LEGISLATIVE ASSEMBLY

Tuesday, 27th April, 1993

———

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

Mr Speaker offered the Prayer.

QUESTIONS WITHOUT NOTICE

———

HOMEFUND BORROWERS ASSISTANCE

Mr CARR: I address my question without notice to the Premier. What measures does the Premier propose to take to reduce the very high interest rates of up to 16 per cent now being paid by hard-pressed HomeFund borrowers?

Mr FAHEY: It is abundantly clear to all members of the House, if they are interested in listening, that from the very beginning in relation to HomeFund the Government has addressed its concerns towards those with genuine complaints about HomeFund. A series of initiatives has been taken in that regard. Other initiatives are in train that are addressing the same problem. I am sure all honourable members are aware of the report on the weekend of a proposal that has been put forward that may assist in the restructuring of the existing HomeFund program. I have said previously and I repeat now that that proposal is being fully evaluated by Treasury with the assistance of outside actuaries, and it will take a few weeks to come to a conclusion. The advice received will give the Government full and comprehensive knowledge of the proposal itself. It is a very involved and considerable exercise. When it is concluded I will be happy to advise the public of the outcome.

HOMEFUND BORROWERS COMPLAINTS

Mr ZAMMIT: I address my question without notice to the Minister for Consumer Affairs and Assistant Minister for Education. What steps is the Government taking to provide early assessment of genuine complaints by HomeFund borrowers?

Mrs CHIKAROVSKI: I am grateful to the honourable member for this opportunity to explain to the House some of the measures to which the Premier has just referred in relation to what the Government is proposing to do to provide HomeFund borrowers with speedy and cost efficient assistance. As honourable members would be aware, last week my colleague the Minister for Housing and I unveiled a number of measures aimed at giving HomeFund borrowers, past and present, a fair go. Those measures included proposals to set up an independent ombudsman to be known as the HomeFund Commissioner. That commissioner will have wide powers to investigate complaints from HomeFund borrowers who believe their legal or contractual rights may have been breached.

I am happy to advise the House that those proposals have been given the go-ahead by Cabinet this morning. The proposals I put to Cabinet followed discussion with a number of interested groups, including the Trade Practices Commission, the Redfern Legal Centre, which represents certain HomeFund borrowers, the

State Ombudsman, Mr David Landa, the New South Wales Law Society, the New South Wales Financial Counsellors Association, and representatives of the New South Wales Council of Social Service. All of those groups have given their support in principle for what is proposed. Further, I discussed the proposals for a HomeFund Commissioner with the Independent members of Parliament last Thursday afternoon in a meeting at which the honourable member for Heffron and the honourable member for Campbelltown were present also.

The proposals are based on the recommendations of the McMurtrie report and the Trade Practices Commission report. The HomeFund Commission will be an independent body set up to provide speedy, inexpensive and independent assessment of the individual cases. The proposed body will provide a one stop access point for HomeFund borrowers who are facing financial difficulties, as well as those who have legitimate legal or contractual complaints. This means that all HomeFund borrowers, past and present, will be able to take their cases to the commissioner who will assess the problem and, in appropriate cases, order relief measures or determine whether additional investigation is required. The commissioner will use non-litigious, alternative dispute resolution methods.

The commissioner will have power also to suspend eviction action pending the determination of a complaint. Further, the commissioner will have power to make determinations which will be binding on public authorities and on those private sector bodies which agree to be bound to those determinations. Similarly, borrowers will be bound only if they consent. If they refuse to consent, they will retain their right to take the matter to the Supreme Court. The commissioner will be able to make determinations aimed at relieving borrowers of future obligations, reducing the interest rates on loans, and converting a low-start loan to an affordable or subsidised loan. Those borrowers who can establish financial loss will also be entitled to monetary awards up to a limit of compensation.

Let me make clear, the commissioner will make those determinations only when he or she finds that the borrower is entitled to a legal remedy. Those borrowers who are in financial hardship because of an unforeseen change in their own particular circumstances will not qualify for a legal remedy, though they will have access to other relief measures.

In determining those relief measures the commissioner will be assisted by a panel of community representatives, including Ms Lyn Gain of the New South Wales Council of Social Service, Ms Betty Weule of Credit Line, and Mr Michael Gill of the legal firm Phillips Fox.

The proposals the Government has put forward will ensure that HomeFund borrowers not only get immediate relief but also, most importantly, enjoy their legal and contractual rights. The commissioner proposals are aimed at solving problems quickly in a non-litigious and cost-effective manner. HomeFund borrowers want help -

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

Mrs CHIKAROVSKI: Also, they want a fair hearing in relation to their legal and contractual rights. These proposals will do exactly that. The Government's overriding aim has been and will continue to be to assist borrowers. I expect all members of the House to share that aim.

HOMEFUND OMBUDSMAN

Dr REFSHAUGE: I ask a question of the Premier and Treasurer. Has Mr Justice Rogers accepted a position with the firm of Mallesons, which continues to do legal work in relation to HomeFund and FANMAC? If so, will the Premier disqualify him from the proposed position of HomeFund Ombudsman?

Mr FAHEY: As far as I am aware, Mr Justice Rogers has not accepted a position with Mallesons. Clearly, if Mr Justice Rogers is to proceed to take the position as HomeFund Commissioner, he would do that without there being any further conflict. I would have thought that the Deputy Leader of the Opposition would

appreciate the ethics of a man such as Mr Justice Rogers not to put himself in a position where he would be open to conflict. I am certainly not aware of any position he has taken. To this time he has been of considerable assistance in giving advice gratis to the Government on the establishment of the HomeFund Commissioner. I would sincerely hope that he would take that position on and devote all his time to it for the purpose of ensuring an expeditious conclusion -

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

Mr FAHEY: - for those borrowers in genuine need and those with genuine complaints, just as the Minister for Consumer Affairs outlined a few moments ago.

PUBLIC TRANSPORT UNION RAIL PROJECTS

Mr D. L. PAGE: Is the Minister for Transport aware of a list of demands by the public transport unions that has been submitted to the New South Wales Labor Party for new rail projects throughout New South Wales? What is the estimated cost of these projects?

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

Mr BAIRD: I thank the honourable member for his question and acknowledge his significant role -

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

Mr BAIRD: - in relation to transport throughout this State.

Mr SPEAKER: Order! The House will come to order and the type of interjection the House has just experienced will cease. The Minister for Transport is the only one who has the call.

Mr BAIRD: It is true to say that there has been a dearth of transport initiatives from the Opposition spokesman on transport. It has been a long time, but we can remember such wonderful initiatives as the great tunnel from Newcastle. It would have been the longest tunnel since the great escape was proposed. Also, we had the proposal for the electric bus. The only problem with that was that by the time they put the batteries in there was no room for passengers. It is true to say that the rail unions have come to the rescue. In the past they wondered what to do about initiatives. We have seen the prototype in Victoria because in Victoria -

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

Mr BAIRD: Every time there was a Transport Ministers' Conference, as the honourable member for Ballina would remember, the former Minister for Transport had only a couple of comments to contribute. Usually those comments were: have the unions been consulted; and, what do the unions think about this? In the very unfortunate circumstance that the honourable member for Kogarah should ever be the Minister for Transport, I am sure he could go along to conferences, having learned what to say.

Mr SPEAKER: Order! I call the Minister for the Environment to order.

Mr BAIRD: It is clear that the directions are coming from the unions. We have in our possession a list of requirements, a list of policies - transport infrastructure policies and agenda items.

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

Mr BAIRD: It has agenda items all the way through, in great detail. What it proposes is the world's biggest suburban rail system. As unbelievable as it would sound, the unions want to electrify the existing rail system, not only to Goulburn and Canberra, but as far as Melbourne. I am not sure if they are planning to run a

fleet of Tangaras from Melbourne to Sydney every day, but that is what they want. The cost of that would be $900 million, but that is only a start. They want to quadruple the rail line between Newcastle and Hornsby. That would cost the taxpayers of this State $2 billion. One can only speculate on the fares that would have to be charged to pay for that exercise.

Page 1592

Let me list some of the other projects from this document, which I am sure will eventually become part of the Labor Party's transport policies. It proposes a new rail line from Hurstville to Bankstown at a cost of $300 million. It proposes also a rail link from Carlingford to Pymble, and then to Mona Vale, at a cost of $800 million. It is all outlined in detail in the document. So we have $800 million for the rail link from Carlingford to Pymble. I am sure the honourable member for Ermington would be very pleased with that proposal.

[*Interruption*]

It is responsibility that members opposite do not know anything about. They left the rail system in total shambles and escalated the costs by increasing the level of debt and the level of expenditure. There is also a proposal to connect the northern line at Pennant Hills to Carlingford. That happens to be in my electorate and, though I appreciate the intention of the unions, it is a project simply too expensive at $230 million and cannot be justified. If one is to do anything in that area, it would be by light rail. There is a proposal also for a heavy or light rail system between Campbelltown and Penrith, linking with the University of Western Sydney, at a cost of $60 million. Another proposal is the completion of the Maldon to Dombarton rail line. It would carry only a few trains each week but the unions and the Opposition obviously believe that the $200 million cost would be well spent.

Let there be no mistake. The honourable member for Kogarah has been given his riding instructions. He knows they did not rely on him to develop policies; they did that for him. They came out with their requirements, what they wanted him to say. The total cost of this package is $5.2 billion. The honourable member's transport initiatives and policy direction have been pathetic, but this package, this outline of what the unions required and sent to the honourable member for Kogarah, is very clear. This is the direction they want, though at a cost of $5.2 billion. That is what it will cost the State. Let us beware. Let us remember what happened to Victoria. That is the path they would want to put this State on.

HOMEFUND BORROWERS ASSISTANCE

Mr SCULLY: My question without notice is directed to the Minister for Consumer Affairs and Assistant Minister for Education. Did she say in her previous answer that compensation to HomeFund borrowers would be available up to a level? What is the cap on compensation?

Mrs CHIKAROVSKI: The bill provides for a cap of $20,000.

WOOL INDUSTRY

Mr SMALL: I direct my question without notice to the Minister for Agriculture and Rural Affairs. In view of the collapse of wool prices below 400c a kilogram, what action does he consider must be taken to secure the long-term future of this vital export industry?

Mr ARMSTRONG: As the honourable member for Murray has stated, last week the Australian wool market fell through the floor at 400c a kilogram clean. Therefore, in real terms wool is now undoubtedly at its cheapest in our nation's history. In 1992 wool earned this country approximately $3.6 billion, and it is our third largest export income earner. To put it in perspective in terms of purchasing power, in 1950 a bale of wool bought 7,000 litres of petrol; last week the same bale of wool would have bought only 760 litres. In 1950 the

same bale of wool bought 9,200 newspapers; last week 340. In 1950, 3.7 bales of wool bought a Holden car; last week 49.

In the past 18 months the wool industry has been dealt a series of savage and unbelievable blows by the Federal Labor Government. When the reserve price, which had been supported for 19 years by the Australian wool industry, reached 850c, production increased. At that time, Mr Kerin, the Federal Minister for Primary Industries and Energy, and the Federal Labor Government decided to abandon the reserve price scheme and it fell to 700c. That Minister then visited Europe and addressed a major world industry wool conference where he said, "700c is immutable". Within a matter of months he had broken that pledge and since that time the world wool industry has been in crisis.

The Labor Party still does not acknowledge it correctly, and in this House the Opposition constantly turns its back on the wool industry. This weekend the Leader of the Opposition was in Goulburn where he spoke about many things political - roads and so forth. But did he mention in Goulburn, which is undoubtedly one of the best known wool centres in the world today, the home of the superfine wool industry on the mainland, anything about wool? No. Did he say anything about the broken promises of the Labor Party? No. Did he say what the Labor Party would do about the wool industry? No.

Mr SPEAKER: Order! I call the honourable member for Ermington to order. The House can do without the echoes from the Government benches.

Mr ARMSTRONG: Once again, the Labor Party has been shown up for what it is - a party that is willing to ignore totally rural interests and, in addition, to ignore the basic infrastructure of most country towns across this nation. It is not only wool producers who are bleeding, but also every person in every country town is haemorrhaging, be they the local windmill mechanic, the local storekeeper, the local garage proprietor, or the local supplier of fuel. The Federal Minister for Primary Industries, the Hon. Simon Crean, has today supposedly put a package forward to the Federal Cabinet where he is seeking some additional rural assistance for the Australian wool industry.

I hope he is successful, but as I have said repeatedly, if the Federal Government thinks it can placate and assist the Australian wool industry by throwing at it a rural assistance package, the Federal Government has it wrong. A rural assistance package will certainly help but it will do nothing about

restructuring the income levels of the wool industry in this country. The problem is income driven, not rural assistance driven. Bread and jam by all means, but until such time as the Federal Government realises that we have five stockpiles in the wool industry that are depressing the international markets, nothing will be resolved.

There is an international stockpile of wool tops; there is an official stockpile of 3.9 million bales; there is a further stockpile of about 300,000 bales of passed-in wool around Australia; there are approximately 700,000 bales of wool in woolbrokers' stores waiting for sale; there are about 100,000 to 200,000 bales of wool in shearing sheds around Australia because growers say it is not worth while sending it for sale; and there are approximately 500 million kilograms of wool on the sheep's back in this country. The wool on the sheep's back is very important because the wool industry is very different from the mechanical industry; the production of wool cannot be turned off by throwing the switches and closing the door; it is continual production. In this next season world industry is unlikely to take more than the amount of wool being produced currently by sheep across Australia.

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

Mr ARMSTRONG: At the end of the next season it is probable that we will still have the existing wool stockpile unless the Federal Government takes the initiative and commences to negotiate credit sales, particularly to Russia.

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

Mr ARMSTRONG: Russia has just been given something like $18 billion by the Group of Seven countries and therefore has foreign reserves to spend. Unless the Federal Government is prepared to negotiate credit sales into Russia, Bulgaria, Poland, Hungary, Czechoslovakia and Romania, the Australian wool industry will be in continuing trouble. There is no reason why Mr Crean should not have an order book in one hand, a receipt book in the other, his carpetbag full of wool over his shoulder and be in those countries today selling wool on credit for Australia. The wool has been paid for by the Australian industry; it is not as though it still has a debt on it. That debt has been serviced by the wool producers of Australia, who are levied 4.5 per cent to pay the continuing interest on that wool stockpile. That levy should be taken over by the Federal Government because of its abysmal record on handling the wool industry.

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

Mr ARMSTRONG: The Opposition seeks to be flippant and that is about the extent of its desire to assist, the extent of its knowledge. It is a flippant Opposition, but if it wants to encourage economic recovery in this country and it wants to be part of that economic recovery, this country's economy will not restart until such time as the whole problem of Australia's third largest export income earner - wool - is properly addressed. Until such time as we address the sensible dissipation of the Australian stockpile and until some confidence is put back into the world wool industry, as a result of the Australian Labor Party breaking its word with that word "immutable", Australia will not have an economic recovery. I urge support for the concept of credit sales to the former Eastern Bloc countries. I urge every member of this House to apply pressure to Canberra to dissipate part of that stockpile, on credit, and to go out and hard sell the wool industry until such time as some confidence is put back into the world's number one textile fibre.

HOMEFUND TREASURY ADVICE

Mrs GRUSOVIN: My question without notice is addressed to the Premier and Treasurer. Did he act as Minister for Housing from 23rd May to 23rd June, 1992? Did he, as Acting Minister, receive Treasury advice on HomeFund? What did it say?

Mr FAHEY: The honourable member for Heffron knows that I acted as Minister for Housing in that period. She is aware of that because I had meetings with her and other people during that time in an endeavour to sort out many of the statements that were being made by her, to see whether there was any substance in them, and to give her whatever assistance the Government could in bringing forward complaints that she had indicated were being lodged in numerous quantities in her office. During my period as Acting Minister for Housing I received advice from the Department of Housing and from officers in that department on matters relating to housing and HomeFund, just as I received advice from Water Board officials when I was Acting Minister responsible for the Water Board.

I attended meetings at which some Treasury officials were present. I recall one Treasury official being present, on I think about two occasions, to assist in giving advice to those present at the meeting. In fact, that Treasury official might have been present at the meeting I had with the honourable member for Heffron; I cannot recall. I have a feeling, though, that that is the case. In that instance some broad and general advice was given to me on those aspects that were being raised by people with whom I was meeting when Treasury officials were present. But it should be clear that Treasury officials give advice to the Treasurer. I was certainly not Acting Treasurer at that stage and, to my knowledge and recollection, I did not receive advice from the Secretary to the Treasury during that entire period. Matters were fed in to Treasury and brought back to me perhaps through the Department of Housing. Directly, with the exception of Mr Waddington, who was present on about two occasions, to assist, where possible, and to participate in discussions I was having, I have no recollection of receiving advice from Treasury.

LEAD CONTENT IN PETROL

Mr BLACKMORE: My question without notice is directed to the Minister for the Environment. What progress has the Government made since the Premier's recent announcement about reducing the amount of lead in petrol? What initiatives have been put in place to tackle lead contamination from other sources?

Mr HARTCHER: The honourable member for Maitland shows an interest in all pollution issues that affect the wider Hunter region.

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

Mr HARTCHER: With 16 years' experience in the petroleum industry the honourable member for Maitland has taken a particular interest in the Government's moves to reduce lead contamination in the community. Honourable members on both sides of the House would be aware that, last month, the Premier announced the Government's plan to reduce the lead content in petrol to a new Australian low of 0.15 grams of lead a litre. This announcement was made in response to community concerns about the impact of lead on public health and the environment and was necessary as the introduction of unleaded petrol has not achieved the gain originally expected, with more than 60 per cent of vehicles in New South Wales still running on leaded petrol - due primarily to the Federal Government's economic recession and the age of the car fleet.

The Premier's initiative in announcing the target of 0.15 grams of lead a litre was a first for Australia. No other State government had adopted such a target, nor had the Federal Government. The Federal Government was noticeably coy in the weeks leading up to the Premier's announcement about what target it would seek to adopt. Only after the Premier made his announcement and only after this State took the lead did the Federal Government follow suit a week later and agree to the same target of 0.15 grams of lead a litre. While the Federal Government continues to stall on the lead issue, the Fahey Government has established an interdepartmental task force to co-ordinate the Government's lead initiatives, develop lead reduction strategies and report on progress.

I am pleased to be able to report to the House that the lead task force held its first meeting last week, on 19th April. That task force, which is chaired by the Environment Protection Authority, comprises representatives of all relevant New South Wales government agencies, including the Department of Health, New South Wales Agriculture, the Public Works Department, the Department of Transport, the Department of Local Government and the Roads and Traffic Authority. During its first meeting the task force started work towards the establishment of various working groups that will develop management options and solutions regarding specific lead-related issues. Those working groups will be of particular interest to the honourable member for Maitland as they will have strong community and interest group involvement to ensure proper consultation between all those interested in resolving our lead problems.

The task force has already identified and ascribed the chairing responsibilities for the bulk of the working groups. Separate working groups will be established to look at lead in soil, dust, air, paint, food and water, as well as lead in petrol. A special working group will be established to look at the problems surrounding Broken Hill, which will also provide a guide for the management of other site specific lead contamination areas, including Port Kembla, inner Sydney and, of special interest to the honourable member for Maitland, the Hunter region. I am also pleased to be able to inform honourable members that the task force has agreed to its terms of reference, which will be presented to the Government shortly for consideration in line with the timetable outlined at the time of the Premier's announcement. Progress is also being made on the development of a public education strategy to reduce the risks imposed through lead in the environment. At the time of his announcement, the Premier committed the Government to consultation with the petroleum industry. Contact has been made, and the first meeting will take place early next month.

In answer to the second part of the question by the honourable member for Maitland, the working groups I identified are responsible for developing the initiatives to be put in place for all sources of lead contamination. I expect to receive the recommend-ations of those working groups over the coming months, and those

recommendations will then be considered by the Government. Nevertheless, the honourable member for Maitland will be pleased to note that the Environment Protection Authority is continuing to work closely with major industry, including that in Boolaroo, on pollution reduction programs.

Acceptable levels of lead in air are now within reach at Boolaroo and a buffer zone has been established by the company. The honourable member for Maitland can rest assured that the more difficult issue of historical site contamination will be dealt with through the task force. I am pleased with the approach adopted by this Government - the first such holistic approach to tackling lead from its different sources ever undertaken in Australia. The Federal Government continues to pay the issue lip-service and is attempting, somewhat belatedly, to follow the lead set by New South Wales. Lead contamination is a national problem and would be best handled through a national approach.

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

Mr HARTCHER: However, the Fahey Government is no longer prepared to wait, and intends to proceed with its reforms as announced. One of the most difficult issues facing all communities across the industrialised world is that of lead. The New South Wales Government has set the lead for all of Australia. This Government will continue to progress the issue.

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

Page 1595

Mr HARTCHER: It is to the credit of the Premier that he has taken on board an issue of such importance for the health of the community and the protection of the environment.

HOMEFUND TREASURY ADVICE

Mr KNIGHT: I address my question to the Premier and Treasurer. Did the Premier say at a press conference last Thursday that he was "absolutely certain" that Treasury did not advise him about the effects of his rescue package on bondholders? Why then did he tell the House that day that the rescue package resulted from advice from various departments, including Treasury?

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

Mr FAHEY: It ought to be clear to honourable members who have bothered to give real consideration to the facts and what I said last Thursday - in answer to a question that was somewhat different from that which the honourable member for Campbelltown is seeking to imply - was in relation to whether or not the impact on bondholders of the rescue package announced by the Minister for Consumer Affairs and the Minister for Housing on 29th March - and the $5,000 was referred to in some detail last week - would be adverse. It was in that context that I indicated that I did not receive any advice from Treasury that such an package would have an adverse impact on the bondholders.

There were a number of meetings to discuss the best way to assist HomeFund borrowers in need, which included the consideration of the proposals by each department, and people from the Department of Housing, the Department of Consumer Affairs, and Treasury were present. This culminated in a meeting the week before the announcement on 29th March. That meeting was attended by me, the Minister for Housing, the Minister for Consumer Affairs and senior officers from each department, including senior officers from Treasury. That meeting endorsed the assistant measures without dissent and, as I have said, those measures were announced on 29th March.

WESTERN SYDNEY AND RURAL CASINOS

Ms MACHIN: I address my question without notice to the Chief Secretary and Minister for Administrative Services. Is the Minister aware of statements claiming that the Government has proposals for casinos in country centres and in western Sydney, in addition to the Sydney casino? Is there any factual base for these statements?

Mrs COHEN: I thank the honourable member for Port Macquarie for her question and for her interest in a project with major benefits for this State. The casino project has certainly been the subject of a great deal of attention recently, and a number of rumours seem to have been circulating despite their total lack of substance. The situation has certainly not been helped by the New South Wales Opposition, which has done what it could to delay and thwart the casino project, against the best interests of this State. Only last week we saw the Opposition withdraw its senseless amendment bill from the House. The great pity is that the Opposition's short-lived amendment bill had the effect of delaying the project for up to two months, as well as injecting some business uncertainty into the project.

One of the most persistent rumours doing the rounds is that the Government has some secret plan to scatter casinos throughout the State. The rumour seems to have persisted despite my repeated statements that the Government has no such plan. As early as March last year I was reading in an Albury newspaper that the Government was thinking of establishing casinos in Albury, Terrigal, Newcastle and another centre on the far North Coast. That claim, which I believe came from the Club Secretaries and Managers Association, was certainly not borne out by anything on my desk. As I said at the time, it came from fantasy land. Since then the Parliament has decided that there should be only one casino in New South Wales, and that decision has since been enshrined in legislation.

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

Mrs COHEN: The Government has very publicly made clear its intentions to establish one casino, and one casino only, at the former Pyrmont power station site. However, the rumours have still persisted. One of the aims obviously has been to stir up opposition to the casino from clubs in different parts of the State by getting them to think they will soon have a casino in their own backyard. Recently, I read in a Liverpool newspaper that the Government might be considering a casino in western Sydney. One club official said that he believed a western Sydney casino recommendation is currently before the State Government.

I am glad to be able to lay this matter to rest once and for all by informing the House that the Government plans to enter into an exclusivity agreement with the selected casino operator. The exclusivity period has not been finalised but I am expecting it to be for a minimum of 10 years. The provision of an exclusivity agreement for the casino operator is a sensible arrangement which will obviously greatly enhance the value of the casino licence. It also means that there will be only one casino in New South Wales for at least the period of the contract. Even when the contract ends, legislation would have to be amended before a second casino was established.

I hope members on both sides of the House will now inform their constituents that there will be only one casino in New South Wales, and it will be located in Sydney. I have never thought that the presence of slot machines in Sydney's casino would have a devastating effect on the club industry. That is consistent with the advice I have received from the Casino Control Authority and the Swan report. Since coming to office in 1988 the Government has done a great deal to assist the club industry and is not about

to damage what it regards as a very important industry. However, I agree with some representations made by the club industry, that clubs should be able to compete on an equal footing with the casino in areas common to both.

With that in mind, recently I informed the industry of a number of measures that the Government would take to provide a level playing field for the casino and clubs with regard to gaming devices. For example, casino machines are to be the same types of devices, with the same range of games, as those operated by clubs.

The casino machines also will have the same bet limits and prize limits as those in clubs, and the casino will have coin of the realm devices of the same denomination as the devices in clubs. I have advised the club industry that any innovative gaming device feature granted to the casino will be granted also to the clubs, and vice versa. I have informed the industry further that the casino will not be permitted to provide free drinks to general casino patrons, which was a great fear of the club industry. As well as this, the tax rate for the casino's slot machines will be at least as high as the tax rate for club machines. On top of this the casino operator will have to pay a community benefit levy.

I should also assure the House that the Government remains committed to putting in place a safety net that would grant relief to clubs within a 10 kilometre radius of the casino, if they can demonstrate that in fact the casino has caused them serious hardship. Relief may be granted by exemption from or deferral of poker machine duty. I believe that the Government has done a great deal to allay any concerns that the club industry may have. The casino will prove to be a great boon for Sydney in terms of extra employment, tourism benefits and health funding. The sensible arrangements I have outlined today should provide the registered clubs with the time and opportunity to co-exist easily with the Sydney casino.

FORMER TRACKFAST GENERAL MANAGER GARY CAMP

Mr LANGTON: My question without notice is addressed to the Minister for Transport. Did the State Rail Authority sack Trackfast general manager Gary Camp in 1992 for incompetence? Was the sacking endorsed by the Independent Commission Against Corruption after a six-month investigation? Has the State Rail Authority since re-employed Mr Camp, at $80 an hour, as part of the consultancy team?

Mr BAIRD: The answers to the first two questions are yes and yes. In regard to the third question, I shall obtain an answer and inform the honourable member.

Later,

Mr BAIRD: Further to a question asked earlier by the honourable member for Kogarah in relation to Gary Camp and the suggestion that he was employed as a consultant by the State Rail Authority, as I said in relation to his first two questions, the answers are yes and yes. A consultancy company known as TMG Group Pty Limited was hired recently by the State Rail Authority to conduct a project on bench marking. The Chief Executive of the State Rail Authority was not informed that Mr Gary Camp was one of the four project consultants employed by TMG on the project. Last week, as soon as Mr Brew was informed that Mr Camp was employed by TMG, he issued instructions that Mr Camp be withdrawn by TMG from any further work for the State Rail Authority. That instruction has been accepted, and Mr Camp is not being employed by State Rail.

NEW ALBURY POLICE STATION

Mr GLACHAN: I direct my question without notice to the Minister for Police.

Mr SPEAKER: Order! I will hear the question in silence.

Mr GLACHAN: Can the Minister provide information about the Government's plans to construct a new police station at Albury?

Mr Newman: What about the Cabramatta police?

Mr GRIFFITHS: I heard an interjection about the Cabramatta police. The member for Cabramatta today offered his services as a special constable. Once we did all of the checks we found he was ineligible on three counts. We thank him for his offer, but he does not meet the high standard required.

Mr SPEAKER: Order! I will hear the answer in silence.

Mr GRIFFITHS: Thank you, Mr Speaker.

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

Mr GRIFFITHS: The member for Cabramatta continues.

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

Mr GRIFFITHS: The member for Cabramatta is the greatest failure this House has ever seen.

Mr SPEAKER: Order! There is far too much interjection from both sides of the House. The Minister for Police will give the House the benefit of his answer.

Mr GRIFFITHS: As the Asian community will -

Mr SPEAKER: Order! The Minister will give the House the benefit of his answer.

Mr GRIFFITHS: I thank the honourable member for Albury for his question. The honourable member has a strong record of supporting local police officers. It was a 1988 election promise by the Government to construct a new police station at

Albury, replacing a number of dilapidated 1960s buildings, that the former Labor Government had made no attempt whatsoever to improve. The old police station was completely inadequate for the greatly increased staff required in this growing city. Whilst the Government immediately began work on planning for a new police station, difficulties with land purchases and local negotiations extensively delayed the project. Happily the delays are now behind us and the development process is well under way.

Adjoining the police property was an historical church and associated buildings which the Police Service purchased to allow additional space for the new police station. The design for the new police station will incorporate the old church and some of the other historical buildings on the existing church site. To allow for redevelopment of the police station, relocation of the Albury district administration and Albury patrol was necessary. A benefit of this is that for the first time in many years the whole patrol will be accommodated in the same premises. The old police station has now been demolished and the site prepared for construction of the new police station.

Mr Scully: Why does the Minister not learn to read?

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

Mr GRIFFITHS: The boy from Smithfield.

