

LEGISLATIVE ASSEMBLY

Wednesday, 27th October, 1993

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

Mr Speaker offered the Prayer.

OMBUDSMAN'S REPORT

Mr Speaker laid upon the table a copy of the report of the Ombudsman for the year ended 30th June, 1993.

Ordered to be printed.

QUESTIONS WITHOUT NOTICE

FORMER MINISTER FOR POLICE AND EMERGENCY SERVICES ALLEGATIONS

Mr CARR: I direct my question to the Premier. As the Minister for Police said this morning that there were only two new allegations made by the Hon. Ted Pickering yesterday, why will it take 72 hours for the Government to be briefed? Will the Premier table on 9th November written responses to all the Pickering allegations to enable them to be debated before Parliament adjourns?

Mr FAHEY: It should be pointed out to all honourable members that the matters relating to the Hon. Ted Pickering are still the subject of debate in another place. That debate has not been concluded. All honourable members should be willing to accept that a committee of this Parliament has dealt with this matter. That committee consisted of members of the Government and the Opposition, and included members from the crossbenches. They have extensively examined many of the matters that were the subject of an address by the Hon. Ted Pickering in another place yesterday. I believe we have to have some confidence in a committee that has spent time listening to an extensive amount of evidence. I, the Leader of the Opposition and most members of this House, in fact all who were not members of the committee, are not privy to evidence which was given in camera.

Nevertheless, those matters have been dealt with by the committee, which issued a report. That report was tabled in this Parliament recently. It has certainly been examined by me and, in the time that has been available since yesterday, I have looked at a number of the contributions by members who spoke in that debate, both in this House and in another place. It is important to review and consider extensively the matters that have been raised in that debate and, on a comparative basis, see how they fit in with the findings of the parliamentary committee, whose report was published and was available a few weeks ago. It is also fair to say that the Hon. Ted Pickering is concerned about public confidence in the Police Service in this State. That concern would be shared by all honourable members regardless of their political affiliations. It is essential to maintain public confidence in the Police Service in this State.

I acknowledge the genuine concern about many matters that were raised by the Hon. Ted Pickering. It is important that those matters should be reviewed in a sensible and quiet way and due regard paid to the evidence that was previously given before anyone starts making any statements or taking any positions. I remind the Leader of the Opposition that the debate in this matter has not been concluded in another place.

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

Mr FAHEY: It is important to take into account all matters that will be dealt with in that debate before positions are considered fully and finally, and decisions taken on the matter.

GUN LAW REFORM AND THE MENTALLY ILL

Mr GLACHAN: I address my question to the Minister for Police and Minister for Emergency Services. What progress has the Government made in considering the recommendations of the Joint Select Committee upon Gun Law Reform relating to mental illness?

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

Mr GRIFFITHS: The honourable member for Albury has asked a most timely question. I congratulate him on his continuing interest in, and support for, issues of public safety.

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

Mr GRIFFITHS: In particular, his even handed chairmanship of the ministerial committee on firearms legislation has been nothing short of outstanding. There can be no doubt that the Joint Select Committee upon Gun Law Reform was one of the most effective bipartisan committees ever to report to this Parliament. That is not only a tribute to all members who participated, but also particularly to the chairman of the committee, my colleague who is now the Minister for Community Services, Minister for Aboriginal Affairs and Minister for the Ageing. All honourable members on both sides of the House can be proud of the members of that committee for their personal commitment and discipline in bringing in a unanimous report in this controversial subject. The joint select committee has brought forward the means for the most stringent firearms legislation in this nation.

Page 4518

The valuable work of the committee in achieving that result stands as an object lesson for both sides of the House. Meaningful reform in the area of firearms legislation can be achieved only by a truly bipartisan approach. Preferably real and lasting reform should be considered after the widest possible consultation within the Government and, most importantly, within the community. The select committee recognised that the issue of mental illness presented a unique and sensitive situation. It recommended that the Government further consider the issue, and that is exactly what has been done.

I have today released a constructive discussion paper which highlights many issues upon which there must be broad consensus not only within the Government and interest groups but also in the broader community. One of the most central concerns must obviously be the privacy of the individual. That must be balanced with a need effectively to ensure the community's safety. The discussion paper is a valuable contribution towards finding the right balance between those competing interests. I urge all honourable members and every member of the community to give close and thoughtful consideration to these important issues. Submissions will be accepted until 31st January, 1994. The community can be assured that the Fahey Government will listen to the people.

MINISTER FOR POLICE AND MINISTER FOR EMERGENCY SERVICES FORMER STAFF OFFICER

Mr ANDERSON: I ask the Minister for Police and Minister for Emergency Services a question without notice. Was a senior police officer transferred from his office after the Minister received a warning from an external law enforcement agency? If the officer was unfit to work in the Minister's office, why was he transferred to the commissioner's staff? Have investigations of this officer been completed?

Mr GRIFFITHS: I thank the honourable member for Liverpool for the first question he has asked me in six months. That shows how vital is his interest in policy issues. Let me assure the honourable member for Liverpool and all honourable members that any officer who has worked in my office or is likely to work in my office will be hand-picked to ensure that his integrity is above reproach. I have total confidence in those officers.

BOATING SAFETY

Mr BECK: I address my question without notice to the Deputy Premier, Minister for Public Works and Minister for Ports. In view of recent deaths that have occurred in boating accidents, what action is the Government taking to educate boatowners about safety and to ensure compliance with safety regulations?

Mr ARMSTRONG: I thank the honourable member for Murwillumbah, who represents the magnificent Tweed area, for his question on boating safety. It is of concern to all honourable members that the boating season had a tragic opening with two deaths occurring in separate incidents over the October long weekend. That brings to seven the number of deaths in boating accidents since July. Boating fatalities on average cost the State about \$10 million a year. That does not include the vast cost of accidents that result in a range of injuries. The figure of \$10 million does not, and cannot, include the human cost of injury, death and suffering.

Recreational boating should be a most pleasant exercise, and it usually is. New South Wales has marvellous natural waterways that rank among the best in the world. I am convinced that the vast majority of boating enthusiasts show responsibility, maturity, common sense and, above all, courtesy to others. They realise that this common attitude will mean pleasant and safe boating for themselves and others. Regrettably, at times a minority of people show discourtesy, while others show ignorance or inexperience. I believe that the Government has a responsibility regarding education about, and the enforcement of, rules for the safety and pleasure of waterway users. It is important that the public be reminded of the existence of these rules and that they will be enforced.

I have asked the Maritime Services Board Waterways Authority to report to me on compliance with safety equipment regulations as part of the preparation for the forthcoming boating season. Regular checks have revealed that more than 90 per cent of owners comply with the regulations that stipulate the minimum safety equipment for vessels. Requirements vary with the size of the boat, but in general terms all craft must carry, as basic provisions, a lifejacket for every person, paddles or oars, bucket or bailer, waterproof torch and an anchor. Larger vessels and craft travelling offshore must carry more equipment, such as marine radios, fire extinguishers, emergency beacons and distress flares.

The Waterways Authority is conscious that the small minority of boatowners whose craft fail safety checks are the ones most likely to have serious accidents. There is a trend which shows also that they are the ones who are likely to consume alcohol while driving a boat, may act irresponsibly or may be simply ignorant of the rules. Though checks will apply to any vessels, I emphasise that the yobbo element has no right to spoil the pleasure of other waterway users or to place people in danger. Of course, rules are a last resort. The most effective way of ensuring safety is by appealing to all users to do the right thing. With the right attitude we can all contribute to minimising, and hopefully eliminating, the serious accidents that can and do occur. Education is a key element.

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

Mr ARMSTRONG: The Waterways Authority is taking a proactive approach by running a series of educational campaigns this summer. These will address concerns such as drink-driving, overloading
Page 4519

vessels and excessive noise. I call upon all boatowners and boat users to listen to the advice provided by the Waterways Authority and experts, and accordingly to act in a proper manner. That may save the lives of others as well as their own. I commend to all honourable members and the public to enjoy boating in this State, but above all to remember that many others wish to enjoy that activity and have a right to expect decency to prevail and be confident that they will be able to return home in good order after enjoying a satisfying day.

WEST RYDE TO HOMEBUSH PENINSULA BRIDGE

Mr LANGTON: My question without notice is directed to the Premier and Minister for the Olympics. Is the Premier aware of proposals to build a bridge across the Parramatta River from Wharf Road, West Ryde, to Homebush as part of an Olympic Games upgrade? Why was this project not included in the \$3 billion Olympic budget?

Mr FAHEY: The honourable member for Kogarah might as well have asked me whether I was aware of proposals to build a bridge across the Shoalhaven River and throw it into the Olympic budget.

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

Mr FAHEY: I am not aware of those proposals, nor are any of my colleagues. There are no such proposals and that is why I am not aware of them.

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

PADDY'S MARKETS STALLHOLDERS

Mr CRUICKSHANK: My question without notice is directed to the Minister for Agriculture and Fisheries and Minister for Mines. Is the Minister aware of a protest today by Paddy's Markets stallholders? What progress has been made in assisting the stallholders to return to the Haymarket?

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

Mr CAUSLEY: I thank the honourable member for his question. He is one member who has taken an interest in the stallholders, who were unceremoniously dumped on the streets five years ago by the former Labor Government.

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

Mr CAUSLEY: The honourable member for Port Stephens continues to interject. I noticed last night that he gave a tirade in this House. I often wonder whether he reads *Hansard* next morning.

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

Mr CAUSLEY: If he did, he would understand why people in country New South Wales say he is an idiot.

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

Mr CAUSLEY: There is no doubt that the honourable member for Moorebank has got him covered but one can never trust the swinger from Campbelltown; he should be watched because he might be trying to get in on the act. There is no doubt that at the present time the stallholders from Paddy's Markets are completely frustrated. They have had a number of promises about returning to the Haymarket. The Government has been watching the contract and the way the developer has been proceeding on the site. The developer promised the Government that the site would be completed by September, and there is no doubt that the building was completed by about that time. However, the developer would not provide a certificate of completion, which would give the Sydney Market Authority the right to fit out the area so that the stallholders could return to the Haymarket.

There is no doubt that delays have occurred and that the developer obviously is determined to delay as long as possible. Some weeks ago I gave warning that the Government would not tolerate those delays. A number of penal sanctions are provided for in the legislation. In fact, when the former Minister in the Labor Government, the Hon. Laurie Brereton, introduced the legislation the former member for Gordon, Mr Tim Moore, said that it was draconian. It is pretty strong legislation, I can assure you. Because the contract has not been completed on time, penalties are accruing at \$10,000 a day; and a \$10 million bond is at risk. The developer, Kajima, should understand that the Government is serious about those penal sanctions.

This afternoon a meeting will be held with representatives from the Premier's Department and the developer. If the developer is not reasonable at that meeting the Government will have no option but to act. The Government has not acted more quickly because it wants the stallholders back in the Haymarket and would prefer not to get into legal wrangles. The Government would prefer to have an agreement from the developer that it will provide a certificate of completion and thus allow the stallholders to return. But, if the Government is forced to do so by the developer, it will act. There is no doubt about that. Documentation has been sent to the Crown Solicitor and I give fair warning that if the developer does not talk to the Government about this matter, those legal sanctions will be enforced.

Page 4520

LANDCARE EXPENDITURE AND Mr DAVID MARSH

Mr MARTIN: My question without notice is to the Minister for Land and Water Conservation. Did a Mr David Marsh of Boorowa use more than \$18,000 from LandCare funds to improve his own property? Is Mr Marsh the vice chairman of the Boorowa branch of the National Party and a personal friend of the deputy Premier? Why was this money spent on this individual's property when funding is only available for group projects?

Mr Humpherson: On a point of order. It is my understanding from previous rulings of former Speakers, including Speaker Kelly -

Mr SPEAKER: Order! I am sure all honourable members will wish me to give a learned ruling on the point raised by the member for Davidson. To do so I must hear what he is saying. I ask members to be silent while the member makes his point of order.

Mr Humpherson: The purpose of question time is to seek information, not to canvass issues that relate to the personal affairs of people who have no right of reply.

Mr West: On the point of order. The question asked by the honourable member for Port Stephens relates specifically to the actions of the Boorowa LandCare group. Prior to question time today the honourable

member gave specific notice of a motion that relates to the mismanagement of the Department of Conservation and Land Management, and specifically to the activities of the Boorowa LandCare group. That motion will be debated at a later hour of the day.

Mr Whelan: On the point of order. It is ridiculous to suggest that because a notice of motion in some form is on foot in the Chamber, members are precluded from asking questions about that subject-matter. The purpose of the question is to ascertain why a Mr Marsh of Boorowa used \$18,000 of Government money, LandCare funds, to improve his property. That is the essence of the question. It is the Minister's responsibility, it is his jurisdiction. It is also very relevant to determine the relationship of Mr Marsh as vice chairman of the Boorowa National Party and whether he is a friend of the Deputy Premier.

Mr SPEAKER: Order! Various points of order have been raised. On the point raised by the member for Davidson, there is no bar to asking questions in this House which reflect on a person outside the Chamber. If there were such a bar, over the years many questions would not have been asked. The second point was raised by the Minister for Energy and Minister for Local Government and Co-operatives. There is a ruling of this House about anticipation of debate. However, there are many rulings by former Speakers - and I have upheld their decision - that a question that seeks to elicit facts and not debate the issue is not necessarily anticipating debate; it is seeking information which may be pertinent to the debate that follows.

There is little substance to the point raised by the honourable member for Ashfield. It is for the Minister to reply as he sees fit. The Minister's reply may well take account of the fact that the matter will be debated in a short time. Has the member for Port Stephens completed his question?

Mr Martin: Yes, Mr Speaker.

Mr SPEAKER: The question was possibly bordering on being argumentative but as no member took a point of order on that ground, I will rule the question in order and ask the Minister to answer it.

Mr SOURIS: As honourable members would know, there are some 500 LandCare groups in New South Wales, apart from other groups. I do not have specific detail regarding a particular program of one of the 500 LandCare groups.

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

Mr SOURIS: However, I am sure that I will have ample information in due course, probably straight after question time, and I will give as lengthy an answer as possible at that time.

ENGLISH AS A SECOND LANGUAGE PROGRAM FUNDING

Mr BLACKMORE: My question without notice is directed to the Minister for Multicultural and Ethnic Affairs and Minister Assisting the Minister for Justice. Is the Minister aware of concerns among ethnic communities about the New South Wales share of Federal funding for English training for young migrants? Has he received advice on this matter?

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

Mr PHOTIOS: I thank the honourable member for Maitland for his question.

