centres (Development Corporations) Act 1974. This statutory body will be concerned only with the orderly disposal of the remaining assets leaving the provision of industrial sites generally to the private sector and to local government. A large subdivision by the Macarthur Development Corporation is under way at present at Smeaton Grange, southwest of Campbelltown. Significant development funding will be required to complete this project during the next three to four years. That funding will be provided from remaining assets of the Macarthur Development Corporation. It is pleasing to note that the Macarthur Development Corporation could finish its existence with a healthy net surplus, and the Bathurst-Orange Development Corporation accounts could show close to a break-even position. These outcomes do not take into account the writing off of certain loan interest charges by the State and Commonwealth governments. The benefits provided by the two development corporations have thus been established without a net drain on taxpayers' funds. Indeed, Macarthur could produce a significant profit for the State when current development works are completed and the industrial estates are sold.

The bill provides also for the repeal of the Growth Centres (Land Acquisition) Act 1974. There is not seen to be any need to retain this legislation, which provides for a special means of valuation of growth centre lands. Additional provisions of the bill will make minor or consequential amendments to the Growth Centres (Development Corporations) Act 1974 to ensure that effective management of the ministerial development corporation can be exercised by the Property Services Group. The Act is also updated to remove existing provisions for a development corporation to exercise local government powers such as those contained in the Local Government Act and the Environmental Planning and Assessment Act. This will assist where new development corporations are envisaged in the future for the orderly development of areas such as Homebush Bay. Finally, on behalf of the Government I thank all former employees of both of the development corporations for their dedication, which greatly assisted the corporations to achieve their objectives.

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

PETROLEUM (ONSHORE) BILL (No. 2)

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Second Reading

Debate resumed from 2nd July.

Mr MARTIN (Port Stephens) [10.31]: Though I do not lead for the Opposition on the bill, I advise the House that the Opposition generally supports the measure and will make a constructive contribution to the debate. I hope that the good will that has already been engendered in the drafting of the bill will continue. The objects of the bill include the regulation of exploration for petroleum and petroleum mining operations, other than off-shore exploration and operations, in New South Wales. These were previously regulated by the Petroleum Act 1955. The bill provides for an increased length of tenure of exploration licences, affords a titleholder greater security of title by limiting the period within which a petroleum title can be legally challenged, adopts new principles concerning the release to industry and to the public of technical and other data relating to petroleum discoveries, provides some assurance that an explorer who discovers petroleum will be able to obtain a lease to obtain it in quantity, and makes further provision for the protection of the environment.

The Opposition will seek to address provisions in the bill relating to protection of the environment. The Opposition notes the formal preliminary matters in clauses 1 to 5, which I presume have been discussed in detail with the Government, and about which I presume the Opposition has received briefing in depth from the department. Part 4 of the bill relates to consent of other government authorities. The Opposition will be examining in debate the effect of the Environmental Planning and Assessment Act. Part 5 of the bill covers restrictions on titles, which the shadow minister will address, and part 6 relates to royalties and fees. I hope that the bill, which extensively surveys its stated objects, will not be rushed through Parliament as the Christmas recess approaches. The bill heralds a new era, as the Minister said in his second reading speech, of petroleum exploration in this State. The bill will repeal the Petroleum Act 1955 and reserve to the Crown all petroleum, helium and carbon dioxide found in the natural state.

The inclusion of the reference to carbon dioxide in the bill is necessary because several organisations are actively investigating production opportunities in this State. About 28,000 tonnes of gas are produced annually from one field in southeastern South Australia. Given growing concern in the environmental debate about the greenhouse effect, it is vital that Parliament considers these issues in great depth. The bill also encompasses inspection and control, easements and rights of way. The Opposition will be keenly watching the application of compensation provisions in the bill. Wardens and officers will be appointed under Acts mentioned in clause 104. Release of information, as specified in the bill, is of vital importance. The bill will simplify administrative procedures and enable the department to speed up application processes and registration of agreements relating to titles that are to be introduced. This will provide a registration service to the industry at little cost. I assure the House that the Opposition will be taking a keen and continuing interest in the measures contained in the bill.

Mr JEFFERY (Oxley) [10.38]: I support the Petroleum (Onshore) Bill (No. 2). The purposes of the proposed legislation, as stated by the Minister in his second reading speech, are: to replace the Petroleum Act 1955 with a modern Act which will encourage petroleum exploration and production in New South Wales; to provide security of tenure to titleholders; to simplify administrative procedures; to preserve the rights of landowners; to establish a clear relationship with the planning provisions of the Environmental Planning and Assessment Act 1979; and also to ensure that all operations are carried out in an environmentally acceptable manner. At present onshore petroleum exploration and mining are administered under the Petroleum Act 1955. That legislation, enacted 36 years ago, is out of date and is causing difficulties to petroleum explorers and

to the department. After extensive consultation the Australian Petroleum Exploration Association has agreed to the form and content of the proposed legislation. The bill offers a system of titles similar to that provided in Commonwealth and State petroleum submerged lands legislation enacted or to be proposed.

The general provisions are based on the present Act and the Petroleum (Submerged Lands) Act. These will be simplified and modernised where necessary. The relevant recommendations of the white paper review of mining law and significant improvements will be incorporated in the bill. The reservation of carbon dioxide is important. All carbon dioxide, petroleum and helium found in its natural state will be reserved to the Crown. A four-stage title system will be introduced, providing greater security of tenure for the titleholder. That is important. This will cover all assessment operations while the titleholder is awaiting development approval for the grant of a production licence. This will also be granted where a discovery is subeconomic but is likely to become economic within the next 15 years which, with new technology, is very likely. Therefore, the term of an assessment lease will be six years and renewable. That will apply also to exploration leases and licences. They will be renewed if all the required conditions are met and if the lessee is carrying out his work in a proper manner. The special prospecting authority will enable speculative surveys to be carried out in vacant areas by companies wishing to sell the results to other explorers. This is sensible because it will cover scientific research and exploration also. The term of the authority will be for one year, and is renewable.

The bill provides for administrative procedures established under the Petroleum (Submerged Lands) Act for title application and renewal to be revised and simplified. Those procedures will allow the competitive tendering of off-shore blocks. The relationship between exploration, assessment and mining operations and the provisions of the Environmental Planning and Assessment Act 1979 will be clearly established. Mining proposals will require development consents under part IV of the Act. Exploration and assessment operations will be assessed by the Minister for Natural Resources under part V of the Act. Another important part of the bill which is close to my heart is the environment, health and safety. Therefore, a code of practice to preserve the environment and the health and safety of those working on operations covered by the Act will be incorporated. Technical data on the exploration and assessment will be released after two years and interpretative data will be released after five years, subject to consultation with titleholders. This reform will allow access to data at a much earlier stage and will increase the efficiency of exploration in surrounding areas. This legislation also provides for a register of dealings affecting titles and agreements. This will provide a registration service to the industry at little cost and is an important provision. Many people and governments are interested in royalties. The maximum rate of royalty will be set at 10 per cent of the gross value at the wellhead, except where the titleholder nominated a higher rate in the licence application.

Basically, the general provisions and the administrative procedures will be simplified and modernised. This legislation is of vital importance for the successful introduction of surface gas drainage. Current and prospective investors are concerned about the existing legislation because of lack of security of tenure. As with any industry, security of tenure and clear guidelines are needed. In the past, with the complexity of administration, sufficient guidance has not been provided to those gaining development consents. This legislation will assist the State to have a strong petroleum exploration and development industry, vital for New South Wales. It is possible that it will become self-sufficient in the production of natural gas. This is an exciting area. The shadow minister for natural resources and I spoke on the Nattai proposal and sought to have an area excised so that self-sufficiency for New South Wales can be achieved. Millions of dollars will be spent on exploration and. if successful, many jobs will be created. The money

invested in New South Wales will be enormous; in five years it will be about $200 million. This will help New South Wales lead Australia out of the present recession that was caused by the Federal Government. I support the bill.

Mr MARKHAM (Keira) [10.45]: I lead for the Opposition on this bill. It was agreed yesterday that I would have a briefing with the Minister but unfortunately he took ill this morning and was rushed to hospital. That matter is beyond our control but I am disappointed in as much as I seek clarification of several matters. The Opposition supports the Petroleum

(Onshore) Bill (No. 2) because in a number of areas it is an important bill. I shall not canvass the entire bill because I understand that the Government will be moving 14 amendments in Committee. At that stage I shall take the opportunity to raise issues, if necessary. Our support is based mainly on three important principles. This legislation will allow for exploration and ultimately, I hope, the production of methane gas and carbon dioxide gas out of coal seams within New South Wales. Those experienced in the coal industry must be supportive of this legislation. A consideration of the number of mining fatalities in this State brought about by methane gas explosions or methane gas and carbon dioxide mixture outbursts makes it easy to accept that pre-drainage of gas out of coal seams well in advance of coal production is very desirable.

One also should consider what happens at present with methane gas and carbon dioxide in the mining of coal. That gas is liberated to the atmosphere. The small amount of gas drainage that is carried out in the coal industry today, which is in seam-type gas extraction, is very inefficient. One would be lucky to obtain 35 per cent of available methane gas in a coal seam using that method. However, it brings some stability to worker safety in the operations of the coal industry. This gas is a valuable resource that we are releasing into the atmosphere, adding to the greenhouse gas effect. No doubt everyone in the environmental movement and the mining industry would seek to have the exhausting of methane gas and carbon dioxide into the atmosphere controlled in a better manner. It is hoped that this bill will achieve that aim. Further, methane gas is an efficient fuel if it can be captured, compressed and used for the running of motor vehicles. That is desirable. More importantly, the amount of methane gas which might be available in the Sydney basin alone can provide New South Wales with town gas for many years to come. It is important that this valuable resource is not wasted as at present. I return to my first point dealing with methane gas and carbon dioxide extraction from coalmines, coal seams and the strata below and above. That is important because I have a selfish attitude towards the safety protection of mine workers and, ultimately, their families.

It is not so many months ago that an horrific outburst of coal and methane gas occurred at South Bulli Colliery causing the death of three mineworkers. It affected not only the three mineworkers and their families but the community at large. Whenever any of us go to work, regardless of what occupation we pursue, our wives, families and loved ones expect us to return home after a day's work. Families of coal industry workers are always concerned when the breadwinner, the mineworker, goes to work, because at any time an horrific and horrible accident may occur. Throughout the history of this State major mining disasters have occurred, going back to the explosion at Mount Kembla in the early part of this century when 96 men were killed. A few years ago 14 mineworkers were killed at Appin Colliery in a methane gas explosion. Other accidents have occurred throughout the coalfields either by straight out gas explosion or by gas outburst. The accident in which three young men were killed at South Bulli was horrific. Some of the men killed had worked at Coalcliff Colliery before it was closed down but had been able to transfer to the South Bulli mine.

Before I was elected to Parliament I worked at Coalcliff for 24 years. I have

told honourable members about that many times. I knew some of the chaps who were killed. More tragically, on the afternoon I attended Paul Broughton's funeral service at the Dapto crematorium I heard a man saying that he could not understand how a young man with such vitality and such a great future could be plucked from his family, and particularly from his wife, who was pregnant with their first child. I can assure honourable members that it was a most emotional time. After the service had concluded and the chap who had been speaking walked out of the chapel I discovered he was an old friend of mine, John Ryan, with whom I used to work. He had been an electrician at the Electricity Commission of New South Wales when I served my apprenticeship. The husband of his daughter had been killed. As I said earlier, it is not only the immediate families who are affected by these horrific accidents; in some instances the broader community is affected also.

Anything that the Government can do to remove gas from coal seams in this State in an acceptable manner is something I shall always support. The technology for this, which is available in Australia and other parts of the world, is improving. Methane gas extraction by the process of hydrofracturing the coal seam from bore holes sunk from the surface is not new. Ten years ago the technology was pretty raw and the success rate was very poor. Over the past few years, however, a system has been developed and is being used in the United States of America, particularly in the Warrior Basin, where great quantities of methane gas have been liberated and are being used as an important energy source. I should like to explain to the House the technology of hydrofracturing and how the system operates. Basically, a number of bore holes are drilled from the surface into virgin coal. A mixture of water and sand, and sometimes a gel, is pumped down those bore holes under extreme pressure, cracking or fracturing the coal seam. The sand is deposited in the fractures and the water is removed, leaving the fracture to bleed off methane gas and carbon dioxide. I hope I can overcome some of the concerns that have been expressed to me. Later at the Committee stage I understand that the concerns will be addressed by amendments the Government will move, to which I have had some input.

It takes eight to 10 years to bleed carbon dioxide and methane gas from coal seams, and is therefore a long-term project. It does not happen overnight. Until 20 years ago the coal industry did not have to contend with methane gas, because most of the coal in the southern coalfields was outcrop coal, and over many thousands of years the methane gas and carbon dioxide had leached out of the coal seams. As miners move deeper under the escarpment—and I know this also happens in other parts of the world—they must remove any methane gas. The technology of hydrofracturing will do that. As it takes 10 years, the sooner we get off the mark and moving the better, but we cannot ignore environmental concerns. The new technology will allow bore holes to be sunk into the strata anywhere from one kilometre to two kilometres apart. The bore holes will not be drilled close together all over the surface. I have heard of a further advancement in the technology whereby holes can be bored on a gradient, permitting greater site coverage and a reduction in the number of on-site positions where one needs to sink bore holes. That sort of technology, and the amendments that will be moved later in Committee, will go some way towards allaying the fears that representatives of environmental groups have expressed to me. The amount of carbon dioxide used by industry in New South Wales is significant. New South Wales has extensive carbon dioxide requirements, and 1,000 tonnes a day are imported to service industry.

That gas can be utilised, but it may be harder to capture than methane gas is. This bill will allow that type of operation to proceed. Honourable members should understand the stance taken by the United Mineworkers Federation of Australia in regard to this proposal. When the former Minister for Minerals and Energy, Neil Pickard, introduced the bill in April this year I made sure that copies of his second reading speech

and of the bill were delivered to the federation and the Total Environment Centre. I made sure also that Milo Dunphy and John Maitland received a copy of them so that they could give me their response to the proposal. The federation said that it could not envisage any hiccups occurring as a result of the legislation but was a little concerned about the viability of extracting methane gas and carbon dioxide from coal seams because of the number of experiments that had taken place and failed.

Mr Jeffery: A lot of new technology has been introduced since then.

Mr MARKHAM: I understand that. It was important that those organisations have the opportunity to see what was being proposed. The West Cliff colliery does in- seam drainage of methane gas and uses the gas to operate a turbine which drives an alternator and generates about 15 megawatts of electricity. That is a valuable resource. The 15 megawatts generated is more than the requirements of the colliery for its operations. The surplus electricity is then fed into the State grid. The way they do it is to bore holes into the coal seam in advance of

production and drain out the gas by means of a vacuum pump. The gas comes out extremely diluted and its quality is only good enough to enable it to be used for power generation. At West Cliff colliery between 4,500 and 5,500 cubic metres of gas an hour is captured—quite a considerable volume. That production should be used for the economic benefit of the State. I hope the bill will encourage petroleum explorers to get out there and put into practice what they preach. It is all very well to have legislation that allows exploration and development, but so far as I am concerned the explorers should be more resourceful, for the reasons I have mentioned. Pressure should be applied by the Government and the department to make explorers out in the field drill the holes and use this technology. They will not do anything about currently working mines because the lag time for the drainage of the gas is between eight and 10 years. This State will be producing coal for many years to come. Now is the time to start using the available technology to get the gas from the seams to ensure that safer working conditions are available for mineworkers.

I should speak also about another aspect of this technology. I have received information from a world renowned specialist in methane gas drainage who just happened to work for Kembla Coal and Coke on the southern coalfields, Dr Ripu Lama. He is keen to ensure that this technology is put in place. I know also that Austen and Butta Limited would be keen for a program such as this to be put in place well in advance of their production. At this stage Austen and Butta Limited have operations proceeding at South Bulli colliery where three men were killed recently. Only two weeks before that accident happened I took a colleague from the upper House, Bryan Vaughan, to that colliery to have a look at longwall coal production. He had never been in a coalmine before and did not understand what a longwall unit was all about. He was quite distressed when he heard two weeks later that the explosion had happened, and that it had happened close to where we had been. South Bulli colliery is experiencing outburst problems. They had never had experience of outbursting before. The southern coalfields are well known for outburst conditions, especially in the fields further west. If I recall rightly, at Tahmoor, which is one of the mines that experiences outbursts more than any others on the southern coalfields, they take precautions by drilling well in advance of operations to try to release any build-up of carbon dioxide or methane gas. The men who work there are so experienced that they can tell from their drill cores whether they are approaching unstable conditions. They can almost predict whether they will come across methane gas or carbon dioxide. The men at South Bulli had never experienced outbursts. The warnings were there but the men were not accustomed to the conditions that prevail prior to reaching areas where outbursts might happen. They did not realise what would happen.

In the week following that accident I was briefed by Malcolm Loy, the federation

check inspector who had been underground and had a look at what had occurred. He said he could not believe how clear the signs were that there was a problem somewhere. He said he went into the heading and that when he looked back up the heading everything looked okay; the ribs were square and the roof was stable. When he turned 180 degrees he could see that the ribs were starting to break away and the roof beginning to fragment. He said it was obvious that the mine was approaching an outburst. But those men did not know, because they had not worked in outburst mines before. Men who work in mines where outbursting occurs pick up the signs of those conditions and take appropriate action. Three men were killed that day because they did not recognise the signs. Another old workmate of mine, Tony Woods, was in that panel on that night. He happened to be sitting—I suppose workers should not sit, but he was lucky that he was—out by the working face. He heard the outburst and saw the dust. It all happened in a split second. Because he had worked at Coalcliff colliery in extraction panels from which they remove the coal and sometimes major roof falls occur, he thought that was what had happened. Luckily he ran and is alive today because of that. The South Bulli colliery has now been put on alert because of outbursting and has to take procedures in an endeavour to detect the presence of gas. That has caused the colliery to slow down operations in developing longwall blocks of coal to be mined. A few weeks ago Austen and Butta Limited

contacted me and told me that they would have to put off 120 men because the company was not able to operate the mine effectively and efficiently as a result of the problems they faced.

For that reason alone the Opposition supports the bill. If the lands where these operations will take place are properly managed and controlled, the environmental impact should be minimal. The department has become aware of the concerns of the New South Wales conservation movement and has attempted to address some of them. It is important that the Parliament recognises the value of coal seam gases. It is important also that the legislation be passed and pressure then be put on those who carry out petroleum exploration to get their act together and do something about it. During the past seven or eight months I have had a number of discussions with officers of the department during which I raised some of my concerns and indicated my support for parts of the legislation. I am a little concerned that the Government has taken so long to introduce the legislation. It should have been introduced many months ago. I realise that could not be done because the responsible Minister was absent. However, the legislation could have been taken up by another Minister, or from some other quarter. I have said many times in this Chamber and I will keep saying that I will not rest until the coal industry in this State and this country is made as safe as possible. I will support measures which are taken to bring that about. For that reason the Opposition supports the bill.

Some of the amendments the Minister will move have been discussed. I hope to make some further comments in Committee. Co-operation and consultation should be the order of the day when legislation as important as this is being discussed. So far that is what has occurred. However, after the bill is passed and problems are experienced down the track, the Government and the department should not be concerned about listening to people who may then raise issues. So far as the environment is concerned, the legislation can be amended to address any difficulties which might arise once the technology is brought into play. Much information is available on this subject and I could continue speaking for some time. However, I have outlined my major concerns and the concerns of environmental groups. I may not have done it as well as they might have wished. I will watch closely what happens after the bill is passed. My major concerns are those I mentioned at the start of my contribution—the safety of people working in coalmines; and the reduction of the amount of carbon dioxide, methane gas and helium gas being vented into the atmosphere, which adds to greenhouse gases. I

have been told that in New South Wales methane gas constitutes 21 per cent of the greenhouse effect. Of that 21 per cent, 8 per cent emanates from coalmines. As we proceed into the next century, we will require energy in everincreasing amounts. The gas available in coal seams throughout New South Wales could provide sufficient energy for this State for the next 40 or 50 years. I have pleasure in supporting the bill.

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.15], in reply: At the outset may I draw the attention of honourable members to the fact that the Minister for Natural Resources, Ian Causley, was hospitalised this morning. I am sure I speak on behalf of all members when I wish him a speedy recovery. Mr Acting-Speaker, I thank you and all members for the indulgence I have been given. Some speakers have been caught short. I am aware that Opposition members were scheduled to attend a briefing at 10.30 a.m. I am sure they understand why that was not possible. On behalf of the Minister for Natural Resources, I thank the honourable member for Keira, the honourable member for Oxley and the honourable member for Port Stephens for their contributions to the debate. Speaking as an observer, I thought the debate was most constructive and informative. One important thing that emerged from the debate was that there has been extensive consultation, not only between both sides of the Parliament but with industry, unions, environmentalists and a plethora of interest groups and individuals involved in this most important industry.

It is fair to say that this bill is one of those pieces of legislation that perhaps should have been introduced some considerable time ago. One of the hallmarks of the Government is that in three and a half years it has been prepared to address issues which for some years

were put in the too hard basket by previous governments. As speakers from both sides of the House have said, the bill deals with the management of energy. Undoubtedly during subsequent decades the States and countries who have learned to manage energy and knowledge will prosper. As major structural changes are made to industry, commerce and the social aspects of our lives, the States and countries that cannot manage energy and knowledge will have great difficulty competing during the next three or four decades. I am delighted by the support the bill has received. Decisions on the proposed amendments have obviously been arrived at as a result of a commonsense process. In Committee, I intend to move 14 amendments, seven of which are consequential. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

New Part 6

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.19]: I move:

Page 24. After part 5, insert:

PART 6—PROTECTION OF THE ENVIRONMENT

Division 1—Environment to be considered before grant of petroleum titles.

Need to protect natural resources etc. to be taken into account

74. (1) In deciding whether or not to grant a petroleum title, the Minister is to take into account the need to conserve and protect:

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(a) the flora, fauna, fish, fisheries and scenic attractions; and

(b) the features of Aboriginal, architectural, archaeological, historical or geological interest,

in or on the land over which the petroleum title is sought.

(2) The Minister may cause such studies (including environmental impact studies) to be carried out as the Minister considers necessary to enable a decision whether or not to grant a petroleum title to be made.

Division 2—Conditions for protecting the environment

Inclusion of conditions for protecting the environment

75. The conditions subject to which a petroleum title is granted or renewed may include conditions relating to the conservation and protection of:

(a) the flora, fauna, fish, fisheries and scenic attractions; and

(b) the features of Aboriginal, architectural, archaeological, historical or geological interest,

in or on the land subject to the petroleum title.

Rehabilitation etc. of area damaged by operations

76. (1) The conditions subject to which a production lease is granted or renewed may include such conditions relating to:

(a) the rehabilitation, levelling, regrassing, reforesting or contouring of any part of the land the subject of the lease that may have been damaged or adversely affected by operations; and

(b) the filling in or sealing of excavations and drill holes,

as may be prescribed by the regulations or as the Minister may, in any particular case, determine.

(2) The Minister may amend a production lease:

(a) that does not contain conditions of the kind that may be imposed under this section; or

(b) that does contain such conditions, being conditions that the Minister considers are inadequate,

so as to include conditions or further conditions of that kind or so as to alter any such conditions.

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(3) An amendment takes effect on the date on which notice of the amendment is served on the holder of the production lease or on such later date as may be specified in the notice.

Division 3—Directions to rehabilitate land

Direction to comply with conditions of petroleum title

77. (1) The Minister may cause to be served on a person who is or has been the holder of a petroleum title a written notice directing the person to take specified steps, within a specified time, to give effect to any conditions included in the petroleum title under Division 2.

(2) A person on whom such a direction has been served must not fail to comply with the direction.

Maximum penalty: 20 penalty units.

Rehabilitation by Minister at holder's expense

78. (1) If a person on whom a direction is served under this Division does not comply with the direction, the Minister may cause to be taken any of the steps specified in the notice in which the direction was given.

(2) Any costs or expenses incurred by the Crown under this section are a debt due to the Crown by the person on whom the direction was served and are recoverable in a court of competent jurisdiction.

Recovery of costs of rehabilitation

79. (1) In any proceedings for the recovery of a debt due to the Crown under this Division, a certificate that is signed by the Minister and that states that a specified amount is the amount of the debt so due is admissible in evidence in all courts and is evidence of that fact.

(2) A debt due to the Crown under this Division is recoverable whether or not the person by whom it is due is prosecuted or convicted of an offence under this Division.

Division 4—Directions to remove petroleum plant

Application of Division

80. This Division applies to land that ceases to be subject to a petroleum title.

Definitions

81. In this Division:

"petroleum plant" means any building, plant, machinery, equipment, tools or other property that has been used for drilling, whether or not affixed to land;

"prescribed period", in relation to land that has ceased to be subject to a petroleum title, means the period of 6 months from the date on which the land ceased to be subject to the petroleum title or such longer period as the Minister may, in any particular case, allow.

Clearing away of petroleum plant

82. (1) The holder of a petroleum title over land that ceases to be subject to the petroleum title:

(a) may, within the prescribed period; and

(b) must, if directed to do so by the Minister by notice in writing, within the period specified in the notice, cause to be removed from the land any petroleum plant brought on to, or erected on, that land in the course of drilling operations carried out under the petroleum title.

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(2) The Minister may give a direction under this section even though the prescribed period has not expired.

Sale of petroleum plant

83. (1) If petroleum plant is not duly removed under this Division, the Minister may direct that the petroleum plant be sold by public auction.

(2) Any petroleum plant remaining unsold after the public auction is held may be sold by private treaty.

(3) The following amounts are to be deducted from the proceeds of any such sale:

(a) the costs of the sale and of any matter incidental to or connected with the sale;

(b) the costs of removing from the land concerned any petroleum plant remaining unsold after the public auction;

(c) any amount owing in respect of compensation under Part 11;

(d) any other amount that the Director-General certifies to be a deductible amount.

(4) Any balance remaining is to be paid to the Treasurer as unclaimed money, and sections 6(2) and 10 of the Unclaimed Money Act 1982 apply to the balance so paid in the same way as those provisions would have applied had the balance been paid to the Treasurer under section 6 of that Act.

(5) If the proceeds of sale are less than the amounts to be deducted, the proceeds are to be applied in meeting those amounts in such manner as the Minister directs.

This amendment inserts a new part 6 into the bill. When the bill was drafted it was intended that it include measures aimed at protecting the environment as conditions of the title. With a view to strengthening the environmental aspects of the bill, new clause 74 will require the Minister to consider environmental protection before a petroleum title is granted. New clause 75 relates to the inclusion of conditions relating to the protection of the environment to which a petroleum title is subject. Clauses 77 to 83 relate to the rehabilitation of land. The Minister may direct that land be rehabilitated at the titleholder's expense. Any expenses incurred by the Crown in respect of rehabilitation may be recovered in a court of competent jurisdiction. Rehabilitation extends to the removal of plant which, if not removed, may be auctioned.

Mr MARKHAM (Keira) [11.20]: As the Minister pointed out, these amendments will address some of the concerns which have been raised. I hope that the concerns of people in the environmental area have been addressed in these clauses.

New part agreed to.

Clause 87

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.21]: I move:

Page 28, clause 87(1). After "partnership agreement,", insert "joint venture agreement, joint operating agreement,".

Amendment No. 2 updates the terminology so that it is consistent with the current usage in Australia.

Amendment agreed to.

Page 6452

Clause as amended agreed to.

Clause 95

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.22]: I move:

Page 30. Omit clause 95.

Amendment No. 3 omits clause 95, which relates to use of force. This provision is now considered to be too severe and it is therefore proposed that it be omitted.

Mr MARKHAM (Keira) [11.22]: I indicate my support for this amendment. It is very important that clause 95 be omitted from the bill. We cannot have an officer, warden or anybody else going on to any private property, being confronted by the owner of that property and being allowed to use force in order to gain access to that land. It is something that we in a democratic society would not tolerate. I am pleased to see that the Government has decided to omit that clause from this bill.

Amendment agreed to.

Clause as amended agreed to.

Clause 97

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.24]: I move:

Page 30, clause 97. After clause 97(3), insert:

(4) The Minister may not grant consent under this section in respect of lands within a state recreation area under the National Parks and Wildlife Act 1974:

(a) without the concurrence in writing of the Water Administration Ministerial Corporation, where the lands concerned are within an irrigation area as defined in the Crown Lands Act 1989; or

(b) without the concurrence in writing of the Minister for the time being administering the National Parks and Wildlife Act 1974, in any other case.

Concern has been expressed that clause 97, as worded, would permit the construction of a road in a State recreation area. Amendment No. 4 provides that written concurrence would have to be obtained from the Minister administering the National Parks and Wildlife Act 1974 before any road could be commenced.

Mr MARKHAM (Keira) [11.24]: The Opposition supports this amendment. It is very important that we ensure that in State recreational areas and other areas where these explorations might take place the least damage possible is caused. Whenever operations go ahead, it must be in consultation with the appropriate authorities and people. The Opposition supports the amendment.

Amendment agreed to.

Clause as amended agreed to.

Clause 106

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Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.25]: I move:

Page 35, clause 106(1)(h), (k), (l). After "partnership" wherever occurring, insert "or joint venture".

This amendment updates the legal terminology.

Amendment agreed to.

Clause as amended agreed to.

Clause 127

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.25]: I move:

Page 43, clause 127(1), (2), (3). Omit "100" wherever occurring, insert instead "20".

This amendment reduces the maximum penalty from 100 penalty units to 20 penalty units. The very people who ask for higher penalties for environmental offences believe that the penalties in this Act relating to breaches of conditions are too high. The maximum penalty is not a matter of great principle, so the Government has acceded to the request to reduce the maximum penalty.

Mr MARKHAM (Keira) [11.26]: The Opposition supports the reduction of 100 penalty points to 20 penalty points. The original figure seems absolutely ridiculous to me and to a number of other people. People who in some way or another contravene the law under the provisions of this bill would be fined $10,000, whereas in the mining bill the penalty for the same contravention would be $2,000. I cannot understand why those who drafted this legislation did not get this right from day one. Anyone would support the argument that there should not be such a great differential between one bill and another where both of those bills deal with similar issues. The Opposition supports the reduction in penalty.

Amendment agreed to.

Clause as amended agreed to.

Clause 129

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.27]: I move:

Page 44, clause 129(1)(c). Omit "every assignment of a tribute or option contract", insert instead "any instrument".

This amendment updates the legal terminology.

Amendment agreed to.

Clause as amended agreed to.

Bill reported from Committee with amendments and report adopted.

PETROLEUM (SUBMERGED LANDS) FURTHER AMENDMENT BILL

Second Reading

Page 6454

Debate resumed from 3rd December.

Mr ROGAN (East Hills) [11.29]: I lead for the Opposition on the Petroleum (Submerged Lands) Further Amendment Bill. The Opposition will not be opposing this bill. The principal Act which this bill is amending, namely, the Petroleum (Submerged Lands) Act 1982, has its origins in the Premiers Conference of 1979, when a settlement was reached between the

Commonwealth and the States concerning the control of off-shore areas. Under that settlement the Commonwealth agreed to share with the States and the Northern Territory power and resources in the off-shore area. This resulted from a decision of the High Court of Australia that the low water line was the territorial limit of the Australian States. As part of the settlement the Commonwealth enacted the Coastal Waters (State Powers) Act 1980 and the Coastal Waters (State Title) Act 1980, which vested in the States proprietary rights and title to the territorial sea around Australia. Besides vesting in the States proprietary rights and title to the seabed within the three-mile limit, that legislation authorised the States to grant mining and prospecting titles in those areas. Included in that package of legislation was the Petroleum (Submerged Lands) Amendment Act 1980 and the Petroleum (Submerged Land—Miscellaneous Amendment) 1981, which were intended to give effect to revised arrangements for the administration of off-shore petroleum mining outside the territorial sea.

The bill we have just passed related to exploration of on-shore areas and, in conjunction with this bill, the legislation highlights the need for exploration in and around New South Wales to ascertain petroleum reserves. Australia has been fortunate in having practical self-sufficiency in petroleum. Unless substantial new reserves are found we may not be self-sufficient towards the end of the decade. My colleague the honourable member for Keira highlighted environmental considerations in relation to the previous bill. This bill provides for the taking out of insurance to cover any accidents which may occur. Companies carrying out exploration must do so in accordance with sound environmental principles. This legislation is not controversial and is a mirror image of legislation the Commonwealth has enacted as part of the agreement between the States and the Commonwealth on off-shore exploration.

Schedule 1(1), (2) and (3) abolish over-the-counter releases of exploration permits for off-shore petroleum. The Minister stated that that system will be replaced by a system of competitive bidding. The Opposition has no problem with that proposal but the bill does not seem to contain amendments to the principal Act to allow for competitive bidding. Perhaps this can be done administratively. The Minister may be able to clarify this in reply. Schedule 2(3) requires all holders of exploration permits, retention licences and pipeline licences to insure against potential liabilities which could arise from relevant operations. At present this requirement is at the discretion of the Minister. It is desirable that this should be provided in the bill but the amount of insurance is not specified. I can only presume that this can be dealt with by administrative arrangement, by the Minister specifying the amount of insurance required when the application is made. The Minister may clarify that also in his reply.

The Minister's second reading speech lasted only four minutes. By and large the legislation is non-controversial: it simply complements Commonwealth legislation. I shall not delay the House by giving a lengthy explanation of the bill. The Minister referred to it as a housekeeping measure. For the reasons outlined the Opposition does not oppose the legislation. We look forward to increased off-shore exploration and if this bill will assist in that it is most welcome.