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

Mr GRIFFITHS: The former police station has now been demolished and the site prepared for the construction of a new station. This station will accommodate all patrol functions, the district command, the crime scene unit and the radio electronics unit. A contract has been signed with Reed Constructions for $4.76 million. Work commenced in February and occupation is expected in mid-1994. With relocation and other related costs included, this Government has committed more than $7 million to provide Albury police with adequate facilities. It is interesting to note the Government's commitment not only in Albury but in all other areas. Some stations have been in existence for a considerable number of years.

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

Mr GRIFFITHS: One of the police stations that has caused great distress to the Government is the station at Green Valley. It would have to be one of the worst police stations in this State. It is a disgrace that previous governments have allowed police officers to work under the conditions that exist at that station. In the near future this Government will be making a commitment to improve conditions at that station. As the Minister for Sport, Recreation and Racing reminds me, the Government will be doing something also about Wagga Wagga police station.

———

SELECT COMMITTEE ON HOMEFUND AND FANMAC AND THE HONOURABLE MEMBER FOR HEFFRON

Privilege

Mrs GRUSOVIN (Heffron) [3.3]: I rise on a matter of privilege. This is the first opportunity I have had to raise this matter since I received a letter from my solicitors, Mansfield Switzer, dated 23rd April, 1993, in which they advised me that Mallesons Stephen Jaques, solicitors who act on behalf of Mr Michael Lynch, sought certain undertakings from me. This information is now public knowledge. No member of Parliament is above the law and all members are subject to both civil and criminal law. However, the request by Mallesons Stephen Jaques for me to enter into an undertaking which says that "she" - that is me - "undertakes never to refer to Mr Michael Lynch either by name or implication in any statement, discussion or interview in any context whatsoever" I believe to be clearly in breach of my privilege as a member of this Parliament. I seek to move:

That this House,

(1) Views with grave concern attempts by solicitors for Mr Michael Lynch to prevent the member for Heffron raising matters concerning the administration of FANMAC.

(2) Reaffirms the undoubted right of every member to freedom of speech in the Parliament and its Committees.

(3) Reaffirms the principle that any action which attempts to impede a member of Parliament in properly carrying out his or her duties constitutes a contempt against the House.

(4) Resolves that this resolution be conveyed by Mr Speaker to Mr Ian Angus of Mallesons Stephen Jaques.

Mr SPEAKER: Order! This matter was raised with me early in the day by the honourable member for Heffron. In the initial stage I indicated to the honourable member that I did not believe, on the information then before me, that a matter of privilege was involved. Since then the matter has progressed and I am concerned that negotiations between the firm of solicitors Mallesons Stephen Jaques and the solicitors for the honourable member for Heffron have now entered the public arena and imply a threat to a member of this Parliament in the carrying out of her duties. I deem that a prima facie case of breach of privilege has been established. However, it is for the House to decide whether to endorse the motion to be moved by the member for Heffron.

Mrs GRUSOVIN (Heffron) [3.5]: I move:

That this House,

(1) Views with grave concern attempts by solicitors for Mr Michael Lynch to prevent the member for Heffron raising matters concerning the administration of FANMAC.

(2) Reaffirms the undoubted right of every member to freedom of speech in the Parliament and its Committees.

(3) Reaffirms the principle that any action which attempts to impede a member of Parliament in properly carrying out his or her duties constitutes a contempt against the House.

(4) Resolves that this resolution be conveyed by Mr Speaker to Mr Ian Angus of Mallesons Stephen Jaques.

Members, of course, would be aware that I have pursued the HomeFund issue with all the vigour necessary in an attempt to protect those who have been seriously disadvantaged by both Government action and inaction. The fact that Mallesons Stephen Jaques sought an undertaking that I, as part of some settlement or agreement, not refer to any person is clearly, I believe, a breach of my privilege as a member of Parliament. My privilege as a member is further eroded by the fact that Mallesons Stephen Jaques is directly involved in the HomeFund matter. The predecessor to that legal firm was Stephen Jaques Stone James, who advised on legal questions for the mortgage corporation task force; and later the current legal firm prepared the mortgage documents which subsequently drew adverse criticism late last year from the referees in the Consumer Claims Tribunal.

I believe that this is a further attempt to intimidate me so as to make my position as a member of the parliamentary committee inquiring into HomeFund untenable. The element of intimidation attempts to silence me both, I believe, on the floor of this Parliament and within the workings of that committee. In fact, if I were to accept - and I do not - the call by certain government members for me to stand down from that committee because there is a belief that I should be called as a witness instead, clearly my abilities to appear before such a committee as a witness would preclude me from placing certain matters before that committee. We all know there are differing opinions regarding HomeFund and many questions are to be answered, but I think we have finally established that the Government acknowledges there is a problem. I believe that Mr Lynch would have had the opportunity to come before the parliamentary committee of inquiry; and I have no doubt that he will be called to come before that committee. I believe it is highly improper for Mr Lynch to seek to have me silenced. In coming before that committee, he would have had the opportunity -

Mr West: On a point of order. The Government obviously does not oppose the honourable member's motion. There is a substantive motion now before the House. The honourable member for Heffron is permitted to debate only matters that are part of the specific motion she has moved. It is not for her to debate the whole range of HomeFund issues, such as whether Mr Lynch should appear before the committee, and whether the rights of the honourable member for Heffron in regard to this committee - which was set up by the Parliament last week - should be taken into account. I ask that you call the honourable member for Heffron back to the leave of her motion, to debate the principle of the privileges that she and other honourable members have as members of this House and this Parliament.

Mr Whelan: On the point of order. I do not think I have ever heard a more serious motion moved in this House. The essence of the motion -

Mr SPEAKER: Order! The member for Ashfield will give me the benefit of his point of order.

Mr Whelan: The honourable member for Heffron was making only passing reference in relation to what clearly must be regarded by all members as an intimidatory remark by the solicitors acting on behalf of Mr Lynch. One presumes that they are direct instructions. Therefore, the intimidation is not so much from Mallesons Stephen Jaques as solicitors, but as a direct party in the HomeFund saga, in which Mr Lynch has played a very integral part. Members present during question time would understand that Mr Lynch was an integral part, and the public now acknowledges that -

Mr SPEAKER: Order! The member for Ashfield will conclude his point of order. He too is starting to debate the issue.

Mr Whelan: The honourable member for Heffron should be permitted to continue to talk about the

actions of Mr Lynch and his solicitors in attempting to muzzle her - and that is what it is: to gag her in this Parliament.

Mr SPEAKER: Order! There is substance in the points made by the Minister for Conservation and Land Management and Minister for Energy and the honourable member for Ashfield. Debate on this matter of privilege hinges on whether there has been an infringement of a member's rights. Some background information is probably necessary to enable members to understand the issue. However, I would have thought this issue requires very little background information for that purpose. I ask the honourable member for Heffron to concentrate her remarks on the tactics, if I may use that phrase, of the solicitors who had carriage of the material to the honourable member for Heffron and on behalf of Mr Lynch. I ask the honourable member to concentrate on how the tactics employed amounted to a threat to intimidate her in the performance of her duties. That is the essence of the matter before the House.

Mrs GRUSOVIN: In the initial instance I was delivered a letter from Mallesons Stephen Jaques which was handed to me by an attendant while I was behind the Speaker's chair during question time last Thursday. This occurred only a couple of hours after I had attended the inaugural meeting of the parliamentary inquiry into HomeFund. I might say that I was somewhat distressed. There certainly has been a lot of discussion about the membership of that committee. Members would be aware that it is a very important committee and any threat or intimidation that would appear to curtail a member's right to speak out on matters that need to be discussed - perhaps on the floor of this Parliament, certainly within the workings of that committee - would be a worry to all members of this House.

Page 1599

Everyone in this House understands the role of a member of Parliament. We all have a responsibility from time to time to raise matters of great concern, matters that can be of a very contentious nature. We often spend a great deal of time deliberating about whether to bring those matters forward. We have to ensure that we have absolute belief in the facts we bring before the House. Ultimately, as members of this Parliament we cannot shirk our responsibility if we are doing our job as we are elected to do. Ultimately, we have to bear the burden of the responsibility of at times raising matters of great concern and great moment, regardless of the pressures that we all know are applied to us sometimes with the intensity of a blowtorch. Ultimately, we have to make that decision.

My concern is that for a long time I have felt threatened in speaking out on matters relating to HomeFund and FANMAC. This is not the first occasion on which I have received legal letters threatening me in one form or another. I do not speak only of 1993; I go back to 1992 when a different firm of solicitors sent me legal correspondence that caused me a great deal of concern because at that stage I had welcomed the Trade Practices Commission inquiry into HomeFund. I am not going to go into any of those matters but I do know that "The Investigators", Fairfax press, the *Sunday Telegraph*, the President of the New South Wales Law Society, and numerous other people and I have all received legal correspondence when we have attempted to speak on matters relating to this.

Mr Armstrong: On a point of order. Mr Speaker, you have clearly ruled on the remarks of the honourable member. The bottom line is that the Government has indicated it is willing to support the spirit of the motion that the honourable member has moved. The honourable member should not canvass the legal difficulties she may have had during her career as a member of this House. She is clearly taking up the time of the House on a matter the House is going to support. I ask that you bring the honourable member back to the spirit of her motion.

Mr SPEAKER: Order! The honourable member does not add to her case by giving a long catalogue of previous legal actions that do not involve a breach of privilege. The honourable member for Heffron should deal specifically with how her rights have been impinged in this instance.

Mrs GRUSOVIN: I do not intend to take up the time of the House at length, because I am most grateful

for the support that has been given in allowing me to move this motion. That was just some background that has caused me a great deal of concern about my continuing involvement in this matter. As a member of a parliamentary inquiry I believe it is important to feel that one is not under threat, that one is not intimidated and has the freedom to explore the issues, with a responsibility to report finally to this Parliament on the findings that are brought down. My concern was that at a time when I had just been appointed to a parliamentary inquiry, a letter was served on me on the Thursday, and there was a deal of negotiation in the course of last Friday and again this morning between my legal representatives and Mallesons Stephen Jaques.

My consternation increased dramatically when an undertaking was sought from me, for I felt that it was an undertaking which, if it had been issued from a small suburban legal firm one would have possibly discounted and regarded as being so outrageous and over the top that it was all a bit of a hoot. But I believe that because it came from a reputable, respected legal firm - one of the largest legal firms in the State - one would have to react, as I have reacted, in the belief that there was a threat and an intimidation to me in my role as a member of the Legislative Assembly and as a newly appointed member of the committee to inquire into HomeFund. For that reason I have sought to bring this matter before the House.

I do not believe that members who are pursuing such matters and seeking to establish the full truth for the benefit of the Government, the Opposition and the community - and most particularly of all for the borrowers - should be threatened or intimidated. I believe it is important that one feels unfettered in obtaining information and exposing the truth. I do not intend taking up any more time of the House. I am grateful for an indication of support in this important matter, as all of us from time to time experience similar problems.

Mr WEST (Orange - Minister for Conservation and Land Management, and Minister for Energy) [3.19]: I reiterate the comments I made earlier when I took a point of order. The Government certainly does not oppose the principle that has been outlined by the honourable member for Heffron: that all honourable members should have the right of freedom of speech within this Parliament and within the various committees that operate within this Parliament under its standing orders. But I think the honourable member must be aware that statements made outside this House clearly do not attract that same privilege; that is the very fine difference. I suggest that the honourable member must be very cautious and careful about how she handles this matter in future, given the fact that it has now attracted legal attention.

I believe the reason it has attracted legal attention is the manner in which the honourable member has pursued this issue. As you observed, Mr Speaker, in response to a point of order I took, this matter does not need further detailed explanation. Probably it alone has had more airing in this Parliament than any other issue raised in recent times. I have sought and obtained a copy of the various letters from legal representatives. It is on that basis that the Government reiterates its support for this motion.

Mr WHELAN (Ashfield) [3.21]: At the outset I should say that the honourable member for Heffron has been doing her job, and that any attempt, whether by a firm of solicitors or by an individual, to frustrate a member in the rightful performance of his or her

duties has to be the subject of an expression by this House. I take this opportunity to thank you, Mr Speaker, for entertaining the motion. The honourable member had the opportunity to make out a prima facie case, and I think she did that. In my view it is a discretion that Mr Speaker has used wisely in this instance, even though the honourable member for Heffron is a member of the Australian Labor Party. Had this happened to a member opposite, I would feel equally aggrieved.

I cannot understand why a firm of solicitors with such a wide and favourable reputation as Mallesons Stephen Jaques could ever contemplate asking a member of Parliament to enter into any undertaking by name or implication relating to any statement, discussion, or interview in any context whatever. Its only excuse would be that it did not know that the person was a member of Parliament. But it has lost that defence because the privilege matter the honourable member referred to is that the letter alleging her defamation - which in itself is defamatory - refers to the Hon. Mrs Deirdre Grusovin, Parliament House, Macquarie Street, Sydney. Mallesons Stephen Jaques knows full well who Mrs Grusovin is. It knows that its client has at this stage made

unsubstantiated allegations of defamation, yet at the same time this firm has surprised me, and I am sure many others, by taking the next step and assuming that a member of Parliament would be gagged in the performance of his or her duty.

[*Interruption*]

I do not share the view that came from the opposite benches, that solicitors do it because they are paid. I do not believe that is necessarily the case in this instance, but I thank the honourable member for his interjection. The honourable member for Heffron does not object to the letter dated 22nd April, 1993, from Mallesons Stephen Jaques, which Mr Speaker and the clerks would be very interested to learn was delivered by a Legislative Assembly attendant to Mrs Grusovin while she was sitting in the Chamber. Of course, it was delivered in an envelope. As the honourable member said, members of Parliament are not above the law, civil or criminal, and therefore can be sued and receive summonses and information, although I understand that many years ago some members hid in their rooms to avoid the service of process.

Well, I have some bad news, because the Court of Appeal has decided that members are not entitled to the privilege of process avoidance. Far be it for the honourable member for Heffron to run away from reality. She, like every member on the Opposition side of the House, is surprised that someone could be so inept as to attempt to intimidate her, to muzzle her, to gag her in doing her job. I intend to send a copy of my speech to Mallesons Stephen Jaques. I intend also to ensure that the firm receives a copy of a few of the rulings of former Speakers. If the House passes the motion, the resolution of the House would be that you, Mr Speaker, write to Mallesons. I intend to send that firm a copy of the debate and suggest that it should have someone on its professional staff with some knowledge of parliamentary precedent.

There are no vacancies on this side but there will be heaps of vacancies opposite. The Opposition supports the motion moved by the honourable member and hopes this may be the last of an intimidatory matter. The Opposition hopes that solicitors will have regard to the law and to the privileges of Parliament. If they want to write letters to members of Parliament, they should do what others do, that is, make the necessary inquiries and adopt the proper format and legal processes available to them. Members of Parliament are not above the law, but to attempt to intimidate a member only riles everyone in this House.

Mr FACE (Charlestown) [3.26]: I support the motion. As you would know, Mr Speaker, and as many other members would know also, I have very strong views about parliamentary privilege and the rights of members. I should like to put on record my request of you, Mr Speaker, and your brother Presiding Officer, to acquaint the Law Society of New South Wales with the obligations or guidelines that apply to process serving, the serving of writs on various people, particularly in light of this recent incident. I refer to an incident in another place at the end of last year when a person from a legal firm served a subpoena on a member of that place to produce various documents about questions on notice.

I believe honourable members would well know that the honourable member brought the wrath of the Legislative Council upon that solicitor's head. In recent times the honourable member for Coogee has had similar dealings. In these turbulent times it appears to be a growing trend to try to deter honourable members from doing our duty by debating matters in this Parliament. Though I realise that the Law Society of New South Wales is not bound by what we say, I do not believe it would do any harm if you, Mr Speaker, in consultation with your brother Presiding Officer, advised it of the parameters involved so that this information can be released in the form of a newsletter. That would go some way to avoiding the situation of legal firms pleading ignorance about what they can or cannot do.

Mrs GRUSOVIN (Heffron) [3.28], in reply: I wish to thank you, Mr Speaker, for your kind consideration, and I thank all members of this House for their support of the motion. I thank you all.

Motion agreed to.

PETITIONS

Capital Punishment

Petition praying that the Government will hold a referendum on the reintroduction of capital punishment in extreme cases of murder where there is absolutely no doubt that the offender committed the crime, received from **Mr Windsor**.

Page 1601

F6 Freeway Emergency Telephones

Petition praying that the House will consider the installation of emergency telephones on the F6 Freeway from Yallah to the north of Wollongong, received from **Mr Rumble**.

Serious Traffic Offence Penalties

Petition praying that the House review the laws relating to road accident fatality or grievous bodily harm and institute severe penalties, received from **Mr Newman**.

Lake Macquarie Fish Reserves

Petition praying that the House ban professional fishing in Lake Macquarie for a five-year period and commission a feasibility study on methods to prevent further deterioration of the lake's marine life, received from **Mr Hunter**.

Lidcombe Hospital and Auburn District Hospital

Petition praying that the House reject any proposals to cut back services or staffing at Lidcombe Hospital and Auburn District Hospital but instead support an increase in services and staffing at the hospitals, received from **Mr Nagle**.

Public Hospital Privatisation

Petition praying that the House will reverse the Government's decision to privatise public hospitals, received from **Mr Hunter**.

Ingleburn and Macquarie Fields Police Stations

Petition praying that the House provide, as a matter of urgency, a permanent police station at Ingleburn and upgrade the existing police station at Macquarie Fields, received from **Mr Knowles**.

Caroline Bay Multi Arts Centre

Petition praying that the House order the establishment of a commission of inquiry under the Environmental Protection Act to consider the environmental and fiscal effects of the Multi Arts Centre proposed for Caroline Bay, East Gosford, order a half-term election for the ten aldermen of Gosford City Council on 18th September, 1993, and order the council to cease expenditure on the centre until the results of the election become known, received from **Mr McBride**.

REGULATION REVIEW COMMITTEE

Report: Tabling of Regulations

Mr CRUICKSHANK (Murrumbidgee) [3.34]: I desire to lay upon the table of the House the eighteenth report of the Regulation Review Committee upon tabling of regulations.

Ordered to be printed.

Mr CRUICKSHANK, by leave: Since its inception, the Regulation Review Committee has been concerned at the level of information on regulations which is provided to the Parliament. At the commencement of each sitting week in this House a publication is produced that lists the statutory instruments that are subject to disallowance by the House. A similar procedure is followed in the other place. This list has been adapted for the purposes of the committee's consideration of regulations in accordance with the Regulation Review Act. That list is supplemented by detailed committee papers analysing each regulation, generally in the order of their tabling. A copy of the committee's list is attached to this report.

If honourable members examine this list, they will find a large number of regulations, some of which date back five years and have still not been tabled in this House even though a great many of them have been examined by my committee. Though the Interpretation Act enables Parliament to disallow a regulation from the time it is published in the *Government Gazette* and not, as previously, from the date of tabling, the committee considers that tabling of statutory rules still performs the important function of putting honourable members on notice that their consideration of the content of the rule is called for within 15 sitting days from the date that that occurs.

I ask the Ministers responsible for the administration of the regulations that have passed the last day on which they can be tabled to take urgent steps to ensure that these regulations are tabled promptly. The report further recommends that the reforms to the tabling procedures, which will ensure that this situation does not recur, be implemented as a matter of urgency. Since its fourth report of 1988, the committee has called for these reforms but, as yet, despite a number of different options being considered by the Attorney General and the Leader of the House, no definite action has been taken. The committee believes it is essential that these reforms now be made so that members can be informed at the earliest opportunity of the range and content of statutory instruments that are subject to disallowance.

The committee has also recommended certain amendments to the Subordinate Legislation Act to ensure that the committee and the Parliament are provided with all the necessary information on the assessment of the impact of regulations under the Act immediately upon their publication in the *Government Gazette*. This information includes any regulatory impact statement that may have been prepared on a regulation and the Minister's certificate of compliance with guidelines for assessment under schedule 1 to the Subordinate Legislation Act. These reforms to the tabling of and the provision of information on regulations will enable members to gain a greater comprehension of the range, content and impact of all regulations that are tabled in this House. The committee has specifically asked me to seek a response from the Premier or the Minister at the table at the time this report comes on for debate by the Parliament.

Debate adjourned.

LOCAL COURTS (CIVIL CLAIMS) ACT: DISALLOWANCE OF RULES

SUPREME COURT (FEES AND PERCENTAGES) ACT: DISALLOWANCE OF REGULATIONS

DISTRICT COURT (FEES) ACT: DISALLOWANCE OF REGULATIONS

Suspension of Standing and Sessional Orders

Mr WEST (Orange - Minister for Conservation and Land Management, and Minister for Energy) [3.38], by leave: I move:

That so much of the standing and sessional orders be suspended as would preclude the honourable member for Ashfield from moving Notices of Motions Nos 1, 2 and 3 under Standing Order 113A together and debating the motions concurrently provided that separate questions be put to the House and pursuant to Standing Order 113A(c) the Speaker shall be entitled to put the question after 60 minutes of debate.

I acknowledge that the idea was that of the honourable member for Ashfield. I was happy to take it on board and submit it to the House because it is a time-saving process. While this degree of co-operation continues, we may get some more business through this House.

Motion for suspension of standing and sessional orders agreed to.

Motion

Mr WHELAN (Ashfield) [3.40]: I move:

(1) That this House disallows the amendment to the Local Courts (Civil Claims) Rules 1988 made pursuant to the Local Courts (Civil Claims) Act 1970 as set forth in the notice appearing in *Government Gazette* No. 140 of 27 November 1992, at page 8483 and tabled in this House on 2 March 1993.

(2) That this House disallows the amendment to the Supreme Court (Fees and Percentages) Regulations made pursuant to the Supreme Court Act 1970 as set forth in the notice appearing in *Government Gazette* No. 140 of 27 November 1992, at page 8492 and tabled in this House on 2 March 1993.

(3) That this House disallows the amendment to the District Court (Fees) Regulations made pursuant to the District Court Act 1973 as set forth in the notice appearing in *Government Gazette* No. 140 of 27 November 1992, at page 8478 and tabled in this House on 2 March 1993.

I am grateful to a number of legal practitioners who have given me information, counsel and advice in relation to the proposed disallowance of these three regulations, on which the House will vote separately. I am particularly grateful for the advice that I have received from T. D. Kelly and Company, solicitors, and from Mr Kelly himself. In case honourable members are concerned that I might be using Mr Kelly's name in vain, the answer to that question is no. Mr Kelly is very happy for due credit to be given to him publicly. I do so now. These regulations were published in the *Government Gazette* and the last date for recision is 29th April, 1993. If these regulations for the three courts are passed, New South Wales will have by far the highest taxing court system in the nation. Let us compare the costs in other States. The filing fee on a statement of claim in the Supreme Court in Victoria is $235. The proposed gazetted fee in New South Wales is $500.

Mr Merton: In what jurisdiction?

Mr WHELAN: In the Supreme Court. The filing fee on a statement of claim in the Supreme Court in Queensland is $146 and in South Australia it is $382. In Western Australia it is $262, in Tasmania it is $100, and in the Australian Capital Territory it is $330. Prior to the implementation of these regulations the fee in New South Wales was $440. Even then the fee in New South Wales was the highest in the land. But now the fee in New South Wales will be $500. The fee in New South Wales for setting a matter down for trial equates with other jurisdictions. While five States, including Queensland and South Australia, have no fee for an interlocutory application, New South Wales has the highest at $200, followed by Victoria at $140. For the first time ever in New South Wales it will cost $40 for the production of each subpoena to give evidence. There are no comparative costs in any other jurisdictions.

New South Wales also has the highest jury fee in the nation - although Victoria comes closest - at $435. There are no jury fees in some other jurisdictions. Honourable members would be aware that some States have

abolished jury fees. Leaving aside other matters for which this State has the highest Supreme Court fees, we have had dramatic increases in other areas. A notice of appeal in the Court of Appeal in Victoria costs $140, but the Minister for Justice and Minister for Emergency Services is raising that fee to $1,725. That is a dramatic increase of $1,500. The fee in Victoria is $140, in Queensland $193, South Australia $382, and Western Australia $265. The fee in the Australian Capital Territory, which comes closest to this State, is only $500.

We have to ask ourselves: why has the Government introduced this historic range and set of fees? The reason is clear. It is nothing more than a revenue-raising exercise. It has nothing to do with the rights of litigants. In fact, it is to the contrary, because this dramatic increase in fees will deter people from going to a court and filing process. What about people appealing on a new statute? Take, for example, the industrial relations legislation. That legislation, passed by this Chamber and the upper House, brought in new industrial law, which some see as industrial confrontation. A worker will now have to find more than $1,700 to lodge an appeal in the New South Wales Court of Appeal, and as a result he or she will be seriously disadvantaged. That is only one instance.

In previous regulations there was an opportunity for the court to waive fees. Let us say that the honourable member for Gladesville had a constituent with a funding problem, that that constituent had a legitimate claim, but was not entitled to legal fees because legal aid has been abolished. I do not want to make that political point, but we all know that legal aid in civil matters has been abolished. The Government has now abolished the opportunity for that person to have court fees waived. So there is no opportunity for people suffering hardship - people who

are hurt or injured or are third party victims - to have those fees waived. I am advised that that waiver provision has been removed from the regulation. I look forward to the Minister explaining the reason for that. The Minister might simply say, "It is still there", but my information is that it has been removed.

Mr Kerr: Where did you get your information from?

Mr WHELAN: I obtained my information from someone who has spent -

Mr Kerr: Name him.

Mr WHELAN: My information is from one of the 13,000 litigants who have filed statements in the Supreme Court.

Mr Kerr: Name them.

Mr WHELAN: My information is from one of the 13,600 people who lodged a statement of claim, or its equivalent, in the District Court. My information is from one of those 26,600 who up to now have paid $14,636,000 to the Supreme Court alone. The Minister is going about reform of the law and reform of the administration of justice from the wrong angle. He is saying: "We need X dollars to run the court system. We will make it self-funding by virtue of litigants paying statements of claim fees. But I will ignore the necessary refinements that could and should take place within the administration of justice that will enable Government members to put their minds to the job of saving $9 million which the Government will pick up in additional revenue as a result of these heavy imposts". These imposts will apply in the Local Court and the District Court, but particular emphasis must be placed on the New South Wales Supreme Court.

This debate is limited. But I would be happy to have a debate with the Minister about various other methods which he and his department could employ to save money in the administration of justice. I have been at pains, in this House and at press conferences and the like, to talk about the abolition of the long court vacation. Fifty-three judges in a number of courts - certainly not the Supreme Court, as it chopped out the July vacation - have the July vacation. They are off for the whole month of July. After all my criticism they have introduced a random roster so that six or seven judges sit while the rest of the judges are away on holiday and

are not involved in the administration of the court system. The Government should immediately say to the judges of the District Court, "This historical anachronism must go". Multiply the monthly wage of one judge by 53. We are not talking chicken feed. The Government is also talking positively of having 8 per cent throughput in the District Court - [*Time expired*.]

Mr MERTON (Baulkham Hills - Minister for Justice, and Minister for Emergency Services) [3.50]: The motion before the House seeks to disallow the regulations providing for increases or additional fees for the court system. The honourable member for Ashfield clearly overlooks the real thrust of these court fees. He said that litigants will be denied the opportunity to file a statement of claim. Obviously, he has not looked at the proposals. The Government's proposal will not increase filing fees for statements of claim, in any amount, in the Local Court. In the small claims division there will be no increase; for claims of between $3,000 and $10,000 there will be no increase; and for claims of $10,000 to $40,000 there will be no increase. In the District Court, there will be no increase for filing a statement of claim.

In the Supreme Court, for statements of claim without a return date there will be an increase of 14 per cent; and for those with a return date the increase will be 59 per cent. There is no additional fee to have the matter set down, so the figure of $700 is all-inclusive. The Opposition would have us to believe that those involved in car accidents - they generate most of the work of both the District Court and the Supreme Court - would be unable to file their statements of claim. That is simply not the truth. It makes a great story, but it is a myth. The reality is that the filing fee of $130 in the District Court is as it was last year - no increase. As the District Court deals with cases of up to $250,000, it would be fair to say that most car accident cases would be dealt with in the District Court.

In the Supreme Court the filing fee for a statement of claim will be increased by 14 per cent, to $500. It is false to claim that people involved in accidents will be denied the right to take the matter to court. It might make a good story for the honourable member for Ashfield, but it does not deal with the real issue. The real issue of these fees is that the Government has decided to look at the real court users. While plaintiffs may be the main users of court services, defendants also use the court process. For example, the honourable member for Ashfield might decide to sue me over a particular matter When I receive the summons I might say I am not responsible, that the person who sold me the car is responsible -

Mr Knight: Someone else is always to blame. That is typical of the Minister.

Mr MERTON: A typical response from the honourable member for Campbelltown. If I believe the salesman was responsible, then I cross-sue the honourable member for Campbelltown. Under the present system the plaintiff, the person who takes out the process, has been paying all the fees. No one else made any contribution; the plaintiff paid the whole lot. It was open to the Government to increase the filing fees payable by plaintiffs. A succession of Labor governments increased those filing fees. The Government believed that option to be unfair; it wanted the filing fees payable by a plaintiff to remain unchanged.

By and large, the Government has been successful. With respect to Local Court fees it has been 100 per cent successful, as it has with the District Court. For the Supreme Court there have been two changes, one of which is fairly minor. But

the Government has introduced a user-pays system on the basis that a person wishing to cross-sue should pay a filing fee. The filing fee on process against the person who sued is exactly the same as that paid by the plaintiff. That is a fair and equitable arrangement for use of the court process.