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

Mr PHOTIOS: I want to place on the record the deep appreciation of the Government for his dedication to and close working relationship with the ethnic communities of Maitland, particularly Felix Dangel and the Polish community, with whom the honourable member for Maitland has a particularly close relationship, and

whom I have had the pleasure of meeting on two occasions.

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

Mr PHOTIOS: It is also appropriate and a delight to welcome today the guests of the honourable member for Maitland from the Maitland Lantern Club. As Minister for Multicultural and Ethnic Affairs I am constantly reminded of the vital nature of

Page 4521

English training. Sydney is the most multicultural city in the world in which English is the primary language, and speech and the written word are our community's most important bonding agents. Funding for English as a second language training - ESL - is primarily a Federal Government responsibility. I am deeply troubled to inform the House that it is not a responsibility that Federal Labor lives up to. ESL for students is delivered through two programs: the new arrivals program and the general support program. The new arrivals program caters for students newly arrived from overseas. Commonwealth funding is provided on a per capita basis and is tied directly to new arrivals via the immigration program.

The general support program caters for students who have passed through the other program and have long been residents of Australia or are Australian-born children of immigrants of non-English speaking background. Salary and other working expenses for the general support program totalled more than \$30 million for 1992. Approximately \$16.7 million of this comes from the Federal Government; the balance and the considerable cost of infrastructure for the program comes from the Fahey Government. Funding for the program for New South Wales from the Federal Government increased in 1993 by \$2.4 million. This is a result of an increased \$10 million allocation to the national program from the revision of ESL funding index. At first glance that may seem to be good news, but the reality is somewhat different - it is grim. In reality, the situation in New South Wales is increasingly desperate because we now receive a disproportionately low share of Federal ESL funds, and this inequity has been replicated in the latest increases.

The result is that for New South Wales in 1993 the share of Commonwealth funds has fallen from 28.5 per cent to 26.5 per cent. That is despite the fact that in 1992-93 New South Wales had 46 per cent of all the students in Australia who required ESL training. Those students come here thanks to this State Government but are treated shamelessly and shamefully by the Federal Labor Government in its allocation of funds. We have 46 per cent of the youth who need the training, yet we receive only 26.5 per cent of the funds needed to ensure that these young people can stand together with students of English speaking backgrounds. That discriminatory approach by Federal Labor must stop now. This Government had hoped that the revision of the ESL funding index, which has been completed recently, would finally correct the inequity, but the Federal Labor Government chose instead to avoid taking money from other States that are overfunded and, of course, avoided compensating New South Wales, which currently attracts 42 per cent of the nation's migrants.

It is of particular relevance to honourable members that 80 per cent of the increased Sydney population since 1986 is directly derived from immigration. Of all the people going to bed in Sydney tonight, 35.7 per cent of those over the age of 15 were born overseas, and two-thirds were either born overseas or have parents or grandparents overseas. With 42 per cent of migrants coming to Sydney, it is not good enough for the Australian Labor Party to continue pursuing these anti migrant policies.

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

Mr PHOTIOS: Labor has anti-migrant policies. Thanks to the continued outrageous behaviour and policy practice of Federal Labor, the losers from this exercise are the people of New South Wales. This is a longstanding issue of concern between our State and the Federal Government. We have fought for years with the Federal Government on this issue but it is unable to see the truth of this blatant and flagrant injustice. Under the new arrivals program, salaries and working expenses are met by the Federal Government, and New South Wales again provides the educational infrastructure. The State Government is now about to be told that it will receive a further reduction in funding for the new arrivals program from \$21.3 million to \$17.1 million.

The shadow minister assisting the shadow minister on immigration and ethnic affairs - because they have quite a team on the other side of the House - calls on the Federal Minister to resign. I appreciate that that is done as part of the bipartisan spirit. The Opposition has a shadow minister for ethnic affairs - the Leader of the Opposition - who in his response to the Budget did not offer one word on migrant policy. The shadow minister assisting the shadow minister on immigration and ethnic affairs said nothing. Then the parliamentary secretary representing the shadow minister, who assists the shadow minister for ethnic affairs in another place, had little to say. It is obvious to us on this side of the House that there is one party in Australia that is anti-migrant, and that is Labor.

Mr SPEAKER: Order! I call the honourable member for Kogarah to order for the second time. I ask all honourable members to contain their enthusiasm and collective participation to allow the Minister to complete his answer as soon as possible.

Mr PHOTIOS: The Labor Party is anti-sport, anti-Olympics, anti-business and anti-migrant. It will be a win for the migrants in March 1995 when Labor loses again. New South Wales is likely to suffer a funding decrease from \$21 million to \$17 million in funding for the new arrivals program. I call the Opposition to join with the Government in protecting people of non-English speaking backgrounds by ensuring that that funding is not reduced. No doubt the House will be interested to know that the number of students assessed as needing training in English as a second language, but who cannot receive that training because of Federal Government penny-pinching, has increased from 16,500 in 1986 to a record level this year of 34,000. That is 34,000 kids who cannot be integrated into our society. It is 34,000 kids who will not have the opportunity to learn English. It is 34,000 kids who will hang like an albatross around the anti-migrant Labor Party as a direct consequence of its track record of penny-pinching.

Page 4522

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

Mr PHOTIOS: The Federal Government cannot continue to ignore its responsibility to those children.

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

Mr PHOTIOS: It cannot bring people to this country with promises of milk and honey and then feed them bread and dripping. The situation gets worse. I notice that the honourable member for Smithfield is interjecting.

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

Mr PHOTIOS: My challenge to the honourable member for Smithfield is to take up the Federal Labor Government's -

Mr SPEAKER: Order! There is far too much interjection. I draw to the attention of the Minister that he has been speaking now for 13 minutes and I ask him to conclude his answer as soon as he possibly can.

Mr PHOTIOS: In conclusion, this issue is clear evidence of the fact that the Federal Labor Government, supported by the State Opposition, is anti-migrant and anti-cultural diversity. It has cut funding to the Office of Multicultural Affairs. It has kept behind bars for more than three years more than 100 people who are seeking refugee status. It is unable to deal with the pressing issue of 20,000 Chinese students studying in Australia and it has reduced that migrant intake. The Federal Government's inability to live up to its responsibilities -

Mr SPEAKER: Order! Whether the Minister has been speaking for a long time or a short time is absolutely no reason for the types of interjections that have just come from the Opposition benches. Such behaviour is grossly disorderly. A number of members already have been called to order once or twice. I now deem all members who have been called to order to be on three calls. If any of them attract my attention again,

they will leave the Chamber forthwith.

[Interruption]

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

Mr PHOTIOS: The anti-migrant policies of Labor mean that 34,000 students are unable to speak English as a result of a massive cutback in Federal funds. It is a national disgrace and a State tragedy. I challenge the Labor Party to join the State Government in a bipartisan offer of support to maintain the funding so that we can give these kids a chance.

SYDNEY FISH MARKET PRIVATISATION

Ms NORI: My question without notice is addressed to the Minister for Natural Resources. In view of the motion carried by this House on 12th October, will the Minister confirm today that the Government has suspended all plans to privatise the Sydney Fish Market?

Mr Hartcher: On a point of order. There is no Minister for Natural Resources in this Chamber.

Mr Causley: On the point of order. I presume the honourable member was referring to a time when I was Minister for Natural Resources, but there is no longer a Minister for Natural Resources in this Chamber.

Mr SPEAKER: Order! That is correct.

WATER BOARD EFFICIENCY

Mr KNOWLES: My question without notice is directed to the Premier and Minister for Economic Development. Has the Water Board claimed it will achieve a \$60 million efficiency saving this year? Do leaked documents show the board originally intended to achieve a \$100 million efficiency saving this year? What will this \$40 million failure to significantly cut waste and achieve efficiency targets mean for water bills?

Mr FAHEY: Because of the very quiet voice in which the honourable member asked the question, I am not sure whether he was referring to the Water Board.

Mr Knowles: Yes, I was.

Mr FAHEY: We have seen a great deal about the Water Board in recent times that highlighted the fact that there has been an all out effort made to increase the efficiency and productivity of the Water Board and at the same time maintain a strong commitment to programs such as the waterways program. I note with interest the report of the Pricing Tribunal that was released a few days ago about the Water Board. It gave a clear indication that many of the structures of the Water Board had been addressed by the present general manager and by the present Minister. That is to be commended. It is worthy of note, and all honourable members would appreciate the fact, that when it comes down to the cost of water charges in this city, on a comparative basis - and the Pricing Tribunal made reference to this - a typical Sydney Water Board customer will pay less than residential customers in all other mainland residential areas.

To illustrate that further, in Sydney the total water and sewerage bill for 1993-94 for an average customer will be \$490, in Melbourne \$562, in Brisbane \$501, and in Perth \$574. Of course, what has been highlighted by the Pricing Tribunal - matters that the Government and the Water Board senior management have been examining and working on for some time - is that among the questions of management issues under consideration at the moment

Page 4523

are the worthy objective of the need to provide for public consultation in the development of water quality

objectives, the cost and benefits analysis in the development of environmental standards, the separation of the roles of water provider, regulator and management functions, and clear assignment of responsibilities and accountabilities for the Water Board.

I am sure that members of the committee chaired by the honourable member for Manly will have seen a real effort being made by senior management of the Water Board to achieve a most productive outcome at the least cost, ensuring a strong commitment always to environmental requirements in all the efforts of the Water Board. I am satisfied that progress is being made and that under current management and under the current Minister significant progress will be achieved in the days ahead.

TIMBER INDUSTRY MORATORIUM

Mr FRASER: My question is directed to the Minister for Land and Water Conservation. Is he aware of statements by Greens senators calling on the Federal Government to impose a moratorium on the timber industry in Australia? If so, what are the implications for the industry in New South Wales?

Mr SOURIS: I commend the honourable member for Coffs Harbour for his interest in timber matters and the timber industry. Western Australian Greens senators yesterday moved in the Senate an urgency motion proposing that the Federal Government use export control, corporations and external affairs powers over State governments to halt legitimate forestry operations. It would be an absolutely blatant misuse of Commonwealth powers to impose those provisions upon the State governments in respect of timber operations carried out legitimately, within all the guidelines, within all the provisions for determinations - the environmental impact statement and the fauna impact statement processes - that have been put in place over the years. The Greens in the Senate have not been able to stop logging through any other avenue. All activities are properly licensed and monitored, but we now have this blatant political action from the Greens, who are selectively and misleadingly quoting from the National Forests Policy Statement to justify their action. I quote, too, from the National Forests Policy Statement:

Governments recognise that integrated harvesting of sawlogs and pulplogs is an important use of native forests and that it can be done in an ecologically sustainable manner.

Australia will continue to use old-growth timber for many years. It will come from disturbed forests containing some old growth trees and from old growth forests that are not required for the nature conservation reserve system described in section 4.1

That is section 4.1 of that same report. Just as others have been quoting that particular agreement so, too, does this quote contradict the use and misuse of the quotes coming from the Greens in the Australian Senate as of yesterday. The move is also a blatant contradiction of the Commonwealth-State agreement on the southeast forests, which was the subject of a letter from the Prime Minister received, I think, on 6th October and referred to by the Premier in answer to a question in this House a couple of weeks ago. It refers to the desire of the Commonwealth to consummate the 1990 agreement, referring to 55,000 hectares of forest which would be preserved, and refers to a \$10 million program for structural adjustment within the industry.

I would have thought that if it were the view of the Commonwealth Government - a Government that is now being called upon by the Greens in the Senate to invoke these external powers - that something was wrong with our practice, if we were in breach of other agreements, this letter certainly would not have been sent; indeed, a letter saying something quite the contrary would have been sent. In fact, this letter refers to the one, and only one, impediment to the completion and signing of that agreement, and that is the continuing existence in another place of the South East Forests Protection Bill sponsored by the honourable member for Bligh. Once that impediment is dispensed with - and I am using the letter - the Commonwealth is prepared to complete the agreement, thereby endorsing the logging practices of the timber industry and the Forestry Commission of New South Wales in New South Wales.

The Greens say that we need a moratorium on all logging until studies are completed and reserve systems are in place. They are miles behind the times. Those have already been done. Studies were undertaken over a 12-month period on a regional scale, and the 55,000 hectares to which I referred - which is equivalent to about 100,000 football fields - was set aside for the conservation reserve system. That is not to say that that is the only space in the southeast that is not going to be logged. That 55,000 hectares merely represents the area specified within that agreement. Special prescription areas were identified where logging can take place only under strict conditions. Some 40 per cent of forest and Crown land in the Eden management area is now fully protected.

I refer to a map of compartment 1402, which is the one that has been in the news considerably. It has been referred to by all the combatants, including some staged protests by a couple of green terrorists who wore black pyjamas and black headbands and organised for a video clip to be taken. I am referring to a map of the southern region harvesting plant, compartment 1402, which shows very clearly an area of compartment 1402 marked in yellow. It shows also, in green, a very large area including tracts in various directions that will not be logged. The green parts within the compartment will not be logged. Even with the blurred vision of the greensies on the other side, you can see that at least 50 per cent of compartment 1402 is not intended for logging. The blue area to which I am referring in this map has been previously logged, so that is not included. We are now down to the white areas.

Page 4524

Mr Whelan: On a point of order. Because of the colour descriptions the Minister has used, the map to which he is referring should be incorporated in *Hansard*. He is referring to blue, yellow and other areas, and if the map is not incorporated it will make the reading of *Hansard* a nonsense. Mr Speaker, I ask that you insist upon the incorporation of the map.

Mr SPEAKER: Order! There is no way by which a map such as that can be incorporated in *Hansard*. But the Minister may care to table it at the conclusion of his answer, so that it will form part of the record of the Parliament and can be available for reference.

Mr SOURIS: I will be only too pleased to table this map, which has been specially coloured in sections.

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

Mr SOURIS: I am dealing with an urgency motion which was debated by the Senate. I will deal with the proposed censure motion in this place at another time. It is evident that hardly any of compartment 1402 - which is depicted on the map I will table later - is intended for logging.

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

Mr SOURIS: It will be evident from other techniques, such as aerial photography, that sparse logging is being undertaken in those areas. About 50 per cent of the canopy is being left in place. I do not know how *Hansard* will deal with this, but I intend also to table a photograph. Compartment 1402 has the highest conservation values in the history of the Forestry Commission and the timber industry. Compartment 1402 is the worst example for the Greens movement to use for it has the best conservation values, is not logged as much as other areas, and has the best logging practices.