Mr JEFFERY (Oxley) [11.39]: I support the Petroleum (Submerged Lands) Further Amendment Bill 1991. The Petroleum (Submerged Lands) Act 1982 gave effect to an agreement between the Commonwealth, the States and the Northern Territory relating to the exploration for, and the exploitation of, petroleum deposits in the submerged lands within the territorial sea adjacent to New South Wales. As part of that

agreement New South Wales is to maintain, so far as is practicable, common rules and practices in the regulation and control of the exploration for, and the exploitation of, petroleum deposits.

As was mentioned by the honourable member for East Hills, the bill abolishes over-the-counter awards of exploration titles. The Commonwealth Government takes the view that the most desirable approach to the award of off-shore exploration permits is by competitive bidding.

The Commonwealth has virtually put it to tender in order to get the best bid, not so much in monetary terms but in terms of the bid that will provide greatest benefit for this State. The cost of a well off-shore is $5 million compared with onshore costs of $1 million a well. Under a tender system companies have the opportunity to organise their affairs and to bid accordingly. With a regular six-monthly release of off-shore petroleum acreage there will be no need for over-the-counter awards of exploration acreages. The amendments clarify the Act to ensure that any operations connected with petroleum exploration require approval under the Act. At present the Act makes it an offence to provide false or misleading information in connection with an application for approval of a transfer or a dealing relating to a petroleum title. The bill will change that offence to knowingly providing false or misleading information.

The honourable member for East Hills referred also to protection of the environment. That consideration is paramount and is included in the bill along with insurance provisions. It is proposed to replace the present discretionary requirements with a provision that requires all exploration permittees, retention lessees, production licensees and pipeline licensees to take out insurance against potential liabilities which could arise from relevant operations. Under the Act the holder of an access authority is required to submit a full report of operations including a summary of facts ascertained from those operations rather than all facts relating to the affected titleholder. The period of confidentiality for basic data recorded under speculative non-sale risk surveys is to be extended to five years at the discretion of the designated authority. Security for exploration permittees, retention lessees, production licensees and pipeline licensees is to be abolished. They are the main aspects of the bill to which I wish to refer. I take the opportunity, as the Minister for Agriculture and Rural Affairs did earlier, to wish the Minister for Natural Resources, the Hon. Ian Causley, well. We hope he is out of hospital in the shortest time possible.

Mr CRITTENDEN (Wyong) [11.44]: I am pleased to speak briefly to the Petroleum (Submerged Lands) Further Amendment Bill. There are two important aspects to the bill. First, it will allow for competitive bidding. Today in government it is crucial that things are not only done properly but are also seen to be done properly. Competitive bidding will go a long way to ensuring that. In recent years we have heard much about microeconomic reform. Second, the origin of this matter dates back to June 1979 when a settlement was reached at the Premiers Conference between the Commonwealth and the States concerning the control of off-shore areas. It is good that we can reach agreement to allow a system of government to work well. I hope that future issues such as this can be dealt with in a similar manner, if not more expeditiously.

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [11.45], in reply: I thank the honourable member for East Hills, the honourable member for Oxley and the honourable member for Wyong for their contributions to the debate this morning. I thank the House for its indulgence in the absence of the responsible Minister, the Hon. Ian Causley. Other members have made mention of his hospitalisation. This legislation is purely complementary to Commonwealth legislation and is therefore mechanical. The honourable member for East Hills, who led for the Opposition, raised

a question concerning over-the-counter leases, as they have been known, which have been abolished by the Commonwealth. The system proposed by this legislation is that blocks will be released and tenders will be called on the basis of work programs and expenditure. This will permit parties to put together joint ventures, bearing in mind that off-shore exploration is very expensive, costing approximately $5 million a well. The Government believes that this is a far better way of managing this vital resource than the previous system was. I commend the legislation.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RIVERS AND FORESHORES IMPROVEMENT (AMENDMENT) BILL (No. 2)

Second Reading

Debate resumed from 2nd July.

Mr AMERY (Mount Druitt) [11.47]: I lead for the Opposition on this bill. The Opposition will give qualified support to the matter, though I have some comments to make. However, we will not move any amendments in this House. The stated object of the bill is to expand the provisions of the Rivers and Foreshores Improvement Act that imposed controls on the carrying out of certain activities that have or might have a detrimental effect on rivers and land adjacent to rivers. This includes implementing amendments recommended by the Ombudsman after he carried out inquiries into the activities of two sand and gravel extractors. The Opposition has studied the bill and its findings are that by and large the Government has attempted to implement as many as possible of the recommendations and findings of the Ombudsman resulting from investigation of two cases. It is important to put on the record some of the concerns we have and some of the findings relating to those two cases which resulted in the formulation of this bill. The first report of the Ombudsman in relation to river sand and gravel extraction related to investigation of complaints lodged under section 126 of the Ombudsman Act. Those complaints were lodged by Mr C. Lehmann on behalf of the Albury-Wodonga branch of the Australian Conservation Council and Mr D. Percy on behalf of Mitta Mitta Canoe Club (Albury-Wodonga) Incorporated. The nature of the complaints was that the Department of Water Resources had refused to prosecute a gravel extraction company, namely, A. P. Delaney and Co. Pty. Limited, for a breach of section 23A of the Rivers and Foreshores Improvement Act. The company, without a permit under that section but apparently with oral approval from a departmental officer, had carried out certain work in the Murray River on its property called "Bankview".

The conduct the subject of the investigation was the alleged failure of the department and its officers to undertake a number of procedures including: first, its failure to comply with the requirements of the principal Act, the Rivers and Foreshores Improvement Act, in giving oral approval to A. P. Delaney and Company Pty Limited for excavation work and or removal of soil; and, second, having given oral approval for the project, the department failed to monitor the excavation work, and failed to ensure that the excavation work ceased after cessation was ordered on 22nd August, 1987. The procedures were that an order was given that the project should cease but unfortunately the department was lax in preventing that project from continuing. Written inquiries were made of the department, the Hume Shire Council, the Department of Agriculture's Division of Fisheries, and A. P. Delaney and Company Pty Limited. The departmental file on this matter was also examined. A thorough investigation was carried out by the Office of the Ombudsman. A number of the Ombudsman's findings and recommendation have been incorporated in this legislation. The Ombudsman found that in giving oral

approval to carry out work within the protected river land the department failed to comply with the requirements of the Rivers and Foreshores Improvement Act, and such action was contrary to law and wrong in terms of the Ombudsman Act. That remark obviously endorsed the complaint lodged by the complainant. The Ombudsman found that the department had failed to properly consider its legal position relating to possible prosecution against action by A. P. Delaney and Company Pty Limited, and that such action was unreasonable and wrong in terms of the Ombudsman Act.

The Ombudsman also found that the department, having given oral approval for work to be carried out, failed to monitor or cause to be monitored such work, and that such inaction was unreasonable and wrong in terms of the Ombudsman Act. The Ombudsman made a number of recommendations which were highlighted in his report. His first recommendation was that the Department of Water Resources should immediately cease the practice of giving

oral approval for work involving protected river land, and instead in every case require an application in terms of section 23A of the Rivers and Foreshores Improvement Act for such proposed work. Honourable members would agree with that recommendation. It seems absurd that major excavation of rivers in this State can be carried out virtually on the verbal consent of departmental officers. It probably occurred from custom and practice rather than conformity to the letter of the law. I am pleased that the Ombudsman has recommended that in the future that practice cease. The Ombudsman's second recommendation was that the Department of Water Resources take action to recommend that the law be amended so as to provide the department with the power to confiscate material illegally excavated from protected river land, and to dispose of such material in such manner as it sees fit, including by sale at commercial rates. Having perused the bill and the Minister's second reading speech, I am of the view that particular recommendation has been adopted. The Ombudsman made about 10 recommendations concerning that matter, and most of them have been addressed through this proposed legislation.

The second matter, which is obviously why this amending bill was drafted, was also a case investigated under section 26 of the Ombudsman Act. The nature of the complaint was that the Department of Water Resources failed to take proper action in relation to a sand mining operation on the Murrumbidgee River. The complaint was made by Mr Michael Mobbs, a solicitor, acting on behalf of Ms Jacqueline Rees of Canberra. The public authorities the subject of the complaint were the Department of Water Resources and the Yass Shire Council. In November 1987 Mr Mobbs wrote to the Ombudsman on behalf of his client, setting out 12 heads of conduct that he believed warranted investigation by the Ombudsman's Office. The first was that the council had failed to properly assert, monitor, enforce or observe the controls in its environmental planning instrument concerning the extraction of sand and other material from the Murrumbidgee River above the Burrinjuck Dam. Second, the council had transferred its responsibilities associated with enforcing the controls in the planning instrument to Ms Rees and that it only acted when urged to do so by her. Third, the circumstances of the granting of a consent for sand extraction in the Cavan section of the river by the shire clerk without reference to full council was unreasonable and, as such, amounted to wrong conduct. Fourth, the council had neglected ratepayers' interests in failing to regularly collect royalties owed to it by the company.

The fifth head of misconduct was that the council took no action to obtain the removal of a bridge that had been illegally constructed by the developer across the Murrumbidgee River. Sixth, the council had acquiesced in the rerouting of a public road made by the extractive operator without the consent of the council, and had failed to take account of the danger to the public of a large pile of material used for road maintenance stockpiled by the operator in such a manner as to impair the view of traffic on the rerouted road. The council had failed to oversight, monitor and assess the implications

of the project. The Ombudsman's findings were that the Department of Water Resources had failed to properly assess and determine certain applications under the Water Act and Rivers and Foreshores Improvement Act from Tharwa Sands' Pty Limited in relation to the extraction of material from the bed and adjacent areas of the Murrumbidgee River above the Burrinjuck Dam, and that such conduct was unreasonable in terms of section 26(1) of the Ombudsman Act. He found also that the Department of Water Resources had failed to take all reasonable steps to monitor, enforce and control the relevant provisions of the Rivers and Foreshores Improvement Act and the Water Act in respect of the activities of Tharwa Sands' Pty Limited in extracting material from the bed and adjacent area of the Murrumbidgee River above the Burrinjuck Dam, and that such conduct was unreasonable in terms of section 26(1) of the Ombudsman Act.

More importantly, the Ombudsman found a lack of co-ordination of the policy and procedures of the Department of Water Resources as generally applying to its dealings with operators concerned in the extraction of materials from rivers and other waterways, and that

such conduct was unreasonable in terms of section 26(1) of the Ombudsman Act. Further, he found that the conduct of the Yass Shire Council, in terminating litigation it had commenced before the Land and Environment Court in relation to the activities of Tharwa Sands' Pty Limited, was also unreasonable in terms of section 26(1) of the Ombudsman Act. Some of the Ombudsman's recommendations are incorporated in this bill.

The Ombudsman recommended that the Department of Water Resources and the Minister for Natural Resources take whatever steps may be available to pursue the setting up of a co-ordinating body, such as a one-stop-shop extractive industries board to manage the approval and monitoring processes associated with extractive industry developments, and to simplify these processes. At this stage that particular recommendation will not be incorporated in the proposed legislation. The Ombudsman recommended further that the composition and functions of such board give full recognition to the legitimate interests of local government authorities in extractive industry developments. That recommendation also will not be implemented.

His third recommendation was that the Department of Water Resources review its program for the development of river resources management plans to ensure that they are allocated adequate and appropriate resources and priority, and that such plans give thorough consideration to the environmental and ecological aspects of sand extraction from rivers, as well as the issue of catchment area degradation. I am advised that that recommendation is currently being reviewed by the department. The Minister and the department did take on board a number of the Ombudsman's recommendations. One of those recommendations was that the Department of Water Resources, as a matter of urgency, should review its administrative procedures to ensure proper consultation and co-ordination between the licensing branch and the catchment management branch relating to extractive industry development. The department has given an assurance that that particular recommendation has been incorporated. Another recommendation was that the Department of Water Resources develop a more appropriate licensing inspection form for use in assessing pumping licence applications and licence renewals under the Water Act, for pumping operations associated with extractive and other non-irrigation industrial uses. That recommendation also has been adopted by the Government. I wish to go through only a few of the Ombudsman's other recommendations as there are too many of them to put them all into the record. The Ombudsman recommended:

> . . . that council take action to verify that it has received full royalty payments for the sand extraction by Tharwa Sands' Pty Ltd from the Murrumbidgee River pursuant to the agreements for road contributions.

The Ombudsman also recommended that council make an ex gratia payment of $10,000

to Ms Rees, the complainant in this matter, as a contribution towards legal costs. The applications and complaints lodged by complainants in both cases were substantially upheld after a thorough investigation by the Ombudsman's Office. We could be critical of the fact that some of the Ombudsman's recommendations were not adopted but, by and large, the Opposition is satisfied that the department, in a process of self-criticism and self-appraisal, has adopted many of them. I turn now to the bill. The Act will be administered by the Public Works Department in respect of tidal waters and by the Department of Water Resources where rivers and the like are in non-tidal areas. Changes to the Act will enable a far better framework for extractors and users to plan future supplies as well as protecting our environment.

River sand and gravel are important resources. Because road construction programs are being implemented by State and Federal governments and by private industries the demand on resources that are able to be extracted is growing at an alarming rate. River sand and gravel are one of the main sources of aggregrate for the construction industry and are used in large quantities for road bases. The demand for aggregate has increased dramatically in the past 10 years and it will continue to do so. Pressure will be put on our rivers and waterways in

non-metropolitan areas because the Federal Government is allocating money for national highway programs and the State Government is allocating money for a number of highways and country road projects. Provisions in this bill will assist in monitoring those operations. This matter concerns all rapidly developing areas. There are signs of resource depletion in the North Coast region and the demand for sand and gravel in certain regions has caused stress in the rivers, severe bank erosion and losses of groundwater storage. Several rivers have suffered river-bed degradation and extensive riverside vegetation losses. Excavation close to and below water level can also directly destroy the instream habitats of fish, platypus and other aquatic fauna.

Sand and gravel are natural and important parts of our rivers. The supply of sand and gravel, like water, is limited. The more we take out the greater the chance of irreversible damage to our river systems. In the past river sand and gravel extraction has been based on a profit motive. However, it has become clear that short-term benefits and profits must be weighed and balanced against the resulting long-term effects of resource depletion and a decline in the state of the environment. The present system for controlling works adversely affecting river flows is inadequate. We need go no further to substantiate that than the findings of the Ombudsman in the two cases I referred to earlier. The fee to be charged for permits will be more satisfactory and will help to minimise these adverse effects. In the past this fee has been wanting, and we are pleased that this aspect has been tightened up in the new bill. The current Act requires a permit to be obtained from the department prior to soil removal or prior to excavation within a distance of 40 metres from a river-bank. Failure to obtain a permit or to comply with conditions of such a permit can lead to the issue of a remedial notice. If a remedial notice is not complied with the department may carry out the work and recover the cost. Of course, prosecution is also a viable action.

Under the new bill a permit will be required for any activity that obstructs or detrimentally affects the flow of a river, or is likely to do so. The definition of "river" will be expanded to include river lakes, coastal lakes and lagoons as they may significantly affect aquatic habitats. The bill will implement provisions to enable the department to issue a stop order to prevent the carrying out or the continuance of an activity that contravenes the requirements of a permit. A penalty will be imposed on anyone contravening a stop order. Under the present Act the department has no specific power to issue a stop order. This bill will amend the Act to enable the department to issue such a penalty. Other amendments will enable the department to apply to the Land and Environment Court for an injunction in respect of a contravention. Normal

requirements for obtaining injunctions present difficulties in proving the likelihood of damage. The department will also be empowered to issue an impounding order. This will prevent an extractor from selling or disposing of material illegally obtained. This is one of the matters about which the Ombudsman made criticisms and recommendations. Failure to comply with a compounding order will attract a penalty of $10,000. However, if an offender is prosecuted a court may also order that the material and plant equipment be sold to defray the cost of remedial work.

In the past the department encountered difficulties in obtaining information about offences. Under the new Act the department will be empowered to require a person to furnish information concerning a possible offence. This will include producing documents or answering questions. The Opposition supports that measure. These investigations must be carried out properly and prosecutions should be proved before a court. This bill is consistent with the Government's State rivers policy which will encompass component policies and focus on the management of a specific set of resource values—in this case, commercial sand and gravel resources. I am pleased that some months before this bill came before the House the Department of Water Resources circulated a discussion paper prepared by it entitled "Sand and Gravel Extraction Policy for Non Tidal Rivers in New South Wales". According to the department, the three major objectives of this bill are: first, to ensure that the extraction of sand

and gravel from the State's non-tidal rivers is undertaken on a sustainable yield basis, which is supported by the Opposition. The Opposition had a similar objective in mind when it was in government. The second objective is to manage such extraction in a way which minimises any detrimental effects on the riverine environment, thereby protecting other river users. The third objective is to ensure that the extraction policy is consistent with the aims of other government policies and initiatives.

Clearly, it will not be an easy task to reconcile these objectives as they will often conflict with each other. Therefore, a compromise that reflects the perceived economic, social and environmental goals of the community must be reached. With the introduction of this bill I believe it is possible to reach many of those goals. Successful total catchment management is another goal to strive for. The total catchment management scheme—again initiated by the former Labor Government and adopted in legislation by this Government—recognises that soils, trees, rivers and groundwater systems are interrelated components within individual catchments and that water catchments are the logical units for natural resource planning and management. Rivers are important community assets. They generate a wide range of benefits, including ecological habitat

values, fisheries, agriculture and urban, industrial and social amenities. Because our rivers now have to contend with various disasters, such as salination, red tide and blue-green algae, it is vital that we minimise further damage wherever possible. The management of excavation is one means by which we can stop further damage. This bill will go a long way towards doing that.

The deterrent components of the bill, which are substantial, are supported by the Opposition. Higher penalties must be implemented as present penalties are well below those in the Environmental Offences and Penalties Act and similar environmental legislation. It is on the public record that in many Acts controlled by the State Government penalties have been adjusted upwards quite dramatically so as to give arms of government some teeth in deterring further offenders and in prosecuting people who breach sections of the Act. Penalties under the present Act are $5,000 in the case of an individual and $10,000 in the case of a company. I think most people would agree that a fine of $5,000 or $10,000 would not be a deterrent to any potential offender. The $5,000 fine for individuals will be increased to $60,000, and the $10,000 fine for corporations will be increased to $125,000. The increases will bring the penalties into line with recent increases in fines relating to pollution offences and will give the Land and Environment Court jurisdiction in the industry.

The Opposition submits that each excavation site should be closely monitored to ensure that permit conditions are not being breached and that operations do not adversely affect river systems. Monitoring and reporting river conditions is of importance to the proper management of the industry and will create a greater awareness of river degradation problems and the effectiveness of management strategies. The Act will assist to protect the environment and enhance the powers of the department to control the extraction of sand and gravel from rivers throughout the State, thereby ensuring that extraction is undertaken on a sustainable yield basis and is managed in such a way that detrimental effects are minimised. In contrast to those positive features there are a number of criticisms of some clauses of the bill. I am indebted to the department for its having investigated many of the concerns raised by me during the past weeks. The Opposition was briefed on this legislation by a number of groups, during which a number of matters of concern were raised.

Of concern is the fact that the bill is misdirected to the private sector to the exclusion of the public sector. A number of amendments to bind the Crown were recommended. When I mentioned this matter to officers of the department I was given an assurance that the provisions in the bill as drafted will bind the Crown. Though the Crown is not required to obtain permits, it is bound by part 5 of the Environmental Planning and Assessment Act in respect of

its activities. In accordance with the sand and gravel policy the Department of Water Resources intends to prepare river management plans to define the department's requirement regardless of whether permits are required. With regard to the bill being misdirected to the private sector to the exclusion of the public sector, given the investigation by the Office of the Ombudsman and the recommendations from that office, I believe the provisions of this and other legislation are adequate to monitor and prosecute any government department that contravenes any of the provisions. The Opposition will continue to monitor the operations of the bill and will not move any amendments in that regard.

A further criticism was that the bill does not deal with the status of development consents issued under the Environmental Planning and Assessment Act or under pollution legislation for the State Pollution Control Commission. It is claimed that confusion will arise with regard to enforceability and jurisdiction. This matter was addressed also by officers of the Department of Water Resources. The officers did not agree that such confusion would arise. They said that the public is required to comply with the

provisions of the Environmental Planning and Assessment Act if development consent is required, the Acts administered by the Department of Water Resources, the Clean Waters Act, the Fisheries and Oyster Farms Act, and others. The danger of trying to specify the interaction between the Acts is that amendments to other Acts may later cause confusion. The officers did not accept the criticism. The Opposition will monitor the situation. I inform the House that the Opposition will not move any amendments to that aspect of the bill.

The bill does not set up a scheme whereby permits put on a public register will be available to the public, free of charge, during the hours 9 a.m. until 5 p.m. A number of criticisms have been raised about that matter. How will anyone know when the conditions of a permit are being breached? Who is entitled to have a permit? What will the terms of the permit be? Will the constructing authority administer the permits properly? The officers of the department accepted that criticism. The department, however, is already preparing such a register for its head office and regional centres. Given that assurance, the Opposition is satisfied with that provision. The most important criticism, however, was that the bill should be amended to oblige the constructing authority to require people with permits to provide either environmental audits or annual reports to declare any breaches of the permits and any events that were not predicted when the permit was applied for. This matter was given close attention by the department, which believed that such matters should be dealt with voluntarily rather than such an obligation being provided for in legislation. I do not regard the department's criticism of that matter to be particularly strong. The Opposition will monitor that matter also.

The Opposition is of the view that the Government and the Department of Water Resources have addressed constructively many of the concerns and findings of the Ombudsman who conducted two detailed investigations into the abuse of two major rivers in New South Wales. When the bill is enacted substantial penalties will be imposed on offenders. The department will have a much stronger role to play in the approval process and in the monitoring and prosecuting of those who breach the provisions of the legislation. The Opposition supports the bill. I noted the comments of the honourable member for Oxley that the Minister for Natural Resources was unable to continue with the carriage of this matter today. On behalf of the Opposition, I wish the Minister well. I understand he has had to go to hospital to undergo some tests. He mentioned to me earlier in the week that he was not feeling well. I wish him a speedy return to the Chamber.

Mr JEFFERY (Oxley) [12.17]: I have great pleasure supporting the Rivers and Foreshores Improvement (Amendment) Bill. I have an interest in the provisions of the principal Act because a number of the State's major rivers flow through the rapidly growing North Coast region of which my electorate of Oxley is a part. Those rivers are a major source of sand and gravel. The honourable member for Mount Druitt should know that. I ran into him some years ago when he was holidaying on the North Coast, when I was interviewing constituents

throughout the length and breadth of my electorate. I am happy to contribute to the debate because of my former association with the land as a farmer in the southern Riverina region. I was a pumper and an irrigator on the Billabong, which is the longest flowing creek in New South Wales, and perhaps in Australia. The honourable member for Murray will talk more about the southern Riverina region in his speech. Through his electorate of Murray flows the Murrumbidgee, Murray, lower Darling and Edwards rivers and the Colombo, Billabong and Yanko creeks. I am a former secretary of an organisation that was concerned about the development of the Colombo, Yanko and Billabong tributaries. It succeeded in having licences granted for irrigations on 30 to 400 acre properties. I am advised by the honourable member for Murray that an allocation of water has now been made to that
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area.

The proposed changes will modernise the existing provisions of, and close a number of loopholes in, the Act. The most used section of the Act refers to excavations in rivers and on river-banks. That section has been significantly updated. However, none of the changes will affect the operations of legal extractors of sand and gravel. The changes are primarily aimed at increasing penalties for those who do not comply with the conditions of their permits or who act illegally. In addition to and independent of these legislative changes the Department of Water Resources has produced a discussion paper on sand and gravel extraction from the non-tidal sections of rivers. The Minister for Natural Resources referred to that matter in his second reading speech. The discussion paper provided relevant agencies and the general public the opportunity to express a view on sand and gravel extraction. The recurring theme in the views expressed was the need for better monitoring of authorised activities and the management of illegal activities. In growth areas the demand for sand and gravel has increased significantly.

In my electorate it is important that sand be available for the building industry, which is engaged in considerable activity. Unfortunately, most of the sand in my electorate is in national parks or is sterilised and in many cases sand must be brought from Newcastle. That has increased the price of sand to my electorate from $20 a cubic metre to $50. The additional cost to the building industry and the community and the effect of additional trucks on the roads are matters of concern. My electorate has an abundance of sand and it is important that it be available. But, of course, it must be extracted properly. The extraction of sand and gravel in some areas has caused severe stress to some—I emphasise some—rivers. In one instance a river suffered severe bank erosion and loss of underground storage, and in places the river-bed was degraded by up to three metres. The subsequent collapse of the steepened river-banks and the widening of the channel caused extensive land and vegetation losses along the river. That was a rich productive area and much of the river flats was lost. The Department of Water Resources intends to prepare river management plans for selected rivers to give extractors and the public a clear picture of what will be allowed and what the rules will be in future.

The preparation of those plans will provide significant benefits to the extractors. The plans will have local government input and they will be made public. Proposals from extractors who follow the guidelines will have a good chance of being approved. That process will remove the present uncertainty of whether a proposal will be approved. Of vital importance is that at an early stage it will provide guidance on the amount of material that will be available for extraction from the proposed reaches. Another important aspect to be considered is that the increased powers will provide a self-policing mechanism and will help legal operators by providing what has come to be known as a level playing field. That will allow all operators to compete on the same basis. The proposed amendments are the result of the first major review of the enforcement provisions of the Act, and I welcome the opportunity to have spoken to them. The honourable member for Murray will speak to other aspects. I thank him for his input into the backbench natural resources committee. All honourable members know that he is extremely hard working and is probably the most conscientious member of this Parliament. He knows the rivers and the irrigation system backwards. I support the bill.

Mr MARTIN (Port Stephens) [12.24]: I should like to reiterate the comments by the honourable member for Mount Druitt about the Minister for Natural Resources. The Opposition is aware of his inability to be present today, and we wish him well. The Opposition will support the legislation, though in a constructive way I should like to ask questions about some minor aspects of it. Extractive industries tend to have a rather
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horrendous effect on the State fishery. As I have shadow ministerial responsibilities for lands, fisheries and agricultural production, I am concerned about the State fishery. The Minister in his second reading speech did not make much mention of consultation with the fishery organisations, and I should like that matter to be considered. The legislation should clearly define the quantity that constitutes an extraction, so that as time goes by there will be no uncertainty or dispute about that. Will the legislation apply to a person who takes a trailerload or two truckloads of sand from a river-bed? Will the legislation be binding on the Crown? My colleague the honourable member for Mount Druitt also asked that question and I hope it will be addressed in the reply to this debate.

Foreshores, particularly protected foreshores, soil conservation and the need to improve the environment are sensitive issues, as well as the need to afford protection. The legislation must include a clear definition of environmental needs and restoration requirements, and must address all environmental aspects. The legislation should define the method and effect of extraction of sand and coarser gravels. The bill provides for river and foreshore improvement and it is vital to ensure the best protection. I continually hear reference to sustainable yields. I often wonder how there can be sustainable yields with regard to the extraction of finite resources. When a finite resource is removed, it is lost forever. Therefore, in discussion about sustainable yields we must be clear about the meaning of the term. It is a popular catchword at present and often appears in legislation. In coastal rivers and streams where there is considerable movement downstream it is perhaps appropriate to consider sustainable yields. However, the western river system has nowhere near the same movement of sand down river and it is hard to understand the reference to sustainable yields there.

In most cases complaints are made either to local government or to the Environment Protection Authority, which will replace the State Pollution Control Commission. The legislation should clearly address how complaints are to be handled administratively. If the Minister is not in a position to do that today, it should be done by directive so that members of Parliament and the authorities are aware what must be done. Otherwise, later it will be cumbersome. I recall not long ago that a developer entered Crown land and took sand or gravel. The statute of limitations had expired and a prosecution could not be mounted. It is important at an early stage to state what the statute of limitation will be with regard to this bill so that the timeframe within which a prosecution must be mounted is well known. There must be certainty about that. Crown lands legislation imposes extensive responsibilities for administration of Crown land by authorities. In the Port Stephens electorate a blocked riverway needs to be dredged and there is talk of selling that dredged sand. Provisions of Crown lands legislation cover such dredging, which must not be handled clumsily. I was asked at short notice to speak on the bill. I hope that what I have said will be taken in the spirit in which the bill has been received. I look forward to hearing from the Minister for Agriculture and Rural Affairs about matters that he is able to address. I thank him for standing in for the Minister for Natural Resources who is not able to be in the House. I thank the House for this opportunity of speaking to the bill.

Mr SMALL (Murray) [12.32]: I support the Rivers and Foreshores Improvement (Amendment) Bill. I express my best wishes to the Minister for Natural Resources, who is not well. He is an excellent Minister, as is the Minister for Agriculture and Rural Affairs, who stands for him in his place during a most difficult time for agriculture. I acknowledge also my colleague the honourable member for Oxley for undertaking his duties as chairman of the natural resources committee in a most responsible and conscientious manner. I support the initiatives embodied in the proposed legislation. River sand and gravel is the major source of road and construction materials in this State. It is important that so far as possible this $200 million a

year industry be preserved. The lower Murray River is a major source of sand used for the building and

construction industry and land filling. The river is important also for the tourist trade, and river boats are a major attraction. Legislation which will enhance the powers of the Department of Water Resources and Public Works Department is to be welcomed. In particular, the proposed increase in penalties will be a significant factor. The current maximum penalties of $5,000 for individuals and $10,000 for corporations are out of step with current penalties provided in environmental legislation and would not be realistic deterrents to big operators.

The discussion paper on sand and gravel extraction referred to by the Minister for Natural Resources in his second reading speech was prepared because of increasing problems in rivers, particularly in coastal areas. The problems identified by the Department of Water Resources include increased rates of erosion, falls in water quality, lowered water tables and adverse effects on riverside vegetation. Fortunately, I have not personally encountered in my electorate these problems that are experienced in the coastal regions, mainly because operators on the Murray River in my area have given full co-operation to the Department of Water Resources. However, I perceive potential problems for river systems in the State. Like all rivers, the Murray River is delicately balanced, as demonstrated by problems at Cowanna Bend, which is in the Sunraysia area, close to Mildura and near Dareton. The river threatens to take a short-cut which would bypass the pumps supplying the town of Dareton and the Coomealla Irrigation Area. If unauthorised activities were to be carried out in the river they could inadvertently accelerate the change of the river course.

It is important that the department should have the proposed powers in such situations to enable it to step in quickly and effectively. The Murray River and many other inland river systems have changed their courses over the hundreds of years they have been flowing. What is happening at Cowanna Bend is not new but could have very serious effects on water supplies and irrigation water for the Dareton-Coomealla area. The department and the backbench committee have examined that problem and many recommendations have been made. The cost of overcoming erosion in that section of the Murray River could be extremely high but the problem cannot be ignored. The bill also seeks to change a procedure regarding activities which may adversely affect the flow of water in streams. Previously the department could only issue remedial notices after problems had arisen. The bill expands the scope of the existing permit system to include these activities. Applications for permits will be required prior to commencement of work. This could also apply to the Murray River.

A number of towns and irrigators receive water from the river by means of streams which break out of the river. These streams often have natural narrow sections or artificial cuttings where activities such as earthmoving on adjacent lands could narrow the waterway and threaten supplies to downstream water users or alter the distribution of floodwaters. The permit system is designed to help the department monitor these activities and will in turn assist landholders by giving them access to the department's technical advice before they commence work. These are particular situations where the proposals would be of assistance, and of course they could apply in a wide range of other situations. The honourable member for Mount Druitt spoke about a gravel bed island immediately downstream from Albury and just outside the Murray electorate. Unfortunately, two or three years ago communication between two departments did not successfully overcome problems created by that gravel bed island being mechanically moved out of the river. The honourable member for Mount Druitt said what happened then was not in keeping with the spirit of the proposed legislation. For those reasons the bill and other measures protecting rivers and foreshores are vital for the protection of the environment in our State and must be considered in the best interests of the habitat of the Murray River and other rivers and streams throughout the State.

The honourable member for Oxley said that the Murray electorate has a great number of waterways including the Murray River, the Murrumbidgee, the Darling, the Edwards River and a series of creeks including the Colombo, the Billabong and the Yanko. On land, a large number of gravel beds from old dry streams have been identified. Away from the river it is not difficult to secure landfill gravels and soils for necessary needs. However, road materials well away from the river system, in particular between Hay, Booligal and Mossgiel, become difficult to secure, and 40 to 50 kilometre stretches of the Cobb Highway in that area are extremely expensive to maintain. Therein lies much of the reason that roads are so expensive. The securing of gravels is vital. The environment must at all times be considered, protected and not abused. The community is deeply aware of environmental issues, and I am pleased that our children are engaged in learning about environmental needs. I support the bill completely. This excellent parcel of legislation is most necessary and, when passed in this Parliament's last sitting days in 1991, will provide the protection of our rivers and the environment that is so essential to our survival.

Mr ARMSTRONG (Lachlan), Minister for Agriculture and Rural Affairs [12.40], in reply: I thank the honourable member for Mount Druitt, the honourable member for Oxley, the honourable member for Port Stephens and the honourable member for Murray for their contributions to this important debate. I should like it recorded in *Hansard* that I am standing in the place of the Hon. Ian Causley, Minister for Natural Resources, who has taken ill. This legislation is most timely. In recent years the rivers and foreshores of New South Wales have borne increasing pressure from business, social and recreational areas. That will continue as our population escalates and we increasingly use the facilities of our inland waterways. Over the last few weeks we have had considerable interest, and alarm in some cases because of the blue-green algae problems in some of our watercourses. We have become far more conscious of the effect of rivers, creeks and streams on our everyday life. This type of legislation could disappear quickly into the annals of history and few people would realise it affects them, but every person in the community is in some way affected by a river or stream, be it the building of a house, water supplies, recreation or whatever. It is important that we get this legislation right.