About 70 per cent of court work is carried out by Local Courts, where no fee has been increased, apart from the introduction of the user-pays system for cross-claims and third party notices. What applies in the District Court applies in Local Courts. A person making a cross-claim has to pay the same filing fee as the person who originally sues. A fee of $10 has been introduced for a subpoena to give evidence in the Local Court. At present these subpoenas are free; the plaintiff pays all the fees. The alternative would have been to increase the fee payable by the plaintiff to file a summons. The Government believes such fee increases would

be a deterrent, and the Government is not about deterring people from taking a case to court.

Subpoenas are only issued if a matter actually proceeds to a hearing. The Opposition does not like this because it cuts all its arguments. The Opposition has come along today with a lot of hogwash which is emotionally appealing but is without substance. The real issues have to be dealt with. The Government has the responsibility to maintain the New South Wales judicial system. Opposition members sit on the sidelines and throw stones, without showing any responsibility whatsoever. That is the difference between the Opposition and the Government.

The majority of court cases would be settled out of court, without the issue of a subpoena. However, if a matter proceeds to a hearing, the fee for issuing a subpoena will be $10. Previously this service was provided free. This will make people responsible about who they subpoena. Otherwise litigants could request 10 or 15 subpoenas, have them typed out by the court clerk, take them back to their office and then consider which subpoenas to serve and which to discard. The court will charge a nominal fee for the issue of subpoenas.

A similar situation applies to garnishee orders, which involve additional work. But by and large there is no increase in filing fees in the Local Courts, apart from the new fee for cross-actions, which is equitable, and some minor fees for subpoenas, judgments and garnishees. Basically, the bulk of court work in New South Wales is done by the Local Court. A similar situation applies in the District Court. If I wished to issue a cross-claim against the honourable member for Campbelltown and the honourable member for Ashfield, I would have to pay $130. The plaintiff will not have to pay one cent more.

The real increases contained in the legislation apply in the Supreme Court. The fee for an application for leave to appeal to the Court of Appeal will be reduced from $1,500 to $1,000. In the probate jurisdiction, probate of up to $50,000 will not attract any filing fee, whereas previously a filing fee applied. The proposed limit of $50,000 was previously $15,000. An increase of 15 per cent will apply to a notice to appeal. I will shortly introduce a fee arrangement whereby a small fee will be paid at the beginning to hold the case, with an additional fee if the matter proceeds. People will thus be able to protect their interests by the payment of a smaller fee. I am in the course of preparing that arrangement, which has been approved by the Department of Courts Administration.

In the Supreme Court the fees charged are greater, fewer people are involved in the process, and more commercial cases are dealt with; therefore those who use that court should make a greater contribution to court fees in New South Wales. The Government believes that only a few changes should be made to the fees payable in the Local Court and the District Court; and effectively that is what has occurred. Some honourable members have expressed concern about this issue. I assure the honourable member for Tamworth and all members on the crossbenches that at the end of six months court fees will be reviewed. If cases of hardship are shown or if it is demonstrated that the fees are not working satisfactorily and people are placed at a disadvantage, I shall review the court fees. Nothing could be fairer than that.

If hardship can be shown, the Government is willing to review the court fees at the end of six months. This has been a purely political job by the Opposition. The Government has the responsibility to ensure that realistic court fees apply. It has introduced the user-pays system rather than making plaintiffs pay, as occurred under the former Labor Government for many years. That is the difference. Filing fees in the Local Court are practically unchanged, certainly in regard to the issuing of statements of claim. No one will be denied the ability to go before the court because of increased fees. The same can be said regarding the District Court and, by and large, the Supreme Court. [*Time expired*.]

Mr J. H. MURRAY (Drummoyne) [4.0]: The Minister said it all when he stated that his Government is not in the business of allowing court fees to act as a deterrent to people using the courts. He said also that the filing fee in the Supreme Court of New South Wales will be $500. The Minister has a lot of property and money, but for the average person $500 is a major deterrent. That is a lot of money to pay as a filing fee for a workers' compensation claim or if one has a motor vehicle accident claim and has to pay a $500 filing fee in the Supreme Court. That will be a major deterrent to many people. If a person has a matrimonial problem and has

to go to court, $500 is a major deterrent.

Mr Merton: On a point of order. The matrimonial court has nothing to do with the Supreme Court of New South Wales. At last the member for Drummoyne has been caught out. He does not know what he is talking about. This matter involves the Supreme Court and not the Family Law Court.

Mr SPEAKER: Order! The list of fees being
Page 1605
debated does not include matters about which the member for Drummoyne has spoken. I ask him to return to the subject of the motion for disallowance.

Mr J. H. MURRAY: The Minister cannot take criticism. I am talking about people who will be disadvantaged by having to pay these fees. On many occasions in the past the solicitor bore those fees. When a decision was given the solicitor would take that amount out of the judgment. In many instances solicitors are now battling and they will ask people who come to them for advice to pay the $500 up front. That will be a major deterrent. The Minister said that there will be no problem about the fees. In Victoria the fees are half of those that will apply in New South Wales: $235 in Victoria and $500 in New South Wales. It is no wonder there is an exodus of people from New South Wales to other States. In Tasmania the filing fee is one-fifth of the fee that the Minister will ask people in New South Wales to pay to obtain justice. In Tasmania the filing fee is $100 for the same processes to be heard before a court; in New South Wales the fee is five times that amount. These fee increases are not just.

In the Australian Capital Territory the filing fee is $330; in Western Australia it is $262, approximately half of the fee in New South Wales; and in South Australia the fee is $352. As the honourable member for Ashfield said, one cannot now get assistance through legal aid; legal aid has been abolished. All honourable members know that time and again people come to them about civil matters, and when an inquiry is made about legal aid one is told that no money is available for assistance. The hardship provisions that were available for the disadvantaged and the needy have gone. The Minister is introducing a double whammy. This Government is always looking at the bottom line rather than at the need for justice and equality in the State. Dollars and cents do not always equate with justice.

The Minister for Justice and the Government have one aim: to balance the budget because of difficulties in other areas. The Minister has been told by the Premier and Treasurer that he must raise more money. The people who will suffer as a consequence are those who are less able to meet these costs because of their financial position - the disadvantaged people who use the courts. These fees will be a major deterrent for them. The increases in fees were introduced through the backdoor. They were published in the *Government Gazette* and were not the subject of debate in the House. Had it not been for the diligence of the honourable member for Ashfield as the shadow minister in raising the matter, the increases would have flowed through. The Minister would not have had to explain them to the House. He tried to introduce these fees through the backdoor because he is ashamed of what he has done. He knows the increased fees will have a major impact on the poor and needy. He has been caught with his pants down.

Mr KERR (Cronulla) [4.7]: The Opposition seeks to disallow the new Supreme Court and District Court fees on the basis that they will prevent people from having access to the court system and deny justice to many thousands of people. If that were so, it would be a serious situation. The Government acknowledges that access to the courts goes to the fabric of a democratic society. Let us examine the claims made by members opposite who, when the Labor Party was in office -

Mr SPEAKER: Order! The member for Auburn will remain silent. He will have an opportunity to contribute to the debate.

Mr KERR: I should inform the honourable member for Auburn that it is always good for a lawyer to have a knowledge of history and a tolerance of horror. I was a member of the Opposition when the former Labor Government was in office and it increased court fees across the board.

Mr Nagle: I was not a member of the House then.

Mr KERR: The member for Auburn lodges a notice of alibi, which I accept because he was not a member of the House at the time; but the member for Ashfield was a member at that time. He has not provided a notice of alibi. The member for Ashfield mentioned the fees payable in respect of an appeal from the Compensation Court to the Court of Appeal. He failed to mention the hundreds of thousands of dollars - in fact millions of dollars - that the Unsworth Government sought to save by deducting premiums from workers' benefits.

Mr Knight: What does this have to do with this debate?

Mr KERR: I am glad the honourable member for Campbelltown interjects to ask what this has to do with the matter. I shall tell him. It is about justice for the working-class. Have members opposite ever heard about the workers?

Mr Merton: One would not include that mob as workers.

Mr KERR: No, they would not be called workers. The member for Campbelltown is known as Mr Knight, because the Dark Ages occurred when his party was in office.

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

Mr KERR: What the Opposition does not take into account is that this Government has taken what I consider to be a totally non-legalistic and creative approach to the delivery of justice. The rationale of imposing such fees was to protect, where possible, litigants with small claims from prohibitive fee increases and to ensure that fees are imposed equitably. For instance, the Minister has provided that there will be no changes in fees charged in the small claims division of the Local Court, that is, claims under $3,000. Furthermore, fees have been imposed to better facilitate case management of

matters in the civil court system. For example, a distinction has been drawn between filing fees imposed between a process with a return date and a process without a return date.

As the honourable member for Auburn would know because he frequents local courts, the vast majority of civil actions filed in this State are filed in the Local Court, which currently has a jurisdictional limit of $40,000. In 1992 there were 207,225 statements of claim filed in the Local Court and 159,563, or 77 per cent, fell within its small claims division. Filing fees charged in the small claims division of the Local Court, that is, claims under $3,000 - and honourable members should take note that this is 77 per cent of the claims - have been exempted from the increases. The Government is looking after the little people. If the honourable member for Auburn were to send a letter demanding payment for a parliamentary dining fee and sought to recover that amount in the Local Court, he would be exempted from fees. It is completely dishonest to say that the fees represent an entry barrier to our courts. Court fees comprise only 5.4 per cent of the total amount of legal costs and disbursements. The honourable member for Drummoyne is referring only to less than 6 per cent when he speaks about having to find certain funds. No wonder he found himself in the wrong jurisdiction when he spoke here.

Mr Merton: That is maybe where he is headed.

Mr KERR: Yes, that may be where he is headed but one would not seek advice from him. No doubt he would appear purely as a witness, never as a party in that sort of jurisdiction. This Government has put in a range of reforms which will be put in jeopardy unless the Opposition and the Independents can specify the source of the funds.

Mr Whelan: Let us have a debate on that.

Mr KERR: The honourable member for Ashfield has said, "Let us have a debate on that". Labor's mates in Canberra have taken more than $1 billion from the people of New South Wales. They should give the money back and we should have a debate on that. I wish to refer to some of these reforms. In the probate jurisdiction of the Supreme Court a new sliding scale of fees has been introduced to replace the flat filing fee previously charged. This five-tiered fee structure varies according to the sworn gross value of the estate, a rationale relied upon by the legal profession when charging for probate.

I wish to refer to this issue further because this is important to every constituent. By imposing a sliding scale of fees the Government has been able to increase from $15,000 to $50,000 the estates for which no fee is payable. Filing fees for notices of appeal to the Court of Appeal have been increased by 15 per cent. The increase is an attempt to have litigants contribute a little more to the significant costs to the State in providing three Supreme Court judges to hear appeals. No one would deny that those who use the system should contribute to it. This Government has never said it should be self-funding but appreciates that there is a social cost.

Mr Whelan: That is what the Minister just said.

Mr KERR: He did not.

Mr Whelan: Yes he did; he said it would go towards it.

Mr KERR: We are talking about a contribution made by litigants. The Government will not allow distortion by the Opposition. It would have been easy for the Government to increase all existing fees, as was done by Labor governments of which many honourable members opposite were a part. Unlike the Opposition the Government is looking at ways outside the legal system. The Government has encouraged alternative dispute resolution through arbitration. The Minister for Justice has increased community justice centre funding to further assist the genuinely needy in our community. Unlike the cynical point-scoring of the Opposition, the Government has been aware of hardship within the community.

Mr Amery: Give us a go.

Mr KERR: That is what the workers in the electorate of the honourable member are saying. Where litigants are in financial difficulty, registrars of the Supreme Court and the Local Court have a discretion to waive or even postpone fees in deserving cases. A similar power is soon to be given to the registrars of the District Court. When did the Opposition ever provide that compassion to people involved in litigation? Following the last Budget the Government has provided supplementary funds of $3.2 million because subsequent to the Budget an error was apparent in the financial arrangements between the State and Federal governments. Did the Federal Labor Government provide funds to New South Wales for legal aid? The Opposition is very vocal about legal aid but when did it seek supplementary funding in regard to legal aid?

The New South Wales Government has allocated $1.8 million to fund a delay reduction program in the court system. Following a request by the Legal Aid Commission for further funds, the Government has provided millions of dollars of additional funding. The Minister for Justice has given an assurance to monitor the new fee structure and to undertake a full review after six months. Any fees shown to cause undue hardship to litigants will be changed. If what the Government is seeking to do is thrown out so, too, is that undertaking. When did a Labor government ever review the increase in charges and the effect those charges have on its constituents? That is what the Opposition is seeking to throw away.

The Government is providing support to the Civil Justice Research Centre, an independent organisation established by the Law Foundation. Information will be available to members of Parliament in order to assist them. Delivery of justice is the hallmark of any civilised society, and the Government is dealing with it in a creative and compassionate way. The Opposition is seeking to deprive the court system - not the Government - of

desperately needed revenue. It is putting the funding of reforms in jeopardy. Justice is not about dollars and cents; however, changes must be financed. The Opposition's attitude is a cynical, stupid, point-scoring exercise that will deprive the very people honourable members opposite are seeking to help. [*Time expired*.]

Mr NAGLE (Auburn) [4.17]: The Minister said that there will be a review and gave undertakings to the honourable member for Tamworth. In the Government's history there has never been a review that has decreased fees; the review will merely increase fees. He presupposes that he will still be Minister in six months' time. On the Government's performance there is no surety of that. Governments should not act like Scrooge. Governments should provide services such as allowing people access to the court at minimal cost, even if they have to subsidise that service. The Minister referred to motor vehicle accidents. He said that many people are able to sue in the District Court.

In a recent discussion on extending the jurisdiction of the District Court to $250,000, I asked the Minister to advise whether the legislation to come into effect on 1st July will be retrospective and whether matters in excess of $100,000 now being heard in the District Court by notice of motion need not be transferred to the Supreme Court. The Minister informed me that, no, if on 1st July, a matter is listed in the District Court at $100,000, its jurisdiction remains at $100,000. Many cases will be transferred to the Supreme Court on that basis alone. The Minister has the power to allow matters in excess of $100,000 to remain in the District Court, yet he seeks their transfer to the Supreme Court whereby a filing fee of $200 will have to be paid. In 1988, when the coalition Government came to office, a filing fee was not charged.

The right to waiver fees because of hardship has been discussed. The Supreme Court does not have any waiver rights. The District Court has a waiver right - that is policy being made on the run. On 28th January I wrote to the Minister inquiring about increases in fees. On 28th March the Minister wrote an extensive reply. He explained the reason for the fee charges and referred to no fees being charged for claims under $3,000 in the small claims division of the Local Court and about not increasing the initial filing fee or staggering other fees. On page 2 he stated:

> However, filing fees in the Commercial Division of the Supreme Court have not been increased.

The fee of $2,000 is still payable. Therefore, in the Commercial Division where all the wealthy go - Broken Hill Proprietary Company Limited, the AMP Society, and all similar type bodies - there is to be no increase in the filing fee, but out in the western suburbs of Sydney, where Parramatta District Court, Campbelltown District Court, and Penrith District Court are located, the filing fees will be substantially increased.

The honourable member for Cronulla told us about claims less than $3,000 in the small claims division of the Local Court. How wonderful it is! He said the Government has not increased fees of any description for claims less than $3,000. The greater majority of claims under $3,000 relate to real estate agents and small businesses in the suburbs. Few working-class people sue for debts less than $3,000. What a great advantage for the real estate agent! He can chase a rent of $1,000 in the Local Court and not have to pay a fee. The Minister should explain why the Commercial Division of the Supreme Court gets away with not having to increase its fees but all the battlers in the western suburbs who want access to the courts will have to pay the increase in fees.

I thank Mr Tim Kelly and Mr John Wright, solicitors, for the information they forwarded to me about the fee rises and for the excellent watch they have kept on the Government. I inform the House that as at 1st July, 1972, the filing fee for a statement of claim in the Supreme Court was $10. On 25th January, 1980, the fee was $85; on 1st January, 1987, it was $215; in 1988 when the present Government came to office the fee was $230; in 1989 the fee was $300; in 1991 the filing fee was $345; and again in 1991 the filing fee for a statement of claim was increased to $440. These figures show that there was a 91 per cent increase from March 1988 to December 1992. The gazetted fee now of $500 is a further 13.5 per cent increase, making a grand total to date of a 117 per cent fee increase under this Government. There goes the view of the honourable member for Cronulla that it is only a 5 per cent increase.

I turn now to the cost of setting a matter down for trial. In 1972 the cost was $12; in 1976 it was $25. From 1978 until this fee was gazetted, the cost was nil. Not one penny had to be paid. The cost now of setting a matter down for trial is $200. The same circumstances apply to filing a notice of motion. No fee was payable from 1978 until the present fee was gazetted, and now a payment of $200 is required. Previously there was no fee for filing a subpoena. To now file a subpoena for production of documents a fee of $40 must be paid; and a subpoena to give evidence requires the payment of $20. Many subpoenas relate to giving evidence and producing documents. In those instances will the payment of $60 be required? That will be interesting.

The present cost of bringing a matter to trial in the Supreme Court is $1,020 - an increase of 343 per cent by the Government since March 1988. When the Government says it is not putting up the fees, no one believes it. The same situation applies to the District Court. The cost of filing a statement of claim in 1988 was $70; the cost is now $130. The fee for filing a praecipe for trial in the District Court in 1988 was $90; it is now $180, which is a 100 per cent increase. There was no fee for filing a notice of motion in the District Court until a fee of $75 was gazetted - suddenly a massive fee is imposed. The total cost from 25th March, 1988, to date for filing and bringing a matter to trial in the Civil Claims Division of the District Court has been increased by 215 per

cent. Where is this 4 per cent or 5 per cent or 6 per cent increase mentioned by members opposite? The Minister says the Government is not increasing fees. Thank heavens there are areas where the Government has not made increases, but that will change in the near future.

Mr Merton: Will it?

Mr NAGLE: Yes, because that is the policy. The Minister has said it himself in the debate. He was talking about the user-pays system. In justifying his actions the Minister said in his letter to me:

> I would emphasise that every effort was made to protect litigants with small claims from prohibitive fee increases and to ensure that fees are imposed equitably.

The Minister then referred to the small claims division of the Local Court. He did not talk about the District Court or the Supreme Court. I wrote to the Minister in regard to my concerns about the District Court and the Supreme Court. I have always noticed in this House when members of the Opposition are hitting hard at the Government, its members interject because we are cutting the Government to the bone. They do not like it.

Mr Merton: You are telling lies; that is why.

Mr NAGLE: I am quoting from the Minister's letter of 28th March.

Mr Merton: My letter is the truth. The only truthful thing you have done is to quote from my letter.

Mr NAGLE: In that case, it will probably be the most untruthful thing I have done. The Minister went on to say:

> Further, by not increasing the initial filing fee and by staggering other fees, litigants are able to commence proceedings and to pay additional fees as particular process is required.

When the calculations are made about how much it is going to cost, the truth will be that the Minister believes that matters will settle long before they get to court, and that the good plaintiff and the good defendant will not have any worries. One only has to use imagination: the Minister's firm is Wayne A. Merton and Company, formerly of Parramatta, and I am a barrister, so we both know that 90 per cent of all cases are either settled at the arbitration stage of preparing for trial or at the trial. Matters are either settled at that time or proceed to a hearing.

In a case I conducted recently 47 subpoenas to produce documents were issued by our side alone. That would involve a payment of $40 for each of the 47 subpoenas. In that case the only problem was that Mr Conevski went to work one day and was patting a bit of concrete. The next thing he knew was that he had been unconscious for a month in hospital after the collapse of the Darling Harbour car park. All those fees had to be paid to get this man into court. Who carried the fees? The firm of solicitors. The Minister told us that firms of solicitors do not carry the payments of fees. But they do, and they carry them in the interest of their client. Firms of solicitors will have to pass all these increases on to the clients. They will tell their clients, "I cannot carry this payment any longer". That will be as a result of a 343 per cent increase in Supreme Court fees.

Mr Merton: Did you win the case?

Mr NAGLE: Yes, I did. In other areas there have been fee increases of 204 per cent and 650 per cent, at a time when average weekly earnings, Commonwealth sickness and unemployment benefits, and invalid pensions received increases of 27 per cent, 30 per cent and 31 per cent respectively. The total cost of bringing a claim to trial in the District Court has increased by 215 per cent. Those increases have to be carried. Cases take a long time before they get to court. Mr Conevski's accident occurred in 1987 and litigation processes commenced immediately thereafter. Of course, this is the Government that refuses to provide penalties in regard to costs and interest for people who decide to use the court system. The Government's big brothers - the insurance companies, the friends of the Liberal Party - do not get out and defend cases, but they drag them out so as to receive interest on the moneys that should properly be paid to the injured workers.

The hypocrisy is that the Government is increasing fees in the District Court. It is not allowing cases where the amount involved is in excess of $100,000 - and which are at present before the District Court - to remain in that court. These cases will have to be transferred to the Supreme Court to be heard. Litigants will have to wait a couple of years and pay a filing fee of $200 to have the notice of motion heard for their matters to be transferred. That flies in the face of justice for the people. If the Government had any courage on the fees issue, it would allow the disallowance and the Minister would make sure the legislation was amended so that those cases now before the District Court remain there.

Mr KINROSS (Gordon) [4.27]: The first point to be made in this debate on the motion for disallowance moved by the honourable member for Ashfield is the one matter that the taxpayers of New South Wales will always like to remember: a government that can at least count and look to the bottom line is far better than a government that would make us all end up in a black hole. A black hole is suitably defined for the Opposition because it is a hole or a gap out of which one cannot recover. It is impossible to recover - ask any scientist. The Government has to bring in a realistic level of fees. It has to apply fees to matters that previously never had any fee attaching. It must do that to ensure that the cost of justice to all consumers of legal services is fair and equitable and more in line so as to enable successful litigants to recover those fees once the verdict is delivered.

The next matter I raise is that the increase in fees is necessary. As the honourable member for Cronulla stated, any good judge or lawyer - and indeed many members of the community - has a good

understanding of history. The problem with Opposition members is that their knowledge of history is pretty poor. In the 12 years of hard Labor the standard of service in this State's courts was abysmal. This Government has sought to provide new court complexes. Capital works are under consideration that will allow a number of courses to be adopted. For example, in due course the Government will house the Land and Environment Court and the workers' compensation court in Liverpool Street.

The substantial refitting of the Downing Centre has provided litigants with amicable and comfortable surroundings during difficult times, for they are genuinely concerned when matters come on for hearing. Any practitioner would know that the Downing Centre is a convenient building in which to work. The pleasant atmosphere it provides litigants has been achieved by this Government and especially by the work of the former Attorney General, the Hon. John Dowd, who named the building after a Labor Party member, Mr Downing. The Opposition should be aware of the substantial inroads to justice and equity that this Government is seeking

to provide. As the Minister said when he spoke on this issue a moment ago, it is a furphy to suggest, as the honourable member for Ashfield tried to, that it will be difficult to bring on a car accident case. Nothing could be further from the truth. It is not surprising that the honourable member for Ashfield tells such outright falsehoods and half-truths about these issues. There is no increase whatever in the fee for a statement of claim in the District Court; it is fixed at $130, and no increase is suggested in the regulations the subject of this motion. It makes a good story, but I am afraid it is a false story, as Labor is often so good at telling.

The Government has tried to address a couple of inequities with these increases. I shall give the House two examples, one of which is common in my practice, that I put earlier to some of the Independent members. If Joe Citizen takes on one of the big insurance companies in relation to the disallowance of his policy, frequently the broker, or the person with whom Joe Citizen dealt, will file a cross-claim, as it is called in the Supreme Court, or some other process in another jurisdiction, possibly against the AMP Society, if that was the insurance company, or against any other insurance company. A substantial amount of time will be spent in litigation over the meaning of the wording in the insurance policy and also the agreement or retainer between the insurance company and the broker.

Why should Joe Citizen have to pay for the substantial court costs and also carry the costs of a cross-claim - which have attracted no costs to date - when he is being held up by a dispute between the broker and the insurance company. But the cross-claims can continue way beyond that. His Honour Mr Justice Rogers recently gave the example of the AWA and Deloitte case. In that case there were cross-claimants galore, more than one could poke a stick at. They needed almost two bar tables to accommodate everyone. Indeed, in many cases it is quite clear that a fee needs to be imposed so that the plaintiff is not burdened with that additional cost and is given some equity and relief so that the costs can be reduced.

Another example will suffice. I put this example to the honourable member for Manly. If a person goes to the honourable member's surgery in his absence and a locum in the practice treats the person in an unsatisfactory or negligent manner, that person may take action against the practice - in this case Dr Macdonald's practice - seeking fairly quick relief so that the claim can be brought on for hearing. In that example it just so happened that Dr Macdonald was not there but a locum was. Perhaps the locum did not provide the drug or necessary prescription; that was done by the trainee nurse.

The relevance of the example - as the honourable member for Auburn looks quizzically at me - is simple. At present the honourable member for Manly would not have to pay any fee - not one cent - if he was joined by the locum, nor would one cent be paid in joining the person who administered the wrong drugs. If the honourable member for Auburn has not been able to understand what I have spoken about generally so far, he is more simple than I gave him credit for. The relevance of that is this: that delay in hearing - and the delay in hearing medical negligence cases is unduly lengthy - would increase substantially and the plaintiff would have to bear an enormous increase in costs simply because the owner of the practice was fighting with the locum, who in turn was fighting with the nurse who administered or did not prescribe the appropriate drug at the time, or did not provide effective assistance, or whatever the claim may be. Here is a proper example that will impose fees and not give benefit to all those other parties who currently have a free run.

The issue of filing fees must never be lost in the context of the overall cost of justice. The Minister for Justice and the honourable member for Cronulla said accurately that fees amount to 5.4 per cent of the total cost of a matter once it is completed and heard. That is a small cost in the total scheme for any member of the public who takes a matter to completion and achieves a successful verdict. The higher percentage of cases - in excess of 70 per cent - filed in the Local Court are dealt with in the small claims division of that court and have been exempted from any increase.

Clearly there is no effect from these regulations and amendments on the small business claims division of that court. I am pleased that the honourable member for Auburn raised the issue of mediation. The Government is trying to address this issue in order to enable many litigants to achieve mediation at the outset, rather than taking a case to court. These regulations are needed. The Government has to provide effective and efficient service to the community. It is a mockery for the Opposition to try to disallow these regulations when

the people of New South Wales are crying out for increased and better services and for a reduction in the gap between costs and verdict.

Page 1610

Mr HATTON (South Coast) [4.37]: I have given a great deal of thought to this matter. The bottom line is that the proposed amendments are budget driven, not justice driven. The user-pays principle has an attraction. For example, in equity and fairness charges should apply to cross-claimants, as the Minister said, and I would support moves that might come separately before this House in that regard. The honourable member for Gordon made the valid point, in discussions with me and in the House, that if there is a clearly marked list of fees, they are markers on accounts presented by practitioners to litigants. We all know that some people in legal practice charge for what they do not do and inflate their charges for what they do. If there is a list of charges, even for relatively minor matters, at least those markers are in the account. I believe there is some validity in that point.

We are told by the Government - and a number of people have said this today - that 80 per cent of cases are dealt with in the District Court and that the charges will raise only $1.26 million by way of increased revenue in the Local Court, $2.61 million in the District Court and $4.59 million in the Supreme Court, making a total of $8.46 million, which is almost the $9 million shortfall in the Budget. The Minister for Justice is a caring Minister, and I have great respect for him. However, he would share my view that we should consider the position of the impecunious person who wants to pursue a court case. The honourable member for Cronulla said that fees and charges involved in bringing a court case amount to only 5.4 per cent of the total cost of the case.

But in matters handled by the Public Interest Advocacy Centre, or the Redfern Legal Centre or in pro bono cases, charges are significant for people trying to gain access to the justice system. I am aware that the awarding of costs is not what it appears. I had a painful experience after I said that the Chief Stipendiary Magistrate in this State was a crook. I said it live on television rather than walk off, and I was issued with a writ. Because of work that I and others did - and I claim only small credit for it - he subsequently went to gaol. He obviously was a crook. He taxed the costs, and costs were awarded to me. But it cost me $3,000 to say that the man was a crook, and he was proved to be a crook. Therefore, I am aware that being awarded costs in court does not mean that one gets off scot-free.

It could be argued that the non-aligned Independents should vote for increased costs in the Supreme Court because many people who pursue matters in the Supreme Court are able to pay. That argument has validity, but in the past week and also this morning it was put to the Independents - in the case of the guardianship legislation, which will come before the House - that, for example, if the Guardianship Board appoints a minder to represent another on financial matters and there is an appeal against that decision, the appeal is heard by the Supreme Court. The HomeFund Commissioner Bill, which was introduced in the upper House today, provides that if people do not agree to be bound by the decision of the special arbitrator, the appeal is sent directly to the Supreme Court. As a layman, I have noticed a number of examples where the appeal goes directly to the Supreme Court - there is no halfway house. Consequently, situations arise where the impecunious are referred direct to the Supreme Court.

The Auditor-General looked at a $200 million shortfall, and it could be a lot more. Naturally, when the Government has commitments to meet and because of recession its receipts are not as great as they should be, the shortfall will put pressure on all portfolios. I had discussions with the Government about the obligations of the Independents. Their obligation is to support the Government and the Budget. The Independents supported not only the Budget but also a subsidiary budget measure that included increased fees and charges. The charter of reform, I believe, does not bind the Independents to support every increase in fees - I certainly do not support this one - but it means that the Independents, and I know that this exercises the minds of the honourable member for Manly and the honourable member for Bligh, have a responsibility and have to weigh up that responsibility seriously.