We must urgently complete the agreement between the Commonwealth and the State in respect of the southeast forests. The \$10 million adjustment program will facilitate the establishment of the regional kiln drying and treatment facility and improve the thinning of softwood plantations. In the longer term it will facilitate plantation establishment, the integration of recovery mills with woodchip operations, and the establishment of new softwood mills. The delay since 1990, which is when the agreement was first mooted, has left the industry in an extremely uncertain position. In that time we should have seen investment by industry and greater job security in an industry which employs of the order of 106,000 people throughout

Australia.

Long-term wood supply agreements will take account of industry's commitment to value adding, better work force training and enterprise agreements. If we close down this compartment and lock it away it will achieve nothing. The current antics of the Greens in Federal Parliament are nothing more than political grandstanding. I suppose it is a welcome return to their core activity after their mutilation of the Labor Government's Budget. Honourable members would be aware that Ros Kelly tried to enter this debate on compartment 1402, but was silenced.

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

Mr SOURIS: Ros Kelly was silenced by the Prime Minister. The Prime Minister wrote a letter to the Premier - the letter to which I referred earlier - and the cause has now been taken up by Senator Chamarette, who has attempted to invoke external affairs powers to bear upon a perfectly legitimate industry - a sustainable industry which has the highest conservation values in our history. This industry, with its sensible and constructive approach - which is reflected in the Commonwealth-State agreement - will be able to sustain itself and provide long-term jobs and prosperity for Australians for generations to come.

LEAVE OF ABSENCE

Motion by Mr Kerr agreed to:

That leave of absence for the present session be granted to Phillip Murray Smiles, member for North Shore and Bradley Ronald Hazzard, member for Wakehurst, on account of absence from the State.

Motion by Mr Beckroge agreed to:

That leave of absence for the present session be granted to Douglas James Shedden, member for Bankstown, on account of absence from the State.

[Interruption from gallery]

Mr SPEAKER: Order! I direct the people in the public gallery to immediately take down the sign they are displaying, or they will be taken from the gallery. I direct the attendants to remove those people from the gallery.

[Notices of Motions]

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

PETITIONS

Capital Punishment

Petition praying that the House will enact legislation to reintroduce capital punishment in extreme cases of murder where there is absolutely no doubt that the offender committed the crime, received from **Mr Windsor**.

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**.

CountryLink Timetables

Petition praying that CountryLink timetables be maintained, received from **Mr Schultz**.

Page 4525

Serious Traffic Offence Penalties

Petitions praying that laws relating to road accident fatality or injury be re-evaluated, received from **Mr Jeffery and Mr Moss**.

Brighton Memorial Playing Fields

Petition praying that Brighton Memorial Playing Fields not be sold or rezoned, received from **Mr Thompson**.

Shellharbour Public Hospital Children's Ward

Petition praying that the children's ward of Shellharbour Public Hospital be reopened, received from **Mr Rumble**.

Camden District Hospital

Petition praying that Camden District Hospital not be privatised and that children's services be reopened to make the hospital fully operational, received from **Dr Refshauge**.

Canterbury and Western Suburbs Hospitals

Petition praying that the promised 240-bed hospital be fully operational prior to any closure of Canterbury and Western Suburbs hospitals, received from **Mr Davoren**.

David Berry Hospital

Petition praying that the David Berry Hospital at Berry not be closed or sold, received from **Mr Harrison**.

Berkeley Police Station

Petition praying that Berkeley Police Station be manned on a 24-hour basis and foot patrols be introduced, received from **Mr Rumble**.

MELBOURNE CUP SWEEPS AND CALCUTTAS

Ministerial Statement

Mrs COHEN (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [3.11]: In 1990, this Government introduced amendments to the Lotteries and Art Unions Act to make lawful the conduct of sweeps and calcuttas on the Melbourne Cup and other events prescribed by regulation. Until that time calcuttas were illegal, although they had been conducted for many years by public-spirited organisations to raise funds for worthwhile community purposes. The amendment brought the legislation into line with community practice. In his second reading speech to this House, the then Chief Secretary stated that the intention of the legislation was to legalise relatively harmless gambling events that already were occurring. He indicated that

before prescribing any further events, the Government would need to be satisfied that those events were already attracting sweeps and calcuttas.

This policy worked well for some time and allowed the Government to assess whether or not particular events had strong community support. However, after nearly three years' experience with the legislation, it has become clear that it is inappropriate to persist with a policy which states that only those calcuttas which were conducted illegally prior to 1990 may now be conducted legally. A number of organisations with worthy causes apply to conduct calcuttas but cannot do so, irrespective of the merit of their proposals, simply because they did not conduct the events illegally before 1990. To persist with that policy means there can be no fund raising through sweeps and calcuttas for any new and worthy community cause which may emerge.

After careful consideration of the matter, I have decided to change the policy. The new policy will remove the requirement that, to have an event prescribed, an applicant must have conducted sweeps and calcuttas on that event prior to 1990. All other conditions of the policy will remain. That is, there will need to be demonstrated wide community support and benefits to the community for the event and its associated sweep and calcutta. The event will still have to be a recognised sporting event in which there is an element of skill. The event is not to be contrived for the purpose of the conduct of the sweep or calcutta. The event, if used to raise funds for a specific body, must have that body's approval for the event. The view of the peak sporting bodies will continue to be obtained, if appropriate.

Although the change in policy does not require a change to the legislation, I make this statement because I am conscious of the fact that the 1990 amendments put before and passed by Parliament were made on the basis of the original policy. I am sure honourable members will agree that this new policy is a sensible one which will assist some of their local community groups in their continuing efforts to raise funds for worthy causes. I emphasise that this change in policy does not change the fundamental law which governs the conduct of sweeps and calcuttas and it is important that I restate the general provisions governing the conduct of sweeps and calcuttas.

Most sweeps and calcuttas in this State are conducted either for social purposes or for raising funds for worthwhile causes. As we approach the first Tuesday of November it is important to recognise the significance of social sweeps and calcuttas as part of the conduct of the Melbourne Cup. Many offices, factories and workplaces are involved in the conduct of social sweeps. They are harmless and entertaining. These sweeps may involve the sale and distribution of tickets denoting the horses involved in the event and are lawful if ticket sales do not exceed \$2,000. In these events the total proceeds are distributed to the participants, depending on the outcome of the race.

Sweeps and calcuttas may also be conducted for fund raising purposes. In these sweeps and calcuttas the total amount paid in ticket sales may exceed \$2,000. The important point to be made here is that no sweep or calcutta may be conducted lawfully for private profit or gain. A fund raising sweep or calcutta cannot be conducted within the law unless conducted by or under the authority of one of the

Page 4526

following entities. First, they may be conducted by charities who hold an authority under the provisions of the Charitable Fund Raising Act 1991. They may also be conducted by a political party, a trade union or any of the clubs around New South Wales which are registered under the Registered Clubs Act 1976. It is also lawful for fund raising sweeps and calcuttas to be conducted by racing clubs which operate under the rules of racing under the Australian Jockey Club or racing clubs under the Greyhound Racing Control Board Act and the Harness Racing Authority Act. Finally, these fund raising sweeps and calcuttas may also be conducted by any organisation not formed or conducted for private gain.

Any person involved in the conduct of sweeps and calcuttas outside these rules is committing an offence under the provisions of the Lotteries and Art Unions Act and shall be liable to a penalty not exceeding \$1,000. The conduct of a fund raising sweep or calcutta with ticket sales in excess of \$2,000 must be authorised by the issue of a permit by the Chief Secretary's Department. They may be conducted only on events which are prescribed by the regulations. There are also other requirements which must be met. Any person interested in

the conduct of sweeps and calcuttas in accordance with this new policy may obtain further details from the charities division of the Chief Secretary's Department.

Mr FACE (Charlestown) [3.17]: The Opposition welcomes the Minister's statement today and I thank her and her officers for their consultation with me. The Minister knows that, for some time, I have had concern about calcuttas. I still hold the view espoused by the Minister when introducing the legislation, reported in the *Hansard* of 16th October, 1990, in which she stated:

As we become more knowledgeable about sweeps and calcuttas, we can upgrade the law. I would not go so far as to say that sweeps and calcuttas should be completely deregulated and that anyone, regardless of age, should be able to take part in them.

At that time I identified some concerns. The Minister indicated that we were charting new territory. What has occurred today is most timely. I feel, however, that there is a need to review the level of returns available to those who conduct sweeps and calcuttas. I understand that those who have been permitted to conduct sweeps and calcuttas have not been called upon to express an opinion in this respect. I do not suggest that many such people have erred deliberately, but misunderstandings might have caused them to go outside the original spirit of the law. These could be identified and rectified. Most of those who conduct such sweeps or calcuttas are probably the organisations that have been described today.

Wherever betting and wagering occurs, people will always try to go outside the law. The \$2,000 ceiling is used by race clubs on prescribed events in various locations, most often in the country. However, I am concerned about those events which exceed the ceiling of \$2,000, and ensuing private profit. The Minister knows, as does the Minister for Police and the Minister for Sport, Recreation and Racing, of my concern about picnic races and the attitude of those who conduct them, especially on the North Coast of New South Wales.

I put on the public record that, contrary to the belief by some that the Labor Party and politicians generally want to stop picnic race activities, I consider that they are in the interests of the community, provided they are run lawfully. I note that NRTV, in its continuing campaign against the Government and the Opposition, last night ran another segment about Bilambil races, in which it suggested that betting, two-up and a variety of other activities should be allowed to continue in complete defiance of the law. That is not the intention of the change in policy that has been referred to by the Minister. What the Minister said about some charities, registered clubs and racing clubs being operated for private gain is correct. It is essential to preserve the gains to which the Minister referred in her statement.

Complaints about picnic races have not stifled them but rather have highlighted anomalies. Racing clubs registered with the Australian Jockey Club, the Greyhound Racing Control Board and the Harness Racing Authority do everything according to the law, and yet others are doing things contrary to it. It is interesting to note that complaints have been made by at least six racing clubs on the North Coast, where picnic race meetings have proliferated. The meetings seem to feature the same jockeys and are organised by the same people. In many cases the people involved are of questionable character and are using the good charitable and sporting organisations in the region for their own ends. It is possible that in some instances calcuttas have been run on non-prescribed events and the proceeds used illegally.

I would like this matter to be clarified because the picnic racing clubs provide a lot of money to sporting organisations and charities. They do a good job, but should not operate outside the law. Many approved picnic race meetings are held and should be allowed to continue, provided they are not run for private gain and are operated by authorised sporting bodies and charities. However, the sanctions need to be reviewed. A fine of \$1,000 for a repeat offender is not much of a sanction when one has regard to the money that may be gained from these activities. However, I welcome the broader definition that will enable more people to participate, to the disadvantage of those who have done the wrong thing.

As was mentioned by the present Minister for Agriculture and Fisheries and Minister for Mines, we were in uncharted areas. We were only authorising and making lawful what had been occurring for years. The reduction in the age limitation from 18 to 16 is sensible as contained in the original legislation. I thank the

Chief Secretary and Minister for Administrative Services and her advisers for their assistance. The Opposition is pleased that the review has clarified this matter so that the change in policy will come into operation before Melbourne Cup Day.

Page 4527

BOOROWA LANDCARE GROUP MANAGEMENT

Matter for Urgent Consideration

Mr MARTIN (Port Stephens) [3.23]: I move:

That this House notes with concern the mismanagement of the Department of Conservation and Land Management in relation to activities of the Boorowa LandCare Group and the failure of Ministers to properly uphold the laws.

I bring this urgent matter to the attention of the House because it involves the misuse of public funds and the failure of a department and two Ministers to properly uphold the laws that they are obliged to administer. The issue involves members of the LandCare community group situated at Boorowa, which is located on the Central Western Slopes of New South Wales. I am advised that a former LandCare group committee member, Mr Stan Karpinski, has been attempting for more than 11 months to seek a remedy to a wrong that has been perpetrated. He has been trying in vain to have someone take responsibility for the bungling inaction of certain departmental officers, as well as the Ministers' lack of will to intervene in something for which they are clearly responsible.

During Mr Karpinski's time on the committee he served with an officer of the Department of Conservation and Land Management from Yass, Mr Don Russell. This officer was elected to the committee to represent the views of the department. At a committee meeting in March 1992 Mr Russell spoke briefly of a possible funding application for a LandCare demonstration site on the property of a member of the committee, the chairman at that time, Mr David Marsh, who is a senior figure in the National Party - he is the vice-chairman of the Boorowa branch of that party, a former branch delegate and, one would expect, an old friend and neighbour of the former Minister for Agriculture, now Deputy Premier, Ian Armstrong. The Deputy Premier might indicate whether Mr Marsh is personally known to him.

The committee members do not recall - nor is there any written record - whether the committee was asked to endorse the project, and it certainly did not endorse any such project. Without further reference to the committee, a funding application was prepared for the committee chairman, Mr Marsh, by the CALM officer, Mr Russell, in the Yass office for a major demonstration site on, and only on, the chairman's property. However, the application bore the name of the group. This information was discovered only after Mr Karpinski applied for and received a copy of the application form under the Freedom of Information Act. In the application, which was fast-tracked in the minimum time, \$19,780 of public funds were applied for and the group was committed to contribute at least \$18,000 in money and up to \$11,600 value in kind to the project.

The total financial resources of the group at the time were barely \$500, and both the chairman and the CALM officer were present when the treasurer gave his monthly statement to that effect. The application was not tabled for proper discussion or endorsement by the committee in accordance with the rules of the association. The criteria for the funding application stated clearly that proposals from individuals would not be funded. In April 1992 the committee was asked to support a funding proposal for a demonstration site on the property of another member of the group. The committee decided not to support funding proposals for demonstration sites on individual properties.

The CALM officer and the chairman referred to were both present and did not inform the committee of, or comment on the inconsistency caused by, their actions. At the annual general meeting in May 1992 the chairman, with the CALM officer present, submitted a report to the group on the activities for the preceding year. No mention whatsoever was made in that report of the funding proposal for the chairman's property. The committee received approval for the funding application and a cheque arrived from the Department of

Conservation and Land Management. The group's treasurer, who was not entirely clear about the matter, at the request of the chairman signed an acceptance on behalf of the group agreeing to abide by the terms of the application, that is, to spend \$18,000 of its own funds and to contribute \$11,600 value in kind to the project on the chairman's property. The treasurer then expressed concern about the matter and advice was sought from appropriate authorities.

On 22nd January and subsequently the matter was drawn to the attention of the Director-General of the Department of Conservation and Land Management. A proper investigation into the matter was requested so that the interests of the group who were not involved would be protected, as the group was now insolvent. The branch manager in charge, Mr David Marston, initially advised Mr Karpinski on 22nd January that he presumed these applications were okay and that he did not propose to do anything. Later, when the Independent Commission Against Corruption was mentioned, he said he would look into it. This officer was then unable to locate the application and contact Mr Karpinski between 22nd January and 11th February. Yet, on 1st February Mr Karpinski was advised that the branch manager had the documents for at least two days and was aware of the need to contact him.