Many questions have been raised and I shall endeavour to answer those queries. The Department of Water Resources, in an endeavour to resolve some disputes, has said that no more oral approvals will be given. The honourable member for Mount Druitt sought an explanation on that matter and asked about monitoring systems. The monitoring system is now improved and co-ordination of the Department of Water Resources staff has been implemented and more frequent inspections of all operators will be undertaken. Of course that has not been mentioned. The honourable member for Port Stephens raised a question about the Department of Water Resources and consultation with the New South Wales Office of Fisheries. I am pleased to inform the House that the Department of Water Resources sand and gravel extraction policy specifies "consultation with the Office of Fisheries and concurrence where excavation is below the water level". On limitations on time for prosecution, the bill extends the period to 12 months after discovery instead of six months after the actual offence.

The honourable member for Port Stephens asked whether the Act binds the Crown in dealings with Crown lands. The draft provisions do in fact bind the Crown in that although the Crown is not required to obtain permits; it is bound by part 5 of the Environmental Planning and Assessment Act in respect of its activities. The Department of Water Resources and the Public Works Department can issue directions to the Crown under the draft bill if works are likely to have an adverse effect. The departments can issue remedial notices if adverse effects have occurred, with the right to enter, carry out the work and recover their costs. Those two departments have administrative arrangements with other departments—in particular, the Roads and Traffic Authority—which are large users of river material or which carry out works crossing

rivers, to ensure that the Act is observed.

The Public Works Department and the Department of Water Resources keep in contact with councils regarding their activities and advise the council officers on technical matters. In accordance with the council sand and gravel extraction policy for non-tidal sections of rivers, the Department of Water Resources intends to prepare river management plans which will define the requirements of the Department of Water Resources, regardless of whether permits are required. A further matter asked by the honourable member for Port Stephens dealt with whether Crown land was to be included in the proposed Act. Lessees of Crown land will be bound by the Act. Regarding Crown land under the control of the Department of Conservation and Land Management, that department places conditions on licences issued by it in respect of work in river beds or banks in consultation with the Department of Water Resources and the Public Works Department. Other Crown lands are covered by the comments on the first issue, namely that the Department of Water Resources and Public Works Department have administrative arrangements with departments having major roles in the areas covered by the Act and can issue remedial notices.

As regards permit holders furnishing environmental audits and annual reports, the department is administering a highly specialised area and carries out regular inspections on a three-monthly cycle, with shorter periods for high impact operations. Permits are issued for a maximum of two years to allow compulsory assessment of the permit holder's performance and capabilities. Permits can also be revoked or varied at any time. The concept is sound. However, for the following reasons it would be desirable to achieve its objectives without a compulsory legislative requirement. In many cases from a technical viewpoint the departments would not be able to rely on the permit holder's assurances. In all probability the Ombudsman would insist on follow-up inspections. The existing inspection cycle—which will be made simpler to finance under the fee charging proposals—is probably more effective. The audit reports, to be comprehensive, may need a consultant and this could add a considerable cost to the operators, many of whom are one-man concerns. Some operations would be too minor to need compliance. Also, they are not always permanent sites, being operated in a casual and very limited manner. The broad power to set permit conditions would enable the departments to include such a requirement in specific instances, either at the outset or currency of the permit at specified times or when required to do so. This would give a greater flexibility. I hope those comments provide answers to the questions asked by honourable members. Honourable members on both sides would agree that the need has been clearly established. I congratulate the Minister and his department for putting together a most comprehensive piece of legislation. It is very timely. I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

STAMP DUTIES (AMENDMENT) BILL

Suspension of certain standing and sessional orders agreed to.

Second Reading

Debate resumed from 9th December.

Mr J. H. MURRAY (Drummoyne) [12.47]: The Opposition supports this bill. The bill is a machinery bill, the intention of which is to tidy up a number of provisions in the stamp duties legislation. This type of bill often is introduced at this time at the

conclusion of parliamentary sessions. However, I underline the difficulties that have resulted on occasions when bills such as this have been introduced and the House has not understood the full implications of the amendments. The Opposition has had the legislation for only two days, rather than the statutory five days. The provisions of the bill have not been fully scrutinised but on face value they appear quite adequate. The majority of the provisions do not

have any significant impact on revenue, though one or two items will improve the revenue stance for Treasury. We in Opposition find it important to let the Government know that we understand it is in great difficulty with Treasury and that its economic philosophy has failed. This particular bill will be of some assistance to the Government in attempting to balance its presently unbalanced budget.

I was interested to hear the Minister say in his second reading speech that the Law Society of New South Wales and the peak body for the superannuation funds had extensive discussions with the Government in relation to some of the provisions and were most happy with the bill. Generally, the bill will close avoidance loopholes. I suppose that avaricious people will always seek advice from solicitors, accountants and chartered accountants about ways to avoid paying taxation or stamp duty imposed by governments as revenue raisers. This bill is an attempt to close some of those loopholes. The downturn in the economy and the redundancy packages offered by government and the private sector have led to the redundancy insurance provisions in the bill. The insurance cover is designed to assist home buyers service their loans. In the past the borrowers have had to pay additional stamp duty. The bill provides for a stamp duty exemption for loans up to $124,000, which will be welcomed by those people who have had the misfortune to lose their jobs.

Over the past 12 months a number of provisions have been agreed to by the Government and acted upon by variation of statute regulations. The provisions are outlined near the end of the bill. The proposed legislation will formalise the practice. The bill generally provides for concessions on certain conveyances in relation to superannuation funds; it will exempt wet hires from hiring arrangement duty and exempt from stamp duty share buy-backs, the issue of transfer warrants, agreements to reside in nursing homes, redundancy insurance policies and insurance policies cancelled during a free-look period. The bill contains one provision relating to wet hires. Since August 1990 discussions have been taking place between the Office of State Revenue and the Earthmovers and Contractors Association to settle the extent to which hiring arrangements, commonly known as wet hires, where equipment is hired along with an operator, should be liable to hiring arrangement duty. As a result of these discussions the Premier has approved the Stamp Duties Act being administered on the basis that wet hires are exempted from hiring arrangement duties. The bill will amend the Stamp Duties Act to validate that arrangement. I know that the Minister for Sport, Recreation and Racing and Minister Assisting the Premier is aware of those difficulties, having served with me on the Public Accounts Committee during a detailed investigation of the Darling Harbour development. We became very much aware of certain practices of the building trades relating not only to wet hires but also to the number of raindrops it took for the workers to cease operations.

Mr Souris: In dry areas.

Mr J. H. MURRAY: In dry areas. But that is another matter. The Earthmovers and Contractors Association came before the committee and drew the matter to its attention. The Federal Government's requirement that all residents of nursing homes enter into a standard agreement to be agreed by the Parliament has created problems in the treatment of stamp duty payments. I understand that an umbrella exemption was granted that limited the stamp duty payable to $10. The bill will change that and allow folks who lease accommodation to aged and disabled persons to benefit

from the legislation. In order to provide nursing home occupants with a similar exemption, the Premier, Treasurer and Minister for Ethnic Affairs approved the Stamp Duties Act being administered on the basis that an agreement executed under part 5 of the National Health Act 1953 would be exempt. I support that provision. As I said at the beginning of my speech, the Opposition supports the amending bill and wishes it a speedy passage.

Mr LONGLEY (Pittwater) [12.56]: I support the Stamp Duties (Amendment) Bill, which contains a number of elements. The bill provides for concessions on certain conveyances in relation to superannuation funds. It will exempt wet hires from hiring arrangement duty, the payment of stamp duty on share buy-backs, the issue and transfer of warrants, agreements to reside in nursing homes, redundancy insurance policies and insurance policies cancelled during a free-look period. It also contains a number of anti-avoidance provisions. As a number of those matters have been dealt with already at some length, I shall canvass only some elements of the bill. I have had some involvement with wet hires. Since August 1990 I have been involved in a number of discussions between the Office of State Revenue and the Earthmovers and Contractors Association. It was desirable to settle some of the questions that arose in those discussions. As a result, the Premier approved of the Stamp Duties Act being administered on the basis that wet hires be exempted from hiring arrangement duty, and the bill will give legislative form to that form of administration.

The second matter with which I wish to deal is the question of warrants. Warrants are a new form of security that is being traded on the Australian Stock Exchange. It is important that people become aware that warrants are similar to company-issued long-term options. It is imperative that all the stamp duty legislation is able to respond, and respond as quickly as possible, to innovations in the financial markets of Sydney to enable Sydney to retain its premier position as Australia's leading financial centre, and especially its position in the international arena, where competition is of increasing importance. This change was implemented because the levying of conveyancing duty on some warrant documents would have impaired the market and would be inconsistent with the Government's intention to abolish marketable security duty on Australian Stock Exchange transactions. The doubt about the duty payable and the difficulty of determining the nexus for duty on warrants led to the proposal being given legislative form. Another aspect of the proposed legislation warranting consideration is the ability of companies to buy back their own shares. Again, because of confusion and questions, this matter has been clarified and is an important step forward in assisting the real world commercial markets to behave in the fashion that is most beneficial to the economy, and hence to us all. Everyone benefits from eliminating a number of problems and impediments in our financial markets. The first benefit appears to go only to one segment, but the reality is, as any economist will verify, that if financial markets function efficiently, the benefits to the rest of the economy are significant. The Government must press forward with those sorts of reforms.

The last element I wish to raise relates to the stamp duty provisions that arose out of the land tax report that I and my Treasury advisory committee brought down last year. The committee inquired into stamp duty on the transfer of land from certain companies and trusts to individuals to enable persons whose principal place of residence was held in the name of a company or trust on the transfer of land into their own names in many cases, to obtain an exemption from land tax. The amending legislation did not include in its definition of land a company title home unit the title of which is obtained by share ownership. The legislation, while providing a concession for land transferred from a corporation to a beneficiary to a trust that held shares in that corporation, where the property was the beneficiary's principal place of residence, did not allow for the trustee of the trust to be a company. This bill will overcome anomalies by amending the

present definition of land in the Act, which does not include a company title home unit, and also providing for certain transfers to beneficiaries of trusts that have a corporate trustee. I support the bill.

Mr SOURIS (Upper Hunter), Minister for Sport, Recreation and Racing and Minister Assisting the Premier [1.1], in reply: In concluding the debate I thank the honourable member for Drummoyne who led for the Opposition, and the honourable member for Pittwater. They have considerable experience in stamp duty matters, stamp duty reform and financial matters generally. The honourable member for Drummoyne is a former chairman of the Public

Accounts Committee and the honourable member for Pittwater is the current chairman of the Public Accounts Committee. The honourable member for Pittwater has been chairman of the Treasurer's advisory committee and of the land tax committee, a one-off project. Many of the reforms that have come through those committees have found their way into this long series of amendments to the Stamp Duties Act and will essentially provide for a series of concessions, relief, reform and amendments of an administrative nature. The amendments will close some loopholes that had been exploited over a period of time. I thank the Opposition for its support of the bill and I commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ENVIRONMENTAL PLANNING AND ASSESSMENT (CONTRIBUTIONS PLANS) AMENDMENT BILL

Second Reading

Debate resumed from 10th December.

Ms ALLAN (Blacktown) [1.2]: In October 1989 a commission of inquiry reported on the operations and practices associated with contributions under section 94 of the Environmental Planning and Assessment Act 1979. The Simpson report of that inquiry supported the concept of section 94 contributions to provide for public amenities and public services generated by new developments. However, Commissioner Simpson noted that many councils failed to exercise their responsibilities for section 94 in a professional manner. He recommended that councils prepare structure or management plans to enable the proper administration under section 94 contributions and that such plan should be implemented as development control plans under section 72 of the Environmental Planning and Assessment Act. The bill has the following features: first, after a date fixed by proclamation a council may approve section 94 contributions only as a condition of development consent if it is in accordance with a contributions plan; second, section 94 conditions may be subject to a merit appeal to the Land and Environment Court, even when they are approved in accordance with a contributions plan; third, section 94 contributions may be imposed by the Minister or director, with the funds going to the council or growth centre. The Opposition supports the Environmental Planning and Assessment (Contributions Plans) Amendment Bill. However, in Committee I shall seek to move two minor amendments. They will do two things: first, they will ensure that contributions plans will be required to be publicly exhibited for a period of 28 days. At present proposed section 94AB(4) leaves public exhibition to regulations. The second amendment will ensure that the effective date of commencement referred to in proposed section 94(7) is a date to be proclaimed. Pressure should be placed on councils to prepare contributions plans. Hence it is suggested by way of the amendment that the proposed section be amended to add "or one year after the date of assent of this Act, whichever is the earlier". The legislation has been debated already in

the Legislative Council. Certainly it will ensure that improvements are made to the implementation of section 94 contributions. The Opposition will seek to make further improvements in Committee.

Mr CRUICKSHANK (Murrumbidgee) [1.5]: I doubt whether any honourable member does not have his own private stock of horror stories about section 94 contributions. The bill does not seek to radically alter the Act but I approve wholeheartedly of the amendments that will bring about accountability, both financial and as to the reasons why contributions are required by councils from developers. I welcome the amendment of section 94(3) which will remove the phrase "in trust". That is an admirable amendment. Many people feel exactly the same way about the aspects of trusts related to land and the righteousness of some councils that seek to exert authority in regard to these contributions. Heaven knows what happens to

those contributions. All honourable members will be aware that many councils meet their responsibilities in regard to section 94 in a manner that is readily acceptable by all members of the community, developers included. I applaud the removal of that phrase from the definition. When the Minister or the director is the consent authority it will be possible for them to levy section 94 contributions without being bound by the contributions plan. The amending legislation will lead to some centralisation, but all in all the amendments will improve arrangements for section 94 contributions.

Mr KNOWLES (Moorebank) [1.6]: I understand from the lead speaker from the Opposition that the Government will agree to the Opposition's amendments to the Environmental Planning and Assessment (Contributions Plans) Amendment Bill. However, it is worth while making some remarks about the purpose of the proposed legislation. Section 94 of the Environmental Planning and Assessment Act empowers councils to raise contributions from developers towards the cost of providing services and community facilities that are needed as a result of their developments. Over the years since section 94 was introduced complaints and criticisms have been made, particularly by the development industry. Those complaints have related principally to the fact that councils have provided no justification for the contributions they have levied or that they have levied for purposes for which there seemed to be no link or nexus. These amendments to section 94 of the Act seek to establish a nexus by means of the formal provision relating to contributions plans. In my view the criticisms often have been exaggerated. I fall towards the side of believing that section 94 contributions are a vital part of the provision of community facilities, especially in depressed outer Sydney areas such as those I represent. They are one of the few mechanisms available to local government authorities to establish a bank of funds to provide much-needed community resources and facilities.

However, the review of Commissioner Simpson and a number of decisions of the Land and Environment Court have meant that the whole concept of section 94 has been under review, to a point where it is now considered necessary to amend the section to ensure that councils in their administration of section 94 take a more responsible and efficient approach to that section and the levying of funds from developers for the provision of community facilities. For example, Coffs Harbour City Council has been criticised for holding $13 million of unspent contributions and having no plans for expenditure. Clearly, that cannot be allowed to continue. The contribution plan mechanism will force Coffs Harbour City Council to establish a more rational and well thought through plan of management for the expenditure of those funds for the benefit of its community. Similarly, Baulkham Hills Shire Council was found to have an unsatisfactory system for properly and fully recording and monitoring the collection and expenditure of contributions. In recent court cases Wyong Shire Council sought a levy without specifying the amount, indexed to the consumer price index. I agree with the honourable member for Murrumbidgee that although a large number of councils

satisfactorily administer section 94 contributions, the three examples to which I have referred—and I know of a number of others—illustrate the need for section 94 contributions to be better thought through from the perspective of the councils.

Recently the Department of Planning issued a circular outlining the proposed amendments to section 94, together with a draft manual for the preparation of section 94 contributions plans. Some of the points in the draft manual are worth noting. The manual sets out the steps councils have to follow when preparing a contributions plan, including the determination of the nexus between development facilities, public accountability, financial accountability and other issues. The draft manual also provides some draft methodologies. Some of the main requirements in administering section 94 contributions set out in the draft manual are that section 94 contributions plans must clearly establish the need for amenities and services generated by the anticipated development. Although that has always been required under section 94, the nexus will now have to be included and an adopted plan exhibited for public scrutiny. That will be similar to the typical development control plan process requiring public exhibition. The contribution plan must have a schedule attached to it which will

advise the current contribution rates and set out a works program detailing the services, facilities and amenities to be provided, the timing and phasing of provision and the cost of work. That is an admirable objective. However, I wonder how the department and councils will come to grips with the concept of providing a time frame for development. As all honourable members know, the reality of the development process is very much related to the market rather than necessarily to some defined period of time that a council might choose to set. I will watch with interest how that particular requirement works.

Councils will also be required to produce an annual financial statement for each contribution plan showing anticipated income and expenditure. Costs and contributions will be able to be indexed once the methodology has been set out in a contributions plan. Any changes to the facilities provision or the time frame can be made only as a result of further public participation. That process is similar to the development control plan process. In terms of financial accountability, councils will have to determine spending priorities for each contributions plan, and financial records must show the movement of section 94 contributions, that is, into and out of the relevant internal ledgers. All interest earned must be credited back to the section 94 reserve and apportioned between the appropriate section 94 contributions plan and the purpose. The interest must not be used for purposes other than those identified in the work schedule to the section 94 plan. I point out that that is likely to cause some practical administrative difficulties for local government authorities. As with State Government trading enterprises, most local government authorities tend to operate on a simple bank account process where they receipt all revenues to one account and invest those revenues on the money market to try to maximise their yields.

If councils are to be required to separate funds received under section 94 contributions, there must be some question as to the reduction of interest earned by a separation of those revenue streams. The councils seem to have some options in a practical accounting sense. They will either apply an imputed interest rate to the funds levied under section 94 or, alternatively, they will adopt some sort of averaging process or perhaps do it on a quarterly basis. I know that some western Sydney councils with which I have been associated through the WSROC organisation tend to opt towards the averaging mechanism on a quarterly basis. However, it should be noted that the bill is specific in as much as it requires the direct allocation of interest back into the contribution plan. In a technical sense, councils will not have the opportunity to average; they will have to be specific. Those issues were raised by a number of councils, as well as the WSROC organisation, with the Department of Planning in the early stages of this process. After 10 years of operation, the Environmental Planning and Assessment Act has worked well for the people of New South Wales. As I said earlier in my remarks,

section 94 has been a particularly useful mechanism for councils generally to levy funds to ensure an adequate level of child care facilities, neighbourhood centres and all sorts of community facilities that allow people, particularly those in new release areas, the opportunity to develop a greater level of community participation and community consciousness. The Opposition supports the proposed amendments.

Mr MOORE (Gordon), Minister for the Environment [1.16], in reply: I thank honourable members who have contributed to this debate. The Government proposes to accept the two amendments to be moved by the Opposition in Committee.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Amendments by Ms Allan agreed to:

Page 2, Schedule 1(1)(b). From proposed section 94(7), omit "the day", insert instead "the first anniversary of the date of assent to the Environmental Planning and Assessment (Contributions Plans) Amendment Act 1991 or such earlier day as may be".

Page 4, Schedule 1(2). After proposed section 94AB(3), insert:

(4) A draft contributions plan must be publicly exhibited for a period of not less than 28 days.

Schedule as amended agreed to.

Bill reported from Committee with amendments and report adopted.

ELECTORAL DISTRICTS OF THE ENTRANCE AND MAITLAND

Judgment of Court of Disputed Returns

Mr Speaker informed the House that the Clerk had received from the Prothonotary a copy of the order of the Court of Disputed Returns upon the petition relating to the election in The Entrance electorate, declaring the election of Robert Leslie Graham to serve in the Legislative Assembly for the Electoral District of The Entrance, held on 25th May, 1991, absolutely void and, further, an order of the Court of Disputed Returns dismissing the petition in relation to the Electoral District of Maitland.

Mr Speaker ordered that the Clerk lay the documents on the table.

Ordered to be printed.

ELECTORAL DISTRICT OF THE ENTRANCE

Vacant Seat

Mr Speaker informed the House that the seat of Robert Leslie Graham, lately serving in this House as member for the Electoral District of The Entrance, did on 11th December, 1991, become, and is now, vacant by reason of the Court of Disputed Returns having declared the election of the said Robert Leslie Graham to serve in the Legislative Assembly for the Electoral District of The Entrance, and the said election for the said Electoral District, absolutely void.

Motion by Mr Moore, on behalf of Mr Greiner, agreed to:

> That the seat of Robert Leslie Graham, Member for the Electoral District of The Entrance is now vacant by reason of the Court of Disputed Returns having declared the election of the said Robert Leslie Graham to serve in the Legislative Assembly for the Electoral District of The Entrance, and the said election for the said Electoral District, absolutely void.

[*Mr Speaker left the chair at 1.20 p.m. The House resumed at 2.15 p.m.*]

MATTER OF PUBLIC IMPORTANCE

Mr SPEAKER: Order! I have this day received the following notice from the member for Riverstone of a matter of public importance, namely, that this House notes the urgent need for the Government to reassess the administration of TAFE, reduce the number of senior executive service officers and, in this period of high unemployment, redirect those funds to guarantee the predicted 90,000 students seeking TAFE places can be accommodated.

QUESTIONS WITHOUT NOTICE

———

NEWCASTLE STEELWORKS

Mr CARR: My question without notice is directed to the Premier, Treasurer and Minister for Ethnic Affairs. Are you aware BHP's board will make a decision early in the New Year about the future of the Newcastle steelworks? Will this have enormous

implications for jobs in the Hunter and for the State's economy? What submissions have you made to the board of BHP in support of the continuing operation of the plant? What strategy will you develop to assist the future of New South Wales steel making?

Mr GREINER: The Government has a regular program of discussions and dissertations with both the previous and the present managing director. The implicit assumption behind the question of the Leader of the Opposition is absolutely incorrect. It is quite wrong of him in terms of the interests and the peace of mind of the people of Newcastle to be implying what he is implying, that there is some suggestion by BHP that would put at risk the future of the Newcastle steel operations. It is true that BHP is continuing, both in the Illawarra and in the Hunter, to assess the question of productivity. It is true that it has been a long process, and in consultation and co-operation I have to say with the union movement, achieving significant improvements in steel because it recognises, as I hope the rest of Australia recognises, that if BHP steel is to succeed, it needs to be absolutely world competitive.

In terms of specific matters: we have been in discussion with them on the implications of industrial relations changes in New South Wales, energy changes and workers compensation changes. It is fair to say that the Government will do and indeed has done more than any other State Government could do to create an environment for BHP or indeed to create an environment for any other employers, which would encourage them to persist. The best example of that is in the same area of New South Wales, the situation between Alcan and the Electricity Commission. Not so long ago they were crying wolf about how many jobs were going to go in the Kurri Kurri area, in the coalfields area, as a result of Alcan closing down because of what was happening to the world aluminium market. After discussions involving the Department of State Development and the Electricity Commission, that process was rationalised as well. Indeed, not only do we have a maintenance of the existing jobs, but we have a very high likelihood of addition downstream, or value added investment of the order of $70 million or $75 million going into the coalfields. The people of Newcastle need to have absolutely no concerns about the fact that this Government is not only in close consultation with BHP, but has in place all the relevant programs that would encourage the maintenance of the highest possible employment at BHP and elsewhere, as long as that is consistent of course with the demands of being world competitive. The other thing I ought to say, seeing that the question is asked, is that the very best thing we could do for the people of Newcastle and indeed the people of Wollongong is to change the Federal Government, because—

Mr Beckroge: Go back to 1983.

Mr GREINER: You only need to go back to 1991, which is where we are at. Your mates have created the situation in your area, in the Hunter and indeed in the Illawarra, where you have totally unacceptable levels of employment. If there is a crisis in terms of investment, it is because the Federal Labor Government has lost the confidence of major employers, has lost the confidence of every major investor. The single most important thing that the nation needs for long-term employment, whether at Newcastle in steel, or anywhere else, is to have a Federal Government and a Federal prime minister and a Federal treasurer with some support first from their own party and then from the people of Australia as a whole. That is where you need to start. The sooner you get put in place the sort of package that Dr Hewson has advocated the sooner all the investors and all the employers will be inclined to make investment decisions and create jobs in Australia.

FOOD IMPORTS

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Mr RIXON: I direct my question without notice to the Minister for Agriculture and Rural Affairs. Do the latest import figures to the end of November show any drop in the amount of food dumped in Australia? If not, what reasons have been advanced for any increase in food imports?

Mr ARMSTRONG: The latest figures for the September quarter, released on 29th November, show that the amount of food being imported from overseas and dumped onto our Australian markets to compete with our own traditional commodities is skyrocketing; more

meat, more dairy products and more fruit and vegetables. Australians are increasingly and unwittingly the victims of dumped and subsidised imports. During the past four months of this financial year a staggering $500 million worth of food came to our shores. Meat imports were up 135 per cent, dairy up 17 per cent, fruit and vegetables up 19 per cent. The dramatic increase in meat imports was due to the decision by the Australian Quarantine Inspection Service to allow Canadian pork into Australia. The Australian Quarantine Inspection Service's latest threat of just the last couple of weeks is to reconsider our current ban on chicken meat coming into this country. It would be absolutely ludicrous if we were to allow chicken meat to come into a country that last year consumed some 300 million chickens. This food is coming in from a variety of countries, about many of which I have severe reservations as to their farming, food producing and processing methods and hygiene standards. Last year, of the $2 billion worth of food that was imported into Australia, $55 million came from China, $20 million came from Chile, $27 million from India and $45 million from Indonesia.

One of the biggest surprises is Puerto Rico which sent more dollars worth of food to Australia last year, mostly sugar and coffee drink preparations, than did the USA. New Zealand now seems to be our largest source of food products, from cheese to frozen beans. Last year $334 million worth of food was imported from New Zealand. The Federal Government is allowing foreign food that is often grown and processed at much lower standards than those acceptable in Australia to be sold on shelves in the nation's supermarkets. There is no way we can tell what chemicals are being used on these crops, nor the quality of water, fertiliser and machinery used to grow, harvest and process them. Most often it is dumped at well below production price to generate hard currency, or it is produced with such generous government support that the price is unrealistically low. At the same time as imports are flooding in our own farmers in many cases are ploughing their crops back into the field because the imported foods are taking their market share. The pill would be sweeter to swallow if the imported food matched the high standards of food which we as consumers insist upon for our own families. The tragedy is that this food is often below standards imposed upon Australian manufacturers. The food that is grown and processed in Australia is the best in the world. Average Australians are purchasing food that is well below the acceptable Australian standards, yet the Federal Government will not take any steps to remedy this. The Federal Labor Government in Canberra is quite willing to let the average Australian consume food that has not been tested at the foreign factory or the import docks.

There are only seven inspectors—I repeat seven—employed by the Australian Quarantine Inspection Service round Australia dedicated to inspecting imported food. Imagine, seven inspectors to deal with the entire range of food imported to Australia. Last year alone we imported more than $2 billion in foods, ranging from canned Chinese mushrooms to pickled pork offal. And, we had seven inspectors to look at it. Only 15 items are classified in the high risk categories and randomly checked on entry and only one canned product is subject to regular scrutiny. Hundreds of other food items are classified as low risk and they flood into Australia and onto supermarket shelves unchecked. In Melbourne the Boston consulting group recently presented a report which found that only between 5 per cent and 25 per cent of the small number of foods classified high and medium risk are sampled at the point of entry. So even taking the

best case scenario, 75 per cent of high risk food can come into Australia and be sold freely without any testing whatsoever.

Random checks at supermarkets do occur but the Boston consulting group has found that only 0.3 per cent of imported foods is tested in this manner. The BCG report found that compared with other countries Australia inspects less food, less frequently. In Canada, the United States of America, the United Kingdom and New Zealand all food is now subject to inspection at the point of entry. Why should we put up with a lower standard than those major countries have? A Department of Health study of all imported foods demonstrated that 59 per cent failed to comply with Australian regulations for labelling and composition. The foods

studied included tomato products, confectionery, canned meat, dried fruit, syrups, jams, cereals and cheese. This is hardly surprising, considering the completely farcical testing program and the fact that unlike the United States we do not require certification of overseas factories exporting canned food to Australia.

The BCG report also points out that Australia does not have the capacity to act quickly when a health scare does occur. In the US and Canada an "import alert list" keeps inspectors up to date on suspect imports and ensures that products on the list are subjected to 100 per cent testing. This makes Australia's high risk category, which at best attracts a testing rate of 25 per cent, an international laughing stock. The culprit in this whole debate is the Federal Government. It talks about the level playing field. I wonder whose side it is on. Australian processors spend a lot of money complying with standards not demanded of overseas manufacturers. However, overseas processors do not have to comply with these standards and their products are given free entry by the Labor Government. The Federal Government is too afraid of retaliatory action from some of our trading partners to protect the Australian people by testing the food we eat. The Boston consulting group also reported that Australia's anti-dumping legislation is weaker than that of other countries. The food processors and farming community have been giving this message loud and clear to the Federal Government for years.

Dumping cases take an inordinate amount of time and are conducted at great cost to Australian industry. Last week Customs announced its preliminary finding on dumped, subsidised tomatoes. Customs found fault with tomato imports from Spain, Italy, Thailand and China. This is just the beginning: the final result will not be known for another five months. The Federal Government is prepared to risk the health of Australian families by allowing Australia to become the dumping ground of the world's excess food supply. It must increase inspection of imported foods and require overseas factories to be certified to Australian standards. The farming community, Australian food processors and the consumers of New South Wales and Australia will demand no less than this. I only hope that it will not be too late for our farming community and the Australian people when the Federal Government finally wakes up to the fact that Australia has become the dumping ground for unsatisfactorily grown and processed food. It is an absolute tragedy. The Federal Government deserves all the criticism that consumers and producers can muster.

HOSPITAL WAITING LISTS

Dr REFSHAUGE: My question is directed to the Minister for Health Services Management. Why have hospital waiting lists for the Hunter blown out by 135 per cent in two years, from 1,960 in November 1989 to 4,611 in August 1991? Will the Minister now reopen Wallsend Hospital? Will he release waiting list figures for all areas, including the Central Coast?

Mr PHILLIPS: The honourable member's question relies on an article in the *Newcastle Herald* which contained information provided in an answer to a question asked by the honourable member for Wallsend. An honest, open approach is required to
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confront the health problems in the Hunter. The only way they will be resolved is by the community getting together with the new administrator. From the information provided, the administrator has recognised clearly the problem of waiting time for surgical procedures, specifically ear, nose and throat procedures, and has allocated additional resources to the Mater Misericordiae Hospital, which are targeted to reduce ear, nose and throat surgery waiting time. Operations will commence in January 1992. Prior to mid-1989 the Royal Newcastle Hospital employed a staff specialist ear, nose and throat surgeon. That surgeon maintained a reasonable waiting time for hospital patients, but the situation changed when the surgeon converted from a staff specialist to a visiting medical officer. Waiting times also lengthened due to the continued problems related to the shortage of anaesthetists, the delays in fully commissioning the John Hunter Hospital and problems associated with surgeons managing

their own patient waiting lists. A recent recruitment campaign for anaesthetists attracted significant interest, including responses from doctors seeking staff specialist and visiting medical officer positions.

The John Hunter Hospital has advised that it anticipates its anaesthetic services will improve significantly prior to the end of this calendar year. The administrator recognised the problem of waiting time for surgical procedures, in particular ear, nose and throat procedures, and has allocated additional resources targeted specifically at reducing those waiting times. The attraction of additional anaesthetists, the agreement with surgeons that the hospital's department of surgery will manage doctors' waiting lists, together with additional resources, will reduce the time people will be required to wait for their ear, nose and throat surgery. That information demonstrates clearly that the new administrator, Dr Tim Smyth, is doing a first-class job in getting the John Hunter Hospital budgetary problems under control, and solving the problems that he inherited through the former maladministration in the Hunter. Unfortunately, I had to take action to ensure that the quality of the health services that the people of the Hunter deserve are delivered. Once again I will say to honourable members and to the people of the Hunter that the best way to ensure that health services are of a standard that the people in the Hunter need and deserve is to work with the administrator addressing this issue and solve the problems up there.

FEDERAL ROADWORKS AND BRIDGEWORKS FUNDING

Mr FRASER: My question is to the Deputy Premier, Minister for Public Works and Minister for Roads. Has the Federal Government reneged on paying for major road and bridge works in New South Wales which previously it promised to fund fully? How will this impact on projects such as the Glebe Island Bridge and the New England Highway interchange at the intersection with John Renshaw Drive at Beresfield?

Mr W. T. J. MURRAY: I thank the honourable member for Coffs Harbour for his question and for the interest he has displayed in getting the Pacific Highway program under way. His question gives me an opportunity to reveal to the House a situation which can be described only as bizarre, and a classic demonstration of the complete lack of integrity of the Hawke Government. On several occasions the Federal Government, through the Minister for Land Transport, Mr Brown, announced publicly full Federal funding for roads and bridge projects but has subsequently reneged on that undertaking. The most striking example of this extraordinary behaviour by the Federal Government concerns the Glebe Island Bridge project, a $160 million construction job which is vital to Sydney's east-west transport system and is critical to Sydney's Olympic Games bid.

[*Interruption*]

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

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Mr W. T. J. MURRAY: The Federal Government agreed to the inclusion of the Glebe Island Bridge project in the national arterial program, which was submitted to Mr Brown in December 1988. In October 1989, and again in February 1990, Mr Brown issued media statements in which he said that the Federal Government would fund the construction of the Glebe Island Bridge under the Australian bicentennial roads development program. He said the project would cost about $160 million when completed in 1996, and that in total the Federal Government would provide more than $200 million to complete the upgrading of the route. Mr Brown also said that the Glebe Island Bridge would be the most expensive single national arterial road project to be funded in Australia. Following negotiations between the Department of Transport and Communications and the New South Wales Roads and Traffic Authority, the Federal Government deferred the project to allow a review of proposed developments in the

area. This took about six months. In July this year the Roads and Traffic Authority submitted a revised project proposal report and an explanation of cost estimates. In August this year Mr Brown inexplicably advised the New South Wales Government of a revised funding limit of $65.85 million. He considered his action to limit funding for 1992-93 to be prudent, pending the special Premiers Conference in November.