Important improvements have been made in an endeavour to make the court system more efficient, and in that regard Mr Justice Rogers deserves commendation. Practitioners should be disciplined in case management, adjournments, and timely preparation and efficient progression of their cases. Substantial savings can be made in those areas, and this House should look at them. I support the measures in this bill that do not affect the impecunious, that make the process more efficient, equitable and fair and that make fees applicable to cross-claims. I ask the Minister to bring that issue back to the House in another form.

Mr WHELAN (Ashfield) [4.44], in reply: My criticism of the three regulations is limited to the 10 minutes I have been in the Chamber. On a more positive note, the Opposition supports the reference back to the Legal Fees and Costs Board following the dramatic increase to barristers' fees. No Minister, not even this well-meaning Minister, can expect that a dramatic increase of hundreds of percent could pass through the Parliament without adverse comment and rejection by the members - it is just not possible. The Minister cannot expect such savage increases imposed on the courts not to have an effect on the litigious nature of people. Practitioners will dissuade people from proceeding in the Supreme Court because court fees have risen to $500.

In two moves the Government has raised the Court of Appeal fees to $1,725 - $1,500 currently. Previously the Supreme Court fees were one-third of that amount. I do not want to spend too much time on that because it is self-explanatory, but today I heard pious hypocrisy about fees not being onerous.

The Minister made great play of the Local Court civil claims regulations. I ask him to look at clauses 6, 7 and 8 of the Local Court regulations for which he is asking the Parliament to vote. To supply a duplicate tape recording of sound recorded evidence will cost $30 a cassette. One can go to the Ashfield video store and pick up the best movie in town for $6 but the Minister is asking people who are intricately involved in a court case and need essential information to pay a $30 first-off penalty for someone to obtain a cassette.

Mr Merton: The honourable member for Ashfield is wrong.

Mr WHELAN: This is the Minister's regulation. It is a new fee. That is the description.

Mr Merton: The honourable member for Ashfield is telling lies.

Mr WHELAN: I am not telling lies, because that is what the Minister's regulation says. The Local Court regulation also means that for the first time in this nation's history a government will be involved in usury because there will be no limit on what the Government can take from a writ of execution. I ask the Minister to look at page 8485 of the *Government Gazette*, referring to the Local Court regulations, which says, "Levy on a percentage basis of amounts collected on writs of execution". For the first time the Government will have the potential to take from people who have been evicted - if the writ of execution is on their house, their goods or their television set - and it will have its greedy hand out claiming its right and entitlement to get some money from those evicted. That is an absolute disgrace.

The Minister thinks there is nothing wrong with the Local Court regulations. I spoke also to some of the Independent members, and I wish to tell them a few facts of life. The honourable member for South Coast said something very true: this is about budget, not about justice. I remind the honourable member and the other Independent members that since 1988, when Curran conducted his inquiries into the State Budget and court delays, positive suggestions have been made whereby this inept Government could have manufactured a list of success stories to streamline the administration of justice.

The Law Society proposed weekend seminars - which have been attended by judges, the Attorney General, the former Attorney General, Mr Dowd, and members of the bar - and laid down in concise form how to streamline the administration of justice in this State. Nothing has been heard from the Government about the streamlining of justice. The only thing the Government has given the Minister for Justice is the pup. It has done nothing. We have had the same number of Supreme Court judges since 1972, yet the Minister talks about big moves towards streamlining administration. Does he know that we still have 53 District Court judges and

that the court lists are clogged?

Mr Merton: That is wrong; it is a lie.

Mr WHELAN: It is right, and the Minister knows it is right. It is not a lie.

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

Mr WHELAN: The Minister knows that people who cannot obtain money for bail have been in gaol for 12 to 15 months because no criminal judge is available.

Mr Kinross: That has no effect on criminal cases.

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

Mr WHELAN: What would the honourable member for Gordon know? He would not know whether he was practising law or practising the violin.

Mr Kinross: We know the honourable member lives off people, with his red Merc.

Mr WHELAN: The honourable member can buy it if he wants. The Government says that the Local Court is successful but it penalises those people who use it.

Mr Merton: Where?

Mr WHELAN: In its own regulation. There are 10 new fees in the District Court: for filing notices on cross-claims; supplying duplicate tape recordings; and filing applications for certified copies of documents.

Mr Merton: We told you about that.

Mr WHELAN: The Minister asked me; I am telling him that it is in his own regulation. There are 10 new fees in the Government's regulation. What is the Government going to do in the Supreme Court? I challenged the Government to tell me that I was wrong, that there will be no waiver. The answer to the question is that in the Supreme Court there is no right to waive fees. So impecunious people who cannot afford to pay fees will not get any justice. The Minister had the opportunity. He said he was going to implement policy and legislation on the run.

Mr Merton: You are telling lies.

Mr WHELAN: The Minister said he would implement this policy in the District Court.

Mr Merton: There is a power of waiver.

Mr WHELAN: There is not. The Minister had the opportunity and he did not deny it.

Mr Merton: There is a power.

Mr WHELAN: Where is it?

Mr Merton: It is in the regulation.

Mr WHELAN: Where? You show me. It is not in the regulation.

Mr SPEAKER: Order! The honourable member for Ashfield and the Minister for Justice and Minister for Emergency Services will cease having a conversation across the table. The honourable member for Ashfield will direct his remarks through the Chair.

Mr WHELAN: The Government has increased Supreme Court fees to the highest level in the nation. New South Wales leads the nation in the cost of filing fees. I do not believe that people can afford to go to the Supreme Court, but let us assume they can. Any practitioner would be able to tell honourable members that the greatest impost on anyone is the fee for filing documents in the probate division - a matter referred to on page 8494 of the *Government Gazette*. If someone dies the probate division of the Supreme Court writes to the family of the deceased person and states that a filing fee of $50 is required for a requisition - something that is unheard of in Australia. The Government is penalising widows and those who require a simple probate transaction, who could do it themselves.

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

Mr WHELAN: What is Merton going to do? Merton will charge them $50.

Mr SPEAKER: Order! The honourable member for Ashfield will refer to the Minister by his title.

Mr WHELAN: The current Minister for Justice will tax these people $50 for every requisition.

Mr Merton: The first $50,000 will be free of duty.

Mr WHELAN: The Minister says $50,000 will be free of duty. Old merciless Merton will get his hands on the money that a little old widow and her late husband saved all their lives. She will be charged $50 for every requisition. She may require five or six requisitions, so it will cost her $300. I do not believe the Minister is heartless, but he should have taken the opportunity to go through these regulations. I think they are a legacy from previous Ministers for Justice or Attorneys General, whether it be Dowd, Pickering, Hannaford or Merton, or perhaps even the honourable member for Vaucluse, the former Minister for State Development. I do not believe the Minister has his heart in this. I do not believe this is him. I do not believe he understands the ramifications. If there is an increase in the consumer price index, the Government will get the regulations through without any difficulty, but it should stop penalising people and stop making these regulations so punitive.

Question - That the motion for disallowance of the amendment to the Local Courts (Civil Claims) Rules be agreed to - put.

The House divided.

Ayes, 49

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Carr	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Mr Newman
Mr Doyle	Ms Nori
Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price

Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Harrison	Mr Rumble
Mr Hatton	Mr Scully
Mr Hunter	Mr Shedden
Mr Iemma	Mr Sullivan
Mr Irwin	Mr Thompson
Mr Knight	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	Mr Ziolkowski
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 47

Mr Armstrong	Mr W. T. J. Murray
Mr Baird	Mr O'Doherty
Mr Blackmore	Mr Packard
Mr Causley	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Petch
Mr Cochran	Mr Phillips
Mrs Cohen	Mr Photios
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Schipp
Mr Fraser	Mr Schultz
Mr Glachan	Mr Small
Mr Griffiths	Mr Smiles
Mr Hartcher	Mr Smith
Mr Hazzard	Mr Souris
Mr Humpherson	Mr Tink
Mr Jeffery	Mr Turner
Dr Kernohan	Mr West
Mr Kerr	Mr Windsor
Mr Kinross	Mr Yabsley
Mr Longley	Mr Zammit
Ms Machin	*Tellers*,
Mr Merton	Mr Beck
Mr Morris	Mr Downy

Pair

Mr Knowles	Mr Fahey

Question so resolved in the affirmative.

Motion agreed to.

Motion for disallowance of amendment to the Supreme Court (Fees and Percentages) Regulations agreed to.

Question - That the motion for disallowance of amendment to the District Court (Fees) Regulations be agreed to - put.

The House divided.

Ayes, 49

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Ms Moore
Mr J. J. Aquilina	Mr Moss
Mr Bowman	Mr J. H. Murray
Mr Carr	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Mr Newman
Mr Doyle	Ms Nori
Mr Face	Mr E. T. Page
Mr Gaudry	Mr Price
Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Harrison	Mr Rumble
Mr Hatton	Mr Scully
Mr Hunter	Mr Shedden
Mr Iemma	Mr Sullivan
Mr Irwin	Mr Thompson
Mr Knight	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	Mr Ziolkowski
Mr McBride	*Tellers*,
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 47

Mr Armstrong	Mr W. T. J. Murray
Mr Baird	Mr O'Doherty
Mr Blackmore	Mr Packard
Mr Causley	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Petch
Mr Cochran	Mr Phillips
Mrs Cohen	Mr Photios
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Schipp
Mr Fraser	Mr Schultz
Mr Glachan	Mr Small
Mr Griffiths	Mr Smiles
Mr Hartcher	Mr Smith
Mr Hazzard	Mr Souris
Mr Humpherson	Mr Tink
Mr Jeffery	Mr Turner
Dr Kernohan	Mr West
Mr Kerr	Mr Windsor

Mr Kinross	Mr Yabsley
Mr Longley	Mr Zammit
Ms Machin	*Tellers*,
Mr Merton	Mr Beck
Mr Morris	Mr Downy

Pair

Mr Knowles	Mr Fahey

Question so resolved in the affirmative.

Motion agreed to.

NEW SOUTH WALES - QUEENSLAND BORDER RIVERS (AMENDMENT) BILL

Second Reading

Debate resumed from 22nd April.

Mr AMERY (Mount Druitt) [5.6]: I lead for the Opposition. The Opposition will not oppose the bill. The Border Rivers Commission was established following an agreement between the then Labor governments of New South Wales and Queensland in 1946. The foresight of those governments has proved over the years to be of immense benefit to both States in making recommendations concerning the construction of works and measures for conservation and regulation of water resources in the region. The original agreement has been amended several times. However, the original intent of the agreement remains. That is, that the waters of the Dumaresq River and its tributaries upstream of Mingoola are to be shared equally between the States.

At the same time, each State has the right to full use of the waters of its own tributary streams which enter the border rivers downstream of Mingoola. Each State is responsible for controlling the distribution of its share of water from the border rivers, which are defined as those sections of the Severn, Dumaresq, Macintyre and Barwon rivers forming part of the State border between New South Wales and Queensland from Mingoola downstream to Mungindi. The commission is responsible for the conservation and equal sharing of the waters of the Dumaresq River upstream of Mingoola, the regulation of the border rivers downstream of Mingoola and the equitable distribution of the waters of the streams which intersect the Queensland-New South Wales border west of Mungindi - known as the intersecting streams.

Regulated supplies from Glenlyon Dam are used along the Dumaresq, Macintyre and Barwon rivers down to Mungindi in New South Wales for irrigation, town water supply, stock watering and domestic purposes. By far the greatest use of the water is for irrigation, as was outlined in the second reading speech of the Minister. Use of irrigation water in the commission's area of operations increased by 23 per cent during 1989-90 as a result of both increased irrigated areas of cotton and the relatively dry season. With the ever-increasing plantings of cotton, the border rivers have now emerged as the third largest cotton growing region in Australia, behind the Gwydir and Namoi valleys. Current water supplies available to New South Wales irrigators from the system are fully committed and the Department of Water Resources is not granting any further licences for irrigation entitlements.

The commission has undertaken studies to evaluate the potential for further development of water resources of the border rivers and intersecting streams. These studies are aimed at defining the quantities of water available for consumptive use. They will provide the basic data for the examination

and development of policies for further water use and for sharing arrangements between the States. Groundwater resources upstream of Keetah and along the Dumaresq River are capable of providing sufficient irrigation supplies. New South Wales and Queensland have agreed to limit the allocations from these aquifers

to a maximum of 30,000 megalitres per annum. This is to ensure that the groundwater resource is not depleted beyond the limits of long-term recharge. The actual volume of groundwater extracted by users in both States has been small. However, the commission is continuing to monitor the use of the resource and the performance of the aquifers.

The Minister said in his second reading speech that the assessment of groundwater reserves is complex because of the many variants involved from locality to locality. I do not intend to speak at length about the Minister's comments, but I refer honourable members to *Hansard*. Suffice it to say that the Border Rivers Commission has been acting as co-ordinator on an informal basis, and that arrangement will be ratified by the proposed legislation. It will provide the commission with the teeth to co-ordinate future studies, monitor future groundwater use, and make recommendations to the States on the total volume of water each State should allow its groundwater users to take. I am pleased that the legislation also provides the Border Rivers Commission with powers to monitor the quality of the groundwater.

Salinity in the regulated section of the border rivers has remained at a level suitable for the irrigation practices of the region. It is imperative that groundwater usage does not upset this balance or contribute in any significant way to any number of possible pollutants, including turbidity and the nutrients phosphorus and nitrogen, which contribute to algal blooms and indirectly to lower dissolved oxygen. I commend the Minister for bringing before the Parliament this important legislation. The border rivers area is of significant importance to the economy of the State, particularly from irrigated cotton. Therefore the legislation plays an important part in ensuring that security of supply is safeguarded. I agree with the comments made by the Minister in his second reading speech about promoting the inclusion of groundwater sharing in the role of the Border Rivers Commission. It is indeed pleasing to witness a Government department taking the initiative before problems arise.

I commend the Minister also for publicly declaring his support for the officers of the Department of Water Resources, thereby distancing himself from his party leader, who made unwarranted and scurrilous remarks about the right of the Department of Water Resources to continue operating and publicly advocating its abolition. Obviously the Minister for Natural Resources does not agree with the comments made by his party leader. The Opposition supports the continuation of the department and indeed endorses an expansion of its role under a future Labor Government. With those few comments I say the Opposition is pleased to support the bill.

Mr JEFFERY (Oxley) [5.12]: As a former irrigator and pumper for many years, I am pleased to support the New South Wales - Queensland Border Rivers (Amendment) Bill. I realise the importance of water for irrigation and of groundwater resources. Extension of the role of the Dumaresq-Barwon Border Rivers Commission to the co-ordination of the use of groundwater in the border rivers area is an important step. I commend the Minister for that action. Throughout the State surface water resources are becoming fully committed and landholders are looking to alternative sources of supply. Through its extensive charting of the groundwater reserves in the State, the Department of Water Resources is able to advise landholders in most areas of the likely quantity and quality of water underlying their properties. That information is obtained by the department, as the State's water resource manager, from data obtained from about 60,000 existing bores and from its own investigations.

In the border rivers area geological information has been available, but the reserves in the aquifers - the reserves underneath the ground - have not been fully assessed, as was mentioned by the honourable member for Mount Druitt. That has been primarily because of the lack of existing bores from which the department may obtain information. This is changing because the surface water has been fully committed and landholders are sinking bores. Also the department, in co-operation with the Queensland Water Resources Commission, has been investigating this issue. Normally the department's interest is in obtaining information on groundwater to provide advice to landholders and to formulate allocations and licence conditions. In the border rivers area an additional factor has been that the behaviour of an aquifer can be influenced by the extent of water usage from the same aquifer in Queensland.

Quality can be influenced also by Queensland users. Again I congratulate the Minister on the role of the Border Rivers Commission in ensuring that investigations continue on a regular basis and that neither State will allow the resource to be contaminated or depleted unduly. To achieve controls on level of usage the commission has a recommending role but will leave it to the States to implement the controls through their licensing processes. The Border Rivers Commission has estimated that the value of irrigated production in the border rivers area in the 1991-92 financial year was $129 million, of which $81 million was attributed to New South Wales irrigators. It is important that these yields be maintained and, through prudent use of groundwater, increased as much as possible. I support the bill.

Mr BECKROGE (Broken Hill) [5.14]: In one regard it gives me pleasure to support the bill, but in another it gives me not so much pleasure to do so. I think I have worked out what the legislation is all about. The Darling-Barwon river system has run out of water and water must now be sucked out of the ground, because the Government has allowed irrigators willy-nilly to take over all the licences and use more water than was available in the river

Page 1615

system - though that is a paradox. However, that is the real reason for introducing this legislation. Members would not be debating this bill if there had not been an enlightened Labor Government in Queensland. For the border rivers agreement to work, governments must be co-operative. As a result of the Queensland Labor Government's working in co-operation with the New South Wales Government there will not be a return to the bad old days of Joh Bjelke-Petersen, who said that New South Wales would not get any of the water generated in Queensland. New South Wales suffered as a result of the actions of the former Queensland Government, which licensed huge operations such as the "Cubbie" station. An enlightened arrangement will now be put in place. It is important to monitor carefully the availability of groundwater. I have read the reports published by the Border Rivers Commission.

Madam DEPUTY-SPEAKER: Order! It being 5.15 p.m., pursuant to sessional orders the debate is interrupted.

PRIVATE MEMBERS' STATEMENTS

———

BEGA VALLEY SHIRE COUNCIL AND TWOFOLD BEACH CARAVAN PARK

Ms ALLAN (Blacktown) [5.15]: I congratulate Mr Glenn Shuil, of the Department of Local Government, who recently completed a special investigation into Bega Valley Shire Council. Honourable members will be aware of the report as a result of publicity it received last week and an article that appeared in today's *Sydney Morning Herald*. The article relates to an interview given yesterday by the President of the Bega Valley Shire Council, Councillor Mick Allen. I read the article with grave concern. In addition to a number of allegations and claims made in it, Councillor Allen indicated to the press that he intends taking legal action against Glenn Shuil, the investigator employed by the Department of Local Government. That is an appalling attempt by a representative of the State's local government authority to intimidate an officer of the Department of Local Government.

That action is in keeping with a number of other attacks and comments made by Councillor Allen over a number of years as the community has held up to scrutiny his personal actions in relation to developments in that local government area and the performance of the Bega Valley Shire Council. The culmination of that scrutiny is the report that was tabled in the House last week. The report contains a damning indictment of Bega Valley Shire Council. I know that the Minister for Local Government has given the council 40 days to comment on the allegations made in the report. I note that today the report has been tabled in the Bega Valley Shire Council. Members of the community will be able to get hold of a copy of the report if they are willing to pay $1.10 per copy. Many people have addressed the issues raised in the report.

Suffice it to say that the report confirms a number of allegations that have been made in the local Bega press and in this Chamber over a number of years. It concludes that Councillor Allen and other proprietors of the local caravan park at Twofold Bay have contravened the Environmental Planning and Assessment Act in relation to the development of that park. In addition, the report notes that that is only one of many scandalous actions in which the Bega Valley Shire Council has been involved in recent years. Mick Allen has not been prepared to accept anything in the report. He should have announced immediately his resignation from council and local government because the report argues that Mick Allen and Bega Shire Council have brought the whole of local government into disrepute by their actions over a number of years. According to today's *Sydney Morning Herald* Mick Allen is defiant. The report states:

> But yesterday, Cr Allen was defiant. He would neither put in a development application for his caravan park -

Though the report has found that he should have done that on a number of occasions:

> - nor take responsibility for the conduct of his council.

The council has been completely irresponsible in relation to suggestions that he levelled the ground on which the caravan park stood in the early 1970s. Councillor Mick Allen was quoted yesterday as saying, "What's wrong with levelling sand dunes anyway?" If Mick Allen does not think there is anything wrong in doing that, he should speak with the Minister for Conservation and Land Management and his colleagues in the coalition Government. At long last the Government has formulated a coastal policy that specifies the inappropriateness of such action.

The Minister for Local Government, the Hon. Gerry Peacocke, should act decisively on this report. He has provided the council with 40 days to comment on the report but at the end of that period he should act to ensure that the council is sacked and, in particular, that councillor Allen is held responsible for his actions. I commend this report to all honourable members as compulsory bedtime reading. It demonstrates that the Environmental Planning and Assessment Act has been flouted by Councillor Allen and his colleagues on the council. The only appropriate action is for the council to be sacked. The Minister for Local Government was prompt in reprimanding Sydney City Council for what he claims to be poor financial dealings; it is time Bega Shire Council faced similar action. [*Time expired*.]

HUME AND HOVELL WALKING TRACK

Mr GLACHAN (Albury) [5.20]: Today I draw to the attention of the House a problem that is developing for a number of constituents in the Mullengandra, Bowna and Wymah areas in my electorate. The matter deals with he proposed extension of the Hume and Hovell walking track - an important project. However, at present it extends

from Yass, following closely the track taken by Hume and Hovell, down through southern New South Wales across to Woomargama, a small village on the Hume Highway just north of Albury. The Department of Conservation and Land Management is anxious to extend the track to Albury from Woomargama, to the tree that was marked by Hume and Hovell when they first reached the banks of the Murray River so many years ago.

The grave concern of my constituents is that the proposal is for part of the track to be over privately owned land. Originally it was proposed that it run close to the Tabletop Mountain area, thus traversing 14 privately owned properties. The people of those areas made representations about that proposal because that is flat, undulating and open country and, therefore, would not be suitable for bushwalkers. Those people were concerned that the track would interfere dramatically with the running of those properties. The Minister asked the department to consider an alternative route, which would take the track through mainly forest areas and along fire trails but eventually will traverse three privately owned properties. The department felt it had done well by reducing the number of affected properties from 14 to three, which is true, except from the point of view of the three property-owners affected.

The people who own the land are concerned about the proposal, and I strongly support those concerns. On Sunday night I attended a public meeting of 60 or 70 people - the entire community - on one of the properties. It is unique that every resident supported the three landholders involved. Concern was expressed that bushwalkers might light fires. Some years ago fierce fires ravaged the district. The people in that area will never forget that, nor will their children or grandchildren, such was the severity of the fires. I am concerned about the rights of the individuals involved in this matter. Though it is recognised that the Hume and Hovell track is an important project, one should consider the rights of individuals. Why should their lifestyles be interfered with for the sake of those who want to tramp about the countryside? I strongly support my constituents. On a number of occasions I have spoken to the Minister about this matter. Last Thursday he undertook to review it, to obtain details from his department and endeavour to find an alternative route that will not traverse privately owned properties.

Strangely, it is proposed that bushwalkers come from forest areas and cross this private land, walk along a road and then be ferried across an arm of the weir by owners of a nearby caravan park. It is strange that bushwalkers should finally be ferried across a weir by owners of a commercial caravan park. This does not fit with the concept of the Hume and Hovell walking track. I emphasise that my constituents are, to a man, woman and child, strongly opposed to the proposal and are standing behind the three affected property-owners. I appeal to the Minister to do everything in his power to find an alternative route that will not affect the lifestyles of those people. It is of concern that a number of burglaries have occurred in the area and strangers have removed furniture from farmhouses. I have attended meetings in country districts near Albury where police officers have warned that having strangers in the area can lead to theft of property. This is occurring more frequently in rural areas and allowing bushwalkers onto private properties will exacerbate the problem. [*Time expired*.]

BROKEN HILL ELECTORATE RAIL SERVICES

Mr BECKROGE (Broken Hill) [5.25]: I express grave concern about what I believe is the intention of the State Rail Authority to cut back services and employment in my electorate, particularly at Nyngan, Bourke, Cobar and Ivanhoe railway stations. Under the staff review proposal for Nyngan railway station, the services of one of the two employees will be withdrawn. The railway station at Bourke is to be closed, thereby resulting in the retrenchment of the station master, two motor lorry drivers and the leading station assistant. After more than a century of providing service to the people of western New South Wales that railway station will close.

The staff review team for Cobar recommends closure of the station and the withdrawal of the station master's services. Ivanhoe railway station will have a change of hours and staff, which could well result in a reduction of services offered in that area. This information has just come to hand and is a blow to the future of my electorate, on top of other cutbacks within the Roads and Traffic Authority, the school education system and other government departments vital for the delivery of services in western New South Wales. Last Thursday the mayors and presidents of the 27 shires and councils that make up an organisation called the Central Economic Zone visited Sydney to meet with the Premier and Deputy Premier to present their credentials.

To its credit, the Government has agreed to fund the so-called embassy in Sydney to help identify areas where improvement to services and jobs can be made through the private sector. I urge this new Central Economic Zone and the Government, instead of using the bottom economic line, to gauge what services should be available in western New South Wales. Public sector employment should be closely looked at in regard to the Central Economic Zone embassy in Sydney. The New South Wales Government, in an agreement with the Federal Government, has provided more than $100,000 to this embassy to supply avenues of employment in the private sector. Before any more jobs are lost in the public sector, those matters should be taken on board.

No doubt in Australia the vast majority of people are employed in the private sector. As far as western New South Wales is concerned, the public sector has traditionally been the largest employer. Because of the parlous state of our great wool industry and the prices being obtained overseas for our metals, major towns and

cities in western New South Wales face the

double whammy of economic malaise, exacerbated by changes to public sector employment. The Premier has declined my invitation to set up a special task force to look into public sector employment. Perhaps he had in mind that the Central Economic Zone proposal was to take those issues on board. I hope that is the case. I wish the Central Economic Zone success and I give it my support.

SOUTHEAST FOREST LOGGING

Mr COCHRAN (Monaro) [5.30]: Last Thursday in this House I spoke about the operations of Don O'Reilly, a forester from the Cooma region, in the Badja State Forest. I raise this issue again because I am able to inform the House that the threat, of which I gave notice last Thursday afternoon, to evict the protesters from the Badja State Forest has taken place and that the logging operations of Don O'Reilly have commenced again at 2 o'clock this afternoon. It is not without some degree of concern that I inform the House that the operation to evict the protesters required approximately 13 police from Cooma, 80 farmers and loggers from the district; a considerable amount of publicity to draw attention to the fact that the protesters were operating outside the law; and that Don O'Reilly, the contractor operating in the Badja State Forest, was operating entirely within the law. He obtained his licence from the National Parks and Wildlife Service, the Forestry Commission and was operating with the approval of the Department of Planning.

All legislative requirements had been met by Don O'Reilly and the Southern Tablelands sawmills in the operation. The matter I raise today is of great concern to me, and there is no guarantee that this will be the end of it. Despite the commendable efforts of Inspector Des Trute, sergeants Ian Channing and Andy McCullough, and other Cooma police, who today evicted the protesters from the forest, there is no guarantee that during the next school holidays students from the Australian National University in Canberra and the University of Western Sydney will not use the same playground for their entertainment. These students see it as a game to carry out their activities in the forests during school holidays. They do this with the clear knowledge of the authorities of the University of Western Sydney. A Toyota bus belonging to the university was at the forest. The actions of the students were being condoned by the university. The logging operations of Don O'Reilly have been delayed for the past five weeks.

Worse than that is the fact that Don O'Reilly has been sleeping with his equipment since October last year in order to prevent people from sabotaging it. I do not suggest for a moment that the university students are responsible for the sabotage of the equipment, but someone is responsible. Action of this type has cost Don O'Reilly $12,000. Last Saturday he took possession of a new piece of equipment worth about $140,000. I am fearful of the possibility that sabotage of this equipment will take place again. I have spoken to the local police and they inform me they do not have the resources to provide continual patrols. Therefore, Don O'Reilly has no other choice than to remain with his equipment to protect it. I do not believe that should be necessary in a democratic, free society like we have in Australia.

I am pleased to announce today that the Forestry Commission declared the area a prohibited area. No one is permitted to enter the area without the permission of the Forestry Commission and the police. Some form of authority is needed before a person gains entry to the area. The declaration of that area has of course provided the police with the authority they needed to remove the protesters from the area. It certainly should be of grave concern to all members of the House that protesters can move into a legitimate logging area and impede legitimate logging practices - at great cost to a contractor - without paying any penalty.

The Minister for Community Services and Assistant Minister for Health should take note of this matter. We should seriously consider imposing more severe penalties on protesters so as to compensate contractors who are inhibited in their legitimate logging operations. I ask the Minister for Community Services and Assistant Minister for Health to take this matter to the Cabinet and raise it with the Minister for Conservation and Land Management so that justice prevails and Don O'Reilly and his family are compensated for the types of actions that took place during the past two weeks.

Mr LONGLEY (Pittwater - Minister for Community Services, and Assistant Minister for Health) [5.35]: I will take the matters raised by the honourable member for Monaro to the Minister for Conservation and Land Management. It is a significant issue and it is pleasing to see members such as the honourable member for Monaro displaying such a high level of dedication and commitment to issues of this type, which involve personal and civil liberties. The honourable member for Monaro is to be commended for his approach.

MAY DAY CELEBRATIONS

Mr MILLS (Wallsend) [5.37]: I bring to the attention of the House a most important occasion that will be celebrated in the Hunter Valley on Saturday 1st May. It will be the one hundredth year of celebrating May Day in Newcastle and the Hunter. The theme for this year is "100 years of working together"; that is appropriate to the centenary of the event. The two most important activities will be the traditional May Day march in the morning and the Toast to May Day dinner in the evening. On this special occasion some well known and famous people will address the dinner. The first guest will be Gough Whitlam, former Prime Minister and one of the heroes of the Labor Party in Australia. The second guest, in touch with contemporary themes of importance, is to be the executive director of the Australian Conservation Foundation, Trish Caswell.