Mr Marston is also the CALM representative on the assessment panel that recommended the chairman's application, and there is documentary evidence that Mr Marston is familiar with the work of the group. Mr Karpinski obtained advice from an officer of that same branch on 4th February regarding the propriety of the chairman's actions and the validity of group documents such as minutes and reports to the annual general meetings. This advice was confirmed by a private solicitor. When Mr Karpinski was interviewed by a CALM officer, Mr Warwick Ford, on 11th February, he furnished a copy of the chairman's annual report. That report is a legally valid document that records the activities of the group

Page 4528

for the year and, as stated before, makes no reference to the funding application for the chairman's property. He recommended verbally to the CALM officer that day, and in writing the following day, that a legal opinion be obtained.

No legal opinion was obtained. Instead, that officer failed to attach a copy of the chairman's annual report to his own report, prepared less than one day after he spoke with Mr Karpinski. Since that day CALM has claimed that there is no evidence of impropriety. While Mr Karpinski was being interviewed on 11th February, the district manager went to Boorowa and passed on his representations to the chairman of the LandCare group. CALM has documentary evidence of this kind, and Mr Ford confirmed this action in a conversation with Mr Karpinski on 18th February. The action was in direct defiance of CALM's code of conduct, yet no action has ever been taken by CALM.

On 2nd March Mr Karpinski was advised by the Director-General of CALM that it was inappropriate for the department to interfere. Two weeks later while Mr Karpinski was negotiating with LandCare Australia to send a mediator to help resolve the issue, Mr Marston privately advised LandCare Australia that, "they did not need to become involved as CALM had the matters in hand". Mr Karpinski made further representations to CALM. In one case the chairman made clear reference to the contents of one letter at a committee meeting on 14th April, only 10 days after it was sent to CALM. At the committee meeting in April the chairman, with the CALM officer present, instructed the treasurer to prepare a statement, which by omission was misleading, to be presented to the annual general meeting on 26th May. The financial obligation of \$18,000 was omitted by the treasurer as a result of two directions by the chairman.

On 21st May representations were faxed to the then Minister for Conservation and Land Management, the honourable member for Orange, imploring him to intervene so as to protect the interests of group members and bring the matter to a speedy and appropriate conclusion. The Minister was advised that more breaches of the Associations Incorporation Act were in train for the annual general meeting of 26th May. No action was taken. The CALM officer who was mentioned earlier and an unknown colleague attended the annual general meeting and witnessed the chairman advising the meeting that there were no other financial obligations apart from those on the treasurer's report, clearly omitting the \$18,000 obligation.

The newly appointed Minister for Land and Water Conservation responded to representations on 10th June. The Minister felt it was inappropriate for him to interfere in the internal workings of the group. Further representations from the former group and committee member were forwarded on 15th June, again asking the Minister to intervene and uphold the law. The Minister responded on 15th July, again refusing to act. The group is now insolvent. It has received \$19,760 of public funds from the department to complete a project on which the group is committed to spending \$18,000 of its own funds. The group has never had anything like that amount of money. The group membership has not been told, despite clear legislative requirements to do so, of this obligation or commitment in moneys or value in kind of up to \$11,600 by the membership.

A written annual report and a financial report, both clearly misleading by omission, have been presented to the membership at consecutive annual general meetings, clearly breaching the Associations Incorporation Act. The CALM officer referred to earlier has been involved throughout the whole affair. He is recorded in the minutes of committee meetings, named in the chairman's application for funds itself as a consultant and shown in group records as present when all the above key events occurred. In a report prepared by him on 12th February to his superior he states clearly that he served on the committee with the approval of the Minister.

The Minister's refusal to act has placed former committee members, including the former Treasurer, in a very difficult position. Their integrity, together with the integrity of the whole committee, was questioned by the group member who was discriminated against in April 1992 when his request for the committee to support his demonstration site was rejected. This person is morally and legally entitled to institute proceedings against the committee. If he did so, it would be clearly found that the whole committee had been in breach of its duty as members of the committee by allowing the chairman to use the name of the group to obtain personal advantage.

Aggrieved individual committee members have received advice that the only action they may take is to draw the matter to the attention of the Commissioner for Consumer Affairs as an internal matter of the association. If this is done the group may be wound up and the committee would be jointly and severally liable. Members of the committee would be proceeded against and liable for penalty. And all this because they were not consulted properly over the chairman's actions. [*Time expired.*]

Mr SOURIS (Upper Hunter - Minister for Land and Water Conservation) [3.33]: At the outset I should like to respond to the allegations made by the honourable member for Port Stephens that the Department of Conservation and Land Management is not showing due care and consideration in this matter and that I am ignoring the complaints of Mr Karpinski. It is central to my reply that Mr Karpinski made his accusations to the Independent Commission Against Corruption some time earlier this year, I think. Later, in about April, the Independent Commission Against Corruption decided that it would not take an interest in this case and would not conduct an investigation. However, at that time it chose to refer the matter to the Department of Conservation and Land Management for investigation and report back to the commission. That was done in approximately June of this year and no further word has been heard from the Independent Commission Against Corruption.

Page 4529

In the meantime in about June I recall that Mr Karpinski wrote to me requesting an explanation and an investigation somewhat similar to the request he had made to the Independent Commission Against Corruption. I sent a reply to him in June and, amongst other things, referred to the fact that the Independent Commission Against Corruption had made a request of the department, which the department had either just complied with or intended to comply with imminently - I cannot recall which came first. In any case, the inquiry from the Independent Commission Against Corruption has been satisfied, and as a number of months have elapsed we believe it has been resolved satisfactorily. Subsequent to that Mr Karpinski wrote to the Governor. A few weeks ago the Governor wrote to me seeking a report and a reply. As that request from the Governor is recent, it is obvious that the department is still in the process of preparing a reply. Indeed, it is doing so with considerable care to ensure that the advice is accurate and that proper consideration is given to the allegations made by Mr Karpinski. This is to ensure that the Governor has sufficient information to enable him either to

reply or satisfy his inquiries.

All consideration has been given to Mr Karpinski and I have not refused to undertake any investigation. It is wrong to say that I have taken no interest in the matter or that the department has shrugged off the issue or that the department or I have acted improperly in any way. Indeed, the second important point is that LandCare groups are autonomous. This LandCare group is no different and it independently and autonomously drafted an application for this specific project. It made application direct to the national LandCare program - a Federal program - copies of which are held by my department and to which I am now referring. They were made on the correct forms and all the paraphernalia and paper work was completed. Consequently it was not for me, or for the department under my direction, to specifically put forward this project or to consider it on behalf of the LandCare group and eventually come forward with a determination.

The assessment and the determination were carried out by the national LandCare program and were approved by the Federal Minister for Primary Industries and Energy. Neither my department, my predecessor nor I were involved in the assessment or determination of the approval process. Therefore I obviously could not have had any part in influencing this application, which did not even go to the Department of Conservation and Land Management. The approval was given by the Federal Minister for Primary Industries and Energy under the national LandCare program. Indeed, the application specifically related to the project which was ultimately undertaken and was not an in globo type of application and therefore a later decision of the LandCare group or the Department of Conservation and Land Management to select a particular project.

The project was the centre of the application made to the national Landcare program and, as I have already said, was ultimately approved by the Federal Minister for Primary Industries and Energy. My department, my predecessor and I have been completely at arm's-length in this procedure. I am personally offended by the accusation of the honourable member for Port Stephens that the probity, integrity and propriety of employees of the department are less than 100 per cent. Unless the honourable member for Port Stephens can provide conclusive proof, I believe he owes an apology to those employees whom he has sought to slur by the use of parliamentary privilege. Finally, it should be said that Mr Karpinski is a hostile litigant and can hardly be relied upon to provide advice and information to the honourable member for Port Stephens in a way that could be considered to be without conflict of interest.

Mr Karpinski has a hostility towards the salt action program; he has hostilities towards Mr Don Russell, who is a district soil conservationist; he has only recently made claims of a dam failure on his property in 1986 - he has indicated his intention to claim compensation, though I do not believe a claim has actually been lodged; he is alleging improper procedures; and he is constantly engaged in grievances. Mr Karpinski is not an arm's-length informant of the honourable member for Port Stephens. Indeed, he has a conflict of interest. I repeat that the department was not involved in the assessment or determination; it was an autonomous application by the LandCare group made directly to the national LandCare program approved by the Federal Minister. The LandCare group followed proper procedures. The accusations of the honourable member for Port Stephens that the Department of Conservation and Land Management has not been lawful or has not upheld lawful procedures are absolutely inaccurate, and they are refuted.

Mr CLOUGH (Bathurst) [3.41]: I listened to the presentation of the Minister and what appeals to me in this matter is the attitude that it is all right if you rip off Commonwealth funds but it is not okay if you rip off State funds. It makes no difference to me what the Minister says; it is quite obvious that the people from the Department of Conservation and Land Management have been involved in this application for funding that directly benefits a leading member of the National Party.

Mr Souris: On a point of order. The honourable member for Bathurst is stating that members of my department have conspired to rip off a Federal department. That is refuted. I ask the honourable member to withdraw that statement.

Mr SPEAKER: Order! No point of order is involved.

Mr CLOUGH: I take up where the honourable member for Port Stephens left off. There is no doubt that the members of this committee will be jointly and severally liable for the outstanding funds. They could be proceeded against and liable for penalty. The Minister has an obligation to act in this matter and his failure to do so is unacceptable. He must take the responsibility for the actions of his officer and he must take the appropriate steps to protect the interests

Page 4530

of the group and its members from the consequences of the action of that officer. I have no doubt that the officer has given advice to the chairman particularly that funding could personally be made available to him. The Minister for Land and Water Conservation has an obligation to uphold the laws of the State and to fulfil the oath he took when accepting his commission to conduct his duties according to law. I remind the Minister that the buck stops with him, not somewhere down the line in a junior office of his department. The Minister has an obligation to ensure that he and his departmental officers conduct their public duties to a standard considered appropriate by the community. The standards of this application are not in accordance with those standards that are appropriate to the community.

A person, because of his political affiliation, has received what appears to be preferential treatment; but the worst thing is that the other members of the group are to be held liable for the discrepancies. Since the representations were improperly passed on to the chairman, Mr Karpinski and his wife have been harassed and ostracised by the LandCare group and have been the subject of action that has caused them personal loss. They have strenuously maintained a silence in the community while waiting in vain for a proper investigation. The Minister referred to the fact that the matter is before the Independent Commission Against Corruption and other bodies. Let us find out what ICAC has to say and do something about it when the decision is made. I have little confidence that the ICAC report, if it is damning, will be acted on. It is for that reason that this matter is being aired today. The district manager has accused the Karpinskis of attempting to be dishonest and has reported Mr Karpinski as a troublemaker in an obvious attempt to divert attention from the real issue.

CALM officers' handling of the matter has been deplorable, making an absolute mockery of the department's code of conduct. They have failed to take action when it was necessary, lost documents, contradicted themselves in writing, failed to keep proper records and failed to comply with the undertakings given to Mr Karpinski. Departmental procedures are apparently so poor that officers cannot even manage to get more than one signature on funding applications purporting to come from LandCare groups. This is despite helping LandCare groups set up under the Associations Incorporation Act and adopting model rules as a constitution - rules that require at least two signatures on major documents. I repeat that the rules require at least two signatures on major documents. At the Estimates Committee on 22nd October the Minister was asked about the matter and said, "We are unsure if we have the particular details". This is despite having written to Mr Karpinski on 10th June and 15th July -

Mr Souris: On a point of order. The honourable member for Bathurst is referring to proceedings of the Estimates Committee. I have the relevant *Hansard* pamphlet, and he is making a deliberately inaccurate statement. My statement that I personally did not have specific details was correct, but immediately after my statement the director-general of the department was able to provide details. Selective misquoting from *Hansard* is unparliamentary.

Mr SPEAKER: Order! No point of order is involved. The Minister is at liberty to later make a personal explanation.

Mr CLOUGH: The Minister is wriggling around like a fish on the end of a hook. He is trying to get off. It is unfortunate that a Minister has taken two points of order that have not been upheld. [*Time expired.*]

Mr COCHRAN (Monaro) [3.46]: I am concerned that the good and honourable character of a person who has provided considerable LandCare advice and done much to assist with the future of land management in this State is being impugned by an individual, the honourable member for Port Stephens, who sees fit to get down into the gutter in an attempt to raise an issue to protect his own back. He knows full well that the honourable member for Moorebank is clambering off the backbench on to the frontbench, and that he, the

honourable member for Port Stephens, is going. The honourable member for Port Stephens desperately needs this or another high profile issue to get himself out of the mess he is in.

Mr David Marsh is a man of high standing in the community. He has the reputation of being the founder of LandCare in the southeast of New South Wales. He was one of the people responsible for one of the major inquiries into, and programs to prevent, eucalypt dieback in the 1980s and in recent years; he has hosted numerous trials on his property and only recently in May hosted a field-day attended by a number of people from the surrounding districts. I am appalled at the allegations made by the honourable member for Port Stephens that in some way there is a connection between the fact that David Marsh is a member of the National Party and has volunteered the use of his property for a project trial -

Mr Martin: For \$19,000.

Mr COCHRAN: If the honourable member were to get out in the bush just once in a while and have a look at what is going on in rural New South Wales, he would have some idea. If he took a leaf out of the book of the honourable member for Burrinjuck and looked at the LandCare program that is proceeding around Boorowa, he would understand what he is talking about. As usual, he comes into this House with his foot in his mouth and tries to make a man of himself on some issue which he knows absolutely nothing about.

Let me tell the honourable member a little about "Allandale", the property concerned, so that he will be a little wiser when he walks out of this place. That property was cleared between 1902 and 1910. It was the subject of land degradation, of which there are ample examples across southeastern New South Wales. It was selected as a property for a project trial on the basis that it was a typical example of a

Page 4531
property with the type of rising salinity problems found in the southeastern region. David Marsh volunteered the use of his property, with the agreement of the Lachlan Total Catchment Management Committee, for a community demonstration. It is adjacent to the road and easily accessible for use for demonstration.