This was a sudden and complete turnaround by Mr Brown, who had earlier unequivocally declared that the complete project would be federally funded. I responded to this news by expressing disappointment that the Federal Government refused to commit funding for the whole project, and I asked Mr Brown to advise what the Federal funding arrangements for the bridge were to be. Mr Brown responded by reaffirming his earlier advice that only $65.9 million would be committed, and that New South Wales should, in effect, make up the difference from its own resources, including its share of the $350 million in Commonwealth road moneys to be untied in July 1993. This placed the New South Wales Government in the untenable position of having to proceed with the project at its own expense, with no guarantee into the future. The ridiculous situation has now been reached where, because of the Federal Government's denial of promised funds, this vital project is unable to proceed.

The Federal Minister for Land Transport and Communications obviously had no qualms about making promises and then breaking them in what could only be described as an arrogant and contemptuous manner. I have discussed this matter with the Premier, because I believe the principle attached to it is important to the people of New South Wales and future relations between this Government and the Hawke Labor Government—however much time it may have left in office. The Premier shares my concern and today has written to the Prime Minister to remind him that in November the Premier wrote to Mr Hawke, following the announcement that $21 million would be brought forward from the 1993-95 Commonwealth budget for expenditure on national and arterial roads in New South Wales. The letter forwarded to Mr Hawke is quite direct. I can advise the House that not only was the letter a direct criticism of the Federal Government's action, it also made the point that it is impossible for any State road authority to commit itself to a major contract which calls for the expenditure of $70 million over three and a half years, on the basis of a hypothetical share of a hypothetical amount of Commonwealth moneys to be untied in July 1993.

The Federal Government's backsliding does not end there. The proposed interchange at the intersection of the New England Highway and John Renshaw Drive at Beresfield was proposed originally by the Federal Government in 1983 as an important part of the Federal strategy for the national roads system. At no time in discussions and correspondence between the Federal and State governments has there been any suggestion, until recently, that New South Wales should contribute to the cost of that $17 million project. Without discussion or negotiation the Federal Minister for Land Transport arbitrarily has imposed conditions on the project which call for a State

contribution. Further, the Federal Minister's action in refusing to pay $6 million in noise abatement works carried out by the State Government with his encouragement on the F3 Freeway at the Hornsby bypass is unacceptable. Mr Brown lamely, and incorrectly, claimed that the Federal Government was not responsible for the $6 million because it was outside the original agreed noise level abatement levels, though subsequent tests and local complaints revealed that the measures had to be reviewed. The $69 million that the Government is left holding for the F2 Freeway project from Pennant Hills Road to Windsor Road is another glaring example. If other Commonwealth departments act with the same disregard for honesty and integrity then the relationship between the New South Wales Government and the Federal Government will be impossible to continue.

WYONG SHIRE LAND VALUATIONS

Mr CRITTENDEN: I direct a question without notice to the Minister for Conservation and Land Management. Why did at least 408 landowners in The Entrance and Wyong electorates not receive a notice of valuation in respect of land in the Wyong shire? What action will the Minister take to ensure that long-term pensioner landowners are not forced out of their homes as a result of increases in the valuation of their properties?

Mr WEST: I have no knowledge of why people on the Central Coast have not received valuation certificates from the Valuer-General. It may well be that the area is not on this year's list for revaluations. I shall report back to the House when provided with further information about the matter.

LAND AND ENVIRONMENT COURT PILOT MEDIATION PROGRAM

Mrs CHIKAROVSKI: I direct a question without notice to the Minister for Justice. What special training has been completed by officers of the Land and Environment Court as part of the pilot mediation program commenced earlier this year? What progress has been made under this system with cases before the court?

Mr GRIFFITHS: I thank the honourable member for the interest she continues to show in this matter. The pilot mediation program commenced in the Land and Environment Court in May this year. The registrar of the court and his deputy have both been trained in mediation skills and are conducting conferences in metropolitan and country areas. The basis of mediation is that an independent third person assists parties to a dispute to negotiate a solution to which all agree. It is a structured process designed to encourage compromise. Mediation has been used in 35 land and environment cases so far, and agreement has been reached in 27 of those cases, which has saved 91 days of the court's time. Probably the most successful mediation to date was of a matter that was estimated originally to take up four weeks' hearing time before a judge. The case involved the proper establishment of a major new copper and gold mine in the Parkes shire. A dispute arose over the impact of mining on grazing and farmland. Instead of fighting it out in court the parties agreed to negotiate in mediation conferences convened by the court's deputy registrar. After two marathon sessions lasting a total of 26 hours agreement was reached and consent orders have now been filed.

Not only did the parties arrive at their own solution to the problem, but they also saved themselves a small fortune in legal fees. Another important by-product is that a judge has become available for a month to deal with other cases. In fact, the process was so successful that Parkes Shire Council has formally expressed its appreciation to the deputy registrar of the court, Mr John McMillan, for his professional and helpful manner. Many of the matters being mediated in the court involve disputes with councils over small developments. In these cases, the ordinary person does not have to be subjected to the

rigid, unfamiliar and sometimes traumatic environment of the courtroom. Instead, contentious issues can be discussed in an atmosphere more conducive to negotiation. The parties leave the conference room fully aware of opposing points of view and, it is hoped, with an agreed outcome to which all contributed. Mediation is becoming more popular as parties recognise the benefits of looking beyond the courtroom for solutions to their problems. At a time when the legal profession is under intense scrutiny it is pleasing to be able to give public credit to the lawyers involved in such cases. The Law Society strongly supports alternative dispute resolution, and I look forward to the increasing success of this progressive trend in the Land and Environment Court and other courts.

MINISTER FOR HOUSING AND FANMAC LIMITED

Mrs GRUSOVIN: I direct a question without notice to the Minister for Housing. What arrangements exist for Michael Lynch to cash in his substantial shareholding in FANMAC, now

valued at in the vicinity of $5 million, when his contract expires? Will Mr Lynch return to New South Wales following his proposed departure for overseas on 21st December?

Mr SCHIPP: I do not represent FANMAC in this Parliament, nor Mr Lynch. It is a registered company that has nothing whatsoever to do with government. It was established by—

[*Interruption*]

Mr SCHIPP: Do you want to know the facts or not? It was established by the Labor Government under an agreement with the then Premier, Mr Wran. There was a worldwide search to find a person of the experience of Mr Lynch. It was established under company rules with shareholdings. They make their own arrangements. There has been no endorsement by the Premier or myself as to what the arrangements are within FANMAC. I might add that the information you are getting is from a person who sits in as a director and has voted on every issue that has been put before FANMAC.

Mrs Grusovin: Wrong, wrong.

Mr SCHIPP: No, no, no. He has voted on every issue that has been put before the board of FANMAC. As I told the Parliament yesterday, the matters that the board have decided have gone to the shareholders and they have ratified the board's decision. So whatever arrangements are, they are entirely in the hands of FANMAC and have nothing to do with this Government. This Government has two board members out of a total of 10 or 11. In other words, if you want me to explain that in clearer language—or you can read it in the failed Daily Planet newspaper if you want to; you have heard about that—

[*Interruption*]

Mr SPEAKER: Order! There is far too much interjection.

Mr SCHIPP: That means two votes in 11. I am not the Minister responsible for FANMAC. FANMAC sits on its own.

[*Interruption*]

Mr SCHIPP: He is not. The Premier is not. It is a company established under company law as a registered, limited liability company. Don't you understand that?

RAIL TIMETABLES

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Mr GLACHAN: I ask the Minister for Transport a question without notice. When will the Government release details of new rail timetables to operate from 12th January next year? Are there any new features in the timetable that will make it easier for passengers to use?

[*Interruption*]

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

Mr BAIRD: I thank the honourable member for his question.

[*Interruption*]

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

Mr BAIRD: The honourable member for Albury is doing an outstanding job as the chairman of the Government's transport committee. It is a pity that members of the Opposition do not take as much interest in transport matters as the honourable member for Albury does. We have heard a lot of hogwash from the Opposition about the impact of timetables. It has been suggested that services will decline as of 12th January. Nothing could be further from the truth. The new timetable will herald an era of new timetables in relation to services.

[*Interruption*]

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

Mr BAIRD: If anyone has any doubts about that matter, I refer to the article written by Mark Coultan in last Saturday's *Sydney Morning Herald*.

[*Interruption*]

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

Mr BAIRD: The new timetable will usher in a new era of travel on the rail system. It will eliminate 130 manual red door rattlers from the New South Wales system.

[*Interruption*]

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

Mr BAIRD: That is a furphy introduced by the honourable member for Kogarah. But he is wrong as he usually is. Since he has been the shadow minister for transport 90 per cent of the material contained in the questions he has asked has been absolutely, 100 per cent, wrong. You should never trust anything that the honourable member for Kogarah tells you.

[*Interruption*]

Mr BAIRD: The honourable member is wrong about that, as he is wrong on most occasions. Virtually all the red rattlers on the system, 130 of them, will disappear.

[*Interruption*]

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

Mr BAIRD: The boofhead from Bulli speaks again. In fact, $100 million was spent on the Illawarra line.

[*Interruption*]

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

Mr BAIRD: An amount of $100 million was spent on the Illawarra line, more than has been spent on any other line in the whole metropolitan system. The honourable member for Illawarra should be grateful for that.

[*Interruption*]

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

Mr BAIRD: Elimination of the red rattlers will result in a more effective service. Though they represent 25 per cent of carriages in service on the Sydney metropolitan system they account for 50 per cent of the breakdowns. Their elimination will result in a far more reliable services throughout the CityRail network. In addition, more peak hour services and an additional 2,500 seats will become available. I am sure the honourable member for Carlingford, the honourable member for Ermington, the honourable member for Eastwood, the honourable member for Blue Mountains and all other members served by CityRail will appreciate these additional services. More express services will run directly to the city. Many members opposite should be grateful for the new timetables because many areas in the western suburbs will have timetables that will provide significant reductions in journey times of between four and five minutes. For example, services from Fairfield, Blacktown and Eastwood will take four minutes less to get to the city.

[*Interruption*]

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

[*Interruption*]

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

Mr BAIRD: Memory timetables will also be introduced for the convenience of travellers. For instance, express trains from St Marys will leave at 6.40, 6.55, 7.10, 7.25, 7.40 and so on.

[*Interruption*]

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

Mr BAIRD: As I said in the House previously, services have been running with in excess of 90 per cent on-time reliability.

[*Interruption*]

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

Mr BAIRD: I did not have the chance to inform the House last time I spoke on this matter that in the past two weeks services have been running with 94 per cent and 95 per cent on-time reliability.

[*Interruption*]

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

Mr BAIRD: That is the best on-time reliability of service for a long time and is certainly far better than that achieved by the former Labor Government. It is this Government that knows how to fix the system: the Opposition can only wish services were as good under the former Labor Government. In other words, an express service will operate every 15 minutes during the peak hour, as well as normal services stopping at all stations. This will enable travellers to get to know when trains leave their local stations without having to look up a timetable. I will be interested to see whether the Opposition supports the new timetable with its

many benefits such as reliability, memory timetables and the elimination of the red rattlers. Will the Opposition support this significant change that will provide a far better level of service to all CityRail commuters?

Details of the new timetable have now been completed. CityRail will immediately begin the task of informing passengers about the changes. Tomorrow a special timetable leaflet will be handed out to thousands of commuters at city and suburban stations advising passengers about the new timetable. In addition, about two million free pocket timetables are being printed and will be progressively delivered to almost 300 stations during the next few weeks. To assist passengers in finding out about the new train times CityRail will open a special timetable information line from next Monday. It will take calls from 7 a.m. to 7 p.m. each day. Schoolchildren, workers and parents will have ample notice about changes to their train services well before the 12th January deadline. The Government's reforms of CityRail are now being seen for what they are. There are 10 million more passengers using the rail services than occurred under the previous Labor Government. The system is working far better and is more reliable. This new timetable will provide all those benefits of reliability, memory timetables and express services. We look forward to the introduction of the new timetables which will result in the elimination of the old red rattlers and the creation of a new level of service for every CityRail commuter.

THE ENTRANCE ELECTORATE BY-ELECTION

Mr WHELAN: Mr Speaker, I address my question without notice to you. In view of your announcement in the House today that the seat of The Entrance is now vacant, when will you issue the writ for the by-election in the seat of The Entrance?

Mr SPEAKER: The honourable member for Ashfield knows that I do not discuss in public matters of policy of the Parliament. If he wishes to direct a question to me in Chambers later, I will be more than happy to discuss it with him.

MOTOR ACCIDENT BRAIN INJURY PROGRAMS

Mr CHAPPELL: My question without notice is addressed to the Attorney General, Minister for Consumer Affairs and Minister for Arts. What action is the Government taking to cope with the significant number of brain injuries resulting from
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motor accidents? Specifically, has the Motor Accidents Authority provided money in its current project funding to assist victims?

Mr COLLINS: I am pleased to report that to date the majority of Motor Accidents Authority funding has been committed to the area of brain injury. The brain injury rehabilitation program is a joint venture between the MAA and New South Wales Department of Health involving the establishment of a statewide network of rehabilitation services for brain injured adults and children. A total of 15 projects have been approved to date. These have attracted a commitment from the MAA of more than $26 million, with the potential for the development of another project of the order of $6 million. Recently the MAA and the Department of Health have combined to announce further funding of just over $1.5 million. The MAA funding is primarily for the capital development of centres for brain injury rehabilitation. The new funding will allow the development of new facilities and services in the Illawarra, Orana and far west, south western and central health regions and at the Prince of Wales Children's Hospital.

The MAA has also been keen to address the longer term problems for people suffering brain injuries, and to this end has worked in close consultation with the Brain Injury Association of New South Wales—formerly called Headway New South Wales—the key consumer group for brain-injured people and their carers. The MAA has approved three projects run by the Brain Injury Association, attracting a funding commitment of almost $1 million. The first project

has been running for the past two years and involved the establishment of regional support groups for brain-injured people and their carers, and the better co-ordination of long-term activities. During this time, a State survey has been undertaken to determine priorities in long-term care. Respite care, accommodation options and counselling for carers were identified as high priorities. Funding for a second project was recently approved to allow the Brain Injury Association to develop specific strategies to start addressing these long-term problems. There are a number of other organisations which will also need to be involved in the implementation of those strategies. In addition, the MAA has approved funding for an adult activity program for brain-injured people in the Hunter area. This program will provide some respite for carers. The service will commence early in the new year and be able to cater for approximately 40 clients at a time.

Another area of major concern is the high new incidence of spinal and neck injuries resulting from motor vehicle accidents. To help overcome these problems the MAA is providing more than half a million dollars to fund two neck injury research projects. One of these projects involves the establishment of a cervical spine research and assessment unit at Newcastle's Mater Misericordiae Hospital. This program has the backing of the University of Newcastle. Already the assessment techniques are yielding valuable information determining the pathology of neck injuries, and the treatment measures are producing significant results in relieving longstanding pain. The other project is a study being undertaken by the National Health and Medial Research Council's road accident research unit. This project is examining neck injuries, ranging from whiplash to severe neck injuries which result in death. This is the first time a State Government instrumentality has funded projects of this nature in New South Wales for brain-injured people and those who have suffered spine and neck injuries. Community support and long-term care for seriously injured motor vehicle accident victims is a priority for the MAA in the coming year. It is expected that the strategies developed by the MAA will lead to the approval of further projects to address the long-term needs of motor accident victims. I thank the honourable member for his question and his interest in this important area. I pledge the support of the MAA for further initiatives.

WESTERN LANDS LEASE ACCESS

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Mr BECKROGE: My question without notice is directed to the Minister for Conservation and Land Management. Will the Minister advise me and the House when the Western Lands Commission and he will publish the rules concerning access to western lands leases? Will he also inform me whether an embargo has been put on any information being given to me about this matter?

Mr WEST: For a start, let me say that no embargo has been put on providing information to the honourable member for Broken Hill because the matter is so complex that he would not understand it if he fell over it. Long and ongoing discussions have been held between the Western Lands Commission and the Crown Solicitor's Office about the whole question of access. Discussions have been held also with the Western Lands Advisory Board—as an honourable member just said, for 12 years. The matter has not suddenly arisen, and it will not be resolved in a hurry. I recently had discussions with the advisory board. It informed me that it has not been able to reach a conclusion as to the direction it should take. I know the concern that access is causing in the Western Division.

PUBLIC SECTOR MOTOR VEHICLE FUEL PRICE

Mr KERR: I direct my question without notice to the Chief Secretary and Minister for Administrative Services. Did the Minister in September this year foreshadow a number of improvements to the State contract for motor fuel, aimed at generating significant savings? What savings have so far been achieved?

Mrs COHEN: I thank the honourable member for his question and welcome the opportunity to inform the House about further developments in the terms of the fuel contract of the Commercial Services Group. In reply to a question from the honourable member for Maitland on 25th September I told the House that savings of the order of $5 million a year were expected under the new fuel purchasing contract. Today I can inform the House that the advantages of the new fuel purchasing practices are already being felt. Savings to the tune of half a million dollars have been achieved since the contract commenced on 1st October this year. Based on the savings of $333,000 recorded in the month of November alone, annual fuel savings are on target to be of the order of $4 million to $5 million. This month's savings are expected to be of the order of $416,000. Through a process of close consultation with suppliers and customers, the Commercial Services Group has been able to negotiate improved arrangements that generate administrative savings for New South Wales supply and for the oil companies, which they in turn pass on to customers. This is particularly important when one considers that each year the New South Wales public sector consumes 180 million litres of fuel.

These improved administrative arrangements include: more accurate predictions of fuel requirements so that oil companies can calculate their most competitive price; the creation of a database of fuel users; the setting of fuel prices for a month at a time, and early settlement discounts. In addition to this, user guidelines are to be released within the next three weeks. Those guidelines will detail everything consumers need to know about the fuel contract and how to use it effectively. Steps are also being taken to implement further improvements. They include: creation of a fuel transaction database; automatic checking of invoiced fuel prices; the provision of transaction data for users' fleet management systems; a common format government fuel card; electronic transfer of transaction date between suppliers, the Commercial Services Group and users; and the centralised payment of accounts. These improvements will lead to even more administrative savings for government customers. They also provide another example of initiatives being taken by the Commercial Services Group to produce efficiency and lower costs for the New South Wales public sector.

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WATER BOARD OUTSTANDING ACCOUNTS

Mr SCHIPP: During question time yesterday the honourable member for Blacktown asked a question about Water Board accounts. In that question she suggested there had been a significant increase in outstanding water accounts over the past two years and insinuated that this implied an increase in bad debts. The amount of outstanding water bills at 30th June, 1991, was $69 million, compared with $26.4 million two years earlier. Of the amount outstanding at 30th June, 1991, $35.4 million was in respect of accounts issued in the three weeks prior to 30th June, 1991, which were not due for payment by that date. That reflects the introduction of quarterly billing in 1991 so that accounts are issued throughout each quarter rather than at the beginning of the financial year. Prior to 1990-91 no new accounts were raised in the last few weeks of the financial year. Accounts outstanding at 30th June beyond the effective three weeks allowed for payment—that is, two weeks plus seven days' grace for mailing—totalled $33.6 million, or 2.5 per cent of total billings.

The same relationship has existed over the past three years. The amount of bad debts written off last year by the Water Board was $725,000, which represents a meagre 0.0006 per cent of total billings. The normal bad debt write-off in the private sector is between 1 per cent and 2 per cent. This effectively means that the Water Board achieves a 100 per cent recovery on outstanding water accounts. The board also manages an active debt recovery program, which in some cases involves legal recovery action. Again, the success rate in securing payment is close to 100 per cent. However, the board is conscious of the difficulties that some customers, including pensioners, are experiencing in the present economic climate and has

available a payment assistance scheme and is willing to enter into arrangements to facilitate term payments where appropriate.

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PETITIONS

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 Moss, Mr Nagle, Mr Shedden and Mr Yeadon**.

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 Newman and Mr Yeadon**.

Balmain Hospital

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

Health Services

Petition praying that funding cuts to health services and hospitals cease and that funding be provided to ensure that waiting lists for hospitals and operations are

eliminated, received from **Mr Gaudry**.

Northern Illawarra Hospital Services

Petition praying that the proposed redevelopment of Bulli District Hospital be commenced immediately and that there be no further cuts to services or staff at the Coledale District Hospital or the Garrawarra Hospital, received from **Mr McManus**.

Bulli District Hospital

Petition praying that proposals for the redevelopment of the Bulli District Hospital be commenced immediately and that full district hospital services be provided as a matter of priority, received from **Mr McManus**.

Horrell's Bus Service

Petition praying that the House and the Minister for Transport intervene to prevent the exploitation of Horrell's bus service which serves the areas of Keiraville and Gwynneville and ensure that service contracts are provided to the operators of the service, received from **Mr Markham**.

Chaelundi State Forest

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

Reef Beach

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

Swimming Pools

Petition praying that because the Swimming Pools Act has failed to achieve its objectives, the House amend the Act by revoking the requirements in respect of fencing swimming pools and deleting section 13 of the Act, received from **Dr Macdonald**.

Conveyancer Licences

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

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**.

Paddington Traffic

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

State Transit Bus Services

Petition praying that the House return State transit bus services 445, 441 and 442 to their previous timetables, received from **Ms Nori**.

Pyrmont Heliport

Petition praying that because of the opposition to the Government's proposal to establish a heliport at Pyrmont wharf and concern that the heliport will be the hub of a
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network of heliports throughout Sydney, such heliport not be established, received from **Ms Nori**.

Family Relief Bill

Petition praying that the House give financial relief to families in New South Wales during the present difficult economic conditions and pass the Family Relief Bill to ensure that household charges do not increase each year by more than the latest increase in the consumer price index, received from **Mr Gaudry**.

Tobacco Advertising

Petition praying that the House support the right of freedom to choose, the right of sporting and cultural groups to choose their own sponsor, the right of tobacco companies to sponsor sporting and cultural events; and reject the proposal that a legal product be discriminated against by way of advertising restrictions, received from **Mr Souris**.

Lidcombe Hospital

Petition praying that the services and staffing at Lidcombe Hospital not be cut, that the hospital not be closed down and the site sold for commercial development but rather that its service and staff levels be increased, received from **Mr Yeadon**.

Water Rate Payments at Post Offices

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

BUSINESS OF THE HOUSE

Questions Upon Notice Unanswered

Mr SPEAKER: Order! Pursuant to sessional orders, I draw the attention of the house to the following unanswered questions upon notice: Nos 600, 603 and 618 standing in the name of the Minister for Health Services Management.

Mr PHILLIPS: I am advised by my staff that those answers will be lodged by 5 p.m..

TAFE ADMINISTRATION

Matter of Public Importance

Mr J. J. AQUILINA (Riverstone) [3.15]: I move:

> That this House notes as a matter of public importance the urgent need for the Government to reassess the administration of TAFE, reduce the number of senior executive service officers and, in this period of high unemployment, redirect those funds to guarantee the predicted 90,000 seeking TAFE places can be accommodated.

It is now a matter of public record that on any objective or subjective criteria the administration of TAFE under the Government has been nothing short of scandalous.
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One needs only to look at any indicator—the Auditor-General, the Australian Bureau of Statistics or the statements the Minister has made in this Chamber and to the media from time to time—to realise that the Government and the Minister no longer have control of the TAFE system. The grand design for TAFE of Dr Brian Scott in the Scott report has been well and truly eroded and thwarted. One needs to examine how this situation has come about and what has created the erosion of confidence and the bungled restructuring of TAFE administration. Dr Scott obviously intended that TAFE should become a leader in administration and more responsive to the needs of young people and those seeking vocational training in this State. Over the years the administration of TAFE has become bloated by an overabundance of senior executive service appointments. The number of senior executive service positions in the administration of TAFE has risen from 13 in 1988 to 56 this year, although I understand that only 54 of those positions are occupied. An amount of approximately $31.7 million has been spent on a restructuring, which has resulted in the administration of TAFE turning a complete circle from 10 regions and 24 networks. To rein in the administrative budget blowout, another attempted restructuring has been undertaken to reduce the number of institutes to 11. Three years have been wasted on this experiment. Instead of achieving a TAFE structure which is more amenable to students and more responsive to the needs of today, the remainder of the decade and the next century, the restructuring has defied the trend everywhere else in Australia and has resulted in cuts in enrolments. The Minister can shake his head as much as he likes—

Mr Fahey: I am not shaking my head. I am merely laughing at you.

Mr J. J. AQUILINA: The Minister is laughing at his own embarrassment and the embarrassment of the Government. When one compares the figures of the 1980s with those of the 1990s one finds that TAFE enrolments under this Government are decreasing instead of increasing. In other parts of Australia TAFE enrolments are increasing; in New South Wales they are decreasing. The Minister can try to chuckle and giggle away his embarrassment but the Government is denying to an increasing number of young people their access to TAFE. That is a tragedy, a shame and a disgrace. At a time when unemployment is at a record high and young people are suffering because of that, the Government is cutting back their access to TAFE. If I were in the Minister's position, I would be chuckling too, because that is the only thing I could do other than hide my head in shame because of the disgraceful way the Government has lost control of TAFE and the way in which money has been squandered in the TAFE system during the past three years. The TAFE budget for the last financial year has blown out by more than $11 million. How will that be corrected? It will be corrected by cutting out approximately 300,000 part-time teaching hours in 1992.

In college after college there is not one where more TAFE courses are being put on, only signs that they are being axed. That is universal in colleges throughout this State, in inner Sydney, the outer western suburbs of Sydney or in rural New South Wales. The Minister will no doubt say in his response, "Yes, we have had to rationalise our whole approach to the TAFE system. We have had to look at the whole situation. We have had to recognise those courses that can be classified as hobby courses and those that can be classified as vocational courses.

We are giving emphasis to the vocational courses". The people in TAFE will not be fooled that easily. The Minister has created a smokescreen in trying to hide precisely what is happening in TAFE. It is not only the so-called hobby courses that are being axed or being relegated to a secondary stream, vocational courses are being cut also. How are these being cut out? The full-time teachers are not being axed because their redundancy packages would be horrendous and would only add further strife to the already strained budget in TAFE. The Minister is targeting the part-time teachers.

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By targeting part-time teachers the Minister is singling out for cuts particular courses which, by their nature, can be taught only in a part-time way. Many are indeed vocational courses. Consider the business and administrative studies course at Blacktown TAFE. I happen to know something about Blacktown TAFE because it is close to my home. I know teachers there, I know what happens there, and I know what the Minister claims happens there. The business and administrative studies course at Blacktown TAFE is one of the best in New South Wales. Sixty per cent of that course is taught by part-time teachers, the very teachers being targeted and who are having the ground cut from under them. We need to look rationally at what this Government is doing in targeting the TAFE system to rein in the budget. What has happened is that the Government has not taken the tough decisions. It has tried to take the easy decisions, the decisions we had in school administration at other times, decisions that will unfortunately affect the students.

To draw in a budget blowout one would think the best way would be to do something about the bloated SES, to do something about the 54 or 56 senior executive service members in TAFE who are on bloated packages. But no, that is too hard. It is too hard to do something structurally significant like that. Instead, the Government seeks to target the teaching times, the students, the courses. The Government will tell 40,000 additional students next year that there are no courses for them in TAFE. Those students will be easy to exclude. The Government believes it is much easier to rein in the budget by keeping students out of courses. Unfortunately, that is why this whole process is now rebounding on the Government and why the Minister has a virtual bonfire after bonfire at college after college. Whether it is the teachers or the students or any other area in the structure and capacity of the colleges to be able to deliver goods, this Government is on notice. The Government is having its reputation continually eroded for taking the easy way out.

The significance of the failure of this Government to promote TAFE is compounded by the fact that the TAFE system overall is the educational area in which Australia falls behind most. New South Wales, instead of leading the way towards making this country the clever country, is drawing Australia further behind. A recent Organisation for Economic Co-operation and Development report found that Australia ranked fourteenth out of 18 Organisation for Economic Co-operation and Development countries in its population of 17-year-olds enrolled in ongoing education. What is this Government doing? It is not improving the situation in any way at all. It is making it worse. In the last decade Australia increased its TAFE participation rate, but in New South Wales the participation rate has slumped. Worse still, although the rate had increased by 18 per cent under the Wran and Unsworth governments—those figures are there for anyone to see and they can bear the comparison of time over a period of 12 years—since 1988 TAFE participation has slumped by a massive 20 per cent. This figure cannot be argued against.

Mr Photios: That is wrong.

Mr J. J. AQUILINA: The honourable member for Ermington can try to refute me as much as he likes, but he cannot refute the objective statements made by the Auditor-General. He cannot refute the Department of Technical and Further Education's own annual report. If he has been to the trouble of looking at the Auditor-General's report and of looking at successive

annual reports over the past five years, he will know that what I am saying is precisely correct. Those are the figures the department itself uses. Let us not have rhetorical arguments here. Let us have facts. If we want to have the objective facts, they are there to back up precisely what I am saying. The consequence of all this is that TAFE must now save $20 million out of its expenditure package to stay within budget. Even though the budget has increased in nominal terms,

the activity levels of TAFE are being shaved by $20 million.

This Government has totally mismanaged its TAFE budget by not ensuring that appropriate levels of resources were available to match the necessary enrolments this year. They should meet those levels of enrolment. If the Government sticks to projected enrolments for 1992, annual student contact hours will have fallen by over 27 per cent since 1988. I said earlier that I would like to mention some of the colleges and explain how they are suffering. The Maitland college may be one that this Minister might like to look at, to see precisely what courses are being cut. Computing, engineering, tourism, hydraulics, real estate and business administration are the courses being targeted for cuts and in some cases being axed. Yet, this Minister has the hide to say that these are hobby courses, for according to him hobby courses are the only ones being targeted. Meanwhile, in the local network, about $40,000 was wasted on renting a vacant office and $20,000 was wasted on personalised letterheads for a person whose position has now been scrapped. In Gosford, enrolments will drop by at least 400 students. In courses for students with disabilities, such as deaf students, those students will be left without notetakers and interpreters. They will lose adult matriculation courses: school certificate and higher school certificate students would be offered only three subjects out of a necessary six. They will not be able to do the full higher school certificate at TAFE, and will have to do half their subjects privately.

In Wollongong courses in automotive engineering, panel beating, spray painting, bricklaying, plumbing and carpentry are to be dropped. If part-time teaching is to be dropped between 2,000 and 2,500 students will be lost from that college. At Randwick TAFE 34 courses are to be axed. These include the so-called hobby courses, and direct vocational courses such as building supervision, business supervision, advanced banking and finance, accounting, real estate, auction practice, business communications, marketing, computer studies, and electrical wiring for engineers. All in all, Randwick is looking at losing 35,000 teaching hours. I have already mentioned Blacktown, and the way in which the business and administrative studies course is going to be affected as, indeed, are the welfare courses. At Sydney TAFE welfare courses are going to be cut.

Mr Photios: Are they going to be dropped?

Mr J. J. AQUILINA: Yes they are, they are going to be dropped. The courses are going to be cut. The honourable member for Ermington can interject all he likes, but he should know the facts and understand what he is saying before he starts to open his mouth. Among the many things that one can say about this TAFE system, what has to be said is that this Government has bungled it badly. It has adversely affected the TAFE colleges by seeking to take the easy way out, cutting back the TAFE budget rather than attacking the structural inadequacies of the system and those who are most eroding the State's finances, the senior executive service.

Mr FAHEY (Southern Highlands), Minister for Industrial Relations and Minister for Further Education, Training and Employment [3.30]: Once again the honourable member for Riverstone has addressed this House on matters rolled up to him by the Teachers Federation. It is the same old line. It has absolutely nothing to do with the existing situation. The fairest thing I can do, in the spirit of genuine debate, is to make an offer and put it on the record: the honourable member for Riverstone, in his interest, in the interest of Opposition members and of the technical and further education system, should take two or three days off so that I can

ensure he is given a briefing by independent public servants on what is happening in TAFE. I am happy to spend time with the honourable member and have him question me every moment of those two or three days. I will ensure that professional, independent public servants provide him with information on what is happening in TAFE New South Wales. All he has contributed—as

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has been the case on numerous occasions—is statements prepared by the Teachers Federation—which has a vested interest in discrediting this Government every step of the way—about what is happening in TAFE.

The actions of the honourable member have gone past the point of carrying any weight. The facts are here for all to see. If Opposition members would walk away from the big lie for a time and stop hiding behind statements they attempt to foist on the public and looked at the truth, the time of this House would not be wasted as has happened in this debate. Before this Government came to office in 1988 the TAFE system in this State relied upon an archaic process of enrolment. It is indisputable that people who enrolled and put their name on the form were counted in the statistics as students. When this Government, under my predecessor, moved to equivalent full-time students as the basis on which enrolments ought to be determined there was a realistic approach for the first time. This Government has concentrated on output, not enrolments of people who walked in to a TAFE college one day, put their name down and never turned up. Statistics show that course completions have increased. In 1990 the increase over the previous year's figure was 26 per cent. In the same year the increase in subject assessments was 6.5 per cent. Major award courses at TAFE increased by 65 per cent.

As I said only last week in another place, the TAFE systems must of necessity be addressed by all States and all governments because our future lies with it. For too long the attitude has been that students should go to school and get the highest mark possible in the higher school certificate and then move on to university, in the academic areas or otherwise. The vast majority of people who leave our secondary school system do not go to university; they go into the workplace. They need skills to be provided by the TAFE system. I make a prediction: long after I am gone and long after the honourable member for Riverstone is gone if there is a persistence in the approach by the Opposition, hand-in-hand with the Teachers Federation—in particular the TAFE Teachers Association—of trying to perpetuate the stupidity of the system that existed under Labor for 12 years, TAFE will wither. Without anything to do with this Government or any other form of government in this State, technical and further education will be taken over by private providers, as has happened in every other country of the Western world.