It is important that I raise this matter because the industrial and political activism of the Hunter has made it a great area. Among the vehicles for that activism have been May Day and Eight Hour Day. It could be said that we came to May Day in the Hunter about three years late, because in 1890 May Day became the international labour movement special day. May Day has a long international tradition as a holiday and festivity associated with the arrival of Spring. The American Federation of Labour chose 1st May, 1890, as the day to re-open its struggle for the eight-hour day and the international conference agreed to support them. In Great Britain the first demonstrations were held on Sunday 4th May - one of the largest ever demonstrations in British history to that time. May Day became an international day of workers' celebration in 1890. Three years later in the Hunter the *Newcastle Herald* reported on a socialistic social being held under the auspices of the Australian Social Democratic Federation. This event was held in the Carrington Hall, Adamstown on the Monday night in commemoration of May Day. The newspaper said it was a great success. They had tea and sat down and ate. I want to quote from the *Newcastle Morning Herald* of 3rd May, 1893, in which it was stated:

> The Chairman, Mr R Bonner of Merewether, said he was extremely pleased to see such a large gathering of ladies and gentlemen who had come forward to celebrate May Day, or what is known as Labour Day in the old country. The gathering was the first of the kind that had been held in the district. He hoped it would not be the last and that May Day would soon be celebrated in Australia with the same enthusiasm as it was in the old country.

Other people spoke, there was dancing and singing, and, of course, the evening ended with a vote of thanks. One can just imagine the pleasure and the fervour of the scene. This year, in addition to a Toast to May Day dinner, the parade and the festival, there was a photographic exhibition at Newcastle Workers Club. Later I will touch on a couple of things that I saw. One interesting aspect of the celebration of May Day is that as early as 1856 miners employed in some of the small pits round Newcastle took a holiday on that day. They celebrated with singing and yarning rather than doing anything political.

The first May Day, as we know it, with floats and parades, was probably in about 1920 when miners' lodge-based committees, which were influenced by the Socialist Labour Party, held parades and sports at a variety of suburbs in the district. It is noteworthy that May Day celebrations continue in this era, no doubt to the consternation of Australian conservatives. But generations of union leaders, aspiring politicians and workers' representatives have made the effort to get in and organise, and to march. In the past 20 years many community organisations have taken part, usually with a political agenda to be advanced, and always with progress in mind.

Themes have been war and peace, justice, health and education, racism, industrial harmony and industrial dispute, and the environment. Even after the demise of the ideological parties of the left, be they socialist or communist, that workers' day of celebration continues. As the chairman of the State parliamentary Labor Party, the Labor caucus of this Parliament, I want to advise the people of the Hunter, the trade unions, the workers, the May Day committee - led by Denis Nichols as president, and Susan McDonald as secretary - that this House supports them on this occasion of the one hundredth celebration of May Day. We congratulate them on their efforts in maintaining the light and the fight over all these years, and we wish them well for coming years. [*Time expired*.]

FIBREGLASS FUMES EMISSIONS

Mr HUMPHERSON (Davidson) [5.42]: I wish to raise the concerns of two of my constituents, John and Carolyn Eager of Frenchs Forest. They have a business in Brookvale known as J. E. Automotive and for more than eight years have experienced a problem with fumes emanating from a company next door to them now known as Alsynite Pty Limited, which was involved in the manufacture of fibreglass products. The problems have come about from fumes that have caused headaches and nausea and resulted in the Eagers having to take a substantial amount of time off work, away from their business. Mr Eager had to see a specialist, who expressed concern about the long-term effects on Mr Eager's health; that is obviously of concern to the family. The Eagers have received some letters of support for their problem. I will quote some of them. A Mr Woolley from Vermont, Victoria, who is a client of J. E. Automotive, wrote on 22nd April in the following terms:

> Re - Fumes issuing from a fibreglass factory at Old Pittwater Road . . .
>
> The fumes were over-powering and of such a strength that I felt it was not a safe area for me or my son.
>
> I left the area after ten minutes with a headache and a nauseated feeling.

He said that on another occasion that he was there the plant was not operating and there was no evidence of any fumes. Mr Johnston of Belrose stated:

> Prior to my arrival I felt fine, however, soon after my arrival I started coughing and felt dry in the throat.

After the client had left the premises, he rang back to say that he had stopped coughing altogether after his departure. Mr Denis Hole advised the Eagers in the following terms:

> I spent approximately five minutes in and around your premises and confirm that the smell was present at all times, however towards the end of this period, even though being aware of the odour, a certain numbness became apparent which somewhat camouflaged the unpleasantness.
>
> As a regular visitor to your workshop on various business matters over a number of years I can verify that this odour has been apparent to me on a number of occasions. I confirm that the effect that it had on me this morning, whilst unpleasant, was not the worst incidence that I can recall.

The Eagers contacted me in September of last year. After advising the Environment Protection Authority, that authority, together with the Warringah Shire Council, inspected the premises on 23rd September. Among other things, they recommended the keeping

of a log; and the Eagers have kept a log since that date. Some weeks after that time, following a further complaint from the Eagers and an urgent meeting with the Environment Protection Authority, the authority asked Alsynite to undertake an environmental audit and to set up emergency plans for spillages and release of fumes. Following this the Eagers felt confident and believed there would be improvement through a consultative process. Unfortunately, that does not seem to have occurred.

In early February, following further complaints from the Eagers and another visit by the Environment Protection Authority, the fumes were still there and the Eagers believe that the air sampling carried out by Alsynite was done at favourable times, that is, when no unfavourable fume emissions were occurring. It is fair to say that the Environment Protection Authority has been co-operative, accessible and responsive to the concerns expressed by the Eagers. But the bottom line is that their problem has yet to be properly addressed. Last week they contacted me again and advised me that they had been told by the Environment Protection Authority that - though this is an ongoing and often obvious problem - because it is not financially viable for Alsynite to carry out improvements to eliminate the problem the Environment Protection Authority is not able to do anything in the foreseeable future.

The Eagers are frustrated. They are considering taking civil action against the company involved. They have been overly patient, and I have encouraged them to be patient to enable a consultative process to address the problem. However, I believe it is unacceptable to have a problem of this magnitude with such an impact on their health and on that of some of their clients. Some positive action should be taken. The medical effects are unknown but are clearly evident in their everyday lives. I ask the Minister for Community Services to take this matter up with the Minister for the Environment to see if something positive can be done to eliminate the source of the problem and improve the health of the Eagers in the long term.

Madam DEPUTY-SPEAKER: Order! If the honourable member for Vaucluse and the honourable member for Ermington wish to converse, they should do so quietly or outside the Chamber in deference to their colleagues.

Mr LONGLEY (Pittwater - Minister for Community Services, and Assistant Minister for Health) [5.47]: I commend the honourable member for Davidson for bringing this matter to the House. It is a matter of importance and one that shows that the honourable member not only is concerned about his constituents' needs and interests but also is concerned with the wider issues of environmental matters. The honourable member's commitment to environmental issues is to be commended. The hard work and dedication the honourable member demonstrated in this House today, and demonstrates on an ongoing basis in his electorate and throughout the State, is deserving of praise. I will ensure that the matters he raised are brought to the attention of the Minister for the Environment so that some action can be taken. As I said, the honourable member is to be commended for his hard work and effort.

WATER BOARD ENVIRONMENT LEVY

Mr HARRISON (Kiama) [5.48]: On behalf of a number of constituents in my electorate of Kiama, and the Illawarra region, I place on record the dissatisfaction with the ongoing reprehensible actions of the Sydney Water Board and the concurrence with those actions by the New South Wales Government, in particular by the Minister for Housing in another place, who is the Minister responsible for the Water Board. Over a period of some years Water Board consumers have been subjected to the imposition of an $80 levy per year to clean up the environment. Most consumers have not been enthusiastic about the idea of paying a levy of $80 a year, and most of them are put off by the fact that the quarterly bills that they receive are for approximately the same amount they used to be charged for a 12-month period five or six years ago. However, they have tolerated the imposition of this annual $80 levy. I think everyone these days - even honourable members on the other side of the House - pays lip-service to the fact that the environment certainly is in need of drastic action by whatever government happens to be in power. An infusion of money is needed to clean up many past mistakes.

My constituents were very much taken aback when they learned that in the past financial year approximately $100 million was raised by an environmental levy and that special dividends amounting to $100 million had been placed on the Water Board by the Government. They felt that every consumer in the Illawarra area was required to write a cheque for $80 to prop up the Fahey-Murray Government. There is no evidence of that money being spent to clean up the environment; in fact, all the evidence appears to be to the contrary. If it were not a big enough slap in the face for Water Board consumers that the money they had paid in good faith to clean up the environment had been stolen, taken away and spent on goodness knows what else, the final insult

certainly must be the latest announcement by the Water Board that the environmental levy as such will be scrapped and a system of user-pays will be introduced. Despite the change in the method of charging for water and despite the abolition of the environmental levy, the available information indicates that consumers will not pay less; they will pay approximately $20 a year more.

People will be levied according to the volume of water used, and it will be impossible to identify what part of that water rate was supposed to be spent on cleaning up the environment. It will be impossible for members of the Opposition or for consumers to say, "Where has all this environmental levy been spent? What have you spent out of the money you have raised in rates this year on cleaning up the environment?" It seems like another fiddle so far as

Page 1620

the Water Board is concerned, with the concurrence of the Government. Even the Governor, in his speech to Parliament at the commencement of this session, stated that it was the Government's intention to concentrate more and more on special dividends for public authorities such as the Water Board. I do not think that announcement is anything to crow about. If that is the Government's intention, it amounts to another rip-off, another series of bigger special dividends paid to the Government to prop up its penchant for engaging consultants and to prop up its mismanagement while the environment goes to pot. The public can look forward not only to bigger water rate charges but also to the annual imposition of additional charges consistent with increases in the consumer price index. [*Time expired*.]

ELCOM TRAIL ACCESS

Mr WINDSOR (Tamworth) [5.53]: I bring to the attention of the House a most disturbing incident. In my view it is a disgraceful act committed by the National Parks and Wildlife Service. Some months ago the Rotary Club of Walcha wrote to Mr Bob Leggat, the District Manager of the National Parks and Wildlife Service at Armidale, asking that it be given access to an area called Riverside, which includes what is known as the Elcom trail down into the Oxley Wild Rivers National Park area. In June some American Rotarians and their wives were coming to Walcha for three days. I believe the average age of those Rotarians is 62.

The area about which I am speaking has been nominated as a wilderness area and is part of the Oxley Wild Rivers National Park. It is a traditional beauty spot and has been enjoyed by Walcha citizens for many years. Those who know the Walcha climate would understand that this spot is one of the real treasures of the Walcha area. I believe the response by Mr Leggat to the Rotary club highlights the stupidity within the wilderness debate and should be brought to the attention of the Minister for the Environment. I should like to read part of that reply:

> As you know the matter of vehicle access for the public to the Apsley River using the Riverside Trail has been an issue since that area became part of Oxley Wild Rivers National Park. Representation on this matter has been made to the Minister for the Environment from the Walcha Shire proposing controlled access which would allow public use for the Trail in a regulated way aimed at minimising risk to users and controlling environmental impact . . .
>
> The Minister for the Environment has indicated that a decision on the use of Riverside Trail by public for vehicle access will not be made until the Government has considered the wilderness assessment report which affects this area.
>
> Regrettably under these circumstances I am unable to grant permission for the use of the Riverside Trail during the visit of the Rotarians from the USA.

It is an absolute disgrace to lock up an area of land which is not wilderness. It is a national park, and, in my view, the community should be allowed access to that area. The Rotarians are talking about controlled access. Walcha Shire Council has stated time and again that it is prepared to control the access. The road is made out of a very good surface and it does not pass through a massive area of land; it is approximately 10 kilometres. The Minister for the Environment and the former Minister for the Environment have traversed this road while the nomination has been in place; and I also have traversed this road while the nomination has been in place.

Why cannot the Walcha Rotarians, who have invited international guests, traverse this road?

The Oxley Wild Rivers National Park is an area of which the Walcha citizens are very proud, and I believe it should be shown off to our international visitors. I remind the Minister that this nomination has not been approved; it is a nomination and has not been declared a wilderness area. The District Manager of the Armidale District National Parks and Wildlife Service should reverse his decision. I will see the Minister at 12.30 p.m. tomorrow in an effort to have this decision reversed. This issue highlights what could be faced because of this lock-out mentality if the wilderness legislation is allowed to go ahead in its present form. It also highlights the lack of foresight by members of this Parliament in not adhering to the amendments moved last week by the honourable member for Oxley.

The quicker the Cabinet throws out the wilderness nomination and allows controlled access, which the community - in this case the Walcha Shire Council - is well prepared to be involved in, the better. Controlled access should be allowed in the Oxley Wild Rivers National Park and the Werrikimbe area, which is approximately 1 million acres of land if flattened out and measured in the correct sense. Controlled access would impact on only approximately 3 per cent to 5 per cent of that land, leaving 95 per cent to 97 per cent as wilderness. It is a travesty that American citizens and Rotarians are locked out of our community land. [*Time expired*.]

F3 MOTORWAY, MINMI

Mr PRICE (Waratah) [5.58]: I speak on a matter crucial to road safety in the electorate of Waratah and one that concerns critically the opening of the almost completed section of the national freeway, the F3 at Minmi. This section of road will open in December and the Roads and Traffic Authority is rapidly trying to achieve access to and from the Pacific Highway and the New England Highway for this December date. The RTA does not have a snowflake's chance in hell because I estimate it will take at least 18 months to carry out the required road construction work on what was formerly the route of a simple county road from West Wallsend to Beresfield and East Maitland.

The portion of road under construction is Lenaghans Drive and an extension of Weakleys Drive at the intersection of John Renshaw Drive and the New England Highway. Two weeks ago an environmental impact statement was put out in response to a questionnaire widely circulated in the Black Hill, Minmi, Beresfield, and Tarro districts. Though I have every sympathy and concern for people

in the Black Hill-Minmi area I have equal concern for people in the Beresfield, Tarro and Woodberry areas, which feed on to the New England Highway at two points - an Anderson Drive intersection at Tarro, which is adjacent to the Tarro railway bridge, and an Anderson Drive intersection at Beresfield, very close to the Weakleys Drive and New England Highway intersection.

Both intersections on the New England Highway at each end of Anderson Drive have a record for fatalities. The first fatality at the Beresfield end occurred two weeks ago. An elderly lady was killed and her companion was badly injured. Over the past 30 years, the Tarro end has a record of in excess of 30 deaths. It is considered the worst black spot area in the Lower Hunter area. I have spoken about this problem before. In the environmental impact statement that was released after questionnaire circulation in the Beresfield-Tarro area, virtually no mention was made of the traffic problem that will impact on that portion of the New England Highway between John Renshaw Drive and Hexham Bridge, which passes Beresfield and Tarro. So the full might of the output of the F3, in addition to normal residential and business traffic coming from Cessnock and Kurri Kurri travelling down John Renshaw Drive and from Maitland and points north to Newcastle along the New England Highway, will have an impact on the intersection of John Renshaw Drive and the New England Highway.

I understand that in excess of 36,000 vehicles a day - that figure will increase at a rate of more than 5 per cent per annum - will travel through that intersection. That will sentence the people of Tarro, Beresfield, and

Woodberry to incarceration. They will be unable to get out of their suburbs. With no traffic lights and nothing other than a right-angle intersection, the traffic flow will be such that those people will not be able to leave or enter their suburbs at the Tarro end of the intersection. On a number of occasions it has been said that the only real solution is a grade-separated intersection. The Federal Government has offered $2.35 million, but at the moment the State Government has refused to use that money for a grade-separated intersection. It has offered instead an Ourimbah-style roundabout. That would be inappropriate for the major portion of the New England Highway and Pacific Highway conjunction with the F3.

In the name of safety and in order to ensure the longevity of people in Tarro, Beresfield and Woodberry the Minister should think this matter through, agree with the Federal Government, and construct a grade-separated intersection. This will not only solve the problem; it is imperative if we are to save lives. The Government should rearrange its priorities to ensure that this intersection, which serves the whole of the north of the State, is completed correctly. [*Time expired*.]

ARNDELL SPECIAL SCHOOL

Mr PETCH (Gladesville) [6.3]: I wish to advise the House of the outstanding services provided by Arndell Special School, which is situated at North Ryde in my electorate. Arndell school was originally North Ryde Psychiatric School, which was opened in 1958. Arndell school, a purpose-built school which was reopened in 1978, is probably the oldest facility for emotionally disturbed children in Australia. Today it is appropriate that the Minister for Community Services and Assistant Minister for Health - an outstanding Minister who has great compassion - is in the Chamber to hear firsthand the virtues of Arndell Special School.

Anthony Lipari, a young boy who had been hyperventilating became unconscious and suffered brain damage as a result of a fall. He was initially transferred to Arndell school because of his behaviour, but he could not remain at that school because it did not have facilities for adolescents. He was transferred to North Ryde psychiatric centre and eventually ended up at Ryde. The case of this young fellow established the urgent need for facilities for adolescents. In 1990 the old nurses' college which was part of the North Ryde psychiatric institution, was handed over to Arndell school to enable it to cater for adolescents. The Minister for Education in another place, who was then Minister for Youth and Community Services, and the then Minister for Health, the Hon. Peter Collins, were instrumental in that. Prior to that Arndell catered specifically for pre-school children and children up to adolescence.

The Primary Club in North Ryde has done a marvellous job in recent years in recognising the valuable services provided by Arndell school. That club has provided the children with equipment to the value of $8,500, and that equipment was handed over to the school towards the end of last year. This year I, on behalf of the North Ryde Rotary Club, was honoured to be able to hand over another cheque for $5,000 to assist in adolescent desktop publishing. At present Arndell has 11 teaching staff, 7 teachers' aides, 17 nurses and other clinical and medical staff. It is developing programs that are helping adolescents who turn to street gangs. The principal, Earl Ryan, who is in the gallery tonight, has been working vigorously with Professor Nicholas Long of Washington D.C. in the development of these programs.

A major component of this development is the integration of services for children and adolescents offered by various government departments, such as the Department of School Education, the Health Commission, the Department of Community Services and the Office of Juvenile Justice. It is encouraging to note that Arndell is the only institution in Australia that can offer services from pre-school right up to post-adolescence. It is now integrating a host of programs to deal with the cause of a lot of these problems. Unfortunately, less than 5 per cent of the $260 million in the mental health budget goes to child and adolescent psychiatry. I hope the Minister will take this matter on board and reallocate some of the

priorities associated with the mental health of children and adolescents. In particular, I hope he will support the programs to which I have referred. [*Time expired*.]

Mr LONGLEY (Pittwater - Minister for Community Services, and Assistant Minister for Health) [6.8]: I

thank the honourable member for Gladesville for bringing this matter to the attention of the House and specifically to my attention. I will ensure that it is taken up with the relevant Ministers. I commend the honourable member for his dedication and compassion - which is unusual in this House. On a number of occasions I have spoken with the honourable member about relevant issues, and he has clearly demonstrated his deep and genuine concern. The people of his electorate are fortunate to have someone as concerned and genuine about these issues - someone who is prepared to work hard on their behalf to ensure the best possible outcome. I will certainly take on board what he has said. As I indicated earlier, I will be taking up with the relevant Ministers the matters he has raised. This is an important issue - one about which the honourable member feels deeply and one in which he is active.

Private members' statements noted.

[*Madam Deputy-Speaker left the chair at 6.10 p.m. The House resumed at 7.30 p.m.*]

NEW SOUTH WALES - QUEENSLAND BORDER RIVERS (AMENDMENT) BILL

Second Reading

Debate resumed from an earlier hour.

Mr BECKROGE (Broken Hill) [7.30]: Before dinner I made some remarks that shocked the Minister for Natural Resources. I said that New South Wales now has to consider sources of water. I refer the Minister to his remarks in the second reading speech, in which he said that the groundwater studies have gained momentum owing to the fact that river supplies to both States from the border rivers are fully committed. I cannot speak for Queensland, but in New South Wales so much water has been committed that irrigators do not have enough water. In the near future more groundwater will be made available to the irrigators. I counsel the Government to proceed with caution in the amount of groundwater it allows irrigators to take, particularly cotton farmers, as cotton growing makes great demands on water resources.

As a member for a western area that depends on water for employment, I am conscious that it is important that areas that can produce are not put in a non-development category. Over the years I have been worried about diminishing water resources. This is manifested in the Darling-Barwon system by blue-green algae. No one needs to be told 10 times of the problems in the water system. A blue-green algae infestation on the Hawkesbury River hit the headlines in Sydney. Over the years that the Department of Water Resources has been in charge of that resource it has said that it has had a handle on the supply of water. However, the material discharged into the Darling River combined with the low water levels has allowed the blue-green algae to take over and become a great problem.

As I speak, Tilpa and Louth on the Darling River system do not have water. The river at Tilpa is very low. There is water above Bourke, so there must be some problem between Bourke and Wilcannia. The river disappears at Louth, which is downstream of the Warrego-Darling confluence. Water resource management in New South Wales is entrusted to the Department of Water Resources. The Deputy Premier stated earlier this year that the department's employees should all be sacked. It ran through my mind that perhaps he might not be wrong. My only concern was that perhaps the people working on the job were not getting the right directions from above. I am worried that the Department of Water Resources may not be able to handle the job. Now that the question of groundwater is being considered, I am even more worried.

Over the years licences have been granted to so many people that if everyone used their quota there would not be enough water available. I am worried that we are now going to plunder the groundwater. The experts say there is enough groundwater to cover what might be used and a 15,000 megalitre limit exists as an interim measure for each State. I wonder whether any benefit will be gained from the policies of the Department of Water Resources on groundwater. I hope honourable members look carefully at how the department, in conjunction with the Queensland department, will manage the release of groundwater. Studies have been made

of water quality. The groundwater deteriorates at the surface in some areas and at deeper levels in other areas.

The bill will allow the Border Rivers Committee to investigate and distribute the groundwater. The Opposition has agreed to support this proposal, and I support it to a limited extent but I am worried that the management of groundwater will be very much like the management of water licences over the years. The Minister has not been in charge of water resources for a long period, and I hope he will keep a keen eye on the monitoring of the groundwater. As honourable members know, groundwater is only replenished with rain, which seeps through the sand into the subartesian basin. The artesian basin itself may be down 100 metres in some cases, but the replenished water in the subartesian basin must be monitored.

I commend the bill because it will put in place a historic agreement between Queensland and New South Wales. The agreement exists because Queensland now has an enlightened government after years of a government that acted like the ranchers in the wild west, who put a dam across a river upstream, causing terrible fights among neighbours about who could use the water. I am glad that the Queensland Government is entering into the border rivers

agreement and will now take part in the management of the magnificent catchment area of the Murray-Darling system that is as much in Queensland as New South Wales.

Mr CAUSLEY (Clarence - Minister for Natural Resources) [7.40], in reply: I thank the honourable member for Mount Druitt and the honourable member for Oxley for their support of this rather simple bill, which deals only with groundwater in the border rivers area and the quality of that water. For one despairing moment I thought Labor Party members would all support the bill. The honourable member for Mount Druitt said he supported the irrigation industry and commented on the value of the cotton industry to New South Wales. I thought at last some sanity had come to members on the Opposition benches. Then, lo and behold, the member for Broken Hill made his contribution! I have never heard such a load of rubbish in all my days.

[*Interruption*]

I wonder whether the honourable member for Hurstville was involved in the matter to do with that island. I have a few stories I could tell about the Hunter River and the involvement of Senator Richardson and his friends in Elcom. Perhaps the honourable member for Hurstville would like to hear about that; he used to be a member of Senator Richardson's staff, so he will know what I am talking about. I know that the honourable member for Broken Hill visits his electorate only occasionally, and usually he visits only the city of Broken Hill and not the farming areas.

Mr Beckroge: I go to Broken Hill, do I?

Mr CAUSLEY: Occasionally; the member has been there twice in the past 12 months that I know of. He did not know what he was talking about when he spoke of the groundwater reserves in New South Wales. The Department of Water Resources has done a lot of good work in mapping groundwater resources in New South Wales. Some groundwater is capable of being used for irrigation and some is not because it is even saltier than sea-water. New South Wales has a policy to control water in such a way that it is not mined; in other words, that the level of groundwater is not lowered. A careful watch is kept on the input from rainwater and floods that occur from time to time - and I know they have been rare in recent years - which increase the level of groundwater. It is only sensible that that water be used. That is the reason for this sensible agreement between Queensland and New South Wales that enables the water to be used. Certainly the resource is not being frittered away; it will be maintained.

When the honourable member for Broken Hill spoke about a diminished water resource he demonstrated his ignorance of the irrigation industry in New South Wales. He purported to speak as the only Labor Party member representing a country electorate in New South Wales and professed to understand these matters. Obviously he does not. The cotton industry is the only industry showing any semblance of being profitable; yet the Opposition criticised that industry. The honourable member for Broken Hill obviously would get the

support of the honourable member for Blacktown for his remarks. The cotton industry is the only industry likely to benefit Australia's balance of trade this year. Nevertheless, the Opposition criticises the fact that the industry uses water. This legislation provides a balance. The Government introduced controls in accordance with its free flow policy, to ensure that water would continue to flow through the river systems.

This Government brought in the allocation to rivers. The honourable member for Broken Hill lauded Labor governments that had never contemplated an allocation to rivers. I assure the House that the management of water resources in New South Wales is being carefully monitored. Allocations are made to the river system to overcome problems such as blue-green algae. The honourable member for Broken Hill talked about the lack of water in the river systems. I do not know whether he has not been around for long or has not read any history, but before river systems were controlled by dams the rivers used to run dry. If the honourable member spoke to his constituents in Bourke and Brewarrina, he would learn that periodically the river in that region went dry and became a string of billabongs.

It is true that at present Australia has a paucity of water. Central Queensland and far western New South Wales are experiencing one of the worst droughts of the past 20 or 30 years. The lack of water at present does not mean that this is bad legislation. Certainly it is not. The legislation will extend the border rivers agreement between Queensland and New South Wales. It takes into account the groundwater resources that have been located and will be put to good use. The legislation will not lead to mining of that water. The water resource will be carefully monitored as will the quality of it. I reject the claims made by the honourable member for Broken Hill. His was the most ridiculous speech I have heard in the House for a long time. Again I thank the honourable member for Mount Druitt, who demonstrated a great knowledge of the issue and an understanding of the legislation.

Motion agreed to.

Bill read a second time and passed through remaining stages.

GUARDIANSHIP (AMENDMENT) BILL

Second Reading

Debate resumed from 21st April.

Mr J. J. AQUILINA (Riverstone) [7.46]: I lead for the Opposition in this debate. I extend my congratulations to the Minister for Community Services and Assistant Minister for Health and the Government on introducing these amendments to the Disability Services and Guardianship Act and its

cognate legislation. The Disability Services and Guardianship Act of 1987 was introduced by the former Labor Government and received bipartisan political support and widespread community support. It is a matter of history that the Act was proclaimed and came into effect in August 1989. I am proud to have been at that time the Minister for Youth and Community Services leading a talented team of people who brought the legislation into being. We were pleased and proud to receive bipartisan and community support following community consultation that led to the introduction of that landmark legislation, which became a model for other States. I thank the Minister for his praise of the legislation in his second reading speech delivered on 21st April. The Minister said that the Disability Services and Guardianship Act was seen then, and still is seen, as progressive, innovative legislation to protect the rights of people with disabilities. He went on to say:

> The scheme has now been in place for some three-and-a half years and is considered to have been highly successful. I am told that it is being held up as a model for other jurisdictions in Australia and has attracted great interest overseas.

That was praise indeed for what was then, and still is, legislation that in many ways has changed the lives of thousands of unfortunate individuals. As with all great legislation, especially hallmark legislation introduced

for the first time - innovative and progressive legislation - there must always be fine-tuning. Back in 1987 no one was under any illusion that the legislation would not require fine-tuning as time passed so that it would serve more adequately in the future the needs of those it was intended to serve. Over the past three-and-a-half years a widespread process of consultation and discussion has attracted the interest of members of both sides of the House. These matters should be above party political interests. Legislation should be enacted to assist those who are less fortunate than most of us. All of us have a responsibility as citizens, individuals and legislators to safeguard and protect those interests.

Part 5 of the Disability Services and Guardianship Act deals with the problem of consent to medical treatment for people who cannot understand the nature and effect of the treatment proposed for them because of a disability or some other reason, and so lack the capacity to consent to their own treatment. As with most new legislation which deals with complex problems, some areas have created difficulties in practice. Hopefully some of those difficulties will be overcome by these amendments. Amendments that make legislation more effective and efficient without changing its policy direction are needed. Having read the legislation in some detail I am confident that this amending legislation will be able to do this.

When the House was debating the legislation in November 1987 I said in my second reading speech that there were many compelling reasons for the guardianship and disability services legislation. The first was the smaller size of families. This means that fewer people are available to assist in the care of a dependent member, placing greater burdens on a surviving parent or sibling. It is relevant to note that one of these amendments relates also to that concern. It will allow family members and significant others to be substitute decision-makers, without having to apply to the Guardianship Board to be appointed medical guardians. The measure will add a new category of persons responsible, recognising the fact that for many of these people the number of family members is reduced. It will extend the number of people who may act as substitute decision-makers on a person's medical or dental treatment when that person is not capable of consenting. At present family members must be spouses or direct carers before they can take on this role automatically.

Over the past 3½ years in many cases it has been found to be inappropriate for people in that specific category to be determined as being the sole decision-makers for persons in need. Many are aged. In cases these carers or parents are suffering from dementia. In other cases it is not appropriate for a married or de facto spouse to make appropriate decisions. I welcome the fact that we are now widening the ambit of this legislation to broaden the category of persons who may be classified as persons responsible. Consequently, I congratulate the Government and various interest groups who have worked diligently on this legislation. In 1987 I indicated that another compelling reason for the introduction of the Disability Services and Guardianship Act was that in recent years developments in medical science have dramatically increased the life expectancy of disabled people, resulting in many of them outliving their parents and siblings. Many are living to a great age, and where their parents are still alive they are likely to be very elderly parents, often not able to make decisions in relation to their varying needs.