The honourable member for Port Stephens has gone out of his way to discredit an honourable person who is accepted across-the-board, who gives an enormous amount of voluntary time to the local community. The honourable member opposite would not understand, coming from where he does, that people in the southeast will work for nothing on projects such as this. But the honourable member will learn the hard way. It might be of interest for him to know that Mr Karpinski attended the meeting where approval was given for an amount of money to be spent on this project. No objection was raised by Mr Karpinski. The recommendation went from there to the Lachlan Total Catchment Management Committee. The committee endorsed the decision made by the LandCare group and submitted the application through the State and Federal departments and it was approved. Not only have those funds been approved and endorsed at all levels but -

[Interruption]

If the honourable member were to listen, he would learn. As recently as last Monday they approved another \$137,000. Does that sound like a LandCare group that has been discredited by the Federal Government, the State Government or anyone else? No, it does not, because the recommendations have come from all levels and have gone to the appropriate authorities for assessment. The money was made available as recently as last Monday. The honourable member is out on a limb, on his own. He will be dislodged from the front bench because he is a fool. The honourable member for Moorebank, Craig Knowles, is about to leap on his back. The honourable member for Port Stephens is as good as gone. This issue will not save him; it is too late. As late as 15th May - [Time expired.]

Mr J. H. MURRAY (Drummoyne) [3.51]: The allegations brought to the attention of the House today are serious in the extreme. When public moneys have been directed to the benefit of a person, but outside the guidelines, a full and frank explanation is essential. To date that has not come forward. This is especially so when there seems to be, on the evidence available, a close nexus between the recipient of the LandCare group's largesse, that is, the chairman of the group, and senior figures of the National Party. It is more disturbing when

one hears the evidence put forward by the treasurer of the LandCare group.

At a committee meeting in April 1993 the chairman, with a CALM officer present, instructed the treasurer to prepare a statement which, by omission, was misleading and was to be presented at the annual general meeting. The financial obligation of \$18,000 was omitted by the treasurer as a result of the two directions by the chairman. On 21st May, 1993, representations were faxed to the then Minister for Conservation and Land Management, the honourable member for Orange, imploring him to intervene to protect the group and the interests of the group members and to bring the matter to a speedy and appropriate conclusion. What is most damning is that the treasurer, who has not had a run yet, wrote to the *Boorowa News* on 6th March. This is the man who was directed by the chairman to put in a false account. He wrote:

After two years as treasurer I feel that it is time that a few facts were given. Firstly, I will put into perspective the job I was elected for in 1991. Upon taking office in 1991 I was handed a hand written page of members subs . . .

I started a set of books as required. I was re-elected in May, 1992, after opposition by the chairman, who asked me to 'put forward a motion to have the treasurer's position included in the secretary's duties'.

I wonder why. He continued:

I declined, as again this contravened the model rules . . . section 13(2) . . .

When I called for the treasurer to have full control over funds, only the treasurer to issue receipts and pay cheques, I was told the group was only a friendly gathering and all that goings-on was not needed.

On the evidence here, it was needed. This was the treasurer who came forward, and he continued:

At this time, unknown to me, the secretary had her own cheque book. Only two cheques were written. It took me a while to get information as to who payment was made. There is more than one cheque book in existence: I have one, access to the others have been withheld.

He was the treasurer of this nice little friendly group, was trying to do the right thing, and could not even get his hands on the cheque book. I wonder why. What role is the chairman playing? Who is the recipient of this money? The letter continued:

After six months a member of the committee questioned the legality of certain grants applied for.

Mr Cochran: Name him.

Mr SPEAKER: Order! The honourable member for Drummoyne, having been a member of this House for a long time, knows that he cannot read lengthy extracts from documents. I ask him to desist from reading the document in full and to paraphrase it.

Mr J. H. MURRAY: The point is that the treasurer was upset about the goings-on in this organisation. He had been directed not to put in the proper accounts. He suggested that the accounts should be audited. He put up a motion to that effect, but they said they did not want an auditor and would get the deputy shire clerk to do that job. The treasurer pointed out that under the law of the land they could not use the deputy shire clerk because he was not a qualified auditor. A motion went through

Page 4532

to have the books audited by a qualified auditor. That happened in March of this year and those books are still to be audited. I wonder why they have waited so long to have the books audited.

The Minister is very keen to look after his departmental officers. If I were the Minister I would do the same thing. But, Minister, there is something going on when an organisation passed a motion to have the books audited at the same time that a senior member of the department was present and ordered the treasurer to

exclude certain matters from the accounts. The treasurer, Mr E. L. Menere, stated this information in a public document. To date there has been no audit. All we have is information that a deal was done behind the committee's back, and that the committee was not aware of it. The chairman, in conjunction with a senior departmental officer, put forward an application for funding that was outside the guidelines that everyone else had to follow, but that application was granted. The books have yet not been audited. [*Time expired.*]

Mr MARTIN (Port Stephens) [3.56], in reply: There is a great need for an inquiry into this matter. The Minister said that the matter had been referred to the Independent Commission Against Corruption, but there is no indication that that inquiry has finished. Mr Karpinski has never been advised that it has finished. Either the ICAC has fallen down on its job or the Minister has fallen down on the job and, therefore, that is an unanswered question.

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

Mr MARTIN: The next unanswered matter about which the Minister spoke relates to His Excellency receiving representations. Those representations were dated 30th July. It is almost the end of October and that representation has not been answered. If that is the style of administration that we have in this State -

Mr Souris: When did we receive it from the Governor?

Mr MARTIN: It is dated 30th July. That is something the Minister will have to be answerable for. If the Minister is so slack, he will have a lot to answer for. When the Minister states that LandCare groups are autonomous and that he has nothing to do with them, he is abdicating his responsibility. If he says that it is up the Federal authorities to hand out LandCare grants, so be it. If the Minister wants to wipe his hands of responsibility, say it has nothing to do with him and assert that it is a Federal matter, that is it.

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

Mr MARTIN: That is an appalling assessment on the Minister's part. He is asking for apologies. He is saying that the man is a hostile litigant. This man has evidence that he has been maltreated, yet the Minister is setting up his organisation as judge and jury. The Minister is not adhering to his obligations. The honourable member for Monaro got on his feet and all he did was sing the praises of a member of the National Party.

Mr SPEAKER: Order! I call the Minister for Agriculture and Fisheries and Minister for Mines to order.

Mr MARTIN: The honourable member for Monaro did not once ask whether probity had been adhered to; he did not once ask about the minutes of a meeting; he did not once ask whether there had been agreement in committee. Either he made statements to mislead the Parliament, or the Minister has been misled. It is a litany of sick administration. The Minister must clear his mind, step in and clean up this mess. In summary, Mr Karpinski's case is, unfortunately, symptomatic of incredible mismanagement by the Department of Conservation and Land Management. I ask the Minister to give a categorical guarantee that taxpayers' funds will be administered only according to the law.

The facts emerging over the past two weeks, with the unforgivable waste in executive salary pay outs and dead rents - and there are more of these to come - indicate that the Minister is not in control. As a matter of urgency these matters have to be brought up in the Parliament. The whole fabric and philosophy of LandCare must remain unsullied. The Minister must immediately address the wrongs. If LandCare groups throughout New South Wales are to retain their integrity and reputation, the Minister must convey immediately to the Commonwealth that the department is professionally and capably managed.

In case there are any misgivings, I will table for the Minister the chairman's report of the Boorowa Community LandCare Group dated April 1992, a copy of the Boorowa LandCare Group's bank statement as at 26th May, 1993, a copy of the National LandCare Program Community Group application form for funding on

David Marsh's property - a form signed by David Marsh only - and a copy of handwritten minutes of a meeting in which Don Russell mentions in passing a proposal of salt action for funding work at "Allandale". The minutes show that no action was taken on this proposal. That is the litany before us. It must be cleaned up. If he is not in the first grade team on the other side, the Minister ought to be ashamed of himself, because he is sweeping the matter under the carpet. [*Time expired.*]

Mr SPEAKER: Order! Before I put the question, I advise the honourable member for Port Stephens that neither he nor any other private member may table documents. However, if he wishes to give them to the Minister at the conclusion of the debate, I am sure the Minister would be only too happy to receive them.

Page 4533

Question - That the motion be agreed to - put.

The House divided.

Ayes, 44

Ms Allan	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Mr Mills
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 Face	Ms Nori
Mr Gaudry	Mr E. T. Page
Mr Gibson	Mr Price
Mrs Grusovin	Dr Refshauge
Mr Harrison	Mr Rogan
Mr Hunter	Mr Rumble
Mr Iemma	Mr Scully
Mr Irwin	Mr Sullivan
Mr Knight	Mr Thompson
Mr Knowles	Mr Whelan
Mr Langton	Mr Yeadon
Mrs Lo Po'	
Mr McBride	<i>Tellers,</i>
Dr Macdonald	Mr Beckroge
Mr McManus	Mr Davoren

Noes, 46

Mr Armstrong	Mr W. T. J. Murray
Mr Baird	Mr O'Doherty
Mr Beck	Mr D. L. Page
Mr Blackmore	Mr Peacocke
Mr Causley	Mr Petch
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mrs Cohen	Mr Rixon
Mr Collins	Mr Schipp

Mr Cruickshank	Mr Schultz
Mr Downy	Mr Small
Mr Fraser	Mr Smith
Mr Glachan	Mr Souris
Mr Griffiths	Mr Tink
Mr Hartcher	Mr Turner
Mr Hatton	Mr West
Mr Humpherson	Mr Windsor
Dr Kernohan	Mr Yabsley
Mr Kinross	Mr Zammit
Mr Longley	
Ms Machin	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Pairs

Mr Amery	Mr Fahey
Mr Doyle	Mr Hazzard
Mr Shedden	Mr Morris
Mr Ziolkowski	Mr Smiles

Question so resolved in the negative.

Motion negatived.

PUBLIC FINANCE AND AUDIT (BUDGET) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr COLLINS (Willoughby - Treasurer, and Minister for the Arts) [4.10]: I move:

That this bill be now read a second time.

This Government, since coming to office in 1988, has implemented the most ambitious program of microeconomic and public sector management reforms of any government in Australia. The reforms are extensively documented in the Budget Papers and include accrual accounting and budgeting, global budgeting, comprehensive budget presentations, the guarantee of service, reform of government trading enterprises and the establishment of the Government Pricing Tribunal. The key objective of the ongoing reform program is to achieve more efficient and effective financial and resource management and improve service delivery for the benefit of the citizens of New South Wales. The reform process for the Budget has now been substantially completed. The Government is currently focusing on the consolidation of the budget reforms.

I am pleased to say that the comprehensive financial reform program that has been introduced by New South Wales is now being followed by a number of other major jurisdictions. In the area of accrual accounting, for example, the Commonwealth, Victoria, Western Australia and South Australia are now following the New South Wales lead. However, we earned our reputation for financial responsibility by being a reformist government before the recession forced other governments to pursue the same path. The purpose of this bill is to incorporate in the Public Finance and Audit Act the accepted public finance standards for budget presentation. These standards are the government finance statistics standards used by the Australian Bureau of Statistics in compiling public finance data on outlays, receipts and financing transactions and are consistent with international statistical standards.

New South Wales has long been a champion of better, more uniform budget information. At the May 1991 Special Premiers Conference all governments agreed to a New South Wales proposal to publish in their budgets supplementary information on the government finance statistics basis for the general government and public trading enterprises sectors. The general government sector covers not only budget dependent agencies, such as the Department of Health, et cetera, which constitute the budget sector, but also those agencies which are self-funding either from user charges or regulatory fees. Examples of self-funded non-budget sector agencies include the WorkCover Authority and the Motor Accident Authority. The aggregates for the general government sector, public trading enterprises and the overall State sector have been presented on the government finance statistics basis in the New South Wales Budget Papers since 1988-89. In addition to the presentation of this supplementary information on State finances, the actual budget presentation has been substantially improved.

Page 4534

Traditionally the Budget was presented on a narrow, Consolidated Fund basis which did not give a full picture of the financial position of the budget sector. Starting with the 1991-92 Budget, the Government finance statistics standards have been applied to present a comprehensive picture of the budget sector financial position. Similarly, the monthly and quarterly reporting of the Budget has been presented on this broader basis and this was legislated for in the Public Finance and Audit Act last year. The intention of these proposed amendments is to now incorporate in the Public Finance and Audit Act the requirement to present the Budget on the basis of Government finance statistics standards, in line with our practice since 1991-92. On some rare occasions, departures from these guidelines on presentation may be warranted for good accounting reasons but they will be required by the legislation to be explained in the Budget Papers and, therefore, will be open to public scrutiny.

A recent example of such a departure was the decision to exclude the proceeds of the sale of the GIO from the Budget despite the fact that inclusion was in line with Government finance statistics standards. This decision was taken in order to avoid distorting the budget result with such a large extraordinary item. The proposed amendments were foreshadowed in the 1992-93 Budget Speech. They are aimed at demonstrating the Government's commitment to truth in budgeting. This legislation will ensure that any future government would only depart from the Government finance statistics principles in a transparent way. The issue of budget presentation was recently raised in the public forum by Professor Bob Walker, professor of accounting at New South Wales University. Without wishing to go into technical detail, the essential proposition put by Professor Walker was that the Budget should present the comprehensive financial position of all government agencies.

The New South Wales Budget presents comprehensive information on revenues and outlays of agencies predominantly funded from the Budget. To expand the Budget to include agencies that are fully or predominantly self-funded would completely undermine the purpose of the Budget, which is the means for Parliament appropriating financial support to budget-funded agencies. It would also be totally at variance with the approach to the Budget of all other Australian governments. Moreover, New South Wales has been a pioneer in presenting separate information on the overall financial position of State agencies both on a cash basis in Budget Paper No. 6 and on an accruals basis in the consolidated financial statements that are released later in the year after the Budget. Hence all the information that Professor Walker proposes is currently being produced. In summary, the amendments contained in this bill are directed at setting in legislation appropriate standards for budget presentation and are in accord with budget practice since 1991-92. I commend the bill.

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

BUSH FIRES (AMENDMENT) BILL

FIRE BRIGADES (AMENDMENT) BILL

Bills introduced and read a first time.

Second Reading

Mr GRIFFITHS (Georges River - Minister for Police, and Minister for Emergency Services) [4.17]: I move:

That these bills be now read a second time.

The main purpose of the Bush Fires (Amendment) Bill is twofold: to change the proportions of contributions towards the yearly estimate of expenditure from the New South Wales Bush Fire Fighting Fund; and to reconstitute the Bush Fire Council, to clarify its role as an advisory body and to reduce its membership from 27 to 16 members. As Minister responsible for the Bush Fires Act I am required each year to prepare and adopt an estimate of the probable expenditure from the Bush Fire Fighting Fund. For the information of honourable members, the fund is in effect a special deposit account held in the Treasury, the moneys from which are used to finance the activities of the Department of Bush Fire Services and to equip the volunteer Bush Fire Brigades. The contributions required to be made to the fund are currently as follows: the Treasurer contributes 25 per cent; local government councils contribute 25 per cent; and insurance companies contribute 50 per cent.