There is no right for a monopoly of skills development and the training of young people—or other forms of training—to be in the hands of the Government. The public purse does not have to pay for it; private providers will provide industry with what it needs. Industry will turn to the private providers and ignore the archaic systems that have existed. The archaic processes are being got rid of and the TAFE Teachers Association does not like that. I note that the honourable member for Riverstone said in his opening remarks that the grand design of Dr Scott, which he indicated some support for, has eroded under this Government. He went on to criticise the cost. The costs in the draft report released in 1989 and prepared by Dr Scott from figures that were not provided by TAFE was $30 million. When the recommendations of the Scott report are fully implemented the costs will be $31.7 million. The people involved would have been in the system in some other capacity and the services would have been provided in some other form, so it is absolute garbage to suggest that this is totally new expenditure. But that is typical of what is put forward by the honourable member for Riverstone.

When he was the member for Blacktown he referred to the college at Blacktown. One of the very dedicated teachers at Blacktown is a constituent of mine. He saw me not so long

ago about some matters relating to Blacktown college. In May this year the honourable member went to the press peddling the lines that are prepared for him time and again by the Teachers Federation. He made a statement about cuts in courses at Blacktown. He had a deliberately falsified document. Two copies were prepared. The document was struck through by someone's pen. It is obvious to whom someone's pen
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belonged. A note on top of the document stated, "Courses crossed out have been cut". The honourable member went to the press aiding and abetting the falsification of a document in a criminal fashion. His irresponsibility bordered on criminality. It warranted investigation not of those peddling the lies at Blacktown at the time but of those aiding and abetting and calling themselves responsible members of Parliament. That is the sort of rubbish that is constantly trotted out by the Teachers Federation and by the honourable member for Riverstone when speaking about TAFE in this Parliament on behalf of the Opposition.

It is time we recognised what is happening in TAFE in the interest of this State. I ask the honourable member for Riverstone and all members opposite to look at the Deveson report, an independent report prepared for State and Federal Ministers of further education. The inquiry was chaired by Ivan Deveson, a well respected person who is Chairman of the TAFE Commission in Victoria. In glowing terms the report indicated that New South Wales was way ahead, leading the charge, showing the way in what has to happen in TAFE throughout this country. The Finn report also shows what is necessary in terms of skills development and training in this State. Again, New South Wales is to the forefront. The question of unmet demand has been raised. Where did the Opposition get the figure of 90,000 students next year from? The answer is the *Sydney Morning Herald*, and we all know how rubbery its figures can be at times. No such figure has ever been arrived at by anyone in the TAFE commission with knowledge of the matter.

In the last year of the former Labor Government's administration the unmet demand figure was 43,000. The unmet figure for 1991 is 36,000, so where is TAFE failing. This year TAFE had real students, not the walk-in walk-out, sign up but never turn up students. Through a great deal of dedication and support by TAFE teachers this year the department enrolled an additional 60,000 students to enable them to develop necessary skills. This was deliberately at a time when the Federal Government would not recognise the unemployment problems. It is true that there was an $11 million overrun in the budget which will be picked up this year. I can say unequivocally that none of that will be picked up at the expense of any courses. Through the Scott devolution process, the devolution of authority and responsibility down to the colleges, the colleges, for the first time, will have to look at their budgets. Until this matter was addressed the archaic system in regard to TAFE budgets was to allocate a certain sum of money for full-time teachers and a certain sum for part-time teachers—not to courses or students. Dr Ramsey and I will ensure what happens in TAFE is we will run the budgets through the institutes and colleges on the basis of courses and students.

There has been a hue and cry that part-time teachers will not be employed in TAFE next year. In reality, the same numbers of casual or part-time teachers will not be employed because of the Industrial Commission's decision. Full-time teachers must now work an additional two hours a week, an increase from 18 hours to 20 hours. The daylight equivalent has been removed. In net terms that has the effect of 20 per cent more output from full-time TAFE teachers. There will not be a need for a back-up of casual teachers. I would prefer to see more part-time teachers employed, because they cost the system less. However, I will not employ part-time teachers at the expense of full-time teachers. The honourable member for Riverstone spoke about the cost of removing full-time teachers. Obviously he is unaware that redundancy packages are paid by the Commonwealth Government. If a full-time teacher accepts voluntary redundancy, the Commonwealth Government picks up the bill; but this issue is not about saving money through voluntary redundancies; it is about the delivery of services to the system.

Reference was made to administration. The staff of the central support division of TAFE has been reduced. Originally it had a staff of 1,200 plus 300 in the old teaching skills, a total of 1,500. In 1990 the staff was reduced to 1,394, and by
Page 6496
November 1991 the staff totalled 1,053. The administration has been pruned and the savings are being directed to the colleges. By the end of 1992 it is estimated that the staff in the central support unit will number 341. That is trimming the administration. The 57 senior executive service positions were allocated initially to TAFE on Dr Scott's recommendation, whom the honourable member for Riverstone supports. That number has not been taken up. The number has been reduced through the institutes. TAFE has an enormous responsibility to deliver. The turnaround has been resisted thoroughly by the teachers, resisted in a way which will ultimately lead to their demise if they persist in their actions. The students should come first, not the teachers. I will ensure that the essential vocational education and training courses and second chance education courses are delivered.

TAFE will receive more funding next year than it has ever received. I make no apology for cutting out such courses as wine appreciation, bonsai and styling practices. I do not mind if those courses remain but they will be paid for on a cost recovery basis. TAFE has a dynamic future. It has a responsibility to deliver training and education to young people and others in this State and it deserves the support of both sides of this House. While I am Minister and while the Greiner Government remains in office, TAFE will not remain as it has in the in past. This motion has absolutely no substance. It is a pitiful attempt by the Opposition to further waste the time of this House. It certainly will not achieve anything and I am proud of what TAFE is achieving.

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

Mr J. H. MURRAY (Drummoyne) [3.45]: At the outset I congratulate the honourable member for Riverstone for bringing forward this motion. It gives the House an opportunity to expose the litany of half-truths and false impressions of the Minister when answering questions. People associated with TAFE in New Zealand, Queensland, Victoria and South Australia all say that the New South Wales TAFE is in a shambles. The reason for that is that this Minister is a failure. In fact, he is an absolute failure. I might say he is not a bad bloke but as a Minister he is totally inept. His record is disgraceful. Apart from Eastern Creek, in the past 12 months, the greatest waste in taxpayers' money by this Government has been with regard to TAFE. In today's *Questions and Answers* an answer to a question about TAFE reads in part, "The final cost of implementation of the restructuring of TAFE will be $31.7 million". Only five minutes ago the Minister said that money could not be taken into account yet in answer to a question on notice produced by the Minister said, "The final cost of implementation of the structuring of TAFE will be $31.7 million". I would rather believe the Minister's printed answer.

In effect the Minister has been overtaken by his department. In 1988 TAFE had more students than it has today. That is the bottom line. However, in 1988 only 15 senior executive service officers were employed to look after TAFE students and staff. Since then this bloated bureaucracy has expanded to 57 positions. In the estimates committee a few weeks ago the Minister said with much fanfare that the senior executive service positions were to be reduced from 57 to 53. That is a great effort. The number of bureaucrats in the New South Wales TAFE system is an absolute disgrace. It shows that the Minister is being snowed by his bureaucracy. More importantly, the management restructuring has paralleled the collapse in student numbers, which has been especially severe in country areas. The Minister has not told his country colleagues what is happening in rural TAFE colleges. However, the enrolment statistics reveal the collapse of student enrolments in country areas.

The origin of this collapse is the Minister's campaign to direct resources away from short courses that is, specific needs courses and entry courses in to TAFE, courses
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that involve women's programs, fashion, arts and the media. Funding for the art and design course is down by 10.3 per cent; catering and nutrition 26.4 per cent; general studies 20.3 per cent; and textiles 13 per cent. Participation of women in programs has decreased from 50 per cent in 1988 to 47 per cent today. That is an absolute disgrace. In all other States participation of women in programs is increasing. Country enrolments are down 6.9 per cent. Last year they were down 18.8 per cent. That is a total decrease of about of 25 per cent. The Minister represents a quasi-country electorate yet he has allowed student enrolments in country TAFE colleges to drop in that period by 25 per cent.

Mr Fraser: What would the honourable member for Drummoyne know about student turnover?

Mr J. H. MURRAY: The honourable member for Coffs Harbour would know enrolments for the TAFE college in the seat of Murwillumbah, which Labor will win in the next State election, are down 48 per cent.

[*Interruption*]

Mr SPEAKER: Order! The honourable member for Drummoyne has the call.

Mr J. H. MURRAY: I am quoting from the TAFE annual report. Those figures are in that report. Enrolments at Gosford and Wyong have decreased 4.5 per cent and 13.4 per cent respectively. In Maitland the number of effective full-time students has fallen from 830 to 724, or 12 per cent. The Minister is ripping the heart out of country technical and further education enrolments, especially with regard to fashion courses. I acknowledge that the genesis of TAFE courses is not in short courses, but there is a need for short courses particularly in country areas. The Minister must provide an alternative. There are no private providers of tertiary education in the country. It is fair enough that in city colleges courses be reduced; those students still have an alternative. But the Minister is decimating TAFE courses in country areas.

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

Mr FRASER (Coffs Harbour) [3.50]: I am amazed at the antics of members of the Opposition. Though the Opposition moved a motion about the administration of TAFE and jobs, its members have not addressed the matter of administration. All they have done is peddle the lies of the Teachers Federation. They are trying to embarrass the Government with lies. They have not attempted to address the matters referred to in the motion. The honourable member for Riverstone did not concede that his Federal colleagues are not interested in jobs or training. The Minister had to go cap in hand to the Federal Government seeking additional funding to prop up the TAFE system. The New Start program will provide placements for 1,000 people in the building trades. The honourable member for Drummoyne said that he has spoken with people in New Zealand about the New South Wales TAFE system. That is an indication of his knowledge of the TAFE system in this State; he sought information from New Zealand about New South Wales TAFE colleges. What the hell would people living in New Zealand know about technical and further education in New South Wales? They would know as much about it as the honourable member for Drummoyne knows. The Government has increased the budget to $920.96 million, an increase over that of last year. Funds are being redirected from administration to the teaching level, and that practice will continue. It was not the fault of the Minister that 300,000 part-time hours were cut. That was the result of a decision of the Industrial Commission on the teachers award. Consequently, there are more full-time teachers and there has been a 20 per cent increase in the teaching effort.

The honourable member for Riverstone would be better served by asking his Labor colleagues in other States about why their budgets have been reduced.

Mr Fahey: The other States are envious of our system.

Mr FRASER: They are also envious of our Minister, who is doing a good job. The suggestion by the honourable member for Drummoyne that New South Wales overran its budget in 1990-91 is correct. It was a deliberate overrun. The Government was trying to enrol additional students. We are concerned about those who want employment and further training. Rather than providing wine appreciation courses and bonsai classes, the Government is looking at providing courses that will ensure employment for graduates. The Government is about getting the economy up and running again. The Federal Labor Government is only interested in increasing the number of unemployed; it is the government for unemployment. Our Government wants to train and educate people to equip them for the work force, not for the dole queues. We want people to have jobs and to regain their self-respect. The attitude of the Federal Government is—

Mr Morris: To wreck the economy.

Mr FRASER: Yes, they want to wreck the economy. The public know what is going on. They do not believe the rot that is being peddled by the Teachers Federation. Enrolments in TAFE have increased in Gosford by 10.5 per cent and in Wyong by 39.2 per cent.

Mr J. H. Murray: Show me where those percentages appear in that document.

Mr FRASER: Yesterday the honourable member proved to everyone that he could not read figures. He cannot read the Budget Papers correctly. He had to talk to people in Victoria, Queensland and New Zealand to find out about technical and further education in New South Wales. He should get out and about in his electorate and find out the truth of the matter. A new TAFE college is being constructed in Coffs Harbour. The Government is aware of the needs of the people of the North Coast. That TAFE college will be part of a super-education complex—

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

Mr MILLS (Wallsend) [3.55]: The concerns detailed in this motion of public importance are a terrible indictment of this Government's rotten standards of justice and wrong priorities with regard to government services. They reflect on the Government's obsession with financial outcomes over educational outcomes. TAFE will survive in spite of this Government. It will survive because of the efforts of administrative staff and teachers and the persistance of students and people in the community who are determined to get the best education possible in the circumstances that prevail. But the technical and further education that will survive under the form ordained by this Government will not provide the service that the people of New South Wales demand. The Minister in his contribution placed great reliance on outputs. Outputs are only measurements—statistics. Emphasis must be placed on educational outcomes. The other big lie of the Minister—and this was parroted by the honourable member for Coffs Harbour—related to the influence of the TAFE Teachers Association. I invite the Minister and honourable members on the Government side of the House to listen to what the people have to say—the students and principals of TAFE colleges. In November, in answer to a question, the Minister by way of a sneering remark belittled specific TAFE courses. He referred to them as hobby courses. When I contacted his office that same afternoon seeking a copy

of the list I was told that such a list was not available. I asked whether I could be provided with the list as soon as it was available, and I was informed that I would be. To date I have received nothing.

Mr Fahey: How do we know you are telling the truth? I doubt that you telephoned my office.

Mr MILLS: The Minister will have to take my word for it. I know that I did; I have a note to that effect in my rooms. I wish to draw the attention of honourable members to some comments of Mr Graham Boyd, the principal of Glendale TAFE college, which were reported in an article in the *Newcastle Herald* on 19th October. The article stated:

> Budget cuts would probably force Glendale TAFE college to turn away intending students in some areas next year, the college principal, Mr Graham Boyd, said yesterday . . . Mr Boyd said that the college was facing an overall cut of about 10% and there were obvious concerns about maintaining existing programs on the budget . . . Mr Boyd said that certain courses at his college had been identified as priority areas by the State Government, and therefore budget cuts would be felt in some areas of the college more than others.
>
> Priority areas included courses in business, computing, automotive, electronics, tourism, hospitality, and vehicles trades.
>
> "We have resolved at college executive level to maintain the breadth of the college profile and as much as we can we will try to run all the courses we are currently running," he said.
>
> "Where our cuts will come if we're able to do it, will be in the depth of courses, so there may be less classes in the courses."

[*Interruption*]

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

Mr MILLS: On 12th November the following was reported in the same newspaper:

> —the college will be forced to retrench part-time teachers. Mr Boyd said that 'unless a miracle arrives' some part-time teachers would lose their jobs at the college. Obviously if there are insufficient resources there will be less part-time teachers employed. The loss of jobs among part-time TAFE teachers was unfortunate, but it was a by-product of something even more unfortunate and that is that there will be students who won't be educated . . . the employment of teachers was secondary to teaching students so our major concern has got to be to do what we can for students . . . We are certainly not reorganising classes to minimise effects on teachers, we are reorganising classes to minimise effects on students.

A student at Glendale TAFE wrote to me as follows:

> Presently I am at a TAFE doing a part-time course in fashion. The reason for my attending these classes was to improve my own skills in sewing. Our family is one that currently is on a single income and I felt the need to help out in any way I could.
>
> I sew to supplement our wardrobe, also my confidence in my work has boosted itself dramatically enough that I feel I could sew for other people and ask for a small fee for doing so, thus helping out our financial needs.

Another student wrote and stated:

> With regard to the activities of TAFE being withdrawn or restricted next year, I hope this isn't so. I have been doing a TAFE overlockers course and this has helped me to get money to help my family.

Another statement is from a panel beating and spray painting student at Tighes Hill

College.
[*Interruption*]

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

Mr MILLS: Another letter was received from a member of the Morris Owners Club pointing out the importance of maintaining old cars, reducing noise in the environment and maintaining our Australian heritage.

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

Mr PHOTIOS (Ermington) [4.0]: For medicinal purposes only I think the honourable member for Wallsend needs to cop a good dose of a dirty word of the Australian Labor Party, a four letter word spelt F-A-C-T. The only philosophy that drives the motion is the big lie technique. We have heard from members opposite—this is not unexpected—a consistent barrage of lies designed to distort the truth not only in this State but also across the country about technical and further education available to young Australians. I state that on the record so that the decision honourable members come to on this matter will be based on truth, which still accounts for something on this side of the House. Current high unemployment is the responsibility, product and outcome of the Australian Labor Party and the Federal Government. It is their recession. They have to cop the flak and take responsibility for it. For that reason Federal Minister Dawkins responded to the call, led by the Minister for Industrial Relations and Minister for Further Education, Training and Employment, of all Ministers responsible for technical and further education, be they Liberal, Labor or of some other persuasion, by providing—fact number two—$30 million for 15,000 additional TAFE places. It was not enough, and we agree with the Opposition on that. But it was a step in the right direction.

Fact number three is that the New South Wales Government has increased—I repeat, increased—the numbers of TAFE places by 60,000 places. In percentage terms, that means that the Government has increased TAFE positions by 17 per cent. These are not the phantom figures or measurements cited by the honourable member for Riverstone—figures that include those who are enrolled but do not visit or participate in any way, even marginally, in their TAFE courses. Those are the figures that the Auditor-General, with the greatest respect to him, used in his report. The real figures, the real students, the real outcome is an increase of 17 per cent, being an additional 60,000 places. Members opposite commented on the financial outcomes of TAFE and an $11 million overrun. TAFE employs 15,000 people and has an $11 million overrun; the Australian Labor Party, employing about 25 people, has a deficit of $7 million. The message from this side of the House is that if Labor cannot govern its own party it cannot govern the TAFE system. That is the message for the honourable member for Riverstone.

The honourable member for Riverstone seeks to hang the coat tails of this lousy and inadequate motion on the abolition of some of the 57 senior executive positions in TAFE. I challenge him to say which positions he wants to abolish. Who will lose a job? Which of the principals, 10 per cent of whom have been replaced by the new senior executive service positions filling class one principal positions, are going to lose a job? Where will the TAFE administration be emasculated? And in order to achieve what? The fact is that only $5 million can be saved out of the total allocation for employee costs of about $571 million—that is 1 per cent—by abolishing the senior executive service positions. That $5 million would give an extra 1,000 equivalent full-time student positions in a system of more than 400,000. Earlier this week the Government, through the Premier's statement, has provided in the First Chance program an additional 7,000 places. The motion is a nonsense and does not stand up. A saving of $5 million will create no more than 1,000 places. The honourable member has not told the House which senior executive service positions he wants abolished. The Australian Labor Party, going on its track record in the administration of Sussex Street, may rely on the graveyard vote and massive debts, but it will not find the phantom students in the TAFE system such as

the phantom voters it might uncover at the polls. Labor cannot find the money; it cannot find sufficient at Sussex Street. The Government will provide a TAFE system with increased positions well into the future.

Mr J. J. AQUILINA (Riverstone) [4.5], in reply: I thank the honourable member for Drummoyne and the honourable member for Wallsend who, unlike Government members who have spoken in this debate, showed not only that they know something about the TAFE system but also that they are adamant about defending the rights of students at TAFE colleges. All we hear from the Government is a defence of TAFE administration and little mention of colleges, courses or students. The honourable member for Coffs Harbour said little that would attract a response other than revealing in his five-minute speech an appalling ignorance of what is happening in technical and further education. He rambled on and made no sense. I do not think he uttered one single fact about the TAFE system. He commented about Federal colleagues. The Minister for Industrial Relations and Minister for Further Education, Training and Employment knows that he had to be sent cap in hand to the Federal Minister, and when he thought it might attract some notoriety he even initially rejected the offer of $100 million by the Federal Minister to the States.

Mr Fahey: No offer ever, except the figure we got. I was there, you were not. Ask your Labor colleagues. Stop lying.

Mr J. J. AQUILINA: The Minister can say what he likes but I personally spoke to Mr Dawkins. I had the letter presented to the Minister by Minister Dawkins two days before the Minister got it. So I know precisely what was offered. It is a matter of record that I met with Mr Dawkins two days before the ministerial council meeting on that Friday. I suggest that the honourable member for Ermington, after his fanciful speech, not look at "Disneyland" each Sunday night, come out of Fantasyland and learn what is happening in the TAFE system. He skirted around the issue, ran away from the real TAFE issues, and tried to draw a parallel between running a political party and the TAFE system. But not in one instance did he refute the points the Opposition made about the TAFE system and administration. The one point made by him was about the number of senior executive service officers. He asked which positions I would target and cut out. For his information, during the term of office of the former Labor Government there were only 13 senior executive service positions in TAFE, but we had record enrolments which far exceeded current TAFE enrolments. The Greiner Government blew that number out to 57 positions and sought to eat up essential funds which should have been poured into colleges and courses by paying expensive salary packages to senior executives.

I turn to the remarks made by the Minister for Industrial Relations and Minister for Further Education, Training and Employment. He should read his speech and search his conscience over what he said. The Minister contended that the creation of the senior executive positions was in line with what Dr Brian Scott had intended for TAFE. The Minister said that in my speech I made some complimentary remarks about Dr Brian Scott. I did. I should like to make more complimentary remarks about what Dr Scott intended for TAFE. Honourable members will not find in the record a word of criticism from me of Dr Scott's initial plan. What he intended for TAFE was positive. I spoke to that effect in this Chamber when honourable members debated the Technical and Further Education Commission Bill. What has happened under the TAFE system has been a deliberate thwarting of Dr Scott's intentions. There is no way that the Minister can tell me, this Parliament and the public of New South Wales that what is happening in TAFE today is what Scott intended, because it is not what he intended. He did not intend TAFE to have, rather than a leaner administration, 57 additional bureaucrats and more tiers of administration instead of college support and rationalisation. The present

TAFE system is a complete betrayal of Dr Scott's intentions. The Minister's argument is bunkum.

The Minister talked about enrolments and said that the Government is on about real figures. He said that in 1991 there was a 20 per cent increase in course completions. Whereas the Labor Party talked about enrolments, this Government talks about course completions. On the surface that sounds fine. However, in case the Minister is not aware, I should inform him that at the start of every year when people apply to enter college courses and there are no vacancies, under the past system they enrolled and were then advised there were no positions for them. Today they are told not to bother enrolling. Therefore, if they do not enrol in the first place, the figures do not show a cutback in course completions. There are statistics and there are statistics. Every time the Minister and the Government have come under criticism they have tried to defend their indefensible situation by saying that the Opposition is peddling the big lie. There is no lie in what I am saying.

Mr Fahey: What about the forged document? Answer that one.

Mr J. J. AQUILINA: I shall answer that allegation in a moment. That was another instance where the Minister tried to get out from under by saying that the Opposition was peddling lies. I have not spoken to the Teachers Federation today about this matter or the issues I raised yesterday or over the past three months. The facts about the courses that have been cut have come not from the Teachers Federation but from students enrolled in the colleges. The Minister knows I am not telling a lie because if I am receiving correspondence and telephone calls from students the Minister and the department are also. The Minister has to face up to that. In answer to the Minister's interjection, in May I made a factual statement about Blacktown TAFE curtailing second semester courses that had been advertised in the local press. However, the Minister said I made it up. He should go to Blacktown TAFE and talk to the teachers who attended a staff meeting at which they were told the courses that had to be deleted. The Minister knows that that staff meeting took place, that the courses had been advertised in the local newspapers, and that those courses were targeted for cutting. If I had not raised the issue at the crucial time—as it turned out, on the eve of the State election—Blacktown TAFE would have lost those second semester courses this year. The courses were reinstated and the budget increased because it became a sensitive issue for the Minister and the Government.

The Government tried to sacrifice courses in order to save its hide in terms of the budget dollar. I know precisely the predicament in which the principal of Blacktown TAFE was put, the cleft in which he found himself trying to justify how he could save the Government embarrassment and still fulfil his duties as principal of the college. Finally, I wish to mention the so-called increase in the budget for technical and further education. Several honourable members, the Minister and the honourable member for Ermington have spoken on the TAFE budget. The Minister knows that the increases in the TAFE budget have nothing to do with new initiatives or the provision of more courses but will go to meet increased costs. Whether one is talking about net redundancy payments of $14.3 million, the costs of restructuring of $5.5 million, the administration charges of $2.2 million, the award provisions of $35.5 million or rent increases of $2 million and other costs totalling about $65.5 million, the Minister knows that not one cent of the increased budget has gone into establishing new initiatives for TAFE. It has all gone to meet increased costs. The Minister may think that the big lie allegation will get him out from under, but everyone knows that the reality is that he has failed the TAFE administration in this State, the colleges, the courses and the 90,000 students who will seek TAFE enrolment next year but will not be admitted because of the Minister's bungling and his budget blowouts.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 48

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 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

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, 45

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

Dr Kernohan
Mr Kerr
Mr Longley
Ms Machin
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

Pairs

Mr Causley
Mr Greiner

Mr Carr
Ms Nori

Question so resolved in the affirmative.

Motion agreed to.

FILM AND VIDEO TAPE CLASSIFICATION (AMENDMENT) BILL

Suspension of certain standing and sessional orders agreed to.

Page 6505

Bill introduced and read a first time.

Second Reading

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [4.25]; I move:

That this bill be now read a second time.

Honourable members will recall that for some time the Government has been examining the Film and Video Tape Classification Act, focusing on what are generally perceived as shortcomings in its effectiveness, some of them quite serious, particularly in relation to the availability of material which is not suitable for viewing by children. The Government is also concerned about the manufacture and distribution in this State of the so-called X-rated videos which are actually classified as refused and banned in every State but allowed as X-rated videos in both the Australian Capital Territory and the Northern Territory. A number of the amendments contained in this bill give effect to matters agreed to by all State censorship Ministers at their regular meetings. The New South Wales Film and Video Tape Classification Act was assented to in December 1984. Since then there have been no substantial amendments to the Act. Honourable members may be aware that the Australian Law Reform Commission has submitted a draft legislative proposal for consideration by all States encompassing film, video and literature classification, which will be considered by censorship Ministers at their next meeting expected to take place in mid-1992. However, a number of matters require urgent attention and it is these matters this bill is designed to address.

I acknowledge that this issue was raised by the honourable member for Port Jackson in this House some weeks ago. Her enthusiasm to see this legislation brought forward should be acknowledged by the House. I turn to item (1) of schedule 1 to the bill. A definition of "exhibit" has been included in the interpretation section of the Act. This will remedy any lack of clarity which may exist in relation to what is meant by "exhibit"—a concept which is central to the interpretation of the legislation. When the censorship Ministers' discussions regarding the co-operative censorship scheme took place, it was agreed that censorship guidelines would be established and included in regulations, with a requirement that the censor should have regard to them. This was not done at that time and the omission is rectified in item (2) of the schedule. Items (3) and (4) relate to applications for classification. Amendments are included in item (3) of the schedule to allow effect to be given to administrative arrangements with the Commonwealth for film and videotape classification.

Item (4) of the bill specifies that separate applications must be made for film and video. The section also addresses the difficulties recently encountered when an application in relation to a reel of film, which in fact contained several titles, was submitted on the one classification application. Continuation of such a practice would ultimately render the classification information of little use to the consumer. The proposed amendment overcomes this difficulty. Items (5), (6), (7), (8), (12), (13) and (14) give effect to initiatives taken at the meetings of

censorship Ministers. Items (5) and (6) relate to the warnings which must appear on films that are sold or hired. The warnings must be included not only on the packaging but also on the film itself. I pay tribute to the video and film industry here and indicate that although this amendment codifies the practice of including these markings for the advice of consumers in accordance with the agreement by the censorship Ministers, the industry has voluntarily included such advice on its products for some time. In my view this represents a most responsible approach to consumer advice. Such advice is essential if parents and viewers are to make informed entertainment choices. Items (7) and (8) of the bill allow the

censor to give a limited exemption from classification to film trailers which relate to films not yet classified. For some time the industry has sought an exemption and the censorship Ministers' meetings gave the matter extensive consideration, finally allowing the censor in very limited circumstances to allow the limited exemptions set out in item (7).

Items (12), (13) and (14) deal with review of a film classification on the censor's own motion after two years. This is considered important, in view of the changes in social mores and attitudes which can occur over time. It is essential that a matter as important as film classification be responsive to such changes. This amendment will facilitate that responsiveness. Currently, the classification decisions become effective when notified in the *Government Gazette*. Items (9) to (11) provide that effect is given to a decision on the date of notification to the applicant. This is particularly important when there are commercial imperatives for exhibitors in having the classification processes undertaken without delay. Item (15) of the bill relates to alterations to a film already classified, which must be submitted for approval to the censor before it can be exhibited. Item (16) provides for an increase in the penalty for exhibiting unclassified films, from $15,000 to $50,000 in the case of a company and from $4,000 to $10,000 in the case of an individual. Monetary values have altered considerably since the Act was introduced and I consider these increases to be necessary to ensure the deterrent value of the penalties is maintained.

I now turn to items (17) and (18) of the schedule to the bill, which address concerns held not only by the Government but by the Opposition also, and which have been expressed by the member for Port Jackson, who has voiced her concern about trailers which are currently permitted to be shown in cinemas where the principal feature is a film classified for general exhibition. This is addressed in item (17) of the schedule to the bill, whilst item (18) gives effect to a similar amendment for videos. I draw particular attention to this proposed amendment. The amendments proposed by the honourable member for Port Jackson addressed only the advertisements shown with cinema films and not those shown with videos, which are far more accessible to children than those in the cinema and are, I suspect, less susceptible to parental supervision. The penalties proposed I consider reflect the gravity of the offence. The amendments contained in items (19) and (20) of the schedule remove the current exemptions in relation to the attendance of children aged under two years at films classified R. There is considerable controversy as to the effect of violence on very young children. I consider it essential that the legislation provide some protection from potentially deleterious effects, particularly of violence.

I now draw attention to items (21) and (22) of the schedule to the bill. Item (21) removes an existing defence to the display and sale of unclassified films which allow such display and sale where the film is subsequently classified G or PG. This loophole has allowed distributors and sellers to avoid submission of material for classification. This does not assist the consumer in identifying suitable material. I hasten to add that this practice is concentrated in small sections of the community, who nevertheless make it difficult for those who do comply with the legislation. The section also includes a provision designed to prohibit the distribution of unclassified films by providing that possession of 10 or more copies of an unclassified film is evidence that the person has possession of the film for sale. I hasten to reassure honourable members that films for example produced by the Department of School Education for use in schools will be the subject of a ministerial exemption under proposed section 38. It is not

intended that these kinds of films be caught by the new provision. Item (22) is designed to ensure that the extensive copying of unclassified films which appears to be a source of supply for the lucrative X-rated video market, is prohibited. Item (23) of the schedule alters from one month to three months the period within which material seized by police for classification

must be returned. This overcomes time constraints experienced by police not only in New South Wales but elsewhere, in having large quantities of material classified in the time available.

The effect of these amendments on both the community and the industry will be monitored closely. Though the classification of films and videos is undertaken by the Commonwealth, it is up to the States to ensure that the classifications are complied with and continue to reflect community standards. Honourable members may have seen advertisements in the press and when attending the cinema, which explain the classifications and their meaning. These provide a guide to consumers, particularly parents, as to what to expect in each classification. The public awareness campaign is an initiative of the office of Film and Literature Classification and the Australian States, to enable consumers to make informed choices for themselves and for their children. This proposal is designed to reflect and enforce current community standards in relation to films and videos. Many members of this House and of the other place have expressed interest in this legislation. I thank all honourable members who have contributed to the formulation of this legislation and accordingly, I commend the bill.

Ms NORI (Port Jackson) [4.37]: I am pleased to take part in this debate. Members will recall I was extremely disappointed last year when I moved amendments to the then Film and Video Tape Classification Act which attempted to correct a major deficiency in the Act, in relation to the way other movies are advertised at the cinema prior to a main feature. I seek the indulgence of the House to take a moment to repeat the circumstances that prompted me last year to introduce a private member's bill on this very point. I took my young children to see an animated movie "The Jetsons". That film was aimed at the lower age end of the children's market. It was hardly a movie you would take anyone older than eight years to see. The trailers that preceded the main feature subjected us to increasingly violent advertisements for other films that were to be shown at that cinema complex in the following weeks. It culminated with one that shocked me so much I had literally to put my hands over my children's eyes, I felt so strongly about what was being seen on the screen. What makes it terribly difficult is that when you are at the movies you cannot just flick off the switch as you might at home with the television; because other people are there, you cannot suddenly grab your children and walk out. You are stuck there with very little choice. It was that episode which really made me very angry.

The proof of the pudding was the fact that the clip of the movie I had seen was for a film called "Ghost". Around that time late at night I saw an advertisement for that movie on television. What was very telling was that the clip shown on television, even though late at night, was nowhere near as objectionable in my view as the one that was seen at the cinema. That spoke volumes. It said that they knew they could not get away with showing it on television but were quite happy for it to be shown in the cinema during the day. The explanation that I received from the cinema manager was totally inadequate. I was told that "The Jetsons" was being shown only at one session of the theatre that day, the early afternoon session for kids, and that the promotions for other movies had been set by higher management and were already cast on the film and were to be shown in each subsequent film that day, regardless of what film was showing at the different sessions, and that in any case it was totally legal and did not matter. I found that really unacceptable.

The next day I spoke with the Chief Commonwealth Film Censor who confirmed that the loophole existed. My private member's bill tried to deal with that loophole. The bill that has been introduced by the Minister also covers that point and ensures that the trailers that

precede a main feature at the cinema cannot be of a classification higher than the main feature itself. Some six or eight weeks ago I felt compelled to reintroduce my
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private member's bill in a different form, but in similar spirit to the one I had moved last year. Last year the former Attorney General had guaranteed that the Government would be introducing a bill that totally revamped film and video classification and that it would come forward in February. When this had not happened by about September or October I was a bit sick of it. I introduced my own private member's bill which members will recall. The present Attorney General then gave notice that he would introduce the revamped version. It has been a long time coming. I cannot say that I am pleased with the length of the delay. It should have passed through the House last year or at least that minor, very modest amendment that I suggested should have gone through the House last year. All that happened was that this Parliament showed that at times it can be just altogether too clever for itself.