The process of deinstitutionalisation has had a chequered history over the past 3½ years, but with undertakings given in recent times by the Minister for Community Services, I hope it will continue to proceed at a more rapid rate. Because the matter was being pursued in public health and welfare services, those formerly in charge of institutional facilities and able to exercise a type of de facto guardianship are no longer able to look after the interests of disabled people. That is accentuated because it is common knowledge that more people have been deinstitutionalised and, therefore, do not have access to the broad army of carers who formerly existed in those institutions and who, at that time, were able to care for those referred to in this legislation.

The Guardianship Amendment Bill will allow treating doctors to administer minor medical treatment without consent when treatment is considered necessary and a responsible person cannot be readily located. At present treatment must be delayed while consent is obtained from the public guardian. That is time consuming and, on many occasions, has led to needless delay when the public guardian is unable to be located within an appropriate period. It is also an expensive exercise and should be dispensed with. The

medical profession should be trusted to make a value judgment about whether a patient is in need of minor

medical treatment and to administer treatment without having to go to the extraordinary length of obtaining permission from a public guardian - which causes delay and, in many cases, is detrimental to the person receiving the treatment.

A further measure will allow the Guardianship Board to deal with applications for financial management orders without first having to deal with a guardianship application. The proposal is for fewer medical guardians to be appointed. An attendant consequence of this will be that many families who require financial management orders to manage the affairs of, for instance, elderly demented parents or other relatives will no longer have access to the board. An amendment to overcome this consequential problem is necessary. The board will be able to refer complex matters to the Supreme Court. In any event, appeals may be made to the Supreme Court.

Time should not be wasted unnecessarily on relatively minor matters and the expense to families and government departments should be reduced. It has been proved over the past 3½ years that relatively minor issues can be treated effectively without recourse to the Guardianship Board or the public guardian. Therefore, a legislative or legal alternative should be introduced to enable these matters to be dealt with far more expeditiously. It is in all our interests, above party political matters, to ensure that the needs of individuals are dealt with expeditiously, fairly and economically for the persons involved, their families, government departments and medical departments. It involves common sense, judgment and good will on behalf of everyone involved. Common agreement should be reached by those who have the interests of relevant individuals at heart.

I am pleased that the Government has finally seen fit to introduce these changes. The bill fine-tunes the 1987 Act and I hope it will not be the last. This is a dynamic area where the needs of a person may change from time to time and it is appropriate to be ever vigilant, irrespective of political convictions. The legislative framework should be adjusted in such a way as to ensure that we, as responsible members of government and Parliament, deal with those needs in the most efficient manner. As I was the Minister who introduced the Disability Services and Guardianship Bill and cognate bills in 1987, I have much pleasure in supporting these amendments.

Mr O'DOHERTY (Ku-ring-gai) [8.0]: I thank the honourable member for Riverstone for his remarks. Understandably he is proud of the legislation that was introduced by a previous administration in 1987 and was proclaimed in 1989. The honourable member repeated the words of the Minister about that legislation, and that is timely indeed. I thought, however, the honourable member may have been just a tad more generous in his remarks about the current Minister. He said that the Government had, in his words, "seen fit in due course" to bring in the amendments. The Minister for Community Services and Assistant Minister for Health has grasped the nettle and tackled the problems of the whole disability issue. It was my pleasure to be able to speak to the Disability Services Bill, which this place dealt with not so long ago. Minister Longley has enacted significant change on behalf of disabled people in New South Wales.

With these amendments the Minister confirms that the Government believes the disabled have as much right to a quality of life as the able in our community. The Minister has shown once again that he believes strongly that that quality of life needs to be not only recognised by the Government but enhanced. The Minister is doing that with these amendments. But I thank the honourable member for Riverstone for his remarks and for his support for these amendments, which are timely, commonsense amendments. It is important to note that the amendments are made, in line with the original bill, as part of a system that will enhance the quality of life of the disabled.

Therefore many of the amendments relate to being able to provide medical treatments, when they are needed, without undue delay and without undue process of having to find medical guardians and the like. Medical practitioners, when they see it is in the best interests of the disabled patient who cannot give consent on his own, make decisions of this kind constantly; medical practitioners can be trusted for many of the minor medical treatments required. There should not be an unnecessary process involved in those minor medical treatments. Under this bill, through the redefinition of medical treatment, medical practitioners will undertake

those treatments without undue fuss.

Another amendment allows for treatment to be carried out under the supervision of a medical practitioner but not necessarily by that medical practitioner himself or herself. It is quite common for nurses and other carers to administer treatment on behalf of a medical practitioner - medication that may have been prescribed by the medical practitioner in the past. As spelled out in these amendments, those procedures are carried out under the responsibility of the doctor, but separate consent is not required every time. That is very sensible. The redefinition of medical treatment includes over-the-counter medications, a clarifying amendment which minimises excessive bureaucracy and excludes non-intrusive examinations of trivial and first aid treatment. That also is a very sensible provision. Dental treatment is also divided into both major and minor categories. That division makes sure that different types of dental treatment receive the appropriate level of response. Currently dental treatment is dealt with as minor. Clearly, some dental treatments are quite major and in many cases have to do with more than the quality of life for the patient. Those are also dealt with appropriately under these amendments.

Experimental treatment took my particular

interest when I found out more about the subject after talking to some of the people in the department. I am now persuaded and assured that the benefit of the proposal put forward in the bill, as to experimental treatment, is to require scrutiny of all treatments of a special or experimental kind and not just those outside the current guidelines of the National Health and Medical Research Council. It lowers the consent-giving test, and it allows the approval of such treatments if they are shown as beneficial and appropriate for the patient, even if they are not life saving. That ensures that the onus is in improving the quality of life of the disabled person.

Those experimental treatments would be approved from time to time by the National Health and Medical Research Council for able members of our community and those who also may be able to provide an enhanced quality of life to the disabled suffering from some serious medical complaint. I am convinced there are appropriate safeguards in the existing Act and also under the amendments currently before this Chamber which will provide that it is an experimental treatment aimed specifically at improving the quality of life and enhancing the quality of life of the disabled who have some kind of serious illness.

Another important amendment before the House relates to changes concerning objections to medical treatment. Previously an objection to medical treatment might be construed as an involuntary resistance which might, in the case of many of the people we are talking about, be some kind of reflex action. There may be cases where the patient involved clearly has no comprehension of the proposed treatment. It is important to spell out the difference between those involuntary resistances and cases where there is a clear indication that the patients are concerned about the treatment they are to receive.

Once having scrutinised and approved treatment in the face of patients' objections, that is if the patients are not competent to make their own decision, the board may be able to authorise a guardian to consent to ongoing administration of that treatment. Every time there is an involuntary reaction on the part of the patient, the board does not need to re-examine that issue. That is a sensible amendment aimed at ensuring that treatment is available to improve the quality of life of a disabled person and not that unnecessary legislation or bureaucracy should impede the delivery of treatment. I am delighted to support this bill, which is receiving bipartisan support in this House. I commend the Minister for his timely review of legislation that relates to the disabled in our community and his real heart for ensuring that they have the quality of life, whatever the stage of their disability.

Mr LONGLEY (Pittwater - Minister for Community Services, and Assistant Minister for Health) [8.7], in reply: I thank the honourable member for Riverstone and the honourable member for Ku-ring-gai for their contributions to the debate. This legislation has three significant foundations. First, it is about enhancing the role of family and friends in their capacity as carers for people with disabilities. That is a foundation stone which needs to be more widely recognised and applied throughout our community. Second is the role of flexibility and adaptability to changing circumstances. That is embodied not only in the substance of the

legislation but indeed the process whereby this legislation came to be. It was recognised that no legislation is enshrined in stone but is a developing, evolving body of understanding which needs to respond to both changes in society as they occur and to a better perception and recognition of needs as improvements in perception also occur.

The third foundation is the important role of consultation. The fact that this legislation was based on extensive consultation over a sustained period of time is again vital, as it is indeed throughout the community services portfolio. It is only as governments learn to consult broadly and in depth with a community that they will be able to reflect more fully not only the desires of the community but, in a more substantive sense, the real needs of the community. The honourable member for Riverstone raised the question of further changes. I assure him by referring to what I said in my second reading speech:

> I shall be asking the Guardianship Board to monitor these changes and also, after community consultation, to report to me on any amendments to the legislation generally that could improve the way it works for the benefit of people with disabilities in this State.

The honourable member for Riverstone has a diligent interest in that area and I appreciate his concern. The bipartisan approach to this proposed legislation is appreciated by me and, more importantly, by the disabled community. The honourable member for Riverstone was the person who introduced the original legislation and it is worthy of tribute to him. I thank and commend the honourable member for Ku-ring-gai for his contribution. He has shown his commitment, dedication, thoughtfulness and hard work in pursuing matters related to the community services portfolio. Substantive, real and systemic changes will only be achieved in this portfolio by members of Parliament who are prepared to do the hard work, and that will bring about real and lasting improvements that are desperately needed in the community today.

I commend the President of the Guardianship Board, Mr Roger West, who is present in the gallery this evening. He has been singularly dedicated to this legislation and the role of the Guardianship Board. It is an excellent tribute to him that the board has an impeccably high standard and high repute around Australia. I thank him personally and on behalf of the Government for the vital and important work he does. It is only through people like Roger West doing that type of job, largely unsung, that real changes in the lives of individuals and their families are able to be achieved in circumstances that are often extraordinarily difficult and complex. He certainly has my commendation for that work. I thank Nick O'Neill, the deputy president, for his hard work and contribution to this proposed legislation and the

Guardianship Board. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

JUSTICES (AMENDMENT) BILL

Second Reading

Debate resumed from 21st April.

Mr WHELAN (Ashfield) [8.13]: The Minister's second reading speech and the bill are succinct and are a lesson in putting matters concisely. The Minister said:

> Appeals to the District Court will be disposed of fairly and efficiently, allowing judges of that court more time to deal with more serious matters.

The Opposition agrees with that. The Minister continued:

> Similarly, the proposed amendments will free police officers to perform police duties.

The Opposition supports that totally. The Minister continued:

> The bill nevertheless does not sacrifice the interests of the appellant in order to achieve these increased efficiencies.

That is understood. And finally the Minister indicated:

> The Chief Judge . . . supports the proposed amendments to the Justices Act.

So, the House is as one. As the Minister has pointed out, this proposal if passed by the Parliament - and undoubtedly it will be passed - will enable the scheme to be given a trial in metropolitan and country patrols with a view to determining its effectiveness before statewide introduction. As members would know, this scheme is to mark significant changes in police procedures. Some might argue that it will reduce the need for offenders to be taken to and held in gaol, and will - and should - enable police officers to spend more time within their patrol doing what should ordinarily be police duties.

The scheme is an extension of that introduced in 1985 and was offered then as an alternative measure to charging offenders. The limitations under section 100A, that only persons above the rank of sergeant would be party to the proceedings, meant that an offender had to be taken back to the police station for the issue of a notice to authorise, thus reducing the usefulness of the scheme. This amending legislation proposes to allow any future police officer to issue a court attendance notice to an offender; and where that assessment is made, it is not appropriate to arrest and charge the offender.

The legislation will also reverse a view currently held that police officers will examine cases on the basis that offenders will not be arrested unless specific factors are present that indicate arrest would be appropriate. The Minister was at pains to point out in his second reading speech, with which the Opposition agreed, that the police officer has to be satisfied as to the alleged offender's identification and, importantly for members who have any experience in relation to domestic violence matters, whether it is necessary to remove the alleged offender or protect the victim, witness or alleged offender by means of a bail condition.

The Opposition supports the bill, which is a logical extension of the 1985 amending legislation. Though it is to be given a trial, I ask the Minister to consider reporting the results of that trial. The trial may lead to many of the benefits to which the Minister referred, including a reduction in police time off the beat. The Minister said that the proposed legislation might go some way towards reducing the incidence of deaths in custody. Even a trial is worth while, on the basis that one tragedy might be avoided. The other provision of the bill relates to appeals to the District Court, a fairly technical matter to which the Opposition has no objection. In essence, this measure will streamline the administration of that court. Undoubtedly it will give all judges of the District Court more time in which to hear cases rather than their having to deal with administrative matters relating to whether an appellant is present. The Opposition supports the bill.

Mr GRIFFITHS (Georges River - Minister for Police) [8.17]: I specifically sought the opportunity to speak to this short but immensely important reform to the way that criminal justice is administered in this State. All honourable members will be aware from the Minister's second reading speech that the present scheme of court attendance notices was introduced in 1985. Its primary goal was, and remains, to provide an effective alternative to police formally charging suspects with minor offences. Under the present scheme a police officer can arrange the issue of a court attendance notice requiring the offender to appear to be dealt with according to law at a Local Court at a specified date and time. Theoretically, it is not necessary to arrest and charge the offender or to make a decision about bail. Though the system has been used with a degree of success, from a police operational perspective it has major shortcomings. At present the authority to issue a court attendance notice is limited to police of or above the rank of sergeant or officers who, for the time being, are in charge of a police station. In practice this invariably means that following arrest an offender must be taken back to a police station before a court attendance notice may issue.

Although that restriction seemed reasonable in 1985, it is simply no longer appropriate. It means that once a suspect is arrested, the police must go through almost the same procedure as if a formal charge was being preferred. It will come as little surprise to honourable members to learn that the use of court attendance notices by police in these circumstances has not been as effective as may have been at first imagined. The amendments proposed by my colleague the Minister for Justice will make the scheme far more accessible by allowing any officer in the field to issue a notice without the need to take the

offender to a police station. Any officer will be able to make a decision as to whether a court attendance notice is more appropriate than an arrest and charge. That is what this amendment is all about: giving the police broader discretion when dealing with minor offences.

That discretion will not, of course, be totally unfettered. It will be subject to a number of constraints imposed by the Commissioner of Police by way of instruction. Those instructions will include guidelines for officers making these important decisions. The criteria will include whether the identity of the alleged offender has been satisfactorily established; whether it is likely that the offender will appear in court in answer to the notice; whether the evidence of the offence has been properly preserved or secured; whether it is necessary to remove an offender from the scene to prevent further offences or a breach of the peace; and whether it is necessary to protect a victim, a witness or the alleged offender.

In addition, the scheme will be supported by a comprehensive training package to educate all police about the circumstances when a court attendance notice may be appropriate. The advantages of these amendments to police and the wider community should not be understated. The scheme will have two major benefits: first, officers will spend less time in police stations doing paperwork and more time on the street protecting their communities; and, second, fewer people will be taken into custody resulting in a lesser cost to the community and a lesser chance of suspects injuring themselves. Close consultation has already taken place between officers of the Police Service and the Department of Courts Administration to ensure the smooth implementation of the extended scheme. To further ensure the success of the scheme, it is proposed to trial this initiative in a number of metropolitan and country locations. In this way its effectiveness will be properly assessed and any administrative concerns can be addressed before the scheme goes statewide.

From the police perspective one important point must be borne in mind. This scheme will in no way diminish the ability of the police to protect members of the community, either in their homes or on the street. The power of arrest has not been altered in any way. The ability to formally charge, photograph, fingerprint or oppose bail has not been modified. The scheme will effectively support the local police by giving them more options when they are called to intervene. The Minister for Justice should be commended for bringing forward such an effective and commonsense proposal to address a number of real problems in the criminal justice system. I and the members of the New South Wales Police Service are happy to fully support the amendments. I congratulate the honourable member for Ashfield on his positive approach, on supporting the trial and on raising the issue of whether the legislation will mean fewer people being held in custody and fewer deaths in custody. The legislation should be given the opportunity of proving that it has those benefits and I believe that effectively it will. As I have said, I congratulate the Minister for Justice and the Opposition on supporting such innovative legislation. I support the bill.

Mr MERTON (Baulkham Hills - Minister for Justice, and Minister for Emergency Services) [8.23], in reply: I thank the honourable member for Ashfield and the Minister for Police for their support of this important legislation. As I said in my second reading speech, it raises a number of significant issues. It contains an innovative approach to court attendance notices. It will streamline an operation which, although basically effective, has had a number of defects. I refer in particular to an officer of the rank of sergeant, or the person in charge of the police station at the relevant time, being required to issue a court attendance notice. The legislation will simplify the procedure and make court attendance notices a more realistic, adaptable and useful form of dealing with alleged offenders. That approach is consistent with the Government's desire to reduce the number of deaths in custody. It is hoped that it will also reduce the number of people held in custody, an important factor in the number of deaths in custody.

For many years the District Court has had a heavy workload because of the search and inquiry provisions in relation to appeals. The office of the Clerk of the Local Court has been cluttered up with paperwork in relation to appellants not appearing to prosecute their appeals. The amendments to the appeal provisions are realistic and fair and will allow an appellant an adequate opportunity to appear and prosecute his or her appeal. I thank the House for its support of the legislation.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CHARITABLE TRUSTS BILL

Second Reading

Debate resumed from 21st April.

Mr WHELAN (Ashfield) [8.27]: Like the preceding legislation, this bill may appear to be minor. However, it has some significance to those who will be affected by the jurisdiction of charitable trusts. The Attorney General and I have received some correspondence relating to the bill. Government members may also have received such correspondence. The legislation has been developed following a review of charitable trusts. The reforms set out in the bill clarify, and to some degree extend, the jurisdiction of the Supreme Court with respect to the protection of charitable property; extend the circumstances in which the original purposes of a charitable trust fail - and those purposes can be altered to allow the trust property to be applied cy-pres; enable the Attorney General to establish schemes for the administration of charitable trusts, including cy-pres schemes; and achieve other purposes.

In essence the legislation will simplify the law in

relation to charitable intention. It provides that a charitable trust fails when it is no longer effective, suitable or advisable. It also will give the Attorney some discretion where he is involved. It is important to note that the bill is not dependent upon the personality of the Attorney General of the day. The bill empowers the Attorney General to take certain action. If the Attorney General believes that a particular matter is controversial, he will refuse to use the power conferred on him by the legislation. He will refer the matter, as I imagine an Attorney General of any political persuasion would, to the court to consider the fairest method by which a dispute involving a charitable trust can be resolved.

I have received a letter from Mr John Nelson, the President of the Law Society of New South Wales, in relation to charitable trusts. The Law Society is a representative body of about 12,000 practitioners and it is only proper that Parliament considers the views of that organisation's president. In his letter, which I do not intend to canvass at length, he is at pains to talk about the Westminster system of government being formulated on the basis of the separation of powers. That is put in relation to the ability of the Attorney to have the dual role of being a member of the Executive as well as a member of the Government and a person who has legal obligations and responsibilities.

I believe it is too long a bow to draw to suggest that if there is a matter of controversy and the Attorney finds that that controversy exists, the Attorney would not act. I am convinced that the present Attorney and future Attorneys would say that because of the potential of the controversy, the matter should be put in the hands of the court for it to make that ultimate determination. Mr Nelson also said in his letter:

> It is accordingly inappropriate for representatives of the executive arm of government who make particular recommendations to also take part in a quasi-judicial role determining the particular question, in this instance the variations of purpose or beneficiaries which may be required or advisable following particular failure in some respect of a charitable trust.

That has already been covered in the matter I have just been discussing. The letter from the Law Society was replied to by the Attorney on 1st April. I have been given a copy of that letter, and I concur with it. It sets out succinctly why the views of the Law Society, though learned and appreciated, do not solve the problem of this minor administrative change. The powers will still vest in the Attorney. The bill has had a reasonable airing and I am convinced of its merit, and for that reason the Opposition supports it.

Mr KERR (Cronulla) [8.33]: I support the bill and I am sure that the House will support it. I thank the honourable member for Ashfield for the remarks he made. I understand that the Attorney General receives in the order of six to eight applications for cy-pres schemes each year. In addition, there would be another three to four matters where proceedings have been commenced in the Supreme Court and the court has made draft orders subject to the Attorney's concurrence. With one exception, all matters in the past three years have been for amounts below $500,000. That matter was approved by the Supreme Court on the application of the former Attorney General. The costs involved in proceedings before the court included the costs of solicitor and counsel on behalf of the trustees, and of counsel briefed by the Crown Solicitor on behalf of the Attorney General. The costs would be up to $8,000 a day, with most matters being resolved at a one-day hearing.

That background indicates that the legislation seeks to clarify the powers of the Supreme Court and the Attorney General in relation to the administration of charities and to simplify the law in relation to schemes for charities and charitable trusts. Because the honourable member for Ashfield mentioned the letter from the President of the Law Society of New South Wales, it is appropriate to commend the society for considering the matter. I took the letter as one proffered on an advisory basis; it certainly was not adversarial, and the Government was appreciative of the views it contained. The honourable member for Ashfield mentioned the reference by Mr Nelson to the Westminster system. Mr Nelson said:

> The Westminster system of government is formulated on a basis of separation of powers. This is at the heart of the legal axiom that "Justice must not only be done but be seen to be done".

However, perhaps there is some misunderstanding when we talk about the separation of powers, because the Westminster system is not predicated on the separation of powers. Members of Cabinet are members of the Legislature. They are also members of the Executive Government. In fact, if one went to Westminster, one would find a Cabinet officer there, the Lord Chancellor, who is a member of the Legislature in the sense that he sits as the Presiding Officer in the House of Lords, a member of Cabinet, and the head of the judiciary. Because the honourable member for Ashfield thought it was important to record the views of the Law Society, and the honourable member has been supplied with a copy of the Attorney's response, perhaps I should place on record that the Attorney wrote to the Law Society in the following terms:

> In reply to your points on this matter, I firstly note that your comment at point 1 in relation to the Westminster system of Government fails to recognise that the Attorney General as well as being a member of the Executive of Government also has legal duties and responsibilities. One of the inherent powers of the Attorney General is as "protector of charities" to ensure that charitable trusts are properly administered and charitable property used for proper purposes. This inherent jurisdiction -

Which actually comes from the Westminster system:

> - is recognised in Section 17 of the Imperial Acts Application Act 1969 which brings forward the provisions of the Charities Act 1812 and in certain provisions of the Dormant Funds Act 1942.

As I say, the legislation is important and I believe it will have the support of the House. It is very much in the public interest. I am sure that in the fullness of time this legislation will receive the popular support that the Imperial Acts Application Act 1969 enjoys.

Mr HARTCHER (Gosford - Minister for the

Environment) [8.38], in reply: I thank the honourable member for Ashfield for his support on behalf of the Opposition, and the honourable member for Cronulla for his support on behalf of the Government. As both

honourable members said, the views of the Law Society of New South Wales are learned and appreciated. Nonetheless, the Government believes that the scheme that is being put in place is cost-effective, traditional, and in accordance with equitable practice, and is therefore most satisfactory for all the parties concerned. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LOCAL GOVERNMENT BILL

IMPOUNDING BILL

LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL

ROADS BILL

TRAFFIC (PARKING REGULATION) AMENDMENT BILL

Second Reading

Debate resumed from 22nd April.

Mr McMANUS (Bulli) [8.39]: It is with a great deal of pleasure that I speak on behalf of the Opposition in support of the Local Government Bill and cognate bills. However, the Opposition proposes to move a number of important amendments and I hope the Minister for Local Government and Minister for Cooperatives will consider them. I believe the amendments will make a good bill just that little bit better. The Minister acknowledged in his second reading speech that as the main bill is so large and complex, there may be hiccups in it, and he indicated his willingness to accept any relevant criticisms and, over a period of time, to tidy up any hiccups or bugs that may be in the system.

I would like to begin my remarks by referring to Chapter 6, which discusses the service functions of councils. In particular, I am pleased to note that those functions include environment conservation, protection and improvement services and facilities. As a former alderman of Wollongong City Council for six years, and Deputy Chairman of the Illawarra County Council for two years of a six-year term, I am well aware of the needs of local government and the concerns of many aldermen. One of those concerns relates to the relationship between State and local government. Many issues of local government overlap with those of the State, and can be overruled by the State Government. In that regard, I suppose members of Parliament and aldermen can be considered brothers.

If honourable members are serious about the bill, it is important that we give, and be seen to give, local government the support that it needs. Aldermen are voluntary representatives of the community. Parliamentarians, of course, have a higher standing in the community, as we are paid and elected representatives who are required to oversee some of the actions of local government. It is important that we be brothers in kind. In other words, we must always ensure that the decisions that are made at local government level have the protection of the State at all times. Part 2 of chapter 6 of the bill deals with public lands. I want to refer to community land in particular, which is a matter of major concern to me and to Wollongong City Council. On page 19 of the bill the note to part 2 states, in part:

> Community land must not be sold. Community land must not be leased or licensed for more than 21 years and may only be leased or licensed for more than 5 years if public notice of the proposed lease or licence is given . . .

That is a very important section of the chapter on public lands. The note further says:

> The purpose of classification is to identify clearly that land which should be kept for use by the general public (community) . . .

In that regard I have asked the Minister for leave to discuss an issue of grave importance to me relating to a matter of public lands that has been raised during the past decade by Wollongong City Council. Let me first say that I commend the Government for its action on public lands, and I hope that the incident I am about to relate is never repeated. I refer to an article in the *Sydney Morning Herald* of 28th November, 1992, by a well-known and well-respected journalist-columnist, Leo Schofield. In an article referring to the Otford-Helensburgh region, Mr Schofield said:

> Mid-1970s: Decision taken that land currently under threat of development is to be purchased by the National Parks and Wildlife Service as an extension of the Royal National Park . . .

At that time - when I was probably an alderman - I would have been totally in agreement with that proposal. However, the departmental file went missing and did not resurface until 1982. That sensitive file was missing for almost a decade, and when it resurfaced a number of strange things had occurred: the land that the file mentions had not been purchased by the National Parks and Wildlife Service as intended; it had not been rezoned; and it had been purchased by a private company whose principal, Mr Bob Hogarth, was also the principal in land companies known as Ensile Pty Limited and Lady Carrington Estates, all within the same region.

In 1985, part of the land - which, I reiterate, was earmarked for acquisition - was subdivided and sold as 150 quarter-acre lots. Although it was officially zoned rural, it was placed on the market with the promise, "To be rezoned within five years or your money back plus 10 per cent". In that year Wollongong City Council, appreciating that something had happened to the land, resolved to insert in the local newspaper warnings that buyers should beware of that land. On 30th April, 1987, I raised in this House concern about blocks adjacent to Lady Carrington Estates being sold with the same criteria, and attempted to warn prospective purchasers about the zoning of the land.

Of grave concern to me is the fact that the file went missing for a number of years, and the manner in which the land was sold to a private company and not to the National Parks and Wildlife Service. I remember distinctly the then local member, Mr Rex Jackson, continually pressing for the augmentation of the water supply to the small hamlet of Helensburgh. I was always amazed at his call for a large water main from the Cataract Dam. I now realise that that requirement by Mr Jackson was not in keeping with the views of the Government of the day and I do not remember his mentioning the need to resume any land for addition to the national park.

I also remember Mr Jackson's enthusiastic endeavours to introduce a new member into the Australian Labor Party, a conveyancing solicitor by the name of Stephen Beaufils. However, his introduction into the Labor Party did not eventuate. It is obvious with hindsight that Mr Jackson would have sought the support of Mr Beaufils in the Helensburgh branch because of his pro-development stance. That is borne out by the former solicitor's present position as organiser for the current land pooling group, and adviser to the now owner of the Lady Carrington Estates, in an all-out push for development.

Armed with the information from Mr Leo Schofield, I realise now that there was more to the issue than simply political disillusionment on the part of some people. It is obvious in 1993 that a great deal was going on behind the scenes - in particular, against local government at that time - in an effort to turn the Helensburgh region into a satellite city with little or no regard for the environment, the national park or the Hacking River. In recent months I, as the local member, and aldermen of the Wollongong City Council have been placed under tremendous pressure to change our views both on development and the environmental protection of the region.

I have to report to the House that recently I was approached by a person who purported to be a consultant

to Mr Hogarth of Ensile Pty Limited. This person threatened that the finances and resources of his employer could be used against me at election time; and offered an inducement for assistance using the finances and resources of his employer if I were to change my stance on development in the Helensburgh region. I have steadfastly refused to sell out my principles in regard to this matter, and I would be prepared at any time to relate information I have to the relevant authorities, such as the Independent Commission Against Corruption, if the Government considers it necessary to investigate this issue. In fact, I would suggest that that is the appropriate action to take in regard to the matter. I summarise the issue by saying that Wollongong City Council has recently resolved that the land in question, Lady Carrington Estates, and other lands adjacent be placed under environmental protection zoning.

An investigation should be set up into the whole matter of the Helensburgh study to evaluate the following: where was the file of the National Parks and Wildlife Service from the mid 1970s until 1982? Who made the decision to sell the land to Ensile Pty Limited? Was the local member of the time aware of these facts, and, if so, why did he continue to promote development? What was the role of the former conveyancing solicitor, Stephen Beaufils? What role did Mr Bob Hogarth play in the purchase of Lady Carrington Estates? In my 20 years of politics I have never before been placed in the position of discomfort in which I have found myself in the past six months, and, as I have said, I will base my judgments on what I believe to be the needs of the people of the electorate I represent and not on the basis of who can do something for me in return for what I can do for them.