The principal proposal in the Bush Fires (Amendment) Bill is to change the proportion of contributions toward the estimate of expenditure from the fund. As a result of the proposed Act, the apportionment of contributions will be as follows: the Treasurer will contribute 14 per cent; local government will contribute 12.3 per cent; and insurance companies will contribute 73.7 per cent. The bill amends section 32 of the Act in this respect.

The reason for change in the funding ratio is primarily to generate an increase in the equipment funding allocation for the volunteer Bush Fire Brigades in New South Wales. The level of funding available to administer and equip the State's 2,500 volunteer Bush Fire Brigades and 70,000 volunteer bush fire fighters is inadequate. In 1990 the Government asked the Department of Bush Fire Services to prepare a special report on the state and condition of the bush fire fighting tanker fleet. This report entitled "State Fire Fighting Vehicle Profile" was completed in December 1991 and showed, among other things, that of the 2,868 major fire fighting vehicles in the Bush Fire Brigades' tanker fleet just under 50 per cent are in good operational condition, 42 per cent are over 20 years old, and at least 15 per cent - or 430 vehicles - are in very poor condition or beyond economic repair.

The Bush Fire Brigades provide protection to almost nine-tenths of New South Wales, including 1,200 small towns and villages. The reliability of Bush Fire Brigades' vehicles and equipment used in frontline bush fire fighting is of paramount importance to the volunteer bush fire fighters, particularly in the light of the occupational health and safety legislation

Page 4535

and the need to provide a safe working environment. Unless there is an increase in the level of funding, the condition of the bushfire tanker fleet will decline further than it already has. The Government will not allow this to happen.

I have recently met representatives of the Insurance Council of Australia to advise them of the Government's proposals to change the funding ratios to increase the level of funding to the Bush Fire Fighting Fund. I congratulate the insurance industry for its support of the proposals and, in particular, its acceptance of the increased contributions on behalf of its industry. As a result of the change to the contributions the overall level of funding of the Bush Fire Fighting Fund will amount to approximately \$38 million this financial year, an increase of \$8.7 million over the 1992-93 financial year. While the insurance industry will contribute an extra \$13.4 million per annum to the fund, local government councils will be pleased to learn that their contributions will decrease by about \$2.7 million, consistent with the reduction in their contribution proportion from 25 per cent to 12.3 per cent.

I might add at this point that the new funding ratios align with those used to determine the contributions

under the Fire Brigades Act to fund fire brigade expenditure under that Act. In the course of my discussions with representatives of the Insurance Council of Australia, concern was expressed that there were inequities and inefficiencies in the funding of the firefighting services in this State. It was put to me that other potential methods of funding fire services should be explored and examined. I am also aware that the Local Government and Shires Association has similar concerns about this matter. I have therefore agreed to the undertaking of a comprehensive review of the funding of fire services in New South Wales. Terms of reference for the review have been drafted and will be published soon. Mr Ken Robson, the former New South Wales Auditor-General, has been engaged to conduct the review, which will be monitored and directed by a steering committee comprising representatives of the ministry for police and emergency services, the insurance industry, the fire services agencies, local government and the Treasury. I expect the review to be completed by 30th June, 1994.

As I have already stated, the second major object of the Bush Fires (Amendment) Bill is to reconstitute the Bush Fire Council of New South Wales. That council was established following the introduction of the Bush Fires Act and, among other things, has a number of statutory, advisory and educational functions. Its current responsibilities include, among others: establishing standards for firefighting and communications; encouraging and fostering the establishment and organisation of bush fire brigades throughout New South Wales; providing equipment and facilities for volunteer firefighters; educating the public and encouraging its active participation in the prevention, suppression and mitigation of damaging wildfires; reporting each year on the estimated damage from bushfires in New South Wales; recommending any special measures which should be adopted to prevent, control and suppress bushfires; and making recommendations to the Minister, councils and other persons as to the best measures to be taken for preventing or extinguishing fires.

Following the formal establishment of the Bush Fire Service Administration as a department in 1990, the Bush Fire Council has re-examined its role and functions and unanimously agreed to the measures now proposed. They include reconstituting the council, and clarifying its advisory and educative role. Proposed section 39 provides that the new Bush Fire Council is to have 16 members instead of 27, four of whom will be ex officio members and 12 of whom will be appointed by the Minister on the recommendation of various bodies or persons. Proposed section 39A provides that the council is to have an advisory and educative role only. The bushfire finance committee and the co-ordinating committee of the Bush Fire Council have also been reconstituted along similar lines to the way they are presently constituted. However, these bodies will be separate from the Bush Fire Council and their membership will not be determined by the membership of the council. The bill will give effect to these changes.

The Bush Fires (Amendment) Bill will amend the Public Sector Management Act 1988 to change the title of the position of the Director-General of the Department of Bush Fire Services to Commissioner of Bush Fire Services. I am of the view that the change in title to commissioner reflects more the role of the chief executive officer of the department as the most senior operational officer in the bush fire fighting structure. The commissioner will be the chairperson of the reconstituted Bush Fire Council, the finance committee and the co-ordinating committee.

I now turn to the Fire Brigades (Amendment) Bill, which is cognate with the Bush Fires (Amendment) Bill. The object of the bill is to amend the Fire Brigades Act 1989 to require insurance companies under that Act to submit their premium returns in September each year, in conformity with the Bush Fires Act. Under section 58 of the Fire Brigades Act insurance companies are required, during March in each year, to submit returns to the Director-General of the New South Wales Fire Brigades. These returns show the total amount of premiums received by, or due to, insurance companies for the previous calendar year. They are used to assess and determine contributions by insurance companies - for the previous calendar year - towards fire brigade expenditure and to determine the advance payments for the following calendar year. Under the Bush Fires Act, however, insurance companies are required to submit their premium returns in September each year for the previous financial year. By establishing a common reporting date for the return of premiums - in September each year - significant savings from reduced audit and management costs will accrue to the insurance industry. These savings will partially offset the increased contributions of insurance companies to the Bush Fire Fighting Fund.

In order to facilitate the changeover from calendar year to financial year returns for the New South Wales Fire Brigades, thereby establishing a common reporting date, it is proposed to call for a special return by insurance companies and by owners of property insuring with foreign insurers for the six months ending 30th June, 1993. Proposed section 61A makes provision for the calling of this special return. Finally, both the Fire Brigades (Amendment) Bill and the Bush Fires (Amendment) Bill provide that re-insurers will no longer be required to provide returns of the re-insurance business they write. This means, in effect, that direct insurers will fund the whole of the cost of the insurance industry's contribution to the firefighting organisations in New South Wales. The insurance industry supports this proposal.

The devastating impact of a major bushfire is well known to the people of New South Wales and to all members of this House. A bushfire has the potential to devastate a community through loss of life and property as it indiscriminately burns everything in sight. In this State 70,000 volunteers devote many hours of their time throughout the year preparing for and combating bushfires. In the last bushfire season, which was regarded as one of the quietest on record, there were still some 6,700 bushfires throughout the State. It cannot be stated too often that the whole community of New South Wales appreciates and values the efforts of the volunteer bush fire fighters. This Government recognises its responsibility to ensure that arrangements are in place for the 2,500 Bush Fire Brigades in New South Wales to be appropriately and adequately equipped. The revised funding arrangements contained in the Bush Fires (Amendment) Act will ensure that this will happen. I commend the bills to the House.

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

WORKERS COMPENSATION LEGISLATION (FURTHER AMENDMENT) BILL

Second Reading

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [4.30]: I move:

That this bill be now read a second time.

The main purposes of the bill are: to improve job-seeking and retraining benefits for partially incapacitated workers who are unemployed; to increase lump sum benefits for cases of severe disfigurement; to eliminate the requirement for work related common law actions to be brought within 18 months; to allow group self-insurance for related companies; and to rationalise provisions relating to WorkCover managed funds and make other miscellaneous refinements to the legislation. Since the passage of the bill in another place in the budget session of 1992, the WorkCover Board has reviewed the proposed partial incapacity benefit provisions, in the light of additional consultations and actuarial advice.

Based on the WorkCover Board's recommendations the Government proposes that those provisions of the bill be revised to incorporate further improvements, and notice of intention to move amendments in Committee has been given in that regard. I will speak here of the main thrust of the proposed changes to benefits for partially incapacitated workers, and I will address further details at the Committee stage. The proposed changes complement the significant increases enacted in December 1991 in weekly compensation for total incapacity and in lump sum entitlements for injuries covered by the table of disabilities in the Workers Compensation Act. The Act includes two categories of weekly compensation for partially incapacitated workers.

Section 38 provides special weekly payments, in the form of job-seeking and rehabilitation training benefits, for an initial period. These special benefits are designed to assist workers who are fit for selected duties to return to suitable work with their original employer or - if that fails - to find alternative work. For

those partially incapacitated claimants who either return to work with reduced earnings or are still unemployed after the section 38 phase, section 40 provides weekly make-up benefits based on the difference between pre-injury and post-injury earning capacity. The principal improvement to section 38 benefits contained in this bill is the extension of the maximum period covered by the section from 52 weeks to 104 weeks. In addition, the present arrangement of different rates payable under the section is to be simplified, and various other useful clarifications are included.

The object of these changes is to increase the effectiveness of section 38 benefits as a return to work incentive, to alleviate the economic effects of unemployment during this initial phase, and to enable claimants to complete longer retraining courses where necessary. The definition of rehabilitation training that may be covered by section 38 weekly benefits is widened by the bill to include a whole range of activities that may be reasonably necessary to improve the worker's re-employment prospects. Such rehabilitation activities include job seeking skills training, literacy and English courses, work trials and vocational re-education. Job seeking and retraining benefits are also to be made more accessible by the provision of better information to claimants. In particular, where the pre-injury employer fails to provide suitable duties for a willing worker, the insurer will be obliged to specifically notify the worker if ongoing job-seeking is to be a condition of further entitlement under the section.

A related new provision will ensure that, before unemployed claimants are assessed for make-up compensation under section 40, they are properly notified about procedures for obtaining possible higher benefits under section 38. It is part of the overall intention of the proposed amendments to section 38 that, where a worker is subject to the alternative job seeking requirement, it should be applied in a manner which is productive and reasonable in the circumstances. Rehabilitation is considered a two-way

Page 4537

street. The proposed provisions reflect that, by placing complementary obligations on the employer, including its insurer, and the worker. Employers who fail to provide suitable duties for injured workers may incur higher insurance premiums.

Workers, on their part, are expected to be reasonably motivated to return to employment. If, for example, a worker made no effort at all to seek work, or evaded receiving information about the need to take reasonable job-seeking steps, he or she would not meet the requirement of being ready, willing and able to resume work. Any cessation of the section 38 benefit on the basis that the claimant is not genuinely seeking work will be subject to the general requirements of the Act for the insurer to give prior notice of benefit reduction. In those circumstances, workers will also be able to pursue conciliation and other dispute resolution avenues. Where a job-seeking claimant does obtain a job, make-up compensation under section 40 will immediately be payable to supplement the wage from that job, and the worker will keep unused section 38 entitlements for any future periods of unemployment.

The other major improvement to be made by this bill to partial incapacity benefits involves weekly make-up payments for unemployed claimants under section 40 of the Act. Those payments are to be improved so as to remove anomalies, increase fairness and reduce the necessity for litigation. Since this part of the bill is proposed to be substantially amended at the Committee stage, I will deal with this in more detail then. Substantial increases are also provided in lump sum entitlements of workers suffering severe facial and bodily disfigurement. The maximum amounts payable under the table of disabilities for those injuries are to be increased from \$33,761 to \$103,880 and from \$28,567 to \$64,925 respectively. These increases will also apply automatically to injured volunteer bush fire fighters and emergency and rescue volunteers.

A further item in the bill is the removal of the current provision requiring injured workers who fail to commence common law actions within 18 months after their injury to give a full and satisfactory explanation to the court before they can institute proceedings. This change will avoid unnecessary preliminary hearings and is appropriate in view of the time often required for occupational diseases and other injuries to stabilise. It will remove one of the steps in the formal litigation process and accordingly reduce the legal costs associated with those actions. The remaining general limitation period of three years is considered sufficient in the circumstances. In addition, the bill will close the present category of specialised insurers under the Workers

Compensation Act. This will not affect the present licensees. It will also extend self-insurance provisions by allowing group licences to be granted covering a holding company and its nominated subsidiaries.

Various other refinements of insurance and other provisions are included. In conclusion, the benefit provisions in this bill make important improvements to the benefits payable for unemployed partially incapacitated workers. The board will continue to consult with representatives of injured workers concerning the benefit, rehabilitation, and dispute resolution framework of the WorkCover scheme. I commend the bill.

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

UNIVERSITY OF NEW ENGLAND BILL

SOUTHERN CROSS UNIVERSITY BILL

HIGHER EDUCATION (AMALGAMATION) AMENDMENT BILL

Second Reading

Debate resumed from 14th October.

Mr J. J. AQUILINA (Riverstone) [4.37]: The Opposition supports the bills but proposes to move an amendment, which I shall foreshadow soon. We accept the argument that the present structure for the University of New England has failed, despite the high hopes that were placed on the amalgamation in 1989. I shall comment on the higher education policy statement released in July 1988 by the Federal Minister for Employment, Education and Training at that time, the Hon. John Dawkins. Various statements were made as to why the amalgamations were taking place. It was agreed by members on the Government and Opposition benches that the larger institutions would offer greater potential for significant education advantages. The larger bodies would provide for students a more comprehensive range of course and program options, greater scope for transfer between disciplines with maximum credit, and better academic student services and facilities.

For the staff of the larger institutions the wider range of courses and programs would give the potential for enhanced promotional opportunities. No doubt many of the academic staff were quick to realise at that time that they would benefit substantially from being members of much larger institutions than those that existed prior to the commencement of the amalgamation process in 1989. Also a wider range of professional contacts would be made, and there would be more flexibility in the arrangement of teaching loads and an enriched research and scholarly environment.

That was the theory. Indeed, for a great number of the universities which were amalgamated at that time, that was also the practice. I speak specifically of universities such as the Charles Sturt University, which has been one of the great success stories of amalgamation. As this was to be a rural university it was envisaged that the amalgamation would cause a number of problems with the distance between different campuses and the logistics at that time of co-ordinating the activities of such diverse campuses. However, the Charles Sturt University has benefited substantially from the amalgamation process. Mr Speaker, you are on the Board of Governors of the

Page 4538

University of Western Sydney and would be well aware that the university comprises a number of campuses geographically dispersed throughout the western area of Sydney, yet that body is going from strength to strength. It is a great example of what can be achieved in having a multicampus university cater for a broad range of subjects, disciplines and students.