I was faced with having to try to move my bill by suspending question time. The numbers were stacked against me and against the party that I represent. It was quite clear that I was moving legislation that was supposedly non-partisan, something that every single member of this House approved of, that the community approved of, but when it came down to silly party politics in this Chamber it was defeated. Its introduction now is better than nothing, but I cannot help but reiterate my grave disappointment that the Government at that time, a whole year ago, did not see fit to let that amendment go through. It made me wonder about this place. Earlier everyone had seemed to agree. The anomaly had come to my attention, I brought the matter to the House as a member and instead of everyone acting co-operatively the issue went up in smoke. I hope that kind of nonsense does not recur. The issue is far too important to play party politics with.

I am pleased that the Minister's bill goes further than my private member's bill in that it will cover the trailers that precede or follow videotape movies that we hire for our children to watch at home. I have seen horrifying scenes that have made me want to switch off the video because they were so worrying and disturbing. It is about time we took a stand on the issue. Although it is not within the province of a State Parliament to legislate in this area, I hope that the passage of this bill will serve notice on many television stations that see fit to advertise very gory scenes from adult movies such as "Ben Hur" at about 9 a.m. just after the kids' cartoons have finished on Saturday. Whenever I see an example of this I telephone to abuse the relevant television channel. This bill is also about giving notice to the community generally and those in the media to make sure that they exercise sensitivity in this matter. The issue of trailers for movies at the cinema is not really an argument about censorship; it is about choice. It is about certainty and predictability. By choice I mean that if a parent exercises judgment and discretion to take children to a movie or exercises parental judgment and authority for children at the local video shop that parent ought to be certain in predicting generally the type of material that will appear on the theatre screen or television screen. Parents should be certain that the material shown will not be of a type that they do not want their children to see, and that the material shown will be in accordance with the ratings advertised. People do not want to sit down to see a G-rated Jetsons movie and be subjected to inappropriate levels of sex and violence.

I am not in the Fred Nile mould. I do not believe that children should be protected to the point where sex education should be left to parents. I do not want to be seen to be in that mould. But I believe that parents have the right to decide what is good for young children. Though we cannot protect children from the tragedies and horrors of life, their introduction to them should be gradual so that they can absorb small chunks and are not suddenly hit by the horrors of life in being exposed to inappropriate material in videos and at the movies. In the weekend press there was a report referring to a prominent woman magistrate from the Children's Court—I cannot recall her name—who felt that the level of violence amongst young children was increasing. She laid the blame
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to some extent on films and videos. It is not that I believe that one exposure to a film or video will turn a nice little child into a pathological murderer; there is an acclimatisation or inoculation effect. The more radical members of the community might think that I am becoming conservative but I am concerned about this adverse effect. The more one is subjected to violence, blood and gore, the less frightening and abhorrent it becomes. It is a subtle and intangible effect, nevertheless it is an effect. Such material should be introduced in a way children can deal with it, under the supervision of an adult. They should not get it in just one belt. I commend the Government for dealing with the bill at this stage. When the Minister introduced it a few weeks ago I was concerned that it would not be dealt with in this session and that the Minister would not be true to his word. If we had not dealt with the bill today I was going to belt the Minister over the head with it tomorrow.

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [4.46], in reply: I thank the honourable member for Port Jackson for her generous comments. I am pleased to reassure her that I always seek to honour my promises, even at this late hour in the current sitting of the Parliament. I note the points that she has made. I am sure her views are shared by most members of this House and the other place. The step that we are taking plugs a number of loopholes in the existing legislation. I do not pretend that this bill is necessarily the last word on film and videotape classification. I suspect it is one of those areas that, as the industry develops, Government will need to keep pace with the developments.

Dr Metherell: Like tobacco advertising.

Mr COLLINS: Yes. The debate which occurred in this House last night took a significant step forward in the restriction of tobacco advertising. So too does this bill take a step in solving some of the problems which have arisen in recent years and which could well affect the minds of the young. I share the concern of the honourable member for Port Jackson about the increasing tendency of modern film and video to portray graphic violence gratuitously. Film and television over the last couple of decades has tended not to show as much graphic sex but little has been done to curtail the portrayal of graphic violence. I believe—I think many members of the House would agree with me—that the portrayal of graphic violence is the more dangerous of the two. As legislators we should give our attention to reducing the gratuitous portrayal of violence. Like the honourable member for Port Jackson, I believe that it can enable the viewer to develop an immunity, a desensitising. That is a matter which should concern all of us. Under the previous rules children under the age of two, the very young, could attend R-certificate films, at which they could be subjected to fairly subliminal or ungauged influence. They have extremely impressionable minds. The option of taking two-year-olds to R-certificate films will be extinguished with the passage of this legislation. It is a precautionary move. It is difficult to measure in any way. Nevertheless, I believe it is a valid precaution.

Ms Nori: Provide some child care so mums can still go to the movies.

Mr COLLINS: The honourable member for Port Jackson has indicated her concern about the use of R-certificate movies to provide child care or an environment for child care. I note her view on that matter.

Ms Nori: No, I said provide some child care so mothers can still go to the movies.

Mr COLLINS: I am sure Hansard has that interjection by now. With that interjection I shall close my remarks on this bill. I thank all members of the Parliament

who have contributed to the formulation of this legislation and commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DISORDERLY HOUSES (AMENDMENT) BILL

Ministerial Statement

Mr COLLINS, by leave: I wish to make a statement in relation to an order of the day standing in my name in the business paper in relation to the Disorderly Houses (Amendment) Bill. Rather than proceed with this legislation in what remains of this sitting of the Parliament, I propose that the bill, which has had its second reading, lie on the table of the House over the summer break and that debate resume in 1992. This will give all honourable members an opportunity to consider the relatively simple, but nevertheless important changes that are proposed to the legislation. I look forward to the resumption of this debate at the earliest possible time in the new year.

SEARCH WARRANTS (AMENDMENT) BILL

Second Reading

Debate resumed from 13th November.

Mr WHELAN (Ashfield) [4.51]: Unlike the Disorderly Houses (Amendment) Bill, which is to be postponed and left as a watching brief, the Search Warrants (Amendment) Bill is to proceed. I hope that the Government will also postpone this bill after a critical analysis of its operations. This bill is heading in the right direction; in some respects it has gone too far but in others has not provided sufficient and cautious measures relating to the issue of search warrants. The Opposition will oppose the bill at the second reading stage. Honourable members will recall that some time ago, following the tragic death of David Gundy and the shooting of Darren Brennan, the issue of search warrants became the focus of attention not only by those involved in the law but also those in the community who found that the Government and the present law had failed to protect members of the public in allowing an inexperienced officer to issue such search warrants. The Government has acknowledged this and recently gave notice of its intention to introduce this legislation. Concern has been generated by a number of cases where search warrants had been used in circumstances where a different procedure by police would have been more suitable or productive, or where police had used more force than was necessary in the execution of the warrant.

Honourable members are mindful of the right to peace and privacy of all citizens, the inroads of which should be watched most closely, and the fear, anxiety, stress and risk involved in the use of force by police in the execution of search warrants. At the same time the guilty should be brought to justice. The rule of law requires adequate powers to be given to police to discover and seize evidence of the commission of a crime, prohibited goods and property which has been stolen from innocent people. That is a broad statement of almost undisputed fact. The use of search warrants ostensibly to discover property, where the real purpose is to effect an arrest, is of concern. I instanced the case where police were searching for a dangerous murderer and obtained a search warrant on certain premises at Redfern in the execution of which an Aboriginal citizen, David Gundy, was shot dead—a tragic day in New South Wales law. The Attorney General will correct me if I am wrong in asserting that the coroner's report

in the Gundy case stated that the search warrant was issued by a young inexperienced person who worked in courts administration. That is typical of the way search warrants have been issued in the past. I point out to the Attorney General that proposed new section 3 does not restrict the qualifications of people who are to issue search warrants in relation to raids on peoples homes. That section is sufficient if someone alleges that they want a search warrant for property, but to invade a person's home demands a higher priority.

I have been at pains to point out that a senior magistrate or a judge should issue such a search warrant. It should not be a clerk of the Local Court who has had limited experience or a justice of the peace of the Local Court, all of whom acquire experience of the law through practise. Proposed new section 3 gives such people unlimited power. In circumstances where a person's home is to be invaded I believe the search warrant should be issued by a senior magistrate or a judge and the bill should be amended to that effect. The execution of a search warrant with the use of force such as arms is likely to provoke a breach of the peace that will cause a tragic accident. Darren Brennan was an example of this. Allegedly Darren Brennan was the person wanted by the police and the warrant was issued. The third matter of concern is the use of a search warrant where a subpoena to produce to the court on a return date prior to a hearing would be more appropriate. Search warrants are used as an alternative method for the collection of evidence, the collection of those matters under subpoena. There should be a restriction on the issue of those search warrants. As I have said, a subpoena to produce to the court on a return date prior to the hearing would be more appropriate, for instance, in circumstances where a videotape, handed to a solicitor by a client with instructions that it would exculpate him from a crime for which he is charged, became the subject of a search warrant issued by police and executed on the solicitor's office.

Five matters relating to search warrants require analysis. First, the seriousness of the offence for which a warrant may be sought by police under section 5 of the Act. The Government seeks to amend the section to enable search warrants to be issued to police by an authorised justice if the member of the police force has reasonable grounds for believing that there is, or within 72 hours will be, in or on any premises, the items referred to in subsection (1) of section 5. Generally speaking, the Opposition has no objection to police being issued with search warrants, but the public have to be protected in that regard. Another principle is that referred to in section 6 of the Act, which provides:

> 6. An authorised justice to whom an application is made under section 5(1) may, is satisfied that there are reasonable grounds for doing so, issue a search warrant authorising any member of the police force—
> (a) to enter the premises; and
> (b) to search the premises for things of the kind referred to in section 5(1).

Section 7 refers to the powers of police with regard to the execution of a search warrant, and sections 17 and 18 relate to the responsibilities of police with regard to the execution of search warrants. Section 11 relates to the affidavit and criteria that a justice may require to authorise a search warrant. I have some concern about the monitoring of search warrants. No provision has been made for that. I suggest that the Government and the Attorney General address that deficiency. Because of time pressures I have not been able to draft amendments to cover these matters, but I suggest it would be more advantageous for the Government to reintroduce legislation that would contain the matters referred to by me and others. I am sure the Attorney General would agree with that proposition. I suggest that an annual report provision be included in the legislation. That report would contain information about the number of warrants sought and issued during

a year; how many applications were made under provisions of section 11; the number of telephone applications that were lodged under the provisions of section 12; the warrants that were authorised for execution by day and night, pursuant to the provisions of section 19; the number of applications for warrants made by police officers, under the provisions of part 2 of the Act, and by authorised agencies, under the provisions of part 3; the number of applications that were lodged for renewal of warrants under section 20; and such other matters relating to the use of search warrants and the administration of the Act as the Attorney General considers appropriate.

The report, which would be presented to the Parliament for consideration, would indicate the circumstances of the invasion of people's homes and lives, in the same way as other minor matters are reported upon. I ask that consideration be given to the need for annual reporting on search warrants to the Parliament. Such a provision would further protect the

people of New South Wales. I wish to make a number of constructive suggestions. All applications for search warrants, and the search warrants themselves, should accurately define the property concerned. That stands to reason. The Commissioner of Police should urgently direct the production of a search warrants manual to be issued to all police and distributed to all police stations throughout the State. The Commissioner of Police should arrange for police to be educated about the contents of the manual at appropriate training courses. He should institute and maintain compulsory training and regular annual practice and certify the competency of every police officer for any weapon they may carry on duty. Police should be issued with instructions from the commissioner that except in an emergency weapons should not be drawn during the execution of a search without the authority of an officer of the rank of sergeant or above who will take responsibility for such action. I remind honourable members of the Brennan and Gundy cases. The officers involved in those incidents acted responsibly as police officers, and no blame can be levelled at them. If anything, the blame could be placed squarely on the inadequacy of legislation to protect the public from such circumstances. Section 19 of the Search Warrants Act, which relates to the execution of warrants by day or night, should be amended. It provides:

> 19.(1) A search warrant may be executed by day, but shall not be executed by night unless the authorised justice, by the warrant, authorises its execution by night.
> (2) In subsection (1)—
> "by day" means during the period between 6 a.m. and 9 p.m. on any day;
> "by night" means during the period between 9 p.m. on any day and 6 a.m. on the following day.

The section should be amended so as to provide justices, to whom an application for a warrant is made, with a set of criteria to be satisfied before a warrant is endorsed for execution at night. That stands to reason. Such guidelines should be laid down in legislation, as they are for the Commissioner of Police. The legislation should contain a clearly stated presumption against an endorsement "other than in exceptional circumstances". My suggestion should not be regarded as an interference in the operations of police in the performance of their normal duties. However, we are dealing with the liberty and rights of the people of this State. I suggest also for consideration by the Government and the Attorney General that the person authorised to issue search warrants should be a magistrate or judge and not only a justice employed in the Department of the Attorney General. It may be argued that such a provision would be inconvenient. However, section 12(3) of the Act, which relates to telephone search warrants—and "telephone" includes radio, telex and any other communication device—provides:

> (3) An authorised justice shall not issue a search warrant upon an application made by
> Page 6513
> telephone unless the authorised justice is satisfied that the warrant is required urgently and that it is not practicable for the application to be made in person.

That subsection could be amended by deleting the words "is satisfied that the warrant is required urgently and that it is not practicable for the application to be made in person" and substituting the words "is satisfied that by reason or urgency of distance or other compelling reason having regard to the provisions of section 6 it is not practicable for the application to be made in person". I shall suggest some amendments to section 6 of the Act later in my contribution. I acknowledge that the bill is complex, but I remind honourable members that we are dealing with the invasion of people's lives and homes and the operation of police powers in New South Wales. They are not matters to be treated lightly. They should be dealt with only after serious deliberation and consideration. One might wonder why, after the Brennan and Gundy incidents, no guidelines about police powers were issued to New South Wales police. The powers have remained the same until now and will be restricted only by virtue of this amending legislation. I also recommend that section 6, which relates to the issuance of warrants by an authorised justice to enter and search premises, be amended by the addition of the following self-explanatory words:

> The Justice, in considering whether the grounds are reasonable, shall have regard to a balance between the discovery of crime and the recovery of property on the one hand, against the right of citizens to go about their business lawfully without their private premises being entered by police. The Justice will consider

whether there are other means reasonably likely to give proper effect to the interests of the community. The Justice shall be mindful of the risks of damage and injury which are attendant upon the intrusion into private premises by strangers.

Approval of entry into private property or homes must have a higher criterion approval, by a judge or a magistrate and not by a justice. At present a justice is not compelled in any way to record reasons for the issue or non-issue of a warrant. Departmental documentation might be kept but no other semblance of evidence is available, except by

subpoena, to ascertain why a justice issued a search warrant. If the Government would agree to my suggestion about annual reports, it could seek that information. Section 18 deals with permitting the use of assistants to execute a warrant. It reads:

A person may execute a search warrant with the aid of such assistants as the person considers necessary.

I suggest that section, which gives wide-ranging power, be amended to include the words:

A Justice shall not without giving reasons issue a search warrant to any person other than a police officer of the rank of Sergeant or above. The person shall lodge with the Justice a statement of the maximum number of persons to accompany him to aid in the execution of the warrant, giving reasons for that number.

That section, if amended as I have suggested, would give wide power to a sergeant of police to execute a search warrant with the aid of such assistants that he or she considers necessary. Reporting provisions are lacking in regulation. A justice can issue a search warrant but is under no obligation to give reasons to any person for that issue. My proposed amendment places the person to whom the warrant is issued under an obligation to lodge a statement with a justice of the maximum number of persons to accompany him to aid in the execution of the warrant, and in particular the reasons why that person has decided that he or she is in need of help. One simple reason may be that a citizen is expected to cause trouble. I can understand that, but no provision is made for reporting or for checks and balances. The remaining 98 members of this House do not want a repetition of the Gundy and Brennan incidents. We want to protect ourselves and the people of this State from such occurrences. I further recommend to the Attorney General, before proceeding with the proposed legislation, that he monitor search warrants by means of chain-link cross-indexing all search warrants in New South Wales. Provision can be made in the Act or regulations, or both, for the clerk of the Local Court to make a monthly report of all search warrants issued in a form that would set forth the name of the police officer, the name of the suspect or suspects, the address of the premises, and the outcome of the search warrant in terms both of property seized and charges laid. The returns should ultimately go to the Bureau of Crime Statistics of New South Wales where they should be available for inspection in the same way as there is available for inspection by the householder the record held by the justice of the material placed before him by the police officer seeking the warrant.

I next turn to deficiencies in the proposed amendments. If the Search Warrants Act is to be amended, why not do it properly by including amendments already suggested by the Government and myself in relation to execution of warrants and legal professional privilege? We were all on a learning curve as a result of the Tim Anderson case. The Legal Aid Commission received a search warrant seeking documents normally regarded as being protected by legal professional privilege. A new provision should be introduced setting out guidelines for the issue and execution of warrants where legal professional privilege will arise, namely in the search of offices of solicitors and barristers. The aim of the rules on legal professional privilege is to set out procedures whereby documents may be sealed and taken before an appropriate court where the claim to privilege can be determined before police obtain access to the documents. The Law Council of Australia and the Australian Federal Police combined to develop rules, now in existence, for the execution of search warrants in lawyers' offices under Commonwealth law.

The ruling in the 1983 case *Baker* v. *Campbell*, reported in volume 153 of Commonwealth Law Reports, at page 52, is that at present there are no such rules in New South Wales, where the situation is governed by the common law. According to authors Johnson and Howie, in *Criminal Practice and Procedure in New South Wales*, while learned commentators may say that it may be prudent for justices issuing search

warrants where legal professional privilege may arise to do certain things, there are no special rules or guidelines in the legislation. A recent unsuccessful execution of a search warrant on the Legal Aid Commission shows the need for the rules to be introduced. That happened as a result of the Tim Anderson case. His opponents decided to issue a search warrant on the Legal Aid Commission—Tim Anderson was represented by that commission—to ascertain what the commission thought of the strength of his case, to ascertain how his case would be conducted, or to uncover matters that would normally be protected by legal professional privilege. Legal professional privilege may be defined in many ways, but rules already exist for the execution of search warrants in lawyers' offices under Commonwealth law. Part of rule 12D states:

> (1) . . . "legal practitioner" means a person admitted to practice as a barrister or solicitor in New South Wales.
> (2) An authorised justice must not issue a search warrant at any office or residence of a legal practitioner, or at any other place ordinarily used by a legal practitioner or by other legal practitioners for the purpose of consultation with clients, unless, in addition to the matters set out in s.12A, the authorised justice to whom the application is made is satisfied that there are reasonable grounds to believe that the legal practitioner, or other legal practitioners practising with him or her, or any person employed by him or her or any other such legal practitioner or a member of the legal practitioner's household has been or is about to become a party to an offence.

That provision may apply to an alleged conspiracy between a practitioner and others. It continues:

> (3) A search warrant . . . shall be . . . in the prescribed form.
> (4) The authorised justice shall prepare and furnish an occupier's notice to the person to whom the authorised justice issues a search warrant under this provision.
> (5) An occupier's notice . . . shall be in the prescribed form.

This objective can be achieved by way of regulation. Alternative methods are being discussed of using search warrants in lieu of a subpoena or in overcoming legal professional privilege. The Commonwealth police have already worked out the Commonwealth Government guidelines. They are applicable in Commonwealth law only and have no effect in New South Wales law. Those are just a series of constructive suggestions by the Opposition in relation to the serious matter of search warrants. I have long been a crusader for search warrants to enter a home to be issued only by a senior magistrate. I do not think the Government would object to that, though the amendment does not give rise to it. In view of the matters I have outlined, I ask the Attorney General to consider deferring the legislation to take into account the suggestions I have made. If the Government feels compelled to proceed to the amendment, the Opposition will oppose it. Perhaps at a later stage and in other circumstances I could prepare a new codified search warrants law for New South Wales. The Government is under no political pressure to proceed with the Search Warrants (Amendment) Bill. The former Attorney General had the opportunity to amendment the Act when the Gundy and Brennan episodes occurred, but he found it extremely difficult. He just issued good news stories. It is time for the Government to get down to passing some basic good law on search warrants. While the Attorney General has the bill before the House, he should take into consideration the matters I have raised this afternoon.

Debate adjourned on motion by Mr Hartcher.

BILLS RETURNED

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

Aboriginal Land Rights (Amendment) Bill
Marine (Boating Safety-Alcohol and Drugs) Bill
Marine Pollution (Amendment) Bill
National Rail Corporation (Amendment) Bill

CONSTITUTION (FIXED TERM PARLIAMENTS) SPECIAL PROVISIONS BILL

Second Reading

Debate resumed from 9th December.

Mr WHELAN (Ashfield) [5.23]: I understand the Government has a second print of the bill. Will it still rely on the first print of the bill?

Mr Moore: The first one.

Mr WHELAN: The Government has put forward a series of amendments for discussion. The general thrust of the legislation arises from negotiations between the Government, the Premier, the honourable member for South Coast, the honourable member for Bligh and the honourable member for Manly that led to a document referred to as the memorandum of understanding. The document says it is a memorandum of understanding but then talks about it being an agreement. The Premier signed the document on behalf of the Government. Clause 3 of the memorandum—which is an agreement—is curious. It says that the honourable member for Tamworth is to be regarded as a member of the Government for the purposes of the agreement. The interesting thing is that the honourable member for Tamworth was not a signatory to the document.

The principal bill and the subsequent Government amendments provide that, in essence, the date for the next general election shall be 25th March, 1995. The Government proposes to amend the bill by deleting clause 4 the words "under section 5" and inserting the words, "in accordance with this Act". The Government proposes to move other amendments that relate to various other sections of the Act. I suppose the essence of this debate will not centre around the minor amendments—if the bill can be regarded as being affected by minor amendments—but around the amendments to clause 6 of the bill and the new clause 7 that the Government had produced. For historic purposes the Government in its first amendment to clause 7—though it subsequently changed the amendment—changed the word "stable". The clause reads:

> When deciding whether a current Assembly should be dissolved in accordance with this Act, the Government is to consider whether a suitable alternative Government can be formed without a dissolution . . .

The Government's amendment provides:

> When deciding whether a current Assembly should be dissolved in accordance with this Act, the Government is to consider whether a viable alternative Government can be formed without a dissolution . . .

The clause further reads:

> . . . and, in so doing, is to have regard to the motion passed by the current Assembly expressing confidence in an alternative Government in which a named person would be Premier.

The essential difference is that the Government in the first amendment it circulated spoke about stable government but now it talks about viable government. The change of words indicates that there may be a powerful and persuasive influence on the Governor, who has inherited

discretion and power under constitutional convention, to exercise the powers he has acquired by common law usage over many years. Honourable members will recall the vigorous debate that ensued throughout Australia on 11th November, 1975, following the actions of the then Governor-General by my standards and by the standards of the majority of Australians. Sir Philip Game's knowledge of constitutional law and convention was far different from Sir John Kerr's knowledge of constitutional law and convention. They had a vote on different issues; they did not have a vote on that. One of the weaknesses of the proposed legislation is that it does not lay down any guidelines. The bill will be amended. I notice that the Government is not involved in any anticipatory comment, nor did it seek leave, because it did not need leave, to talk about its amendments, but someone will soon have to decide the constitutional restrictions and the constitutional convention relating to the exercise of the performance by the Governor of New South Wales.

When the bill was first drafted—and most people believe this to be the case—it provided that the exercise of the performance of the functions of the Governor would be not otherwise than on the advice of the Premier or the Executive Council. The Independent members had some disagreement about that, and honourable members will remember that the New South Wales Labor Council was concerned about the bill that was annexed to the memorandum of understanding. That is the bill the House is debating. A copy of the draft bill relating to the fixed four-year term was annexed to the memorandum of understanding. That bill was considered by a select committee of the Parliament, which extensively deliberated on the problem but came down to the kernel of the problem associated with the bill before the House.

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

PRIVATE MEMBERS' STATEMENTS

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BELMORE ARMY LAND DEVELOPMENT

Mr MOSS (Canterbury) [5.30]: The regional environmental plan which has been designed to assist the Government to implement its urban consolidation policies has been harshly criticised by local government, particularly mayors from the Sydney metropolitan area and the Local Government Association. Generally speaking, town planners oppose the plan. The reason town planners and local government opposed the plan is that the definition of "regional" may relate to individual areas and be detrimental to local planning. Nowhere is this more evident than in the Canterbury municipality. On 14th November, the *Sydney Morning Herald* reported that the Government had announced that it had removed the council's powers to plan the development of a parcel of land in Belmore. That decision was allegedly made to fast track development and meet urban consolidation targets. In reality the decision was nothing more than a political stunt and will result only in undesirable development. The decision will slow down the process of establishing housing on the site. That process will be much slower than it would have been had the matter been left to Canterbury council.

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The site is surplus Army land and could hardly be regarded as having any regional significance. A maximum of 50 dwellings could be constructed on the site. For some time the council had been negotiating with the owner of the land, the Department of the Army. The Government decided it would step in and do its own thing. I have been informed that the Army agreed to the propositions advanced by the council planners. Because in the past the council had previously approved the site for housing the planners were advised that there was every possibility that the land would be rezoned for that purpose. Obviously development did not proceed in the past, but the track record of the council was regarded as an indication of its

support for the site being used for housing. Furthermore, the plan had been virtually agreed to. Negotiations had reached a stage where everyone was happy and it was envisaged that 45 town houses would be erected on the site with light industrial or commercial development fronting the part of the site which abuts Canterbury Road.

The Government has stuck its nose in, and what has been the result? The process of negotiation now has to proceed again but at a government level. I wonder whether the Government will be concerned about the proper development of the site, particularly the front of the site abutting Canterbury Road which was zoned for light industrial or commercial development. These days people do not live along Canterbury Road if they can avoid it. The council has discouraged housing development along Canterbury Road simply because of the traffic congestion by day and the presence of the notorious prostitutes at night. I accept that the Government has a legitimate role in identifying matters of State and regional importance and taking appropriate planning action. However, the site in Belmore is not of regional significance. All the Government has achieved is a headline implying that it is interested in urban consolidation. It has taken over an existing housing plan—

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

RYDE BICENTENARY

Mr PETCH (Gladesville) [5.35]: On 1st January, 1992, Ryde will celebrate its bicentenary. Ryde is the third oldest settlement in New South Wales, the second being Parramatta and, of course, the first being Sydney. Ryde has a population of 95,000 people and covers an area of 40 square kilometres. Ryde was granted the unique distinction of becoming a city as from 1st January and will be known as the city of lifestyle technology. The population of Ryde is a committed network of people who link their unique human, natural, educational and economic resources in a creative way to revitalise urban living. The process of Ryde becoming a city has been one of negotiation and committees. Mr Acting-Speaker, you are on the committee of Macquarie University, a magnificent education resource in the northern part of Ryde. The Macquarie shopping centre is the largest shopping centre in the southern hemisphere. That shopping centre is a link to one of the largest and finest industrial areas in the southern hemisphere at North Ryde. The citizens of Ryde boast that one can be born at Ryde hospital, one can work under the most pleasant conditions in Ryde and one can die and be buried or cremated there. Ryde offers a lifestyle from the cradle to the grave.

The final meeting of Ryde Municipal Council took place last night. When the council next meets, it will meet as the Council of the City of Ryde. On New Year's Eve the sun will go down on a great deal of history in the municipality of Ryde. On 1st January the sun will rise on a bright future for a city of lifestyle technology. Ryde was the home of the first Australia-born Premier of New South Wales, Mr James Squire Farnell. He was the son of James Squire who, incidentally, owned the first brewery in

New South Wales. The first hops to be grown in Australia were grown at Ryde. So Ryde boasts not only the first brewery but the first hops. The first oranges grown in New South Wales were also grown at Ryde. Those oranges were grown from seeds brought from Rio de Janeiro. Ryde was also the home of the late and great Granny Smith of apple fame. As you know, Mr Acting-Speaker, the wonderful Granny Smith festival is celebrated every year in your electorate. The former home of the great explorer, Gregory Blaxland, who traversed the Blue Mountains, is also situated in your electorate. That home is called Brush Farm House, which is the home of the Corrective Services Academy. Some of it has been handed over to council for historic purposes through your good efforts, Mr Acting-Speaker. Ryde is a place we should all be very proud of. I am pleased to see in the Chamber tonight as well as yourself, Mr Acting-Speaker, in your capacity as the member for Eastwood, the honourable member for Ermington. The Ryde municipality is part of all three of our electorates. I am absolutely certain that I speak

for the three of us when I convey to the people of Ryde our heartiest congratulations on their bicentenary. We wish Mick Lardelli, the council, its officers and staff and all those who have worked so hard every success in meeting the future challenges facing the city of Ryde.

Mr GRIFFITHS (Georges River), Minister for Justice [5.40]: I congratulate the honourable member for Gladesville on his comments. I think it is tremendous that Ryde is to become a city. I visit the area constantly because that is where the Corrective Services Academy is located. I constantly hear what an outstanding job the mayor, Alderman Mick Lardelli is doing and how tremendous is the work of the honourable member for Gladesville, the honourable member for Ermington and the honourable member for Eastwood for the area. I ask the honourable member for Gladesville to convey to Mayor Alderman Lardelli my personal appreciation and that of my department for the outstanding support that the mayor and his council and the city of Ryde give to the Department of Corrective Services, particularly through the academy.

ILLAWARRA ELECTRICITY DEPOSIT REFUND

Mr LANGTON (Kogarah) [5.42]: I wish to raise a matter tonight on behalf of my constituent Mr Kirton of Hurstville. In 1982 the Illawarra County Council gave Mr Kirton a quotation for electricity supply to his property at Marulan. The council made an error in its quote, saying the cost would be $1,000 instead of $10,000. Mr Kirton was not aware of that error, and he posted a deposit of $500 to the Illawarra County Council and requested a meeting with an officer from the council to discuss the extension. Mr Kirton was not contacted by the council and, as the property is not his usual residence, he gave no further thought to the issue until February of this year. On 6th February Mr Kirton wrote to Illawarra Electricity advising that he had applied for power to be connected to his house by Southern Tablelands County Council and requesting that his $500 deposit be returned with interest. Mr Kirton emphasised that as the council's policy is to charge users interest if they make late payments so should the council pay interest to clients whose money has been deposited with the council for some time.

To be fair, the council was considerate in that that $500 deposit would not under normal circumstances be refundable. Mr Kirton is appreciative that the council refunded his original deposit. However, his claim still stands that as the council was earning interest on his money, it should reimburse at least some of it. When Illawarra Electricity wrote to Mr Kirton on this matter, it alleged that it had already refunded Mr Kirton his deposit back in 1985, following a telephone request from Mr Kirton, although it states that the cheque was never cashed. Mr Kirton denies that he spoke to anyone at the council until this year. However, this is merely a side issue. The real question is

whether the electricity authority should pay interest on deposits received, as do some other government authorities. Mr Kirton wrote to the Minister for Planning and Minister for Energy but was fobbed off with this reply:

> . . . councils are free to determine whether interest is to be paid on security deposits. I cannot comment whether this is the most equitable decision which council could have made . . .

Mr Kirton and I would like to know who can comment on the equity of Illawarra Electricity's decision? Illawarra Electricity? Nobody else. Is there no longer ministerial responsibility for public authorities, or is the creation of independent, commercially oriented authorities merely this Government's way of sidestepping ministerial accountability? Everyone has told Mr Kirton his problem is his alone. Yet when he had money to deposit, the authority was happy to take it. When the authority made a quotation error in the order of $9,000, Mr Kirton was expected to accept it. Yet no one—from the council to the Minister—is willing to accept Mr Kirton's claim for interest. If the council were to say it never deposited the cheque in an interest earning account, that might be an acceptable reason for the non-payment of interest to Mr Kirton. However, it has not said that. Mr Kirton is expected to be satisfied with the feeble excuse that non-payment of interest is "policy". Neither Mr Kirton nor I accept this as a reasonable justification for the

council's non-payment of interest, and I would ask the Minister for Planning and Minister for Energy to intervene in this matter. Mr Kirton has further advised me that the Minister has told him that he has a committee currently examining the matter. I ask the Minister for Planning and Minister for Energy to fully consider Mr Kirton's situation and to report as soon as possible so that Mr Kirton knows where this matter stands.

Mr GRIFFITHS (Georges River), Minister for Justice [5.44]: I will certainly pass on the concerns of the honourable member for Kogarah to my ministerial colleague and seek to have put in place the request that the matter be examined by that committee.

POONCARIE POLICE STATION

Mr SMALL (Murray) [5.45]: Last week I had an opportunity to speak in this House about a meeting that was pending in a small town called Pooncarie situated on the Darling River. I now wish to inform the House of the events that have taken place since that time. That meeting, which was held in the Pooncarie hall, was about the policing requirements of the town, and it was attended by more than 130 residents of the town. A motion was moved to the effect that the people of the town required a full-time policeman to be stationed at Pooncarie. Pooncarie is an extremely isolated town. It is located 130 kilometres from Wentworth and about 130 kilometres from Menindee Lakes. It is located also near the World Heritage listed Mungo National Park. I am concerned about the fact that the police superintendent in charge of that area may have already recommended that the police station at Pooncarie be closed. I would be strongly opposed to any proposal to remove the current policing presence from that town and district. The

number of people living in Pooncarie is increasing. The local people are worried that if the police presence is removed crime will become a major problem in the town. Everyone understands that in these times of recession there are many unemployed people and that it is difficult to obtain employment. Employment is a major problem which of itself can lead to an increase in crime. The section of the Darling River on which Pooncarie is situated is very popular for fishing and other recreational pursuits.