Wollongong City Council resolved that the sensitive land in the Camp Creek and the Wilson Creek catchment areas be zoned environmental protection. It resolved further that the area known as Gills Creek catchment has potential for controlled development, and that a mediator be appointed to assist landowners in a co-operative effort for development. The Gills Creek development would increase the Helensburgh area and its population by approximately 20 per cent to 25 per cent, and I would suggest that the Government consider financial assistance by way of buying back land from people who bought in good faith and find that they are in difficulties so far as the developments are concerned; some form of rate relief to those who are in financial straits; or, more important, use the Government environmental levy for an urgent commencement of the sewerage service required in the Helensburgh-Otford area to prevent further degradation of the Royal National Park and the Hacking River. I congratulate the Minister for Local Government, the Minister for Planning and the Government for not interfering in this decision of the Wollongong City Council. However, I hope that the Minister can withstand the pressure and the manipulation that the land developers have shown they are capable of and will no doubt bring to bear on this Government in the near future. [*Extension of time agreed to*.]

I congratulate the Minister on other parts of the bill but I have some issues to discuss that should be taken into consideration. As I said before, having been an alderman on Wollongong City Council for six years I note that there is an intent in the bill to reduce the number of aldermen. I ask that the Minister give some consideration to that reduction, particularly in large councils, because Wollongong City Council covers approximately 30 linear miles of coastline and is made up of a great deal of small hamlets, all of which have very individual problems.

Mr Peacocke: What is the population?

Mr McMANUS: The Wollongong City Council administers a population of 170,000 but it is important to realise that these people have their own local issues and they depend heavily on a local representative who has knowledge of the area. At the last council elections a decision was made to have aldermen selected from all over the city, not particular wards as

was previously the case. The result was disastrous. Aldermen from Dapto did not know what was happening in Helensburgh and had no knowledge of local areas. I urge the Minister to give further consideration to the provision relating to a reduction in the number of aldermen.

As a former alderman I am gravely concerned about the $100,000 limit on tenders. Even in my days as an alderman, $100,000 was not a great deal of money. Today tenders for a general toilet block or extension to a

surf club are in the vicinity of $100,000 to $120,000. Such provisions will restrict council to having jurisdiction for a small amount of money. I would suggest that consideration be given to an increase of that ceiling of $100,000. I congratulate the Minister and, of course, the former Minister, the Hon. Janice Crosio, who also had similar views. This bill was a major task but both Ministers have come through with flying colours. I look forward to local government being better served by the introduction of this legislation.

Mr SCHULTZ (Burrinjuck) [8.55]: I thank the House for the opportunity to make some brief comment on the Local Government Bill. I compliment the Minister for what can only be described as the most significant change to local government in 70-odd years, since the Local Government Act 1919. I know that the changes have resulted in an enormous amount of apprehension and concern among local shires in the area I represent regarding the broad concept of change in long-standing traditions in local government. Any type of change carries with it uncertainty, suspicion and fear about how those changes will affect those working and directly involved in local government and what impact they will have on the ability of councils to operate as they have in the past.

For the past month, in particular, representatives of the shire councils of the Burrinjuck electorate have expressed concern to me on a number of issues, but after due consultation I can narrow them down to be relevant to two provisions in the bill. Some time ago I wrote to the Minister about matters raised with me by shire representatives in my electorate and, more specifically, the matter referred to in clause 54(1) - contracting out. That provision will impact significantly on local employment, and the mandatory requirement will force councils to put off a large percentage of their staff.

The concerns of councils centre around the arbitrary figure of $100,000. It could be argued that in many instances those concerns are ill-founded. One could mount such an argument in relation to small clauses, but, in reality, the bill touches local government right across the State of New South Wales. There will always be a problem with changes of the magnitude of those sought to be introduced by the Minister. Contracting out has been a significant thorn in the sides of a number of shires in the Burrinjuck electorate, and understandably the representatives of those shires are concerned. They say that the bill provides that a council must not itself provide goods, services, facilities, or works which are estimated to cost more than $100,000. The shires' representatives also say that that clause is even more restrictive than the wording of the exposure draft which required tendering for goods, services, facilities or works of a significant nature.

The Shires Association of New South Wales, in particular, has advised me that it continues to oppose compulsory tendering in any form and it bases its arguments on a number of salient points. The association states that there would be considerable public pressure on councils to accept the lowest tender even if this were not mandatory; contractors could increase costs to councils, particularly in remote areas, once a council has reduced resources as a result of contracting out; and councils are at different stages of organisational development, and exposure of council operations to competitive tendering should be part of a process of managed change. The association also states that the award restructuring and work redesign process is still being implemented in local government, and on completion the process should receive competitive tendering.

The Cootamundra Shire Council, of which I was a member for some eight years, spends about $250,000 per annum on maintaining its parks and gardens. That type of expenditure has a reasonable level of local labour attached to it. It is because of that labour element and the recession in which we are now living that there is a real and genuine fear in local government about the impact that will have on the small communities that the Cootamundra Shire Council represents. I can relate to those concerns. I advised the Minister that I would be raising the concerns of the shires that have made representations to me.

Other shires in the Burrinjuck electorate have expressed similar fears with regard to the contracting out provisions of the bill. The Minister's amendments are such that they will continue to foster a feeling of uncertainty for some time to come. There will be a settling in period during which it will be difficult for people to readjust their administrative functions and their general thinking on how they should restructure and manage their shire councils compared with what they have been doing traditionally for decades.

People are intelligent enough to know that over time further changes will be made. Whether they will be significant or insignificant is immaterial, but I have no doubt that some changes will be made, based on the arguments submitted to the Minister and the Minister's ability to acknowledge that the concerns of various shire councils have some merit. I know the Minister well enough to say that he will be flexible and big enough to recognise those genuine concerns and take on board any sensibly constructed arguments put forward by various shire councils.

A significant number of concerns centre around water and sewerage related problems. The Minister's reaction to the concerns and needs of rural people in regard to their water and sewerage use and reuse has been exemplary. Because of the environmental

problems caused by sewage treatment throughout New South Wales, the Government has awarded grants to a number of shire councils in the Burrinjuck electorate to improve the delivery of water and also the treatment of raw sewage at treatment plants. As a result of that input by the Minister and this Government water in many instances has become almost potable. Councils are now looking to recycle water from those plants for various community usage.

The Gundagai Shire Council is undertaking a joint venture with several local clubs to construct an 18-hole golf course, which will be watered using sewage effluent. Such schemes will contribute positively to the environment. The environment is an important issue for many rural councils, particularly those that border our river systems. We all know the damage that phosphates and other chemicals used in the treatment of sewage cause to our freshwater streams. Though some people fear what has in the past been described as impositions on shire councils to lift their game in terms of the quality of their sewage treatment plants, I compliment the Government on its contributions to enable councils to get their sewage treatment plants to a level comparable with world standards - capable of producing by-products of raw sewage compatible to the needs of concerned environmentalists in rural New South Wales. Another matter of concern to me and to many others is the impact that some of these amendments will have on rateable lands, particularly with regard to the loss of incomes to shire councils as a result. [*Extension of time agreed to*.]

I have been extremely concerned that teachers and caretakers of schools and chief executive officers of hospitals are residing in buildings owned by government departments and are not paying rates, yet those residents are involved in the decision-making processes of local government. If the buildings were commercially owned and rent was paid, they would automatically become rateable. As an extension of that argument, let us look at the situation where the Forestry Commission buys large tracts of privately-owned land for pine plantations, as it has done in the Burrinjuck electorate. In many instances, the rates of Tumut and Gundagai shire councils have been reduced by about 25 per cent.

Government bodies are exempt from paying rates on land that was rateable prior to the change of ownership from private to government instrumentality. It has been argued that the Forestry Commission reinvests money into communities by upgrading roads. In my opinion that is a one-sided argument. When trees reach maturity and are harvested, it is in the interests of the Forestry Commission, which makes money out of those trees, to upgrade the roads used to transport those logs. The roads would have to be upgraded at no cost to the ratepayers in any event.

One thing that has been conveniently forgotten in that argument is that councils have had a net loss of 25 per cent in the revenue obtained from rates. The Government views this matter seriously - a matter which affects not only the Minister for Local Government. As I said earlier, he has made a significant contribution to society in general by making these changes to the Local Government Act. To some extent he has no control over his ministerial colleagues who have responsibility for the Forestry Commission and the National Parks and Wildlife Service. In my opinion, those instrumentalities have abrogated their responsibility to society at local government level in that they are not paying the rates that they expect each and every ratepayer in any shire to pay.

I know that the Minister is sympathetic to the arguments that I have put forward on behalf of my shire

councillors. As late as today I spoke to the president of the Shires Association who assured me that, even though there are a couple of concerns, such as the two issues I have raised in relation to rate exemption and contracting out, in the main the Shires Association is aware of the enormous consultative process that has been undertaken by the Minister in the white paper and green paper leading up to this bill. It is aware that, because of the magnitude of the changes that have been made, the Minister has done an exemplary job in trying to satisfy concerns right across the broad spectrum of local government.

I am sure the Minister will continue that conciliatory process following discussions that have taken place in this House. I have no doubt that the Minister is big enough to take on board the concerns of different people. I know some Opposition members have concerns about certain aspects of the Local Government Bill. I know that they, on behalf of their constituent councils, will be raising concerns about issues that they believe are important to ratepayers. Honourable members must never forget that we are living in recessionary times. It is incumbent on this Government and on parliamentarians to ease the financial burden of ratepayers and to take into consideration in any decision we make with regard to this bill or any other bill the effect legislative changes that are made in this House will have on ratepayers who, in many instances, are struggling to keep enough money in their pockets to meet ever-burgeoning costs in difficult times.

I am grateful for the opportunity to speak in the debate on this bill. I believe the Minister has had a difficult job. In many instances he has not always been right. I am thankful that some people in government acknowledge that they are not always right. In general, the conversations that I have had with my constituent councils have highlighted the fact that the Minister has tried to accommodate the councils on the serious issues they have raised with him. I compliment the Minister on that process of dialogue and communication with the people he represents in the local government portfolio that he has successfully handled since he has been Minister.

Mr DAVOREN (Lakemba) [9.15]: The Local Government Bill is one of the most important bills to come before this Parliament. The Local Government Act 1919, as currently promulgated with its many amendments and ordinances, comprises two volumes.

Someone suggested to me that if I were to examine it closely I would see that it specified the brand of toothpaste that should be used by town clerks. There is a lot of extraneous material in the Local Government Act that has no bearing on modern day life. Though the Minister should be congratulated on bringing the legislation forward, I say with no disrespect that he is simply continuing work commenced by two previous Ministers - the Hon. Kevin Stewart and the Hon. Janice Crosio - to amend the Local Government Act and to make it acceptable in the twenty-first century.

The Local Government Bill is a bit like the curate's egg: it is good in parts. There are also some problems which I will attempt, in my own way, to bring to the attention of the Minister. The Minister is aware that the Opposition will be moving a number of amendments at the Committee stage. I hope his good sense prevails and he accepts some of them. Though the funeral industry is controlled by local government, there is a strong move to deregulate that industry. That would be a step in the wrong direction. At some time or other everyone will become acquainted with that industry.

Mr Peacocke: Sooner or later.

Mr DAVOREN: Sooner or later. As Benjamin Franklin said, there are only two things that are sure in life, that is, death and taxes. Sure enough, one way or another we will all become involved with the funeral industry. It is necessary to regulate that industry. Only the other day I read in a newspaper that a number of people went to a funeral director, opened up the freezer cabinets and found not bodies but a turkey, a chicken, a ham and two dozen cans for a forthcoming party. That is not the right way to go about it. No one is closer to the people than local government. It is certainly the best institution to keep an eye on the funeral industry. That industry should not be deregulated. It could be argued that there is no need for further regulation but that the current restrictions placed on that industry by local government, with the approbation of this Parliament, should prevail.

There has been some talk about changing the voting system. The best voting system is the one that is used by the Senate. Proportional representation in local government is important. It gives minority groups that represent a certain view in the community an opportunity to participate in local government. We have problems with minority groups but they have a right to be heard. With proportional representation they will be given that opportunity. Some years ago the Parliament experimented with alterations to the voting system used in local government elections. It made voting non-compulsory, which was a complete and utter failure. At one election only 8 per cent of voters cast a vote for their municipality. With all due respect, that does not represent the views of the people. If it is necessary to have compulsory voting, sobeit. That system of non-compulsory voting operated at two elections but the government of the day decided that it was not satisfactory. The system was changed.

The two previous speakers referred to the contract system. I was particularly interested in the views of the honourable member for Burrinjuck. I have spoken to a number of country councils and shires. They are quite concerned. As honourable members would be aware, the principal employer in a number of towns is local government. One local council that I spoke with employed 200 or 300 people. Imagine what would happen if that council decided to pave a road and Bitupave successfully tendered for the job. Although the tender of the council might be slightly higher than that of Bitupave, would it be in the best interests of the town to give the tender to Bitupave rather than do it in-house, and then find that a number of employees may be put off? The Premier and Treasurer has indicated that each government job creates, through the multiplier effect, two jobs in the private sector; although, he will not accept the reverse - that when a job is removed from government it deprives two people in the private sector of a job.

I do not know whether the answer is to increase the $100,000 to $500,000. I guess some city councils would say that many of their jobs exceed $500,000 and that that is not the answer. I am sure the Minister for Local Government and Minister for Cooperatives and his advisers could come up with a solution to the problem. It is a problem for country councils and, I suppose, ipso facto, for city councils, although the amount would be greater. Nevertheless, it should be borne in mind that the principal employer in a number of country towns is local government. It would be a pity to see the people of those towns out of a job.

I refer to contracts for senior officers. It would be difficult to argue that we do not need certain of these senior officers on a contract basis. However, I put it to the House that there would be great pressure on a town planner, for example, if his contract were due and he was looking for a renewal of his contract and certain members of the council prevailed upon him because they had a particular interest in the approval of something that he felt was not in the best interests of either the council or the residents. Though the Government agrees with this method, it has gone the other way by indicating that for public hospitals there is an argument not to have a local as the auditor.

The Government believes that there would be a problem if the auditor was a public accountant practising in the town. For example, the chairman of the local hospital board could say to him, "If you bring down an adverse ruling, my friends and I may not carry on as your clients". On the one hand, the Government has altered that to make it far more reasonable and in the best interests of everyone but, on the other hand, it has participated in a contract system for senior officers of that particular ilk. I think there is a case for excepting certain of the senior officers from the contract system and for the shire or council to bring down a case for their dismissal if that is what is desired.

The bill refers to changing the rating system. With all its faults, I feel that the present ad valorem system is probably as good a system as we can come up with. There are great problems if we go away from this system and introduce an alternative system or, even worse, leave it to the local councils or shires to decide how the rates will be assessed. There are certainly faults with the ad valorem system, but I cannot come up with a better system. I am sure that most honourable members would agree that that is a fact. A problem exists for some shires and councils where mining takes place. There should be a system to make sure that the mines pay

their fair share. Some councils rely upon the money that the mining companies pay in order to provide their services. The maximum size of councils should be looked at. I feel that having 12 aldermen is probably as good as we could get. [*Extension of time agreed to*.]

As I was saying, the problem of maximum size of councils is very important and should be looked at. I feel that 12 aldermen, with the opportunity of electing the mayor by popular vote or from the council, is as good a system as we could get. Over time the Government has cleverly handed over a lot of responsibility to councils; unfortunately, without any extra money. For example, the policing of the Pure Food Act is now a responsibility of councils, with no money transferring to handle the additional duties. A number of councils have indicated to me how much extra that is costing them. If the Government is handing over more responsibility to local government it should be recompensed for that. I do not know how much money transferring the policing of the Pure Food Act to local government would save the department and the Government, but it would be considerable. That cost is being taken up by local government.

We are told constantly that local government is the government closest to the people. I guess that is so. Some councils are very efficient and operate in a particularly excellent manner, but others - I am sure that the Minister could enumerate those with whom he is having problems - tend to cause some problems for the Department of Local Government and Co-Operatives. Generally, councils operate in an excellent manner. On the whole, I do not think local government would have any objection to becoming more accountable to the people paying their rates. It will be interesting to see the first reports that councils produce under the Australian accounting standards. That should have been done previously.

Local government will be more accountable. It will produce decent reports to its ratepayers, to the members of the community which the council represents. Only those councils that have something to hide would have any objection to this legislation. The Institute of Municipal Management is very much in favour of this legislation. It feels that it should be accountable. The Opposition has no objection to the Local Government Bill, but will move a number of amendments which will be to the advantage of local government and to the betterment of the bill. I am sure the Minister will agree with a large number of the amendments and will recognise the fact that the Opposition is not opposing for the sake of opposing but for the good of the residents of the State and for local government generally.

Mr KERR (Cronulla) [9.31]: I support the Local Government Bill and I congratulate the Minister for Local Government and Minister for Cooperatives. I congratulate the honourable member for Myall Lakes, who chaired the legislation committee. Had the bill been introduced without the legislation committee debate, it would have taken much longer, and many apparent differences would have occurred. It is to the credit of the honourable member for Myall Lakes that as a result of his chairmanship much of the common ground was determined and very little is in issue in the debate. A number of amendments will be moved but, as previous Opposition members have indicated, there is broad general support for the bill - and so there should be, because the bill provides complete council accountability through new accounting standards, the introduction of accrual accounting, performance indicators, and the publication of an annual management plan on a forward three-year basis. This Government is about people power.

A freedom of information requirement will be introduced identical to the present State Government guideline. A corporate structure will be developed for councils, with each appointing a general manager responsible for day-to-day operations, employment of staff on merit only, and a mandatory charter of objectives for council in the provision of goods, services, amenities and facilities; a new system of equal value voting that will simplify the election of council members; disclosure by council members of all campaign donations; mandatory equal employment opportunity provisions for all councils; provisions for resource sharing and co-operatives so that councils can pool resources - once again a very important step; uniform approval of development and other applications; and quarterly billing of rates and new tendering rules.

Some difficulties exist with the new tendering rules, which are very important. One should not be ideologically blinkered and think everything should be tendered out. The Government is looking for cost benefit, the delivery of the most efficient service - which may not be the cheapest - at a relative cost benefit to

the community. Those tendering provisions must be looked at very seriously. They will be the subject of a considerable amount of debate at the Committee stage. The people of the Sutherland shire are very proud of the fact that they live in the Sutherland shire. The term "shire" encapsulates their identity. Under the new Act a council will be constituted for each area. The council is a body corporate. Under the new Act the corporate name of the council of an area other than a city will be the council of X, or X council. The titles of shire and municipality, which were in common use in 1919, will be eliminated. That would be a loss for the people of the Sutherland shire. Members of the Sutherland shire have spoken to the Minister and we

believe that the term "shire" will be preserved. For some reason the council of the Sutherland shire is spending ratepayers' money in a stupid attempt to whip up some sort of public indignation.

Mr Fraser: Shame!

Mr KERR: Shame, as the honourable member for Coffs Harbour says, because that money should be spent on -

Mr Fraser: Fixing potholes.

Mr KERR: I am glad the honourable member for Coffs Harbour has mentioned potholes, because a very great English mathematician, Stephen Hawking - as the honourable member for The Entrance would be aware, with his engineering background - recently proved that small particles of light emanated from black holes. If he had conducted his research into the potholes in the Sutherland shire, he would not have come to that conclusion. The people of Sutherland shire are very conversant with potholes. Some of the files from the council seem to have disappeared on an occasional basis.

I return to the bill and its background. The discussion paper and exposure draft of the Local Government Bill 1992 were widely circulated in 1991 and 1992 for public comment. Thousands of copies were distributed, and seminars held for the public and for council staff. Unfortunately, the Local Government and Shires Associations, representing the Sutherland Shire Council, lobbied for the abolition of shires and municipalities, claiming that the current range of titles is confusing to the public and a uniform approach to titles is preferred. The associations were also opposed to the retention of any existing city title in their support for a uniform title of council. It was the typical wooden approach that was expected from the Local Government Association. It did not dawn on the Sutherland Shire Council that it might lose the shire, but it had other things on its mind. Sutherland Shire Council seems to be very concerned with public transport, hospitals, and schools. Roads, and the maintenance of rock pools do not seem to get a look-in. One year ago I received a letter from the Sutherland Shire Council complaining about the new railway timetables.

Mr McBride: A community role.

Mr KERR: A community role. I can well imagine those councillors, night after night, looking at the ratio of staffing to the track. How long do they spend working out the train staffing ratio? They keep themselves fully informed. They said representations had been made to council by shire residents. That is very interesting. I would like to know about those.

Mr McBride: The voice of the people.

Mr KERR: Yes, the voice of the people. I wrote to the council and I said it would be of assistance if the council forwarded to me copies of representations to council made by shire residents. How many residents do you think wrote to the council?

Mr McBride: One.

Mr KERR: The honourable member for The Entrance has opened the bidding at one. Do I have any advance on one? No, I am afraid not. The honourable member for The Entrance is wrong again. Council

wrote to me and said, as far as it was aware, the council did not receive any direct representations. Is that not extraordinary? As the honourable member for Penrith said, she and her Opposition colleagues did an extraordinary amount of work and spent many hours assessing staffing levels and availability of trains - all done in anticipation - yet not one representation was made. How extraordinary! But they did not stop at public transport. They told us about public health, they spread rumours about schools closing in the Sutherland shire, and they actually brought members of the Department of Education before them to be grilled on the possibility of closures. I should have thought that taxpayers are entitled to have members of the Department of Education devote themselves to their duties and responsibilities and not have to front up to inquisitions by councillors. I have a few suggestions about where the energies of those hyperactive individuals who seem to frequent council chambers might be better directed.

Mr Fraser: Filling potholes.

Mr KERR: Filling potholes, as the honourable member for Coffs Harbour suggests. What better way to fill in their time and do something useful! What better way than to get a five-year program for the shire's roads!

Mr Turner: They have to be able to count.

Mr KERR: As the honourable member for Myall Lakes has said, they have to be able to count. Members of Sutherland Shire Council left it as a single digit five-year program so they would know when their roads were to receive attention. But this is a very serious matter because public safety issues are involved. An annual road improvement program is developed by council engineers, the program eventually comes before council - but suddenly ad hockery erupts, suddenly people start working the parish pump, and priorities are changed.

Mr McBride: Government Ministers do not do that.

Mr KERR: I am glad that the honourable member for The Entrance has said from the Opposition benches that Government Ministers do not do that. We know about priorities and we stick to them. We trust the people; the councillors do not. They think that because people live in X street they will demand that X street be fixed first. In fact, what happens is that the people in X street use the surrounding streets, and if they are told that a far greater number of accidents are occurring in another street, they will support improvements to those streets so long as they are aware that road improvements will occur and that their street will be attended to in the fullness of time. It is a pity that the honourable

member for Bankstown is not present in the Chamber, for I understand that Bankstown council has been doing just that for quite some time.

Mr Peacocke: And very effectively.

Mr KERR: And very effectively, as the Minister said. Why cannot we in the Sutherland shire have a five-year program for our roads? Councillors, with their spare energy, might look at the area's rock pools. Sutherland shire has the four best beaches in Australia and the world, but its rock pools are not properly maintained. It is about time that the council started diverting a few resources and a bit of energy to that work. Anyone who visits Gunnamatta Bay baths would be pleased to know that Sutherland Shire Council does not run the hospitals or the school system. [*Extension of time agreed to.*]

A visitor to Gunnamatta baths would be pleased to know that the local council, which also claims to be expert on police manning, does not run the police station.

Mrs Lo Po': Staffing.

Mr KERR: The honourable member for Penrith says they were concerned more with the staffing of

police stations. I just hope they are on the right track, which is more than they were with railway timetables. The Cronulla Chamber of Commerce was instrumental in arranging for Bruce Baird, the Minister for Transport and Minister for Tourism, to come out to Sutherland shire nearly a year ago and offer the luggage office at Cronulla railway station at a very small rental - a prime office that I should have thought anyone in business would have snapped up. But 12 months later the Government is still negotiating with the Sutherland Shire Council for the use of that space to provide an information office for the people of the Sutherland shire.

Mr Peacocke: Pshaw!

Mr KERR: The Minister expresses extreme exasperation. What I have described is deeply disappointing. The Sutherland Shire Council has an annual budget of $107 million - but what do the residents see for it? All they see is an organisation that is pumping out anti-State Government propaganda, and that is just not good enough. People in the Sutherland shire have real problems that need to be attended to. We certainly pay enough in rates to get better services.

Mr Peacocke: They deserve better.

Mr KERR: Precisely. It is about time Sutherland Shire Council went back to the basics of what local government should be about - providing essential services and enhancing civic pride. Civic pride is not enhanced by keeping as State secrets a whole range of local attractions. Let us have an information office in Cronulla so that people may know, if they want to go on an outing with their families, what parks they can visit. Recently I visited the Sir Joseph Banks native gardens at Kareela and was most impressed.

Mr Fraser: It is a lovely garden.

Mr KERR: It is truly a lovely garden, as the honourable member for Coffs Harbour said. Why are the people of Sutherland shire, of southern Sydney, and even of Sydney's western suburbs denied access to information about the best part of the world? I believe that the bill will do much in providing accountability to the ratepayers. I am very pleased that performance indicators and the publication of an annual management plan on a forward three-year basis are provided for in the bill. Sutherland Shire Council has set up a number of precinct committees. I hope the council will be providing those precinct committees with its annual management plan and will be giving those precinct committees material about performance indicators.

Sutherland Shire Council has set up a large number of subcommittees. Many members of the general public appear before those committees and are cross-examined by councillors. It is about time the council formulated a document setting out the rights of people appearing before, and the procedures that are adopted by, those bodies. A person who goes before a committee to object to a development proposal which may have been put forward by a major corporation is entitled to know the procedures that will be adopted by those asking the questions. The importance of local government defies emphasis, for it affects people in so many ways. The real tragedy in the Sutherland shire is that, due to the council holding a contrary political philosophy to that of the State Government, the ratepayers are not getting the degree of progress and accountability they deserve. We are all Australians and we all ought to be working together. There are more than enough basic local government services that need to be provided, to which local councillors should be able to devote their full time. I hope that the bill ushers in a new era of partnership between local and State government. We have a great State, and we are on the edge of the Pacific region.

Mr Thompson: We are on the precipice.

Mr KERR: The honourable member for Rockdale says that we are on the precipice. I would hope that members on his side of the House will not be providing any shocks. Australia should be advancing. We live on the Pacific rim, close to the fastest growing economic region in the world. Australia should be able to integrate with the economic growth of that region. The Prime Minister speaks about doing so, but to take advantage of that economic growth Australia must be competitive. That means having adequate transport systems.

Mr Markham: Getting out and working.

Mr KERR: Getting out and working, as the honourable member for Keira says.

Mr Peacocke: He is right.

Mr KERR: He is right; we should be working together so that we can progress and so that developments that are acceptable to the community can proceed and provide jobs; otherwise Australians will end up as the white trash of Asia.

Page 1638

Mr SULLIVAN (Wollongong) [9.50]: The Opposition's attitude to these bills has been placed on record a number of times. Basically the Opposition supports the legislation but at the Committee stage will move a number of amendments. In some respects the proposed legislation is premature. I hope that in the next half decade a major review will be carried out of the entire structure of government in this country leading up to the 100 years of the national Parliament. Clearly it is deplorable for legislation that was introduced and proclaimed in 1919 to be still being debated in 1993. However, that is the way things have been. The task of reforming the legislation has been undertaken by the Minister for Local Government and Minister for Cooperatives, who has done a workmanlike job. I do not mean to be overcritical, but I have a feeling that this is T-model legislation that has been brought up to the era of the Kingswood when we are in the era of the Magna.

Mr Peacocke: Does the honourable member not want an Australian model?

Mr SULLIVAN: Magnas are Australian made and are a prominent Australian export. It is not necessary to have an American name to indicate that a product is locally produced; the name can be Japanese. The objects of the legislation are: first, to provide the legal framework for an effective, efficient and open system of local government in New South Wales; second, to regulate the relationships between the people and bodies comprising the system of local government in New South Wales; third, to encourage and assist the effective participation of local communities in the affairs of local government; and, fourth, to give councils the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities, the responsibility for administering some regulatory systems under the legislation, and a role in the management, improvement and development of the resources of their areas.

The legislation has that corporate approach that I find to be deficient. The two omissions from the legislation are, first, a clear indication that local government along with State and Federal governments has a commitment to provide for the community needs of a specific geographic area - for local government is based on geographic areas - and, second, any reference to environmental factors. The legislation refers to the role of councils in the management, improvement and development of the resources of their areas, and in that regard has that developer, business, corporate tinge and flavour. That is set out clearly in the objects contained in the explanatory note to the principal bill. In a number of areas the legislation addresses reforms that are long overdue. I shall not refer to all of them but should mention what might be called some of the virtues or strengths of the bill.

First, the bill makes a clear distinction between the regulatory functions and the legislative role of local government. It gives councils greater autonomy but more accountability. One of the problems for local government in Australia has been that it has always been regarded as an appendage to the State government; not a level of government in its own right, guaranteed by the Constitution, but largely a creation of and at the behest of State government. The feeling that Federal politicians have a less than favourable view of State politicians and that State politicians have a less than favourable view of aldermen comes through in the way that State governments tend to treat local councils. I do not argue that local government should be dispensed with but rather that it should be given its own charter. To an extent this bill will achieve that concept, but the strings will remain firmly in the hands of the Minister for Local Government and of the State Government.

I have qualifications about the second virtue. Everyone acknowledges that the legislation will simplify and clarify local government law. That will be a great benefit, having regard to the complexity of a frequently amended Act. The legislation takes into account the Independent Commission Against Corruption report regarding conflicts of interest in local government, and the provisions of the principal bill address those problems. The bill will break down the rigid staff and organisational barriers that have become very much an entrenched feature of local councils and local government organisations. I might now deal with the aspects of the bill that the Opposition believes should be amended, though I shall not refer to all of them. The Opposition is of the firm view that the maximum number of councillors on any council should be 15 and not 13, as is provided for in the bill. The honourable member for Bulli mentioned Wollongong City Council. I find it difficult to accept that 12 aldermen can effectively represent an area the size of that administered by Wollongong City Council.