Many other universities have gone through the amalgamation process successfully. However, the University of New England was always going to experience problems. I well recall the debate in this Chamber in April 1989 when the former Minister for Education and Youth Affairs, Dr Terry Metherell, and I debated this

issue. Academics, staff and students from the University of New England and the Northern Rivers College of Advanced Education, as it then was, expressed concern about whether the amalgamation would work. Indeed, I remember at that time receiving a number of deputations from the Northern Rivers CAE urging me, as spokesman for the Opposition on education matters, to oppose that amalgamation. However, the Opposition decided to support the amalgamation process because, in its view, it was a worthy exercise.

The amalgamation process has not been successful with these two bodies. Indeed, as the years have progressed it became inevitable that the two would have to part ways once again. I shall paraphrase a comment that was made to me in a briefing I had earlier this week. In 1989 we saw the marriage of several colleges to form a number of universities but today, sadly, we are going through the first process of a divorce of various colleges to form, however, two universities, not one. I am sure those two universities will be able to serve the interests of diverse groups throughout the regions of New England and the North Coast far better than the single amalgamated university has been able to do.

It is true that, generally speaking, larger institutions have greater flexibility in deploying resources and in responding to changing course requirements and student preferences. That clearly has some limitations when spanning wide distances requiring several hours of travelling, irrespective of the mode, and also the wide cultural diversity, as was the case with Northern Rivers CAE and the University of New England. Of course, one must note that the UNE has had a long, substantial and prestigious academic history. The Northern Rivers CAE, a much newer college, devoted more to modernistic academic endeavours, did not quite fit with the academic medium of the University of New England. The two campuses had diverse aims, objectives and outlooks regarding academic endeavours.

In many ways I am confident that the process of forming the new University of New England and the new Southern Cross University will herald a further plus for academic pursuits in these two important areas of the State. The two universities will offer new hope to students throughout New South Wales for academic pursuits. They will be able to accommodate ideals, objectives and the necessary requirements of students that the single amalgamated university has not been able to achieve. The Opposition agrees that the present university should be dismantled and that, from it, two separate universities should commence, hopefully on 1st January, 1994. That date has import for the Orange Agricultural College, which initially was proposed to amalgamate with the Charles Sturt University, then later, by legislation, was proposed for amalgamation with the University of New England. I understand that now the Orange Agricultural College is keen to join the University of Sydney. That university is always delighted to welcome another infant into its arms. I am sure this proposal will meet with approval.

The Opposition believes that overall the proposals are sensible and workable. I am grateful to Warren Grimshaw, from the ministry, for his informative briefing earlier this week. At that meeting it was suggested that the Minister could perhaps give certain assurances relating to particular matters of concern. As she may now have been appraised of some of the issues raised at that briefing, in reply she may provide the assurances sought. It should be made clear in the debate that in respect of the Southern Cross University Bill the presence on the council of nominees from the University of New South Wales is intended to cease at such time as the Minister decides the period of collaboration between the two universities will finish. This involves a technical legal point. On the one hand the bill states that at an appointed time the period of collaboration with the two universities shall end but it also specifies that the University of New South Wales has the right to appoint certain members to the board. The bill does not provide that those appointments will cease at the same time as the collaboration between the University of New South Wales and the Southern Cross University will end.

I shall not move amendments to fine tune the legal aspects of the legislation. I am confident that if, during her reply, the Minister gives the assurances sought, it will be taken as agreed that the intention of the bill is as I have just stated. It is appropriate that the Government give that assurance while the bill is debated, and the Government has indicated that it will do so. It is appropriate that the Minister should give an assurance that in selecting members for the Southern Cross University board she will appoint someone with experience in the TAFE sector in view of the intended establishment of a jointly located school-TAFE-university facility at the Coffs Harbour campus. This is an exciting concept and a valuable experiment in an era of greater co-operation

and credit transfer between the various sectors. I should like to dwell on this point for a moment because it is close to the heart of many speakers who represent electorates in the North Coast, mid North Coast and western areas of Sydney. I speak, of course, of the unique experiment to be undertaken at the Southern Cross University of having university, TAFE and schools sharing common facilities and having a commonality of objectives.

Page 4539

The other area being considered for this process is at HMAS *Nirimba*. Together with many people of western Sydney I look forward to agreement between the Federal and State governments over the purchase of the naval base and the establishment in 1994 of an education precinct there. That would allow for a further campus of the University of Western Sydney, a TAFE college and two senior high schools - one being run by the Department of School Education and the other by the Catholic Education Office. As we move into new pathways for the higher school certificate and the concept of a vocational higher school certificate, I am excited by the opportunity for cross-accreditation between subjects. For example, a student may undertake at TAFE a subject or a series of subjects for the higher school certificate - whether over one, two, three, four or five years. Having received accreditation, that student may move into a TAFE certificate course; and may then enrol in a related university degree course and receive accreditation by virtue of various units.

The concept is exciting and something that I strongly favour and will pursue. Being able to do this on the Southern Cross University and HMAS *Nirimba* sites will assist young people in a way that has never before been available in this State or country. That will assist much more in increasing the skills of young people pursuing specific vocational endeavours, which is an important initiative. I urge the Minister to take steps to ensure that the Southern Cross University council has representatives from the North Coast regions and communities that the university intends to serve. The Southern Cross University will be vast: it will cater for the interests and needs of students from around the State, but especially of students in the areas surrounding Coffs Harbour, the Tweed, Hastings and Lismore. The Minister must responsibly exercise her powers in appointing the various members to the Southern Cross University council to ensure that they reflect the diverse interests of the North Coast areas.

The Minister said in her second reading speech, "The legislation . . . places a requirement on the Minister to consult with the university in determining suitable appointees". As far as I can determine, the legislation does not place such an onus on the Minister. This matter has been raised with me by various persons who have an interest in the establishment of the Southern Cross University; it is a legitimate and appropriate concern and I ask the Minister to give that assurance in her reply. The University of New England Bill states in clause 9(4) that in appointing council members the Minister is to consult such persons as he or she considers appropriate. I ask the Minister to assure the House that, as a matter of course, the intended meaning of that clause is that people at the university ought to be among those consulted when the Minister is considering appointees.

The Opposition draws a distinction between the Southern Cross University and the University of New England because of the geographical make-up of the two universities. The Southern Cross University is in many ways more akin to the University of Western Sydney and Charles Sturt University, which have a multicampus network structure - each with a larger than average council, partly to enable representation from the various campuses.

Therefore, if the assurances are given, it would be appropriate that the proposed size of the council remain as provided in the bill. I do not intend to seek to alter the configuration of the Southern Cross University council as outlined in the legislation. The major concern of the Opposition is with the proposed structure of the University of New England council. The Opposition does not believe that the proposed structure is amenable to statements of intent by the Minister. I will therefore move an amendment in this regard.

Setting the number of ministerial appointees at six gives disproportionate weight to the Minister in determining the make-up of the council, and there is no basis for this approach. I have examined the composition of the councils of all other universities in New South Wales. With the exception of Charles Sturt

University, which has four ministerial appointees and four other members appointed by the Minister on the nomination of the University of New South Wales for a limited time, all other universities have four ministerial appointees, including the three largest - Sydney, New South Wales and Macquarie. I do not see any basis for six ministerial appointees to the University of New England council.

I do not intend to amend the proposals for the Southern Cross University, for reasons I have already outlined - geographical diversity, et cetera - but I believe it is going over the top to have such a large board at the University of New England. Under the Government's proposals this would result in a council comprising 19 persons with six ministerial appointees, whereas every other university has only four nominees, with the exception of Charles Sturt University and the proposed Southern Cross University. Together with the two parliamentary appointees, the Minister could still have effective control through eight of the 18 votes on the council before the appointment of the council-appointed member. This would mean having to garner only one more vote to be able to externally dictate university policy and direction. In many ways that is dangerous. I cast no doubt upon the intentions or integrity of the Minister for Education, Training and Youth Affairs, but there is a danger that a Minister, through ministerial appointees to a council of a university, could virtually dictate the policies and direction of that university.

It must be remembered that the council is an extremely powerful body within the university, having the power to appoint staff, confer degrees, determine what courses are provided, and being responsible to financially manage the university's affairs. Given these powers and responsibilities, it is appropriate that no one body or person have the power to dominate councils. Universities are important institutions within our democracy. Freedom of thought and expression, freedom to research, and freedom to

Page 4540

articulate potentially unpopular arguments must be guaranteed, not only by the governing bodies of universities but by the legislation this Parliament enacts to establish them. I hold that as a very important principle, one I have stated consistently in this Chamber in all matters related to education. It may be recalled by honourable members that I made a big issue of this when the Parliament was debating the university amalgamation legislation in 1989, as I did also when the Parliament debated the Education Reform Bill.

The guarantee of freedom for universities should not be seen as an excuse for them to be ivory towers, detached from the communities they serve. It is appropriate for external people to be appointed to university boards. The Government has failed to articulate to my liking and to my understanding any argument in favour of departing from the formula that was agreed to in 1989 for the university to have four ministerial members appointed to the board. That formula has worked well in every other university in New South Wales. I make the point that under the Government's proposal an interim board of the present University of New England would comprise not 20 members as under the present arrangements, but 19 members, with an additional 18 members of the Southern Cross University. Admittedly, they are two distinct institutions, but in a sense 37 people will be doing the work that 20 people have done until now.

I do not want to belabour that point, but a point must be made about bloated boards, that is, boards with too many members. Indeed, the spirit of the original white paper introduced in July 1988 by the then Federal Minister for Employment, Education and Training, the Hon. John Dawkins, was that the ideal size of a university council or board was 15, that is, less than the council of any New South Wales university. The smallest boards have 18 members: those of the University of Technology, Sydney, Newcastle University, and Wollongong University. There is some advantage in keeping the overall governing body more manageable in size. I note that corporate bodies of a similar or larger size than significant universities often have smaller boards. Many large companies have small boards. For example, BHP, with all its diverse interests, whether technological, industrial, educational or financial, has only 12 members. The newly enacted Local Government Act limits councils of all sizes to 15 councillors. The State Rail Authority, with its various interests, has only nine board members.

I do not want to pursue this point or make a simplistic issue out of it, because clearly it is a complex matter, but I make the point that boards of organisations with complex interests need not necessarily be large in order to proffer expertise to their organisations. There is an argument to be made that universities require board

members with a broad range of expertise, whether financial, academic, industrial or technological. At the same time I am confident that this broad range of expertise can be found in a board or council of limited size as well as it can in a board or council of a much larger size.

The argument that having more ministerial appointees guarantees that universities will be more accountable to their communities relies on a number of assumptions, including the assumption that Ministers will exercise good will in appointing members. I have made the point that although I have no problem with the intentions of the present Minister, it must be remembered that this has not always been the case and may not always be the case. Dare I mention that Dr Terry Metherell was one Minister who departed from the responsible tradition and began appointing people to boards because of their political affiliations or views. He abandoned the tradition that academic staff of universities who were not elected by the body of academics should not be appointed by the Minister. He specifically appointed persons to various boards of new universities around the State not because of their expertise in various fields, but because of political or personal affiliations. I do not tar every one of those members with that brush, but the only reason for the appointment of a number of quite notable persons to boards was their political and personal affiliation with the Minister of the day.

The legislation we re-enact today may have to last 60 or 70 years. I understand that the University of Sydney Act was not amended between 1910 and 1987. This legislation must be enacted with rogue Ministers such as Dr Terry Metherell in mind. The other argument is that the range of expertise on the council would not be sufficient. With four persons appointed by the Minister and one co-opted to the council, and with the chancellor and vice-chancellor, there would be seven persons on the council who could bring the appropriate range of managerial, financial, entrepreneurial, professional and educational skills and experience to the university. If such expertise cannot be found within that number, I suggest to the House that too little effort has been made. I foreshadow at this stage that the Opposition will seek to amend the University of New England Bill so as to change the number of ministerial appointees from six to four. I support the bills.

Mr W. T. J. MURRAY (Barwon) [5.6]: I support the legislation, particularly the University of New England Bill because it goes back to the re-creation of the University of New England, a university that should not have been amalgamated and, in my view, should not have been partially destroyed by the changes made at the behest of the Federal Minister. The changes were made at that time on the basis of money rather than university education, the delivery of services, and the creation of degrees and quality of education. I believe that the amalgamation of the University of New England, the Northern Rivers College of Advanced Education, and the Orange Agricultural College, not to mention the developments at Coffs Harbour, was doomed before it got off the ground, especially because of the inability for consultation between all those organisations. For those reasons I support the restructuring of this university system.

Page 4541

I believe that returning the Orange Agricultural College to the administration of the University of Sydney will ensure that it becomes a major extension of the agricultural facility at that university, from veterinary science through to agricultural science. The agricultural college will be strengthened by its association with the University of Sydney. The creation of the North Coast campus under Southern Cross, linking Coffs Harbour and Lismore, will be of great advantage not only to that region but also to southern Queensland. At present the Lismore campus draws many students from southern Queensland. The educational facilities provided for the areas of southern Queensland, Lismore and Coffs Harbour will be servicing what is expected to be the second biggest population area in Australia by the year 2000. The area from south of Brisbane to about Beenleigh - taking in the Gold Coast and the Tweed - will be a significant region. Population growth will occur in the southern parts of Ballina and down to Coffs Harbour, and the Southern Cross University will be truly representative of that part of New South Wales.

My particular interest is, and has been for many years, the University of New England. The Minister appointed me to the council of that university, but my involvement goes back to the old University of New England and the creation of the Rural Science Degree. Students who lived in our home while studying for that degree spawned my interest and my desire to ensure that the University of New England be recreated and

re-established on a sound basis and, as a result of that re-establishment, move forward to service the agricultural and social needs of the north and northwest of New South Wales and, indeed, southwestern Queensland.

The University of New England and the Southern Cross University could service two distinct areas. It is therefore necessary to recognise that the work that has been done in the creation of the University of New England, in its specific attachment to many agricultural areas and developments that have taken place recently through the Armidale campus, has been of enormous benefit to agriculture in Australia. That must be enhanced and further developed.

I believe that a niche is available for the University of New England to become the agricultural university of Australia. That niche will have to be carefully nurtured because the university's relationship with agriculture is becoming extremely well known around the world. Generally, like the honourable member for Riverstone, I support most of the comments made about the process we are debating. However, I should like the Minister to clarify some points and thereby satisfy genuine concerns within sections of the university: the student body, professors, academic staff and graduates.