The meeting to which I referred earlier was attended by Superintendent Noel Allan of the Broken Hill police division, Max Hodges, the inspector from Wentworth, Don McKinnon, the shire president of Wentworth, as well as many other councillors and leading citizens. At least ten of the residents of the town spoke at the meeting, and they presented their case extremely well. They have demonstrated to me beyond doubt that they do have a requirement for a full-time policeman in the town and for the police station to remain open. In a town such as Pooncarie the presence of a police family can be of benefit to the local school. The parents, and usually the wife of the policeman, are involved in community activities. I would object strongly to any proposal that was to be put before the Minister for Police and Emergency Services, the Hon. Ted Pickering, that sought to close the police station in an isolated town such as Pooncarie. The people in that area deserve to be looked after. They are taxpayers. For the past 100 years a police station has been located in the town. The fact that at present the crime rate in the area is low is not a reason to remove the policeman from that town. The cost factor should be taken into account. The community has requested that the Western Division be provided with extra funding to meet the policing needs. Police in the Broken Hill and districts area have to do a huge amount of travelling. I strongly request the Minister to maintain police services at Pooncarie.

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

Mr GRIFFITHS (Georges River), Minister for Justice [5.50]: I congratulate the honourable member for Murray on his continued, sincere and competent representation which

he has become well known for over many years. I have empathy for his concern. I shall immediately raise the matter with the Minister for Police and Emergency Services, the Hon. Ted Pickering.

WINDALE MEDICAL PRACTITIONER ACCOMMODATION

Mr FACE (Charlestown) [5.51]: In the spirit of good will exhibited here tonight, before I speak on my grievance I congratulate the city of Ryde on becoming a city. Most people would not know it but my ancestors, Stephen Face and his brother George, played a major role in the development of the Ryde district. Both are buried in the historic church of St Anne on the hill at Ryde. My family had a close connection with the area in the early years of the colony. The brothers came from Stroud Gloucestershire in Britain. I bring to the notice of the House tonight a matter of great concern to me and my electorate, especially the suburbs of Windale and Gateshead West, and Gateshead to a lesser degree. For 17 years a doctor has been located in the Windale Community Health Centre, which from memory was constructed in about 1974. I ask the Minister for Health Services Management to note that the doctor, Dr Ruba, and his wife were the only people willing to come to the suburb. At the time it was somewhat isolated. A succession of doctors had come and left over the years. The area is described as the largest Department of Housing development outside the Sydney metropolitan area.

Some weeks ago my office had a phone call from Dr Tim Smyth, the

administrator of the Hunter Area Health Service, indicating he wanted to remove Dr Ruba and his wife from the premises. Similar action has occurred before. Under the previous Government I made representations about it. I cannot understand why the area health service wants to remove Dr Ruba and his wife from such a small area. Unlike in many other housing department areas, the residents have stopped in the suburb. In many cases they are aged or disadvantaged. To Dr Smyth's credit, he has taken on board what I have had to say. I have served notice on him that he will have me to contend with if Dr Ruba is put out of the premises. We have been through this exercise before. I have made representations to the Department of Housing and I am receiving co-operation from the Minister for Housing in trying to relocate Dr Ruba. I reemphasise that it is a large housing department area. The only public buildings are the local Catholic school and church, the local Anglican church, the bowling club and the Police-Citizens Youth Club. None of them would be appropriate places for a doctor's surgery. They are the only facilities there other than the community shopping centre which, once again, is owned by the housing department.

Dr Smyth has said that he has taken on board my representations and will investigate finding alternative premises for Dr Ruba. I would appreciate this but I think it will be difficult. We have been through this exercise before and I have written to the Minister for Housing in a responsible manner. The suburb was carved out in the late 1940s and early 1950s. Many things have been wrought upon it over the years, most of them very wrong. I have been connected with the community through church youth clubs, police youth clubs, my previous employment in the gas company, being a policeman and as the local member for 19 years. The residents are the soul of the earth. People whip in there and make stupid statements about people being disadvantaged and give the residents a bit of an inferiority complex. This is a bit over the odds. If Dr Ruba has to move, the important service he provides to the community should be provided at another location. Residents of the community can ill afford to travel to nearby Charlestown, close as it may appear to be, at considerable disadvantage. Even though it is a very large area, there is a strong community of interest. I ask the Minister for Justice to bring the matter to the attention of the Minister for Health Services Management.

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

Mr GRIFFITHS (Georges River), Minister for Justice [5.56]: I thank the honourable member for Charlestown for raising his very real concern in regard to medical services for his constituents. I will raise this matter as a matter of priority with my ministerial colleague, the Minister for Health Services Management.

Private members' statements noted.

CONSTITUTION (FIXED TERM PARLIAMENTS) SPECIAL PROVISIONS BILL

Second Reading

Debate resumed from an earlier hour.

Mr WHELAN: The whole purpose of this bill is to create a set of circumstances within which the people of New South Wales may be assured of stability of government. An agreement has been entered into between the Government and the Independents which will provide the necessary stability. Clauses 4, 5 and 6 of the bill indicate where discretion will be used. I turn now to amended clause 6, which is headed "Preservation

of the Governor's power to dissolve the current Assembly in accordance with established constitutional conventions". The clause states:

> This Act does not prevent the Governor from dissolving the current Assembly in circumstances other than those specified in section 5, despite any advice of the Premier or Executive Council, if the Governor could do so in accordance with established constitutional convention.

Put in layman's language, the Governor may dissolve the Parliament despite any advice of the duly elected Premier of the State if those established constitutional conventions found that he could do so. As yet no one has defined the established constitutional conventions. There is no booklet, regulation or guideline on which the Governor could rely. He must rely on constitutional advice and has a bevy of people to call upon. The Governor has unfettered discretion as to where he will acquire the information to enable him to decide whether he is operating within established constitutional conventions. I must say that the perceived constitutional conventional role of Governors and Governors-General was somewhat dissipated by the circumstances surrounding the advice given by and to Sir John Kerr in 1975. The Governor will be able to determine his own constitutional powers. One of the weaknesses of this bill is that it contains no guidelines. Honourable members will recall that the honourable member for South Coast was so concerned about the role to be played by the Governor that he moved a motion that the House send a message to the Governor. The Independents, who were basically responsible for the charter of reform, together with the parliamentary committee, ultimately decided that this bill would be set in place. The motion of the honourable member for South Coast was seen by many as a signal that the Governor should take cognisance of the view of the Assembly on the question of confidence. That motion remains on the notice paper. It has not been debated or resolved by the Parliament. There was much ado about the honourable member for South Coast breaching constitutional convention in pursuing his motion.

Clause 6, because of its ambiguity, and the other amendments to the legislation will enable the Government, that is the Premier, to form the view that he is able to call an election at any time. This bill will not stop the Premier from calling an election whenever he wishes. The criteria for calling elections is contained in the Constitution Act and the Parliamentary Electorates and Elections Act and, depending on which law one is prepared to consider, it could be either 19 days or 21 days. This bill will not prevent the Government from calling an election, because of the existing constitutional conventions. There is no enshrinement of the conditions precedent under which the Governor is bound to operate. Honourable members should think of these circumstances: today the Court of Disputed Returns decided that there will be a by-election in the seat of The Entrance and that a date will have to be set by Mr

Speaker. It is another shibboleth of archaic legislative history that Mr Speaker is the person who sets the date for an election. No one would deny that the date is set by the Premier of the day. It will not be the Speaker of this Parliament. The Speaker of the Parliament will be advised by the Premier of the day when the by-election will be held. However, it is not the Speaker's problem alone. Former Speakers have faced that problem. In the way the Speaker's position is currently framed the Speaker has no inherent power to nominate the date for the by-election.

Though the Court of Disputed Returns made a decision only about the by-election for The Entrance, there is a possibility of other by-elections. For instance, a member may wish to retire or, heaven forbid, may become seriously ill, or a member may wish to enter Federal politics. If, say, the Government has four or five by-elections in the pipeline, would that mean that the Premier would go to the Governor and say, "I have four or five by-elections. Rather than go to that expense, let us have a general election". What is the constitutional convention for that circumstance? There is ample precedent to do that. For years Premiers of various political persuasions have used that

precedent to call general elections. All that one could say about this bill is that it is an expression of interest by the three Independent members who have entered into what might broadly be called an agreement to provide stability. If the Premier or a person nominated by him decides to call an early election, it could not be held to be higher than a breach of an article of faith between the Government and the Independent members. The bill has no legal efficacy. It has no real constitutional foundation. It is contingent upon the validity of an arrangement entered into by the Independent members and the Government. I sought advice on this matter. I spoke to my colleague the honourable member for Smithfield and others who served so well on the constitutional committee. I went a little further than the honourable member for Smithfield and sought the advice of Sir Maurice Byers Q.C. and Mr John McCarthy Q.C. Mr McCarthy's track record can be seen when one reads the judgment of Mr Justice Slattery in the case of *McBride* v. *Graham*.

Mr Hartcher: It was a poorly written judgment.

Mr WHELAN: The honourable member will have ample opportunity to attack judges, but he will have to do so by way of substantive motion. This is not the time. The honourable member should accept the decision of the judge. Two eminent Queen's Counsel referred to the invalidity of the deed of arrangements. I recall saying to the honourable member for South Coast that this bill is of limited legal efficacy, but is of significant importance to the people of New South Wales. If the Premier of the day does not honour the undertakings in the agreement, it cannot be said that the agreement has been breached. No guidelines have been laid down. There is nothing stated in the broad definition of "constitutional convention" with which the Governor must comply. That expression has a wide meaning. Rather than it being a breach of an Act of Parliament—an Act with meaningless effect—it will be a breach of an article of faith, the subject of an agreement entered into between three Independent members and the Government. The Independent members will have to determine their own position.

The Opposition does not want a general election, the three members who have entered into the memorandum of understanding with the Government do not want a general election. We all agree that the next election will be held on 25th March 1995. No circumstance will permit an earlier election unless constitutional convention demands it. That is a weakness in the legislation. It would be a different situation if all constitutional conventions relied upon by former Governors and Governor-Generals were expressly stated in the bill. At the moment we must rely on the inherent power of a Governor in the deciding whether constitutional convention have been breached. I am pleased that the words "stable alternative government", will be amended to state "viable alternative government". I am pleased also that the Independent members believe they have achieved a milestone in this Parliament. To a significant extent that is so. If they succeed in achieving stability in government in New South Wales, they

deserve applause. So much will rest on the shoulders of the Independent members of the New South Wales Parliament. The legislation is an important article of faith. If the Government breaches it, the onus will be fall on the Independent members to ensure that it is repaired.

Mr SCULLY (Smithfield) [6.14]: The Constitution (Fixed Term Parliament) Special Provisions Bill arises out of an agreement struck between the Government and the Independent members of this House. I doubt that the Government was overly keen on it. I suggest that the Premier was dragged kicking and screaming to its signing. I await with interest the contributions to debate of the honourable member for Manly and the honourable member for South Coast. I believe they have a fetish about fixed-term Parliaments. It may have mixed blessings. I had the pleasure of serving on the committee that inquired into this matter. The honourable member for Manly was also a member. I take this opportunity to thank the staff, the project officer and others

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involved with the committee. I am also a member of the Committee on the Office of the Ombudsman. The adversary approach adopted by honourable members in this Chamber dissipates when they meet as members of various parliamentary committees. A positive aspect of the agreement between the Government and the three Independent members of this House is an improved consultative process between the Opposition and the Government. That can only benefit the people of New South Wales.

I find it more difficult to be combative in the committee room than in this Chamber. Because the holes in the legislation were filled as a result of discussion that took place between committee members, much of the heat has been taken out of the debate in this House. John Nethercoat, a witness who appeared before the committee, raised two interesting matters. He said that the notion of a fixed-term parliament was a mixed blessing. He referred to a various past heads of government who may agree with that view. By implication he referred to Whitlam in 1974, McMahon in 1972, Fraser in 1983 and, my colleagues on the Government side of the House may well be thinking, the incumbent Prime Minister in 1993. In New South Wales Barrie Unsworth and Eric Willis would have found the notion a mixed blessing, as I am sure the Premier would have found it in May this year. When one attempts to codify constitutional functions, one tends to create additional problems. Mr Nethercoat quoted the following words of Machiavelli:

> So in all human affairs one notices if one examines them closely that it is impossible to remove one inconvenience without another emerging.

For a number of reasons that may well be the case with this legislation. I believe that with this legislation it is the Government's intention to reduce the number of elections—which I suppose most would support—and to remove what many of us cynically regard as the inalienable right of governments to ambush oppositions. I note that the Minister is nodding in agreement. I concur with that notion. While ever I am on this side of the House I cannot say that I like the idea of it—

Mr Hartcher: You will be there a long while.

Mr SCULLY: It may not be that long.

Mr Hartcher: If the honourable member for Smithfield ever got to sit on this side of the House, he would the greatest ambusher of all. The arch Machiavelli.

Mr SCULLY: I regard that as a compliment, coming from the honourable member for Gosford. If Labor wins government, the honourable member for Gosford will be once again practising law, plying a trade as the former member for The Entrance will have to do. If the Independent members take away what is regarded as the inalienable rights of governments to ambush oppositions, the opportunity will still remain for governments to manipulate issues of

the day and the budget process to maximise its level of support. I ask the Minister to clarify a matter when he replies to the debate. I am not sure that he is correct in his assertion about the length of campaigns. He referred to the beginning of the year, that is mid January to early February, through to March 1995 as the campaign period. Though the committee suggested a reference to the electoral funding committee, I fear that campaigns will be considerably longer because of certainty of election date. If I know the date of an election a year out from that election, I shall start campaigning.

Mr Photios: Given your track record, you should be campaigning now.

Mr Fraser: It will cost you an absolute fortune.

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Mr SCULLY: I am campaigning now. What the honourable member for Coffs Harbour spent on his by-election was more than double what I spent on mine.

Mr Photios: He had some opposition.

Mr SCULLY: He had some opposition and spent more than double. I did not have a Liberal opponent and spent half that amount, so it worked out at about the right amount. The Government got egg on its face in that by-election. Australian Labor Party members on the committee expressed concern about the advice of Messrs McCarthy and Byers concerning the validity of the proposed legislation without a referendum. McCarthy and Byers argued that the provisions of section 7(A)(1)(d) of the Constitution may apply to legislation that alters the circumstances of the vacation of a seat in either House, requiring a referendum. That provision must be considered in terms of section 7(A)(6)(e), which states that no referendum is required if all members are equally affected. Expert advice was given that that would mean that a referendum was not required. I am not so sure. The proposed legislation affects half the members of the upper House and all members of the lower House, which may mean unequal treatment of half the members of the upper House and that therefore a referendum is required. Some honourable members might say that is no big deal because the expiry date is June, that the proposed legislation puts that date back to March, therefore make that date June and thus remove any argument about invalidity. The committee suggested that, but the Government did not take it on board, though I am not sure why. In my view the argument about a long election campaign is nonsense. There may be some other reason that the Minister is not prepared to reveal. I note with interest the date in March. The honourable member for Ermington was elected in 1988. The date of 20th March, 1995, is the Saturday after the expiration of seven years, for superannuation purposes.

Mr Photios: You have a fixation about superannuation.

Ms Moore: The Australian Labor Party has a fixation about superannuation and that is why you are talking about it.

Mr SCULLY: I could not care less if the date is March but if it has nothing to do with superannuation why does the Government not make it February 1995?

Ms Moore: Because that is when the mardi gras is held.

Mr SCULLY: As the honourable member for Bligh has interjected I will tell her that people have suggested outrageously that the proposed legislation is the Clover Moore superannuation fixed term amendment bill. The honourable member for Bligh is not that cynical. But the honourable member for Ermington, who is on the environment committee and on good terms with the Minister for the Environment, is in there batting and has picked the Minister's ear and said, "Superannuation, brother—seven years, 25th March, 1995, and we'll be

right". He wants to get ahead. He thinks Greiner is going to hit the fence and wants to make a leadership bid. He has all the young turks on side batting for this fixed term provision.

Mr Moore: Most of the young turks are older than I am.

Mr SCULLY: I think that is the magic for the date. I do not wish to become cynical at this early stage of my very long career in this House. I know that the honourable member for North Shore views the measure with contempt because he has already notched up his seven years. I know what members opposite are up to. I turn to the reserve powers of the Governor which were discussed at length by the committee. The royalists on the Government benches were revealed. When I first examined the

proposed legislation, clause 5 in particular, I formed the view that the Independents and the Government were hoping to bind the Governor to being in a position to dissolve the House only when the circumstances set out in clause 5 were satisfied. During the committee hearings it became apparent that was not the case and that the Independents did not want to affect the powers of the Governor to dissolve the Legislative Assembly. The Minister, in proposing these amendments, has recognised the possibility of a serious difficulty between clause 5 and clause 6. Clause 5 provides that the Assembly would be dissolved only in the circumstances authorised by that section. Clause 6 provides that the enactment of the Act does not affect the establishment of any law or established constitutional convention, and so on. Which clause is the primary clause? I suggested to the committee that clause 6 be made subject to and conditional upon clause 5, which would make clause 5 the primary clause, thus codifying the Governor's powers. By that means we would know when the Assembly could be dissolved.

[*Extension of time agreed to.*]

The Government took the view that the drafting may have been in error and wished to make crystal clear that there was no intention in the legislation to restrict the Governor's powers, and thus made clause 6 the primary clause. The only effect of the amendment is to bind the Premier in terms of the circumstances in which he may advise the Governor. I am not sure whether that was an unintended consequence of the drafting or whether the Government never intended to go any further with the Independents than to bind the Premier. I would like to hear the Minister's views on that point. The Governor's powers to dissolve the Assembly are completely unaltered, though in certain circumstances the Premier can advise the Governor to call an election. Another matter of interest concerns the words used in clause 5(2) with respect to no confidence motions. In committee I raised the difficulty of defining what is meant by the phrase "no confidence" and whether a schedule was necessary at the back of the bill specifying the words that would enable the moving of a no confidence motion. No-one appearing before the committee was able to satisfy us about what constituted a no confidence motion.

Political historians on both side of the House would know that in 1941 Messrs Wilson and Coles moved in the Federal Parliament that the budget be reduced by one pound. That was a vote of no confidence. The motion did not contain the words "no confidence", the Government was not mentioned, merely that the budget be reduced one pound—and Arthur Fadden fell. The majority view of the committee—and I am prepared to ride with it—is that the words "no confidence", having a well-known meaning, will probably have to be used. The amendment will delete the phrase "Premier and other Ministers" and replace it with the word Government. Such a motion will place no confidence in the Government, nor in the Premier and the other Ministers. The other problem is the baton change. The proposed legislation allows for that and makes clear that before the Governor may grant dissolution of the Assembly he must take into account whether the Assembly has expressed confidence in some other person in the Assembly. I suppose that provision was inserted to cover the present circumstances in particular. Given that there will be a by-election in The Entrance, the numbers could change at any time. I notice that the honourable member for North Shore has gone away to write some more correspondence. He may make another error. Perhaps the honourable

member for Wakehurst as he is chasing the nude bathers will fall in the surf and drown. Who knows?

[*Mr Acting-Speaker (Mr Tink) left the chair at 6.30 p.m. The House resumed at 7.30 p.m.*]

Mr SCULLY: I have a few more points to make, but I shall be brief. The other problem with the legislation to which I wish to refer concerns the giving of time. Clause 5 contains two time provisions, the first appearing in clause 5(2)(a), which refers to a
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period of three clear days' notice. During the committee hearing I said that the clause as drafted would allow the Premier to advise the Governor to prorogue the Parliament after a notice of motion of no confidence was given. It is open to this Government to escape the consequences of a motion of no confidence in that way. The amendment the Government will move will only address the problem of adjourning the House for a period greater than the eight-day period set out in subclause (2)(b) of clause 5. I do not know whether the Minister wishes to comment on that. He proposes to fix the problem of clause 5(2)(b) by referring to adjournments. The proposed legislation does not cover a problem to which the Victorian legislation refers—a dissolution arising out of a special bill. As the Minister may be aware, under the Victorian Constitution, if a bill is passed by the Assembly, rejected by the Council, again passed by the Assembly and the Speaker certifies that it is a special bill and the Council rejects that, the Governor may dissolve the Assembly.

Under the present Constitution the provisions for resolving conflict between the Houses is solved only by referendum. That matter was raised by the Australian Labor Party during the committee hearing. If the Government proposes to consider codifying the process of obtaining dissolutions of the Assembly, it ought also to consider resolving or codifying the resolution of conflict between the two Houses. It could do that by adopting the provision in the Victorian Constitution relating to a special bill. It is not good enough to hold a referendum every time a bill is rejected. It may well be that when the Australian Labor Party wins the seat of The Entrance and the honourable member for Gosford is hit by a bus there will be a baton change and the Australian Labor Party will form a government. If the likes of Reverend the Hon. F. J. Nile reject that government's legislation, it should be able to go to the Governor and say that its program is being frustrated and the Assembly should be dissolved. Under the proposed legislation that will not be possible. That is unfortunate.

I understand the Government intends to protect the Governor's discretion by allowing him to take two things into account: whether the Government has abused the motion of no confidence provisions that will be enshrined in the Constitution by moving a motion of no confidence on itself so as to ensure a dissolution of the Assembly; and whether the Assembly has expressed confidence in some other person. As I said at the beginning of my speech, I enjoyed the process of serving on the legislation committee. It is important that the process continue. I also enjoyed working with the honourable member for Manly and other committee members in a more constructive than combative process. Ultimately, the result will be better legislation.

Dr MACDONALD (Manly) [7.35]: Before I commence I should like to acknowledge publicly the work that has been done by the Leader of the House and also by the Premier in bringing these bills to this point. It is an example of what can be done through the process of conciliation, negotiation and consultation, which has been a feature of the past few months. I do not need to remind honourable members that the principal bill was included in the charter of reform as an annexure to that document. It may be that it contained some minor drafting errors that raised a number of hackles and a number of issues. Since then it has gone through a process of fine tuning. That is why I seek to acknowledge the work done by the Leader of the House and the Premier in allowing us to come to an agreement and address the issues that arose. I would not seek to argue the legal points. There are a number of lawyers—and I guess bush-lawyers—in the House who could seek to tie the bill up in a tangle of legal argument. I do

not claim to be a constitutional lawyer. A number of submissions were made to the committee, which was addressed by Dr Winterton and Mr McCarthy. The committee also received submissions from Professor Crawford. Those men are eminent in their field. Yet, at the end of the day I was more confused on many things than at the start. It is probably better to stay out of that tangled web, provided we are comfortable about the direction
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in which the bill is going. The majority of honourable members, and my fellow Independents and I are satisfied.

The bill seeks to provide interim legislation for the term of this Parliament. Then a referendum will be held and a second and more permanent bill drafted. The bill arises out of the constitutional reform that was one of the principles within the charter of reform that was signed about a month ago. It appeared on page 3 of that document. An indication of the priority given to that issue is that it appears as No. 1 in the document. It is important for me to make that point because at all stages throughout the negotiations that issue was never going to be compromised. The four-year fixed term was the most important consideration for the Independents. As I have said before, it underpinned the Government's intention to act in accordance with the spirit of the document. Page 2 of the document states clearly that the Government will act according to the spirit of the fixed four-year term. That is why I said that when the bill was produced in draft form some areas needed to be addressed. One could reasonably ask why a fixed four-year term is so important. Apart from anything else, a fixed four-year term avoids an early dissolution of Parliament. I should like to draw the attention of the House to a speech given on 7th September by a former Prime Minister and a man of great eminence, Mr Gough Whitlam. The speech was entitled, "The Light on the Hill". On page 2 of that speech he said:

> The great remaining defect of Australia's constitutional machinery since Chifley's day has been the frequency of Federal and State elections. The objective should be to have elections for all Federal and State Houses of Parliament on the same day, as has been the rule for more than a century in the United States of America.

The other advantage of a fixed four-year term is that it allows for planned government and removes the possibility of the cynical expediency that accompanies an early dissolution. It is consistent also with the four-year term referendum, which was carried. Having said that the Independents wanted a fixed four-year term, it is somewhat paradoxical that at the same time we were keen that the bill should contain provision for a baton change. That was the dilemma that underpinned much of the debate that took place about the wording of the bill. How can there be a fixed four-year term when let-outs are also needed? The answer to that question was the reason that the debate within the select committee subsequently focused on clauses 5 and 6, to which my remarks will be primarily directed. The report of the select committee is probably on record as one of the fastest resolutions of a committee in the history of this House. I agree with the honourable member for Smithfield, who described the committee as friendly and efficient. In fact the committee met on only one or two occasions and for one day of hearings.

The committee made a series of recommendations. I do not believe they were any more than recommendations. In a sense they were not totally binding. Obviously there is some disparity between the recommendations and the final wording of the bill. Basically the task of the select committee was to try to focus on areas that needed examination. There was general consensus; there were no minority reports. Some members of the committee did not agree entirely with all the recommendations, but because the matter was to be debated on the floor of the House the committee felt that a minority report would be inappropriate. The Independents have agonised over clause 5. That clause provides the Governor with powers to dissolve Parliament prior to 3rd March, 1995. It is clear that the Governor has three opportunities to exercise his right to dissolve Parliament. Under section 10 of the Constitution Act he can seek to dissolve Parliament based on expediency. Under clause 6 of the bill he has the right to dissolve Parliament according to established constitutional conventions. Under

clause 5 of the bill, which is the one to which I want to refer particularly, he has the right to dissolve Parliament if a motion of no confidence has been passed and a subsequent motion of confidence has not been passed within eight days. He also has the right to dissolve

Parliament if the Legislative Assembly rejects a bill that appropriates revenue for the ordinary annual services of government.

In effect, the first two rights to which I referred, the rights under section 10 of the Constitution and clause 6 of the bill, relate to the reserve and discretionary powers of the Governor. Clause 5 is different and relates to a specific resolution of the Parliament. As I have said, the Independents sought a provision in the bill for a baton change. That has been provided for in clause 7. The Australian Labor Party, both within the committee and subsequently, argued that a baton change should be totally non-discretionary. That was argued on the basis of constitutional conventions and the fact that clause 10, if exercised, provides an opportunity for the Governor to exercise his discretionary power. I believe clause 7 provides the Governor with a discretion to consider a viable alternative government. It provides that he should have regard to the resolution of the Legislative Assembly. Clause 7 contains an element of discretion which is sufficiently narrow to satisfy the Australian Labor Party. That clause has been haggled over and dictionaries have even been referred to, to try to find a satisfactory form of words.

The word "viable" was introduced for the following reasons. A motion of no confidence or a motion of confidence can be carried in exceptional circumstances. The Leader of the House pointed out that one needs to take into account that there may be exceptional circumstances such as absenteeism, an abuse of the system of pairings, accidental death, et cetera. Those matters must be taken into account, and that is why the use of the word "viable" was preferred to providing for an automatic baton change. That is the philosophy that underpins the wording of clause 7. Notwithstanding that, the bill contains two other checks and balances. One of those is the three-day notification period from the time the notice of motion is given to the time the motion has to be put to the Legislative Assembly. That provision allows for the possibility of illness or absenteeism. The other check and balance is that normally the passing of a motion of no confidence or a subsequent motion of confidence in an alternative government would require the support of the Independents. If a number of members were killed in a major accident, that would certainly not be the case. The Leader of the House was concerned that an essentially unstable alternative government could be agreed to. Because of the requirement for a three-day notification and the need for the support of the Independents, that possibility is extremely unlikely. Those provisions prevent the carriage of a confidence motion in exceptional circumstances.

[*Extension of time agreed to.*]

In a sense, the draft bill gave rise to a concern on the part of the Independents that there were no express provisions for the handover. Provisions for a handover were an important component of the charter of reform. That concern has now been addressed and those provisions are contained in a new clause 7. I should like to conclude by referring to clause 6 of the bill. Honourable members could probably argue all night about the discretionary and reserve powers of the Governor. Clause 6 allows the Governor on his own motion to seek a dissolution of Parliament. However, the wording of clause 6 is now such that it must be subject to clause 5. In other words, it is subordinate to clause 5. I believe that satisfies those who were concerned that the discretionary power of the Governor may be abused. I do not believe that will happen. In my opinion—and my opinion is not necessarily shared by all the Independents—the discretionary reserve powers of the Governor have a role to play. The expression of that opinion may lead to arguments about the monarchy and republicanism. To what extent we wish the Governor to comply with the will of the Parliament is the kernel of the debate. To what extent do we allow the Crown to determine the fate of any Parliament? Other issues came up, but I will not seek to address them. They do come up in the

recommendations. Ultimately our advisers suggested we have probably come just as far as we can. I believe this is a satisfactory outcome. It provides for a fixed four-year term. It provides for a responsible baton change if the occasion arose. It also conserves the reserve powers. I fully support the bill as it is to be amended.

Mr HATTON (South Coast) [7.51]: By any measure this is an historic piece of legislation. It does no credit to those members who criticise it that they do not recognise it is an historic piece of legislation. Fair criticism is what this Parliament should be all about. Failure to recognise the historic nature and importance of this legislation is unforgivable, particularly as the legislation goes to the heart of this Parliament. This is the first step in a two-stage process. The first stage enshrines in law a four-year term for the Fiftieth Parliament; by clause 5 it provides for a change of government in defined circumstances without an election during the term of the Fiftieth Parliament; and it defines the powers of the Governor when circumstances dictate a change in government on the floor of Parliament; or, alternatively, it provides for the calling of an election, as covered in clause 6. I commend the member for Manly for his excellent work on the parliamentary committee and for his remarks in outlining many of the technicalities in the bill. Those technicalities relate to the amendments to be moved to the bill, which were forged over a number of sessions between the Independents and the Government.

The second stage will be the production of a long-term bill, it is hoped, after a referendum endorses the necessity for such a bill. There will be further defining of the Governor's powers and the convention. This bill threw up some fundamental challenges and problems. In that regard the Independents have not been flying by the seat of their pants. We have continually had the advice of two eminent constitutional lawyers who have given of their advice freely. They have taken an intense interest in what we were doing and trying to achieve. They would prefer not to be named, but I would like to thank them nevertheless. We also had advice indirectly from others who were very well placed and qualified at the highest level. I would like to thank Arthur King in particular. He has had the carriage of this legislation for months. He has done very little else and he will be happy to see it out of the way after it passes through all stages in this House and is proclaimed before Christmas. I would also like to thank Kate McKenzie and Roger Wilkins from the Cabinet Office who have worked untiringly on this matter. In particular, the Minister for the Environment deserves a great deal of credit for the way he has patiently gone through this legislation with us, looked at the pitfalls, discussed our suggestions with the Premier, the Deputy Premier and with Cabinet. All the time he has been trying to build a model on which we could reach consensus and which would do the job. As late as after midnight last night the Independents were involved in discussions with the Premier to resolve some outstanding matters. I thank the Premier for that.

People of this State voted for a four-year term but they were tricked. They thought there was going to be a fixed four-year term. The politicians said, "Do you want a four-year term?" and they said, "Yes"; and when they voted at the referendum that is what they were going to get. They did not get that because this Premier called an early election merely because the upper House was doing its job. The upper House rejected what he said was a prime piece of legislation that was central to the Government's platform, the Industrial Relations Bill. Because the House of review did its job as a House of review, the Premier went to the polls early despite the undertakings that he had given that he would not do so. As it turned out, he paid a very heavy penalty for doing that. I do not particularly want to zero in on this Premier. The fact is that that has been the story of Australian politics federally and in all the States. They will go to the polls whenever it suits them and will trick the electorate whenever it suits them. They will take advantage of suddenly arising circumstances, or circumstances that they are able to engineer by causing strikes, so that they can gain the maximum advantage. That is not good enough. This legislation is historic because that will not be able to happen in

future.

Let me address the questions that the honourable member for Smithfield raised about the Governor still having discretion. If he reads the amendments, he will see that that discretion has been severely and quite precisely limited. The Governor can only use that discretion if he wants to act contrary to the advice of the Premier or Executive Council. He cannot say, "I acted on the advice of the Executive Council". If he uses that discretion he will stand alone and will have to take the responsibility. It is a heavy responsibility. Knowing the person and knowing the respect for the office that he has, I am sure the present Governor will face up to that responsibility. At the heart of this bill is the reduction of power of Executive Government and the devolution of that power to the Parliament. Executive Government cannot go to the polls when it wants to and cannot trick the electorate when it wants to. The amazing thing is that I should have to talk in these terms. Executive Government is a creature of the Parliament and here am I talking about the devolution of power from Executive Government to the Parliament. The fact is that the Parliament ought to have the power, not the Executive Government. That is what is at the heart of the charter of reform. An imbalance has grown up over 135 years whereby Executive Government has taken to its arms a considerable amount of power and left the Parliament powerless in many respects. The Government has recognised that and it should be praised for that recognition. That is in the introduction to the charter of reform.

The power to call an early election is an abuse of power. It is a discipline upon the backbench. If there is a leadership challenge, there is a threat to call an election to unite your party behind you. An unfair advantage is taken of the electorate. The fact is that this bill will save the taxpayers a lot of money. It costs between $17 million and $20 million to run an election. Two high schools can be built for $20 million. A considerable impact can be made on health services for $20 million. The history of this Parliament is that just over two years has been the term that the average Parliament has sat when there was the provision for a three-year term. We are saying let the term run for four years. The certainty of the election date is very important. One of the greatest problems in Australian politics is that there is not any long-term planning in any of the States or in the Federal sphere. If we are looking for one of the major reasons for the economic problems of this country of ours, it is that we do not have the ability or the will—and, in fact, in terms of the length of the life of the Parliament at any particular time, the weaponry—to project ahead and say: "This is where we are going. We are going to devise an economic and social plan for our country. They are the goals and there are certain things that we will agree on of a bipartisan nature for the benefit of our State and for Australia".