Mr Peacocke: It will be all right.

Mr SULLIVAN: I am mindful that the Minister said to me, as he said to the honourable member for Cronulla, that it is an appropriate size for that council. I can well understand that in some instances councils will have fewer than nine aldermen, especially in small local government areas with populations of fewer than 4,000 people. The second issue the Opposition will raise is the system of election of aldermen - or councillors, as they are to be known. The Opposition supports the preservation of the proportional representation system of voting. By giving councils a range of options, the legislation will create an opportunity for mischief and for the system of determining local government representatives to be toyed with. That will demean the process of determining community representation.

Mr Peacocke: The people will decide that.

Mr SULLIVAN: The people can decide it, but I suggest to the Minister that proportional representation has a number of decided advantages. Councils dominated by people of one political persuasion or another provide good examples of the disadvantages of that freedom to choose and of councils that fail to effectively represent the full

spectrum of opinion within that local government area. The Opposition believes that the provisions relating to term contracts should be changed. The Opposition's view is that there should be a minimum duration of term contracts for executive staff and suggests that the term should be 12 months. Another important point regarding the legislation relates to the preservation of Industrial Relations Act remedies for executive staff. The Opposition believes that the bill should be amended in that regard so that when a contract is not renewed or circumstances related to personal grievances arise, members of the executive staff should have access to the Industrial Commission.

The Opposition's concern about other work performed by council employees is relevant. When a council employee acts as a representative of the council in implementing council decisions and at the same time is contracting out or freelancing in other areas, the whole process of decision-making and the impartiality of council decisions can be brought into question. That situation should be avoided at all costs. The Government should accept the Opposition amendment to allow the general manager power to prohibit outside or alternative work by council employees which relates to the business of council or which may lead to a conflict of interest with the duties of those employees. A change to the rating system has been proposed. Some councils have a very high minimum rate and rates do not rise in proportion to the value of property. The result is close to what is achieved by a poll tax and socially unjust. The Opposition will move that the fixed component should make up no more than 50 per cent of the rate power of property so that councils have fair discretion to give assistance to the needy and less well off and increase charges for those with higher valued property.

In relation to the purposes or objects of the bill, the Opposition will move that councils should be required to formulate a local ethnic affairs policy statement and give effect to that statement when making policy or providing services. Such a policy should be regularly reviewed by council. Many Australians are from

non-English speaking background, especially those who have come here in the recent past. In the major urban areas people of non-English speaking background and people who have arrived in, say, the last 20 years can make up to 40 per cent or 50 per cent of the population. They are not a minority; they are not insignificant and local government should acknowledge their needs and expectations. [*Extension of time agreed to.*]

The Opposition believes that a local government remuneration tribunal should not be established. Fees for councillors and mayors should be set as currently, that is, by the council subject to a ceiling set by regulation, which means that the State Government is involved. Mayoral allowances should be fixed at the current level and increased only as a result of consumer price index movements or with the approval of the Minister. They are some of the significant areas in relation to which amendments will be moved in Committee. I shall run through some of the others quickly. The Opposition will propose that the voting system be amended so that people may simply, as with the Senate, put a 1 in a box above the line, which will be a formal vote in accordance with a predetermined ticket. There should be a similarity in the method of voting at Federal, State and local levels so that the true wishes of voters may be expressed. A standard method of voting will lead to less confusion.

The greatest deficiency I see with the bill is that there is no requirement to consider environmental matters. This is a great omission at the tail end of the twentieth century. The Opposition will move that an amendment be made to the purposes of the bill "to provide that in the exercise of their responsibilities councils have a duty of care to protect the environment". In relation to the charter there will be a further addition "to protect, restore and enhance in an ecologically sustainable manner the quality of the environment, having regard to the need to conserve biological diversity and ecological integrity". I am mindful of the continual reports about a council on the far South Coast which, one could say, almost has adopted an anti-environment stance in many of its decisions and the attitudes personified by the shire president, the aldermen and senior officers.

The Opposition will seek to amend the bill to require that draft plans of management for the environment be prepared and that a part of the standard annual report of the council deal with the environment. Where councils are managing community lands particularly and the lands are divided between two categories, additional emphasis will be given to how that land is managed, the need to categorise it, the need to set up objectives for its management, measures by which the objectives will be attained, and performance criteria by which the management of the community lands can be assessed.

I shall finish by mentioning aspects of the bill that I believe are very good. Having been approached by Wollongong City Council and having had discussions on a number of occasions with local residents, I now appreciate the great difficulty in trying to preserve things of commonly acknowledged environmental significance when the environmentally significant feature is on privately owned land and the land next door, which no one sees of value to anyone, is a public reserve. I mention in particular land at Robertson Street, Coniston, where a very fine stand of spotted gum is located on privately owned land adjoining land that is classified as a public reserve and which is a barren outcrop and nothing more. The Wollongong City Council has been trying to arrange a land swap so that the stand of spotted gum can be preserved and be held in public trust and the land which is presently public reserve can be used by the owner of the private land for the construction of dwellings, townhouses and so on.

Given the experience of Tamworth City Council and the likely difficulties Wollongong City Council would face without the introduction of this bill, the legislation will be a marvellous improvement and will

give councils and the community an effective say on the measures that need to be taken to preserve significant environmental or natural features. Land may be reclassified as operational and disposed of according to a clear set of steps. Such a process was not possible under previous legislation. Provisions relating to the disclosure of election funding will be of major benefit. The application of the Election Funding Act 1981 to local government - it already applies to State Government elections - for candidates, groups and parties will remove much of the suspicion, uncertainty and innuendo that is a common feature of council elections: who paid for what, when and where and what they will get after the election is over.

The third matter is duties of disclosure; in particular, the definition of pecuniary interest and the processes that have been put in place as to who is a designated person and who must declare a pecuniary interest. That is a major improvement. On one occasion up to six of the 15 aldermen on Wollongong City Council had to decline to participate in a decision because they thought they could have had a pecuniary interest - relating to someone's cousin who worked in the council library. This clause addresses that matter, and is a major improvement. I congratulate the Minister on his sterling, workmanlike job. The bill is not imagery, and certainly could be significantly altered if the constitutional conventions are put in place, but at this time the Minister has done well. [*Time expired*.]

Mr THOMPSON (Rockdale) [10.10]: I have great pleasure in endorsing the remarks of previous speakers who without exception have applauded the fact that the reforms embodied in the cognate bills have finally come before the Parliament. I echo the remarks of many speakers, particularly those on the Opposition benches, who have applauded the efforts of the Minister. My view, supported by my constituents, is that they have been quite meritorious. Down the track, when history is written, the Minister's name will be etched in the annals of the State.

Of the Minister's predecessors in the local government area, two in particular stand out as people who did much of the preliminary legislative work involved in these bills. I refer to the Hon. Kevin Stewart and the Hon. Janice Crosio. Though I have never been an alderman, nor ever sought to be one, I have a great appreciation of the work they perform and what their job entails. Many people in local government carry out their duties in a selfless manner. Indeed, they consider that they are performing their civic duty. I have great regard for them.

My electorate is wholly contained within the boundaries of Rockdale municipality and I personally know each of the 15 aldermen. The Labor Party does not control that council; nor do I think it ever has. Certainly it has never had a majority of aldermen. Nonetheless, I and my parliamentary predecessors in that electorate have always enjoyed a positive and constructive relationship with the council. From time to time it is easy to disagree with individuals or individual decisions - that is normal in a mature relationship - but I readily pay tribute to the professionalism of the management and staff of Rockdale council and the dedication and commitment of its elected aldermen.

The legislation deserves the broad support of the House because at each level its objectives are right and proper. The legislation has the broad support of the Labor Opposition. Of course, the Labor Party considers it is possible, desirable and appropriate to improve some aspects of the bill, and in such cases amendments will be moved. Though they might be quite numerous, it is fair to say that the major concerns of the Labor Party are limited to a few key areas. I am sure it will come as no surprise to the Minister that I put at the top of the list of the foreshadowed amendments the matter of contracting out. I do not propose to go through the detail of what the principal bill says in that respect; it is in the bill and has been referred to often enough. If that measure is taken to its logical, pedantic conclusion, it will effectively bind councils. It will require them to contract out to the private sector works or services worth more than $100,000.

Putting aside what I believe is the clear ideological intent of this requirement - which I might also call a mad, economic rationalism - the amount of $100,000 is ludicrously small when one considers the activities that local councils engage in. Surely other mechanisms could be put in place to ensure that councils operate in a fair and reasonable manner in tendering out for goods and services, materials, facilities, or works. Other speakers have given example after example of the problems this provision will cause councils. It is clear that the tender process is open to abuse.

Big companies have been known to use promotional discounting in order to secure a contract. They submit an initial tender at a loss in order to secure the first contract. Small competitors are driven out of the market and the way is open for councils to be effectively held to ransom in the future. Most councils already examine private sector alternatives. Clause 54 will not achieve good financial management of councils. Local government is all about looking after the needs of local people. It is about services for the local people, and whatever is written into the tender documents becomes the absolute maximum that can be required of a contractor. Contractors will not go out of their way to do that little bit extra for the public, and will show no

flexibility to cater for the practical needs of individuals. It will be hard-headed and hard-hearted, bottom line economics. It will be a form of Thatcherism introduced into our local councils and communities. My council has asked me to raise a number of specific issues in this debate. On 4th February Rockdale council wrote me as follows:

> What constitutes "goods, services, facilities or works"? For example, under programme budgeting the Council has clearly defined its services. Is the library service, at a 1993 cost of $1,755,040, meant to be put to public tender? Do we call tenders for the Ordinance Inspection Service costing $117,830 in 1993? Do we put to tender the Tree Management Service at a cost of $627,475? The Bill lacks definition.

Page 1641

> Why should the legislation compulsorily require the Council to put certain services to public tender? Perhaps in the past some Councils had been reluctant to consider privatisation or corporatisation or commercialisation (whatever the term) for political or philosophical reasons. Today, the climate is different. There is a preparedness to question work practices and to search for economy and effectiveness.

Rockdale council has a history of exposing its key services to the tender process. At the present time a specification is being compiled for the streetsweeping service, and council is progressively reviewing other services. However, the need to prepare tenders for all services that cost in excess of $100,000 will impose a considerable burden not only on Rockdale but on all councils. The United Kingdom experience suggests that a staged approach might be preferred. The Local Government Association suggests a non-compulsory arrangement, with the association monitoring the progress of councils in their efforts to compare private sector prices.

Unless transitional arrangements are provided, the compulsory requirements will be unworkable. It would be far better for the tendering requirements to be made non-compulsory and for the Minister to accept the assurances given by the Local Government Association that it would encourage member councils to implement a competitive tendering environment. It is my daily observation that the great majority of council employees give that extra bit of service that contractors would not. With full-time council employees providing services, residents are more likely to have their needs met than if a contractor was providing those services. It is merely another example of people versus profit. That is why the clause in its current form is repugnant to the Labor Party.

The effect of enforcing contracting out will be to put councils in a position where they will end up spending large amounts of ratepayers' funds to properly oversee the tendering process. My colleague the honourable member for Riverstone put his finger on an important issue that will surely be one of the ramifications of clause 54. In his contribution to this debate on 22nd April he said:

> Another factor is that to award the contracts and to supervise their administration councils will need to establish a massive administrative arm and to employ consultants. Council after council will be spending hundreds of thousands of dollars of taxpayers' money on consultants to draw up the tenders, assess the tenders and oversee the work being done by the public contractors. That is the way things will go. It will be beyond the organisation of individual councils, particularly large councils, to do that. Therefore we will soon have a growth area for consultants. They will pocket the ratepayers' funds. Money which should be going into providing more services and facilities will go to consultants.

On that issue my colleague is right: this will be a real growth area for the consultants. The scandal of waste and mismanagement of this Government with its profligate expenditure on consultants over recent years is on the public record and has been detailed in this House and elsewhere. This proposal will open up the coffers of local government to be plundered by the consultant industry in a big way. Not only the consultants will benefit. As my colleagues have noted, this legislation will be a dream for consultants and lawyers but a nightmare for ratepayers. There will be so much scope for argument and litigation under the contracting out proposals that lawyers will have a field day.

Ratepayers' money will finance the many legal advisings that will be necessary; the ratepayers will be paying the councils' costs in the inevitable glut of court actions that will follow. Councils will constantly be looking over their shoulder before embarking on many of the fundamental services or projects they presently provide. Chapter 9 clause 222 restricts the number of councillors on a council to no fewer than five and no more than 13. As previous Opposition speakers have said, it is intended to move an amendment to allow for a maximum of 15 councillors. Currently 16 councils have either 14 or 15 elected members whereas only four councils have more than that. The question of what is the perfect or ideal number of councillors is one which is impossible to answer with certainty. Given current circumstances it seems that 15 is as good a compromise as any. Most ratepayers believe a councillor's duties start and finish with the formal council meeting. In fact, most councillors are involved in a number of committees, with consequential extra meetings; they do site inspections, interviews, deal with reams of correspondence and reports and attend a variety of civic and associated functions. [*Extension of time agreed to*.]

If the number of councillors is too restricted, the burden will be too great for them to do the job properly. The workload would probably deter people from taking on the very honourable calling of civic service in which a councillor is involved. The Rockdale Municipal Council would be affected by this proposal. Unless a constitutional referendum is held in the third year of the current term - from September 1993 to September 1994 - the number of councillors will automatically reduce to 13, with an undivided area. Accordingly, under the current proposals the council must go to the Rockdale community with a proposal that redefines ward boundaries, and possibly the number of wards; or reduces the number of councillors to between five and 13. A poll conducted for that purpose would cost between $50,000 and $100,000.

Mr Peacocke: That will not be necessary.

Mr THOMPSON: I am informed by the Minister that will not have to be done.That is good news for the people of Rockdale because that was a real concern of the local council and also the ALP generally. I move on to a further major concern, optional ethnic affairs policy statements. The Labor Party believes that these should be made a mandatory provision. While pilot projects have been carried out in the past the practice has not been universally adopted in local government. The Opposition believes

every council must adopt such policy statements. In the past some councils have been caught out by not having policy statements, practices and procedures to deal with people with disabilities.

Councils need to scrutinise their policies to address more adequately the special needs of ethnic communities. Australia is possibly the foremost multicultural nation in the world. Our culture has been tremendously enriched by the many people from all parts of the world who have settled here. Councils generally ought to be required to prepare and be responsible for administering a local ethnic affairs policy statement. It is with considerable pride that I inform the House that Rockdale Municipal Council was among the first councils to adopt a local ethnic affairs policy statement plan - almost four years ago.

The council has consciously adopted strategies and policies to ensure equality of access to council services for all residents in the municipality. Besides endeavouring to increase the knowledge of non-English speaking residents of council's functions and requirements, Rockdale council also has as one of its major aims to increase access to council services for non-English speaking persons. The Rockdale municipality is rich in cultural diversity. Based on the 1986 census, whereas 21 per cent of the population aged over four years in metropolitan Sydney did not speak English at home, 35 per cent of the Rockdale municipality did not speak English at home. Many of these were older persons.

As the number and proportion of elderly people among the foreign-born population in Rockdale will increase more rapidly than that component in the Australian-born population, it is likely that the number of elderly persons with English language difficulties will significantly increase over the 1986 census figures. Clearly, attention must be given to the situation of ethnic communities in my electorate. I compliment Rockdale council on what it has done and what it is continuing to do. Though Rockdale and a number of other councils are meeting their obligation in this regard, many councils are not. That is why the legislation should

be amended to make it mandatory for all councils to adopt and implement a local ethnic affairs policy statement.

I refer now to a number of other specific concerns brought to my attention by Rockdale Municipal Council. None of these issues is in conflict with any remarks I have already made - certainly not from a Labor Party viewpoint - but I think it is important that they are put on the record, for my local council has been diligent in assessing the overall provisions of this bill. In regard to appeals against orders and approvals, clauses 177 to 179 provide that the Land and Environment Court may award compensation to an applicant or person on whom an order has been served where the court considers that the council would not have refused to grant an approval or delayed granting approval if not for the council being influenced by vexatious or unmeritorious submissions made by members of the public or that the council has acted vexatiously or without adequate reason; or when the giving of an order was unsubstantiated or the terms of the order were unreasonable. In this regard the council advised me by letter of 4th February:

> Rockdale council takes the view that this is an attack on democratic public participation in the decision making process. Whilst a small number of Councils would be more mindful of their obligations if the Court did possess the power, nonetheless, it is an offensive provision and should be removed.

Council went on to raise a further issue, that of senior staff positions. There are provisions which allow existing staff to be appointed without declaring positions vacant and advertising those positions. In its letter of 4th February the council stated further:

> It seems extraordinary that the Government should be requiring each Council in NSW to advertise the positions occupied, in most cases, by well over half of their existing senior staff members. If a Council is satisfied with its existing staff then why should there be a compulsion on the part of the Council to go through a process that might lead to the reappointment of those staff members? Surely, there should be a facility for the Council to advertise only those positions which the Council elects to advertise, for whatever reason. In fact, the Local Government Bill (Section 322) provides that contracts, once signed, can be renewed from time to time. Why then cannot the Council renew existing employment arrangements with its senior staff and engage those staff members on performance based contracts?

The letter continued:

> Any requirement that all positions should be declared vacant or which enables some employees and not others to be exempted are equally unfair. The solution is to allow each Council to determine which positions should be advertised. Only then can it be said the legislation gives Councils greater autonomy in the staffing of its organisation.

Another item referred to by the council concerned delegations referred to in clause 358, which provides for a general power of delegation to the general manager, who may then subdelegate to a specified person, the holder of a specified office or a committee. The final matter relates to insurance, which presents a problem to most councils.

Debate adjourned on motion by Mr McBride.

TRUSTEE (AMENDMENT) BILL

Bill received and read a first time.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

Bill received and read a first time.

ENTERTAINMENT INDUSTRY (INTERIM COUNCIL) AMENDMENT BILL

Bill received and read a first time.

BILL RETURNED

The following bill was returned from the Legislative Council with amendments:

LOCAL GOVERNMENT BILL

IMPOUNDING BILL

LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS) BILL

ROADS BILL

TRAFFIC (PARKING REGULATION) AMENDMENT BILL

Motion, by leave, by Mr West agreed to:

That so much of the standing and sessional orders be suspended as would preclude the consideration of the Local Government Bill and cognate bills at this sitting.

Second Reading

Debate resumed from an earlier hour.

Mr McBRIDE (The Entrance) [10.35]: I commend the Minister for his outstanding efforts over the past five years to bring these bills to the Parliament. It has involved a major revision of legislation that dates back to 1919. The review is long overdue and is supported by everyone in the community. This is the most substantial piece of legislation to be introduced in this Chamber since I have been a member of Parliament. Once again it has been left to the National Party and its representatives to make the hard yards for the Government in this Parliament. Similarly, in regard to another piece of legislation, the swimming pools legislation, the Minister for Local Government took the kicks and made the hard yards on behalf of the Government. Without the contribution of the National Party, the Government would have sunk below the waterline a long time ago. Unfortunately, the National Party has kept the Government afloat. To my observation, the National Party is left to make the tough decisions.

The Liberal Party component of the Government is actually dragging the National Party down. Members of the National Party should consider doing something to elevate its position: an improvement in leadership might prolong its years in government - before the inevitable. I am pleased that at last the Government is governing. In the time I have been a member of Parliament, the Government has been lax in that regard. People have come to expect its meandering about the place. For 12 months the Government has been drifting aimlessly from crisis to crisis -

Mr ACTING-SPEAKER (Mr Tink): Order! The honourable member is not speaking in an Address-in-Reply debate. He should return to the leave of the bill or I will direct him to resume his seat.

Mr McBRIDE: Mr Acting-Speaker, I point out that I was referring to interjections that were being made by people on the other side of the House.

Mr ACTING-SPEAKER (Mr Tink): Order! I have been listening closely to the debate and I suggest the honourable member return to the leave of the bill immediately.

Mr McBRIDE: This major piece of legislation has been carried out with genuine consultation with all parties, particularly councils, council officers, the Opposition, public industry groups and other key interest groups. One might ask, why has this not been done on other occasions with other legislation? This is an example to other Ministers in terms of presenting legislation to the Parliament. I suggest this is the way we need to go, and if this procedure of consultation were adopted more often, major proposed legislation would be passed with few amendments from the Opposition. Ministerial behaviour of this type would greatly enhance the reputation of the State Parliament, Ministers and all parliamentarians. In Committee I trust the Minister will display the same outstanding responsible behaviour and spirit of consensus he has exhibited thus far in regard to this legislation. At this point I take the opportunity to talk about the importance of local government in my own electorate, the Central Coast, and how it differs from local government in other areas of the State, particularly the city. This factor is evident in a number of clauses in the bill.

Local government in its functions on the Central Coast is fundamental to the health and development of that area. Two local government bodies are responsible for the Central Coast. Gosford City Council is represented by myself and two other members of Parliament, the Minister for the Environment and the honourable member for Peats. The other body is the Wyong Shire Council, located at the northern end of the Central Coast, which is represented by myself, as the member for The Entrance, and the honourable member for Wyong. Approximately 250,000 people are resident in those two municipal areas. That represents a population roughly 3½ to four times that of the Northern Territory. The population of the Central Coast is increasing by approximately 10,000 people a year. It is estimated that by the year 2000 the population of the region will be equal to that or greater than that of the Australian Capital Territory. Those two municipal areas are not as large as some in the metropolitan area, such as Blacktown with a population of more than 200,000, but the combined population of the region is 250,000, and that figure is increasing continually and substantially.

The Central Coast has another unique aspect which affects local government significantly. More than a million people visit the area in any one year. That means that the pressures faced by the local councils are different from those faced by other councils throughout the State. In addition, the water supply system is shared by two municipal areas. In other areas city councils are not responsible for the supply of water; it is supplied by other authorities. The water supply to one municipal area on the Central Coast is fluoridated, the other is not. If the water supply system was absorbed into the Newcastle or Sydney metropolitan area, the different water supplies which can be provided on a regional level would be placed in jeopardy. The sewerage system on the

Central Coast is also provided by council. To recapitulate, the Central Coast has a growing population, which is enlarged on a regular basis by one million visitors, and the local councils provide water and sewerage services.

The area administered by Wyong Shire Council is the fastest growing local government area in the Sydney statistical zone and one of the fastest growing local government areas in New South Wales. Another important aspect of the Central Coast - and this will lead to another point I intend to make later - is the fact that the average income in the Wyong municipal area is about 30 per cent less than in the Sydney metropolitan area. I make these points to emphasise the importance of local government to the Central Coast. Too often legislators take the condescending and often patronising attitude that the third tier of government - that is, local government - does not provide much of a service. They believe local government is involved only with garbage, roads and rates. In regional areas like the Central Coast and in rural areas local government provides an important service. Its role has social and community aspects and, most important, its role has an employment aspect.

I should like to contrast the role of local government in regional areas with its role in Sydney. When I was working in local government, I was an alderman in another local government area. I did not live in my local government area. In regional areas the staff and others associated with local government authorities live

in the relevant local government area. That means that money that is spent on employment by those local government authorities flows directly back to the local government area. In the Sydney metropolitan area I would estimate that something like 10 per cent to 20 per cent of those employed in a specific local government area actually live in that local government area.

I ask honourable members to contrast that with the areas administered by councils in regional areas such as the Central Coast or rural areas, where I estimate that 90 per cent to 100 per cent of those employed by local government authorities live in their local government areas. The rates being paid in those local government areas are returned directly to the local community. It is a fast feed. The funds go straight back to employees and residents of the municipality. That important aspect affects the provisions of the bill relating to the value of a contract before it must be put out to public tender. As I have said, it must be emphasised that local government has a social and community role and, particularly on the Central Coast, it has an employment role.

Wyong Shire Council employs about 700 people. The majority of those 700 employees - from the shire clerk to the most junior clerk in the system and the employee who fills in potholes that have been referred to many times - live in the area administered by Wyong Shire Council. That is the difference between those employees and those employed by councils in major urban areas. Contracting out is referred to in clause 54(1). The bill provides that the private sector alternative must be considered where a council wants to provide works or services worth more than $100,000. I suggest that $100,000 is too small an amount. It is equivalent to the cost of 100 metres of roadworks. If contracts worth more than $100,000 are to be put out to public tender, even low-level works will be carried out by outside contractors.

Sydney contractors have carried out work for councils on the Central Coast. Local government money, which in the past provided employment for local contractors, subcontractors and local government employees, will now possibly be transferred to private contractors from the Sydney metropolitan area. The point I seek to make is that the majority of Wyong Shire Council's 700 employees are day labour staff who live in the area. The money earned by those employees is spent locally; it is returned directly to the community. At present contractors from Sydney and Newcastle are carrying out public works on the Central Coast. Although portion of the money paid to them is spent regionally on the purchase of materials and other equipment used in construction work, the bulk of it is not returned to the local area. [*Extension of time agreed to.*]

Councils in regional and country areas must have a social conscience. They must have policies that discriminate positively in favour of employing local people, if I can put it that way. If public works are given to outside contractors, employment in regional areas will be further reduced. How does that advance the Government's cause? I repeat that $100,000 is much too little. It does not even represent the cost of minor roadworks. Minor roadworks cost $500,000. The cost of a grader is $200,000. Small items of plant cost a similar amount. The contracting out of public works costing more than $100,000 will kill employment in local areas. On the weekend before last an article appeared in the media which claimed that a major factor in unemployment in New South Wales was Government redundancies. The contracting out of public works worth more $100,000 will be a catalyst for local government employee redundancy in regional areas. In the Minister's electorate, that will be his problem and not mine. Many of the day labour employees in rural areas occupy part-time positions.

Mr Peacocke: There will be many contractors in my electorate.

Mr McBRIDE: I will give the Minister an example of my experience. I was formerly a city-based contractor. With others I went to Leeton, Griffith and other places and tendered for public works contracts. We purchased equipment to do the job, but most of the materials were purchased from Newcastle, Sydney or Wollongong, so the local areas did not get the benefit of that input. We may have purchased some ready-made concrete locally. The cost of materials is something like 50 per cent of the total cost of a job; the cost of labour is the other 50 per cent. The majority of the materials came from outside the local area, and the money spent on labour,

the other 50 per cent, was not returned to the local area.

Money spent on accommodation and things of that nature went into the local area, but the bulk of the wages went outside the local area; it came back to Sydney. We took our own labour force to regional areas, because they were skilled and experienced; we did not intend to employ local people. At best the local community would benefit from the purchase of a diesel for our machinery and from the money spent on accommodation. However, caravans were provided to our day labour force for accommodation.

Mr Peacocke: It must have been cheap doing it that way.

Mr McBRIDE: No, that is how private industry works. I worked in contracting for civil works.

Mr Peacocke: You saved the ratepayers a lot of money.

Mr McBRIDE: It may save ratepayers a lot of money but it will ruin employment prospects in the local area. If the Government wants regional centres to grow, they must have regional employment. How many farmers are part-time farmers and part-time council workers? Rural workers will be cut off from a major lifeline. Regional centres want a government office located in the centre to provide recession-proof jobs. That is what it is all about. Local government provides that. The money will be there and, in turn, there will be stability and employment.

Mr Hazzard: Does that not mean that the ratepayers have to pay for it?

Mr McBRIDE: Where did he come from? It is great that he will not be here for long, even though he expresses concern for ratepayers, but I will not go any further into that. The Minister has shown a little more intelligence than government backbench members have shown. He understands what I am saying because he lives in a rural area and knows farmers who supplement their incomes by working for local government. The Minister must know people who fall into that category.

Mr Peacocke: I know that a lot of farmers are going broke paying rates too.

Mr McBRIDE: You cannot have it both ways. The Government says it wants jobs in rural areas, but this provision will cut off a major area of employment. If the Minister believes that contractors will leave rural areas and that money will go back into local communities, he is wrong. Only a small proportion will be returned to the community. If local wages are being paid to local people, that money will stay in the local community. However, times are tough and outside contractors will look to rural areas for work. The company I was working with went to rural areas to get work.

Mr Peacocke: What about the local contractors?

Mr McBRIDE: We knocked them dead. A city contractor has an advantage over a rural contractor because the city contractor is doing that type of work all the time. The local contractor does not build up a reservoir of knowledge, ability and hands-on experience. I will give the House an example. The company I was working with specialised in water supply. No local contractor could beat that company because it had been doing the job all the time. It had the experience and knew what it was doing. That is why I make this point.

I believe the Government is going down the wrong track. It must seriously review that provision in the bill and include a clause to cover inflation or offer a consumer price index adjustment. The company I was working with found it difficult to obtain work in Sydney, so it moved to the country. Usually it would not have competed in the country, but it was tough in the city so the company looked for jobs in the country where the pickings were easier. It did not have to compete with the lean, mean, hungry Sydney contractors. There was not the same level of competition, and there will not be that competition from the local guys. How could local contractors build, say, reinforced concrete for a water reservoir 10 metres high?

Mr Peacocke: They do it regularly.

Mr McBRIDE: They may do it but they cannot beat the experience of the city-based contractors. I ask the Minister to look seriously at the contracting aspect because the Government will not achieve what is expected. It says that this provision will reduce rates and make contractors more efficient and more competitive. However, the result will be lost jobs. I seem to have a nod of approval for what I say but that was the argument I wanted to put forward. [*Time expired*.]

Debate adjourned on motion by Mr Gaudry.

House adjourned at 10.55 p.m.