We have small-minded politicians who think in terms of two or three years and they do not give a damn about such a plan. It is retention of power at all costs. This bill will go a long way toward addressing that. It will also be of considerable assistance to the New South Wales Electoral Office. The Wran Government, I believe, gave 18 days' notice for an election and there was an enormous scramble trying to arrange for telephones, organise polling booths, printing, and ballot-papers. Those sorts of things still occurred with the three-week election campaign. Consequently, the Electoral Office will thank the Government and the Independents for this bill. Once passed, the provision will be enshrined in the Constitution for the Fiftieth Parliament and it will not be changed. That is important. There is a concern about whether a fixed term will cause problems with the length of the State election campaigns. That has not proved to be the case in just as fiercely fought election campaigns involving, say, the Sydney City Council. We know what the election date is from one year to another. Candidates soon learn how to play the rules to suit themselves and to have a reasonable election campaign. There will be an understanding that the election campaign will not run for three months

but for three or four weeks because that would be to the mutual advantage of all candidates.

A lot has been said about the power of the Governor. It is important to define his powers. The honourable member for Manly said that he has no fixation about the Governor. The symbol of the Crown is very important in the Westminster system. It shows the people that

Crown land belongs to them. This is not an anti-loyalist approach but it is important to define the powers. Statute law and convention are a bad mix. Convention is all very well until it is not observed. When Governor Game sacked Premier Lang it may even have been illegal, but they were explosive times. The events left a bad taste in the mouth of many people and are still in the minds of people in their late seventies and early eighties. Of course, Governor-General Kerr sacked Whitlam. Many people do not realise that one does not have to be a member of Parliament to be a Minister or a member of the lower House to be Premier. Just think about that. It is all very well until somebody does not observe the convention. Ministerial powers could be given to somebody not even elected by the people. The situation is not spelt out in law.

[*Extension of time agreed to.*]

If the Premier tells a Minister that he must step down and he refuses, the Premier has to resign himself and thereby resign all his Cabinet so that he can then appoint a new Cabinet to get rid of the recalcitrant Minister. That is convention. Let us be careful about going down the track of saying that convention is a good thing. Convention is a good thing, but we also need to define the powers. The challenge that this bill raises is the question of the baton change. I thought that was very clearly defined in the bill and in the amendments agreed to late last night. They were adequately covered by the honourable member for Manly. The current Assembly may be dissolved by the Governor under section 10 of the Constitution Act 1902 but only in the circumstances authorised by proposed section 5. It clearly spells out in what circumstances that is to happen. Proposed section 6 will further confine him to provide that the Act will not prevent the Governor from dissolving the current Assembly in circumstances other than those specified in section 5 despite any advice of the Premier or Executive Council if the Governor could do so in accordance with established constitutional convention.

As the honourable member for Smithfield said, there is still a discretion but it means that the Governor has to fly alone. The Governor is not compelled to have but is constrained to have a mind to what the House has decided. That is the key to how the convention will operate in such cases. The Governor also has to consider whether a viable alternative government can be formed without a dissolution and in doing so is to have regard to any motion passed by the current Assembly expressing confidence in an alternative government in which a named person will be Premier. Other amendments refer to the government having a vote of no confidence passed in it for its removal, rather than the Premier, so that there is no uncertainty. In a constructive no confidence motion the alternative government must have confidence expressed in it.

The honourable member for Ashfield again trotted out his tawdry arguments. He said this procedure has limited legal efficacy because it was in some signed document between Independents and the Government. That is absolute nonsense. The basis of the document is stable government. As we learnt this afternoon, it could cost the Government $40 million a year to lose an A from its triple-A rating. It could cost people in the financial market a lot more than that. This is all about responsibility and giving the Government a guarantee of Supply and Budget in defined circumstances. It also defines the circumstances of a no confidence motion. Such a motion is not to be taken

lightly. We, as three Independents, will certainly not be taking it lightly. The commissioned government can be removed only by a no confidence motion. The agreement limits the circumstances to matters of gross maladministration or corruption. That is how it should be. It should not be some party political ploy. The honourable member for Ashfield said that there were no guidelines and regulations. I agree with him up to a point. Though the Governor still has a discretion, the convention is limited. The honourable member said that there can be no election except when the Governor decides; it all rides on the Governor. As I said earlier, the honourable member for Ashfield may not have seen the amendments that the Government and the Independents agreed on last night.

The honourable member for Smithfield said that the agreement is a mixed blessing. Some of what he said I though was mean and pinched. It is outrageous and quite wrong for him to say that the honourable member for Bligh is looking towards a fixed term simply to ensure her pension. That is unjustified. She did not know, and I was confused myself, about pension entitlements. That consideration has never entered into it. There is no self-interest in the agreement, and the three Independents are very proud indeed of that. A matter can be deemed a matter of no confidence by the Premier but for more certainty the motion should state what the mover means, that the Government no longer has the confidence of the House and—to use the constructive mode—the Leader of the Opposition does have the confidence of the House. The Governor would then be in no doubt about exactly what was meant. When proposed section 5 comes into operation the Governor will have a clear indication of the will of the House.

The honourable member for Smithfield referred to the Fred Nile scenario. He wants to have an each-way bet. He is not happy with the convention of residual powers residing with the Governor; yet he wants the Governor to use that power if Labor gets into government and Fred Nile frustrates its program week after week, month after month. He cannot have it both ways. There is the problem of the plane crash, a disaster that might wipe out three or four members of Parliament. Heaven forbid that it should happen, but it did happen early in World War II. The memorial is still there on the hillside in Canberra. A number of Ministers were wiped out in one plane crash. In such a situation there would be a false majority on the floor of the House. If the Governor were directed to take note of that without being given a discretion, he could do nothing else but take note of it. We have not been able to overcome that particular problem. The constitutional committee did a good job. This is a fine piece of legislation, of which I am particularly proud. The Government ought to be proud because it had the courage to do what no other government in the history of this State has done, and I commend it.

Ms MOORE (Bligh) [8.11]: I strongly support this most historic bill. From the outset the aim of the Independent members has been to achieve reform and stability. This bill was an important part of the Independents' charter of reform to enable the elected and commissioned Government to address the important economic, social and environmental issues and to plan long-term, responsible government for this State. On average, New South Wales has held an election every two years. It has been impossible for successive governments to deal in a long-term, responsible way with the social, economic and environmental problems. In a recent referendum the people of New South Wales thought they voted for a four-year term. However, the magic word "fixed" was not included in the referendum question. When the Independents raised this issue with the Government after the May election they were told that it was not possible, that it was not within the Westminster system. In the past six months a tremendous amount of work has been done, and the result is this historic bill, which will allow for a four-year fixed term.

In the past the aim of major political parties has been, as one of my constituents,

a former Premier, told me about a year ago, to get power and keep it. That has been the policy of successive governments. In the final moments of the negotiations between the Government and the Independents on the charter of reform, it was made plain to the Independents in no uncertain terms that the Government was giving up its most important electoral tactic—that of calling an election when it was in the interests of the Government. I commend the Government for its brave stand in introducing this legislation. In passing I wish to refer to the cynical comment made by the honourable member for Smithfield. Perhaps it was in keeping with an attitude, but I say to him that some of us became members of Parliament to get things done rather than to keep a seat warm before we are pensioned off. Some years ago at an election polling booth I was saddened to hear Labor supporters say, "Poor Freddie, he won't get his pension". They did not say "Poor us, we have lost our Labor member". I abhor that approach and I wish to be on the public record as saying so.

This bill is the work of the legislation committee. It has the unanimous support of the committee, which had the most comprehensive advice from the best constitutional lawyers in this State. During the past six months it has received support from the Leader of the Opposition, given publicly, as well as support from Opposition members in discussions with the Independents, and from the Government. The aim of the Independents is to ensure that the elected, commissioned Government remains in power in this State until 1995 unless there is corruption, maladministration, or the numbers on the floor of the House change so that the Government cannot govern satisfactorily. Members of the House have worked hard, even late last night, to ensure that there can be a baton change. I refer, as have previous speakers, to clause 5 and particularly clause 6, which provides that the Governor is to consider whether a viable alternative government can be formed without dissolution, and in so doing is to have regard to a motion passed by the present Legislative Assembly expressing confidence in an alternative government in which a named person would be Premier. We want the Leader of the Opposition to be able to form a government if a motion of no confidence in the elected Government is moved successfully. The motion would be moved by the Independents. It would not be moved by the Opposition for political purposes. It would be moved by the Independents only after exhaustive consultation, and only in very serious circumstances relating, say, to corruption, maladministration or the numbers changing and the Government not being able to govern satisfactorily.

Honourable members must consider the significance of the bill. Everything possible has been done to ensure that there can be a baton change without the expense of calling an election. The last election cost the taxpayers $22 million. Though some members of this Parliament believe that it is a good thing to rush off to an election every time they think there is an opportunity to seize power, I assure them that the public do not wish to have frequent elections. The public would like to have as few elections as possible and the Parliament to get on with the business of governing in the most responsible way. I believe that in recent weeks that is what has been happening. Each piece of legislation is now being considered on its merits. I instance the passing of the Environment Protection Authority bill, which will become the best environmental legislation in Australia. Thanks for that must go to the Parliament, for considering it and amending it, and improving it. Last night this House dealt with the Tobacco Advertising Prohibition Bill. The Parliament is working in a bipartisan way to lay an historic basis for a national strategy on gun law reform and to arrive at a proper and responsible solution to compensating the victims of Chelmsford. We are entering an historic period. The Parliament is achieving a great deal and is sending a very important message to the Governor that any action by him in future is to be taken only after considering the will of this House, and in the process we are ensuring that there will be long-term responsible government.

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This bill will prevent the Premier either publicly or privately requesting permission from the Governor to hold an election whenever he thinks he would win. He will have to serve out his term of office unless there is that baton change. Much has been said about convention in our discussions about the charter of reform. I believe tonight we are creating convention. We are setting a standard not only for the other States but also for the Federal Government to follow. I am very proud to be part of that process. As did the honourable member for South Coast, I should like to congratulate all the key people who have been instrumental in formulating this bill, including Arthur King, Kate McKenzie and Roger Wilkins. I commend the Minister for the Environment for the important role he has played and also the honourable member for Manly and the honourable member for South Coast.

Mr MOORE (Gordon), Minister for the Environment [8.17], in reply: I thank honourable members who have contributed to the debate. I wish to reply only to two matters that were raised in the debate. They are not matters of detail relating to the bill. They were both raised by the honourable member for Smithfield, and the honourable member for Ashfield referred to

one of them. They relate to a failure of attitudinal change in the Australian Labor Party. Opposition members have yet to understand that there is a fundamental shift in power between the Executive and the Parliament. In 1856, there was the advent of accountable bicameral government in this State; there was a balance along a continuum. If one goes back to the late eighteenth century and the early nineteenth century and reads the history of the Palace of Westminster and the parliaments that convened in it, in those days there was greater accountability of the Executive Government to the Parliament. Undoubtedly there were differences of opinion and legitimate tensions were created in the negotiations that took place between the Government and the Independent members about how far the shift should be from the present dominance of the Executive back to what might be regarded as an absolute and unfettered control by the Parliament without any form of Executive Government. It is somewhere in that continuum that we have come to a position that is represented by the bill that is before the House and the amendments that I shall move in Committee.

It was disappointing that a number of members speaking on behalf of the Australian Labor Party spoke about the matter in traditional party, power structure terms without acknowledging that we are making fundamental shifts in accountability. We have been creating a range of shifts in that part of the continuum, whether they are matters that relate to the ordinary business of the Parliament—in relation to which there are radical changes in place—or whether we are creating by statute for the first time in a Westminster parliament fixed terms of the Parliament. I also wish to address the issue of the date of the next election, and the fixing of that date as the fourth Saturday in March every fourth year. As a member of the class of '76, the remarks of the honourable member for Smithfield had absolutely no relevance to me or to any of the other old lags in the Parliament like the honourable member for South Coast.

Mr Whelan: They had no relevance to the legislation.

Mr MOORE: The remarks of the honourable member for Smithfield were not relevant?

Mr Whelan: Not on that issue.

Mr MOORE: To attribute base motives to members was unworthy of the honourable member for Smithfield. The date was selected because it would be unreasonable to adopt the position advocated for purely technical drafting reasons by the committee chaired by the honourable member for Cronulla: that we should have a June date. It would be absurd to subject honourable members, and indeed the long-suffering citizens of this State, to what would amount to a six-month, full-time, presidential

election campaign. During that six-month period one could almost guarantee that the autumn sittings of the Parliament in that year would be beset by legislative paralysis and political hyperactivity, neither of which is conducive to good and stable government for the State of New South Wales. I commend the bill.

Motion agreed to.

Bill read a second time.

In Committee

Clause 4

Amendment by Mr Moore agreed to:

Page 2, clause 4. Omit "under section 5" wherever occurring, insert instead "in accordance with this Act".

Clause as amended agreed to.

Clause 5

Amendments by Mr Moore agreed to:

Page 2, clause 5. Omit clause 5(1), insert instead:

(1) The current Assembly may be dissolved by the Governor under section 10 of the Constitution Act 1902, but only in the circumstances authorised by this section or section 6.

Page 3, clause 5(2)(a). Omit "the Premier and other Ministers", insert instead "the Government".

Page 3, clause 5(2)(b). Omit "the persons who are then the Premier and other Ministers", insert instead "the then Government".

Mr MOORE (Gordon), Minister for the Environment [8.26]: I move:

Page 3, clause 5(2). After "the current Assembly may not be prorogued before the end of that 8-day period", insert "and may not be adjourned for a period extending beyond that 8-day period".

Mr WHELAN (Ashfield) [8.26]: This matter has been discussed between Opposition members and by other members of the Parliament. As I understand it, the Minister has a copy of amendments I proposed that would enable the Parliament to be recalled in certain circumstances, excluding the circumstance when the Parliament is prorogued. I do not suggest that the bill should be further amended in that form, but the Minister has said that he is cognisant of the matters I proposed. He is obviously suggesting that the amendments I proposed contained a procedural fault. I agree with that suggestion. However, the Parliament would have been able to be recalled in circumstances when a majority of members sought to have the Parliament recalled. That matter should be debated, and there is ample opportunity for that debate to take place before the Parliament rises. I take the opportunity to raise the matter during consideration of clause 5.

Mr MOORE (Gordon), Minister for the Environment [8.27]: The honourable member for South Coast foreshadowed to the Government an amendment to the special adjournment motion to permit a structure for the recall of the Parliament should it stand adjourned but not prorogued. As I understand it, a similar provision exists in the Legislative Council. I informed the honourable member for Ashfield that the defect I

found in his drafting was that the Leader of the Opposition and a number of Independent members could recall the Parliament, the Premier and a number of Independent members could recall the Parliament, but the Leader of the Opposition and the Premier together could not. If the Premier and the Leader of the Opposition want the Parliament to meet, that contingency should be provided for. When I move the special adjournment of this House, I shall move an appropriately worded provision. I am happy to put that on the record at this time.

Mr HATTON (South Coast) [8.28]: I remind the Leader of the House that it was the motion of the Opposition that I brought to his attention. All members of the House should be commended for recognising that the Parliament is master of its own business, and if the Parliament wants Parliament to be recalled, appropriate arrangements should be made for that to take place. It is a most important and appropriate provision.

Amendment agreed to.

Mr MOORE (Gordon), Minister for the Environment [8.29]: I move:

Page 3, clause 5(3)(b). Omit "the time the appropriation is required", insert instead "the time that the Governor considers that the appropriation is required".

Mr WHELAN (Ashfield) [8.29]: This relates to an extension of convention and to a matter the Governor may consider; that is, that the appropriation time be extended. In my speech during the second reading debate I said that no guidelines exist, that we are relying on constitutional convention. The Governor may be asked on innumerable occasions to make decisions about constitutionality and convention. The Government has agreed to this further

proposed amendment. This statute is no more than an article of faith. The Independents, not the Opposition, will act if the Government reneges.

Mr HATTON (South Coast) [8.31]: There is much validity in what the honourable member for Ashfield has said. A difficulty arose about who should decide whether the appropriation has been withheld long enough to cause a crisis of government or management. At some time the Government may need to codify that. We are in agreement on it, but it has not yet been done. The Governor, therefore, is left with the discretion to say that in his view, after carefully considering what has been put to him by the Opposition and by the Government, having seen what is involved in the debate about whether or not supply has been blocked or interfered with, the Government cannot continue to govern properly. We have chosen to leave that discretion with the Governor until it has been properly codified. That is the sense behind the proposed clause.

Amendment agreed to.

Clause as amended agreed to.

New Clause 6

Mr MOORE (Gordon), Minister for the Environment [8.32]: I move:

Page 3, clause 6. Omit the clause, insert instead:

Preservation of Governor's power to dissolve current Assembly in accordance with established constitutional conventions

6. This Act does not prevent the Governor from dissolving the current Assembly in circumstances other than those specified in section 5, despite any advice of the Premier or the Executive Council, if the Governor could do so in accordance with established constitutional conventions.

During discussions on the proposed legislation much consideration has been given to preservation of the Governor's reserved powers. The specific wording of the

amendment, as finally proposed in the House, is designed to ensure, by the words created in line 3 of proposed clause 6, subordination of the matters contained in clause 6, as proposed, to those that are set out in clause 5. The Government believes that approach deals with the matter in a balanced and responsible manner and addresses the concerns that have been discussed with the Government. I commend the amendment.

Mr WHELAN (Ashfield) [8.33]: The Opposition is of the view that, in legal terms, proposed clause 6 is seriously flawed. The clause, as amended, which will have minimal legal efficacy, gives effect to a statement of intent entered into by parties to the memorandum of understanding.

Mr HATTON (South Coast) [8.34]: It is implicit in the proposed clause that the Governor must consider the circumstances under which the Parliament is to be dissolved under clause 5. That is really what the proposed clause is all about. Second, the Governor may be forced to move on his own motion in this Fiftieth Parliament and in that event will take full responsibility for his actions. That will put the Governor in a situation where he would feel very constrained to give deep and serious consideration—no doubt he would in any case—to the circumstances involved in clause 5, in using his powers under clause 6.

Amendment agreed to.

New clause agreed to.

New Clause 7

Mr MOORE (Gordon), Minister for the Environment [8.35]: I move:

Page 3. After clause 6, insert:

Governor to consider whether viable alternative Government can be formed.

7. When deciding whether the current Assembly should be dissolved in accordance with this Act, the Governor is to consider whether a viable alternative Government can be formed without a dissolution and, in so doing, is to have regard to any motion passed by the current Assembly expressing confidence in an alternative Government in which a named person would be Premier.

The very lengthy discussions between the Government and the Independent members became strong in argument without ever becoming strong in terms or language over the question of baton change clauses. The clause that is proposed is in accord with the wording agreed to by the Premier and the three non-aligned Independent members last evening, after several attempts to find appropriate wording to appear before the word "alternative" where appearing in the third line of the amendment. After considerable discussion the word "viable" was agreed upon as the appropriate word to express the necessary sentiments in the amendment. I commend the amendment.

Mr HATTON (South Coast) [8.36]: Having regard to what I said in my second reading speech, this is the plane crash scenario clause. A Government has to be viable. We took one step back from "stable government" to the word "viable", meaning that the Government could survive on its own, as it were. Without going into the detail, we used extensive dictionary references to understand how the word "viable" could be read or construed. We are satisfied that is a reasonable qualification. The Labor Party was of the view that there should be no qualification at all, and that the Governor should consider whether an alternative government could be formed. That argument has some credibility, but I feel that "viable"—and on our constitutional advice we are assured—is quite satisfactory in that context.

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Ms MOORE (Bligh) [8.37]: The aim of the Independents in their agreement with the Government is to ensure that if the elected commissioned Government cannot provide satisfactory government if the numbers change, or if maladministration or corruption occurs, an opportunity will arise for a baton change so that the Leader of the Opposition is able to form an alternative government without the expense of an election. The basis of the amendment and this part of the bill will be to ensure that is possible. If a motion of no confidence is moved by the Independents—and it will be about one of those grave matters that I have outlined—an opportunity arises for an alternative government to be formed. That is our aim, and that is the intention of this part of the bill.

Mr WHELAN (Ashfield) [8.38]: Intentions are exceptionally important when confronting the purposes of legislation. However, this attempt to restrict the power of the Governor has no constitutional power or significance, nor would any Governor take cognisance of any restriction. A motion on notice moved by the honourable member for South Coast calls upon His Excellency to have regard to whether another person than the Government has or is likely to have the confidence of the Legislative Assembly and to take into account any expression of the Legislative Assembly's view on the question of confidence. The clause that the Government intends to insert after clause 6, on careful examination, bears some similarity to that motion. The honourable member for South Coast will not think ill of me if I suggest that he was trying to send a signal to the Government, perhaps even to the Governor, that before the State of New South Wales spends a vast amount of money on a general election the Governor should first look elsewhere and consider whether early handover is a possibility, where a majority existed in the Parliament or where leadership was guaranteed by a series of arrangements or contractual deals entered into by Independents and other members of Parliament.

I understand that, but the Parliament has an inherent difficulty in that there is no procedure whereby a resolution can be passed by an Assembly that is not in operation. There is no procedure for the recall of Parliament. It is important to put that in place. There is great difficulty—I might even say grave difficulty—with recalling the Parliament should it be prorogued. The Government would be able to proceed, as I think it will, to call a general election earlier than the date expressed in the bill. My view might be cynical. If so, it will be proved incorrect. There is no motion before the Parliament. The Opposition has to ask the Minister when he will make a commitment on behalf of the Government and whether he has a commitment from the Premier that he will agree to the proposals and abide by the spirit of the legislation and agree to the handover expressed in the bill. A Minister of the Crown, not the Premier, has carriage of the legislation. With a bill of such magnitude the Premier should be in the Chamber to indicate on behalf of his Government that he will abide by the spirit and the intention of the arrangement he has entered into.

Ms MOORE (Bligh) [8.42]: I wish to make it clear that the aim of the amendment is to prevent the Premier, either privately or publicly, for his own political reasons asking the Governor to call an election. The aim of the amendment is to send a strong message to the Governor that Parliament is in charge of its own destiny and that in extraordinary circumstances—not ordinary circumstances where a Premier wishes to call an election just because he thinks the time is right to have one—he will consider the will of the House expressing no confidence in the Government and confidence in the Leader of the Opposition. That is what the amendment is all about—ensuring that the Governor considers any motion passed by this House on this matter.

Mr HATTON (South Coast) [8.43]: I want to make a point in the broader context that Australia is in a new era. Australia has minority governments in Western Australia, South Australia, New South Wales and Tasmania. We are all on a learning curve.

Mr Moore: Bob Hawke has a minority government in Canberra.

Mr HATTON: There is need for an attitudinal change to the meaning of stable government and the need for the development of negotiation skills to ensure that a government is stable, despite one party or a coalition of parties not having an absolute majority. South Australia has shown clearly that, though the ruling political party does not have a majority in its own right, it has a stable government. When the Governor looks at future New South Wales governments, he will look at them in the Australian context—that it is possible to have a viable and stable minority government; there is no

need for an absolute majority; it is not necessary to have a government that wants to dictate rather than govern. The Minister interjected to say that the Federal Government does not have control of both Houses. These days that is a common thing. In that context, viable today takes a different governmental connotation to what it would as little as a decade ago.

Mr MOORE (Gordon), Minister for the Environment [8.45]: May I say in the gentlest possible fashion to my colleague the honourable member for Ashfield, a fellow member of the class of 1976, that he has simply demonstrated an old Sussex Street adage, that when there is a choice between a simple explanation and a conspiracy, go for the conspiracy every time. The words on the face of the clause are abundantly clear and designed to provide a mechanism in the statute for a baton change.

Dr Metherell: Give us a guarantee.

Mr MOORE: The baton does not necessarily need to pass from government to Opposition. I have noted with considerable alarm the endeavours of my campaign director, the honourable member for Davidson, over the past few days to engineer events so that there can be a baton change within the Government. I am happy to give the honourable member for Davidson a guarantee that I am not a candidate for a baton change under these provisions as one of the nominated persons.

Mr WHELAN (Ashfield) [8.46]: I am sure the Minister omitted to have regard to the major question I asked to which I should like an answer. How does the Minister propose to ensure that a motion may be passed in the Assembly expressing confidence in an alternative government in which a named person would be Premier in circumstances where, first, the Parliament is not sitting and, second, the Parliament is prorogued?

Mr MOORE (Gordon), Minister for the Environment [8.47]: One of the constitutional conventions is that the Governor has a discretion to recall the Parliament under circumstances that are considered appropriate for him when it is prorogued. That matter presumably would be of some notoriety at the time. I think the Premier told the Independent members in one of the discussions we had that the Governor does not live in a soundproof, noiseproof, isolated cocoon away from the reality of the world and that the winds of communication do blow in a northerly direction from this building. With respect to the moving of such motions, I have already informed a number of honourable members, and I thought I had told the honourable member for Ashfield, that one of the matters honourable members need to address in the sessional and standing orders at the beginning of next year, as the honourable member for Davidson correctly raised in this House several evenings ago when the House was discussing the sessional orders, is the need for a procedure to deal with three classes of motion: the no confidence type of motion, which is important and the most serious consequential motion that can come before the House; a motion of no confidence in a Minister, which could lead to his resignation or dismissal; and the third type of motion, which is obviously of less importance and would need a lesser period of notice, the censure of a Minister or an individual, which is equivalent to a large slap on the wrist.

The Parliament must have structures to deal with those matters. I am happy to undertake to make them part of the review of the standing and sessional orders, which is ongoing. We cannot do everything in one hit. This Government has made many changes. As the honourable member for South Coast indicated to the Premier, these sorts of provisions will make the fault lie with the coalition if it ceases to provide the sort of government that is not going to cause the triggering of a baton change attempt. The Government does not expect anything to happen between now and when those sessional orders will be dealt with that will give rise to that. I have no idea of the date the Premier

has in mind for prorogation, but the Government will provide a mechanism whereby pending prorogation the majority of members can seek and be guaranteed the recall of the Parliament if that is needed.

Amendment agreed to.

New clause agreed to.

Clause 9

Amendment by Mr Moore agreed to:

Page 4, clause 9 (as printed). In proposed subsection (3), after "1991" where firstly occurring, insert "(or, if that Bill is re-introduced into the Legislative Assembly in 1992 with or without amendment, that Bill)".

Clause as amended agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

DEFAMATION BILL

Legislation Committee

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

That so much of the standing and sessional orders be suspended as would preclude the granting of an extension of the report back time of the legislation committee established by this House pursuant to sessional orders in respect of the Defamation Bill to 31st May, 1992.

Motion by Mr Moore agreed to:

That an extension of time be granted for the report back time for the Legislation Committee established by this House pursuant to Sessional Orders in respect of the Defamation Bill 1991 to 31st May 1992.

PETROLEUM (ONSHORE) BILL (No. 2)

Bill read a third time.

ENVIRONMENTAL PLANNING AND ASSESSMENT (CONTRIBUTIONS PLANS) AMENDMENT BILL

Bill read a third time.

CENTENNIAL PARK TRUST (AMENDMENT) BILL (No. 2)

Second Reading

Debate resumed from 20th August.

Ms ALLAN (Blacktown) [8.54]: I made my contribution to the second reading debate on the original legislation on 16th April. At that time I indicated that the Opposition supported the bill. I indicated also that the Opposition was concerned about the extension of leases within the Centennial Park and Moore Park areas from the present eight years to 20 years, as was originally provided for in the legislation. I understand that the Government intends to amend the bill to delete reference to those leases. The

Opposition is more than happy to support the bill with that amendment.

Ms MOORE (Bligh) [8.55]: I support this bill in its amended form. The Government will amend the bill by deleting the provisions relating to the extension of leases from eight years to 20 years. Centennial Park and Moore Park are located in the electorate of Bligh. The bill is important not only for the electorate of Bligh but for the whole of Sydney metropolitan area.

Centennial Park and Moore Park are part of the precious parklands in the Macquarie bequest, an area of land dedicated by a visionary Governor in 1811 to the citizens of Sydney and future generations. I am concerned about the exclusion of the showground area from the bill. I would like that to be corrected next year. The showground and its future, and its relationship to Moore Park and Centennial Park must be considered together. However, that can happen in the future. It is good to have Centennial Park/Moore Park and the E.S. Marks Athletic Field under the administration of the one trust with a management plan.

I am concerned about the make-up of the trust. The Minister is aware of my concerns. The present trust is an excellent one. In the future the make-up of the trust might not be of the same calibre. One way of ensuring accountability in respect of such a body is to have elected members. However, I do not intend to move an amendment or oppose the bill because of that concern. The matter can be addressed at the time the showground issue is examined. The Minister for the Environment is behaving responsibly in to these two areas. The ministries of environment, planning, local government, roads and transport should work together to examine the future of these Macquarie bequest lands of Moore Park, Centennial Park, the Showground and the residential areas surrounding them. I would like that to happen in the new year. This bill, which provides for the amalgamation of these three important parkland areas under the administration of the one trust with a management plan, is a step in the right direction and I therefore support it.

Mr MOORE (Gordon), Minister for the Environment [8.58], in reply: I thank the honourable member for Blacktown and the honourable member for Bligh for their contributions to the debate on the bill. In my view there are reasons why it might at some stage in the future be appropriate to consider extending the terms of the leases. The honourable member for Bligh has expressed to me her concern about providing for that in this bill. It seems appropriate that the aggregation of the two areas in a formal sense should proceed so that they are statutorily joined and cannot be severed except by statute. I want to make it clear that the request to insert provisions for the extension of the lease periods into the bill was made by the present trust of Centennial Park which, as the honourable member for Bligh was kind enough to remark, is a broad ecumenical group of people, one of whom at least caused some consternation to my colleague when his appointment was made at a full meeting of the Executive Council and all members of the council had to approve the former Premier's appointment to the trust.

My judgment in acknowledging that there are decent and honourable people who can provide further public service on sides of the House other than my own is evidenced by my appointment of the former Premier to this body and the Hon. Kathleen Anderson to the Zoological Parks Board. They have both provided sterling service to the bodies on which they act and have not caused me any political discomfiture. These powers to extend the leases were requested by that group of people. They are not some commercial frolic being imposed by the Government. Perhaps the best way to deal with it is to have the trust discuss the matter with the honourable member for Bligh. Perhaps they will be able to persuade her that this is not some terrible hidden agenda, but that it is a legitimate matter. It is not the southwestern corner excision. I think I remarked some many months ago when the matter first came before the Parliament that it is to provide for sympathetic development where the Colonial Diner is and perhaps sympathetic and non-

intrusive refurbishment and appropriate use of the golf club-house and things of that nature. They are not germane to the important part, which is the aggregation of the areas so that no future government can put them asunder without an Act of Parliament. As has been indicated, I will be deleting that portion of schedule 1 at the Committee stage so that the remainder of the legislation can be passed.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

Amendment by Mr Moore agreed to:

Page 3 Schedule 1. Omit (6).

Schedule as amended agreed to.

Bill reported from Committee with an amendment and report adopted.

BUSINESS OF THE HOUSE

Allocation of Time for Discussion

Mr MOORE: I wish to give notice on behalf of the Premier of business to be dealt with under Standing Order 175B: Endangered Fauna (Interim Protection) Bill, all remaining stages by 4.10 p.m., Thursday, 12th December, 1991. I have indicated, by leave of the House, that this is merely a contingent matter, should discussions eventuate, for the tidy and expeditious disposal of this bill and other matters. It is a non-threatening notice.

SEARCH WARRANTS (AMENDMENT) BILL

Second Reading

Debate resumed from an earlier hour.

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [9.4], in reply: I thank the honourable member for Ashfield for his comments and very detailed contribution to this debate on search warrants. As a result of the contribution of the honourable member for Ashfield and the very detailed suggestions he put before the Parliament, I have had a discussion with him in the interim and have indicated that the Government would be prepared, if necessary, to stand this bill over tonight until the resumption of Parliament some time early next year. That will give the Parliament an opportunity to consider in greater detail the amendments foreshadowed by the honourable member for Ashfield. However, correctly, he recognises that the proposed bill includes amendments that will improve the current law relating in this State to search warrants. I am sure every member of this House after looking at the Gundy and Brennan cases would welcome any improvements to the current legislation covering search warrants. I thank the honourable member for Ashfield for being prepared to support the bill in those terms. Having said that, I also give an undertaking that in the interim, following the passage of this bill tonight, the Government will very carefully consider the points raised by the honourable member for Ashfield and by other members

of this House. The honourable member for South Coast also considered the current legislation could be improved. I look forward to coming back in 1992 with amendments that will further refine search warrant legislation as it applies in this State. Accordingly, I commend the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

RUSSIAN ORTHODOX CHURCH PROPERTY TRUST BILL

Suspension of certain standing and sessional orders agreed to.

Second Reading

Debate resumed from 5th December.

Mr WHELAN (Ashfield) [9.7]: The Opposition is very impressed with the work undertaken by the Russian Orthodox Church as outlined in the speech by the honourable member for Cronulla. The Opposition supports the bill.

Mr COLLINS (Willoughby), Attorney General, Minister for Consumer Affairs and Minister for Arts [9.8], in reply: I thank the Opposition for its support of this most important piece of legislation and I have great pleasure in commending it to the Parliament.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILLS RETURNED

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

Annual Reports Legislation (Amendment) Bill (No. 2)
Dividing Fences Bill
Justices (Costs) Amendment Bill (No. 2)
Public Finance and Audit (Auditor-General) Amendment Bill
Superannuation Administration Bill

House adjourned at 9.11 p.m.