I should like clarification about the financial future of the University of New England. Further, we need to establish the title of the land for the creation of the University of New England. I realise that that land is not dealt with by the legislation, but if we are to ensure the future of the University of New England it is critical to establish the title to the land. For example, before David Drummond created the first country education institutions in New South Wales, through the teachers' college at Armidale and the University of New England, there was a doubt as to whether those two institutions could be created.

The title to the university land is true and exacting, but the title to the teachers' college remains within ministerial hands. As a result, there is a degree of concern that the university does not hold the title to a major part of the university's land. We need to establish a distinct title, be it a transfer from the Minister who currently holds the title to the university - which I believe would be the best way of going about it - or possibly through a trust. There are conflicting problems within the building structure, especially from the art gallery's point of view.

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

PRIVATE MEMBERS' STATEMENTS

DAPTO TO KIAMA RAIL ELECTRIFICATION

Mr RUMBLE (Illawarra) [5.15]: I wish to refer to the 1993 budget estimates for the State Rail Authority. One item in the estimates relates to the electrification of the railway line between Dapto and Kiama. The project was due to commence in July 1993 and to be completed by June 1996. The estimated cost, according to Treasury papers, was \$24 million. I understand that \$150,000 will be spent in 1993 on site plans et cetera. I understand also that \$3.5 million will be spent in 1994-1995, leaving in excess of \$20 million to be found in 1995-96 to comply with Treasury estimates. I fully support this vital project. Thousands of commuters use the line each day. People as far south as Kiama commute to Sydney each day for their employment.

I am mindful that the Federal Government contributed \$7.5 million or 75 per cent of the cost of the recent electrification of the railway line between Coniston and Dapto. I ask the Minister for Transport and Minister for Roads whether funds have been earmarked to electrify the line between Dapto and Kiama. Will he inform the House if any agreement has been made with the Federal Government in respect of the financing of this

important project? I should like to know also whether it is planned to open sections of the line at different times. Between Dapto and Kiama there are five stations: Albion Park, Oak Flats, Dunmore, Minnamurra and Bombo. I realise this is a major project, and perhaps the State Rail Authority has plans to open up different sections at different times.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.18]: I note the member's comments and I think, although I am not absolutely certain, that an application is before the Federal Government for

Page 4542

funding for the electrification of that line. I will certainly ask the Minister to provide details about it. We often hear in this House how the Federal Government has been generous and given so much money to the State. I remind honourable members that the money coming back to New South Wales is our tax money. Quite often under the formula New South Wales does not get enough of it.

That is one of the most important points I should like to make: that under the formula New South Wales is not getting a fair deal from the Federal Government. Both sides of the House should be aware of that. While ever we have tied grants from the Federal Government, whether Labor or the coalition is in office, the New South Wales Government will be told by faceless bureaucrats in Canberra exactly how it can spend the money. The people of New South Wales should be aware that a multitude of public servants are employed in Canberra by the Federal Government to second guess what goes on.

Mr Rumble: They are not as highly paid as those in New South Wales.

Mr CAUSLEY: They are more highly paid than New South Wales public servants. Is the honourable member for Illawarra seeking to justify hundreds and thousands of public servants in Canberra eating up money that should go towards the electrification of that line?

Mr Rumble: They do not receive \$200,000 per annum in salaries.

Mr CAUSLEY: The honourable member for Illawarra agrees. Therefore, he agrees that Canberra should swallow up the money and that Illawarra should not get the money for the electrification of its railway line. I am glad to hear the honourable member accept that. We must try to solve this problem and, with the funds that are available, we must deliver these important services to the people of New South Wales.

DEE WHY TO ST IVES TRANSPORT CORRIDOR

Mr HUMPHERSON (Davidson) [5.20]: An article on page two of today's *Manly Daily* draws attention to a concern that has been expressed by many residents in my electorate, particularly those in the suburb of Belrose. This matter concerns me because it relates to a campaign by Pittwater Council which has no relevance to that council. Pittwater Council is campaigning to revive the redundant and abandoned transport corridor between Dee Why and St Ives. I will outline the history of this matter as members of Pittwater Council appear to be totally ignorant of the facts. They have gone well beyond the bounds of what could reasonably be expected to be their responsibilities. They are interfering in the affairs of Warringah Council and the electorate of Davidson.

The corridor to which I am referring has been on council's books since 1951. In 1991 it was abandoned by this State Government, and that action had the support not only of Warringah Council but also of many local residents. The reasons were many, but the most important one was that the corridor was redundant. If a route had been provided between Belrose and St Ives - which is the western destination of the corridor - it would have cut only three kilometres off the 10-kilometre route between Belrose and St Ives and would have cost a significant amount. If the route went through what is now Garigal National Park and Davidson Recreation Area - steep terrain which has necessitated the erection of a bridge not dissimilar to the Mooney Mooney Bridge, with high, concrete viaduct structures - a great deal of sensitive bushland would have been damaged.

If that corridor were developed it would have a significant impact on the residents who live along that route. The Department of Planning is conducting a study on that corridor and its recommendations will be considered by a working party comprised of representatives from Warringah Council. The Department of Planning will recommend that that corridor should be put to residential use. Some of the comments that have been made by councillors from Pittwater Council clearly demonstrate their lack of understanding of the issue, the environmental impact, local transport needs or development plans for the Manly-Warringah-Pittwater peninsula. Those councillors do not recognise the concerns of local residents and they have no idea what impact the development of that corridor would have on the residents of St Ives in the electorate of Gordon - represented by my good colleague the honourable member for Gordon - and the residents of Killeaton Road in St Ives.

Pittwater Council's proposal is nothing more than environmental vandalism. This proposed corridor will be a road to nowhere. People at the St Ives end of the corridor have already identified alternative uses in a rezoning plan. Pittwater Council's campaign has been kept alive by a number of individuals even though it has no chance of success. As I said earlier, they are ignorant of the facts and should concern themselves with matters relating to their own area. It is somewhat ironic, given that Pittwater Council is the most recently formed council in New South Wales. It was formed on the basis of giving people who do not live in the immediate Pittwater area a say in their own affairs. Yet a year and a half to two years down the track Pittwater Council wishes to have a say and to involve itself in matters well outside its immediate area. It should keep its nose well and truly out of Davidson and Belrose and leave the residents of Belrose alone.

If councillors from Pittwater Council are as concerned as they say they are about the transport impact on Ingleside and Warriewood land releases - a significant development in their area - they should focus on a number of things. Mona Vale Road, which is the best road to take vehicles into and out of the area, has the capacity to be upgraded to four lanes

Page 4543

and, ultimately, six lanes, if necessary. Councillors from Pittwater Council should support a light rail system for the peninsula - a matter about which they have been fairly quiet in recent times. If the light rail system were extended to Warriewood, or even Mona Vale, it would alleviate many traffic problems on local roads. If councillors supported local employment and local business there would be less need for commuter traffic out of the area. This council and its councillors are wrong on this matter. The corridor will not be reinstated. It is not in the interests of the area, the region or my constituents.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.25]: I thank the honourable member for Davidson for his most relevant statement this evening. It shows the lengths to which some councils will go to become involved in the affairs of neighbouring councils or in State Government matters. It is probably a lot worse in the city than it is in country areas, where councils are involved in political issues. By taking on issues such as this council members try to obtain a high profile in the belief that they might become candidates for this or another Parliament. This is patently clear in councils in the city area. We have only to take as an example the Mayor of Liverpool Council, Mark Latham, who has spent \$300,000 of ratepayers' money to prevent the construction of a freeway. Even Labor members demonstrated outside Parliament House and displayed signs which read "Stop the Freeway".

Many people are now using the freeway, including councillors from Liverpool Council. They realise the advantages of the freeway in savings in time and fuel. People are voting with their wheels in relation to the payment of a toll on that freeway. There is no doubt in my mind that Latham, who is playing games as usual, is using this freeway as a political exercise. There is no doubt that members of Pittwater Council are doing the same thing on the North Shore. This House should note the irresponsibility of some councillors involved in these actions. Ratepayers should be aware of how their funds are being wasted in these political exercises.

FAIRFIELD HOME AND COMMUNITY CARE FUNDING

Mr NEWMAN (Cabramatta) [5.27]: I wish to draw to the attention of the House and the Minister for Community Services a compassionate matter. Recently, the Fairfield Home and Community Care Forum made representations to me concerning funding allocated to the Fairfield City area, which affects the Cabramatta electorate. The home and community care program - a commendable program - was introduced in 1986 to enable frail and old people with disabilities to continue to live in the community.

The home and community care program is funded under a cost-sharing arrangement, with 60 per cent of funding contributed by the Commonwealth Government and 40 per cent by the State Government. The Fairfield Home and Community Care Forum, which is serviced by Centacare people, has done a commendable job in my electorate and other electorates. I, on behalf of the honourable member for Fairfield and the honourable member for Smithfield, express concern at the current funding available to that forum. One of its co-ordinators, Irene Ross, wrote to the Premier and to the Minister on 12th October and said:

The growth in HACC funding that has occurred in previous years has not been adequate to meet the rapidly increasing level of need. The reduced availability of nursing home and hostel places, the early discharge of patients from hospitals to the community, and the increasing number of aged persons, have all led to increased demands on HACC services.

From 1986 to 1991 there has been a 10 per cent increase in people aged 60 to 64 years in the Fairfield local government area. In the same period there has been a 37.3 per cent increase in people aged 65 to 69 years; and for people aged 80 to 84 years there has been a 37.3 per cent increase. Funding has not been able to meet demands in this area. The Cabramatta area is a fairly large catchment within the Fairfield local government area. Approximately 25 per cent of people aged 65 to 79 years and 40 per cent of those in the 80 years plus bracket in the Fairfield local government area reside in Cabramatta.

I am concerned that the community transport section within the Centacare service is turning down four to five people per day. The increased demand for transport in Cabramatta is mainly due to lack of resources and funds, and people wishing to go to nursing homes and to keep medical appointments are being turned away. These people are told that because of insufficient funding they cannot be assisted with transport to those locations. The community options section, which is funded for 100 clients, has 41 clients in Cabramatta. It will no longer take additional clients. It is turning away people who cannot use other services.

The Government must look at this alarming situation. The 2.4 per cent increased allocation in the State Budget is inadequate and only covers the superannuation of Home Care Services staff and indexation costs. I appeal to the Minister and to the Government to increase the allocation to 8 per cent for the third year in a row, which would amount to approximately \$10 million for the State. A substantial part of that money should go to Fairfield city, where the demand is among the highest in the State. [*Time expired.*]

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.32]: I have noted the comments of the honourable member for Cabramatta. Though I am not the Minister responsible, I recall statements made by the Minister in this House in the past few days about the increase in funding from the Government for these areas. While I acknowledge the needs of all electorates, I am aware that there has been an increase in funding. I will refer the concerns of the honourable member to the Minister for his advice and for details that I do not have.

Page 4544

"PICKETT HILL" PROPERTY ABORIGINAL LAND CLAIM

Mr JEFFERY (Oxley) [5.33]: I wish to address this Parliament on another blatant land grab by the National Parks and Wildlife Service. It is a matter of great importance and one which has had an enormous impact on my constituents, Mr and Mrs Patrick Holgate, owners of a property called "Pickett Hill" near Valla. I am pleased to see Mrs Holgate in the gallery tonight. For years Mr and Mrs Holgate have fought tooth and nail to defend their freehold rights to their magnificent 300-acre dream. The land was purchased in 1970 and has been their home and intended future security since that date.

In 1983 the National Parks and Wildlife Service informed the Holgates that the land had some Aboriginal significance. First it was claimed that a 50-metre clearing surrounded by trees was of interest. The Holgates offered to donate this land with a five-acre buffer zone. The offer was publicly and gratefully accepted by the National Parks and Wildlife Service, which was then unable to locate the site. In 1986 the National Parks and Wildlife Service classified 300 acres as a kangaroo increase area. In June this year, in a genuine attempt to settle the issues amicably, Mr and Mrs Holgate held a meeting with four Aboriginal elders representing the local land council. An agreement was reached regarding 50 acres of land above the 300-metre contour. It was agreed that this portion of the land was suitable for dedication as an Aboriginal place in perpetuity. It was agreed, the Aboriginal elders were happy, but the National Parks and Wildlife Service scuttled the whole idea within 48 hours, the suggestion being that the agreement was not valid because three of the four elders were women.

Over the years various and numerous claims have been made on the land for camp sites, traverse areas, a highly sacred initiation site, and a blessed resting place, none of which can be identified or substantiated. My constituents have repeatedly tried to reach a compromise on this issue - they have been patient for 10½ years - so as not to totally destroy their property and their options for subdivision. We are talking about freehold land, people's land. No Aboriginal connection was made known at the time of purchase, and until the first claim in 1983 Mr and Mrs Holgate were not aware of any covenant on their land. Conservation agreements are only voluntary agreements.

This matter has been a constant strain on Mr Holgate's health. As a matter of fact, he was admitted to hospital tonight and will undergo vital surgery at the Royal North Shore Hospital because of the trauma that has continued for so long over this issue relating to their land and their rights. This fiasco amounts to a 200-acre land grab by the National Parks and Wildlife Service, which has involved the Holgates in considerable financial expense, a great deal of paperwork and continual stress and worry about the future. Two-thirds of their property has effectively been sterilised. Options for subdivision - their rights - have been seriously eroded and stalemated, and nothing is happening. It has been going on and on, longer than "Blue Hills".

I suggest that if the land is so sacrosanct the National Parks and Wildlife Service or the Aboriginal people concerned should purchase the entire property at current market value and let the Holgates get on with their lives somewhere else or that the entire charade cease immediately and my constituents be allowed to manage and determine the future of their property in their own right and in their own way. I am pleased that the Minister for the Environment is in the Chamber, having advised him I intended to raise this matter. I do not know how many times I have spoken to the Minister and to the new director about this. I call on the Parliament and on the Minister for the Environment to act immediately to lift these restrictions to allow the Holgates to get on with their lives, or to buy the land, to pay them out so they can get on with their lives. This matter is of great importance to me and should be of great importance to anyone who owns a house or land in New South Wales. Unless something happens now, the matter will not rest here. I ask the Minister to address the matter immediately.

Mr HARTCHER (Gosford - Minister for the Environment) [5.38]: I acknowledge the work of the honourable member for Oxley on behalf of his constituents, including Mr and Mrs Holgate. His determined advocacy on their behalf has been going on for a long time and concerned both my predecessor, the Hon. Tim Moore, and me. Matters such as this are not easy. As Minister administering the National Parks and Wildlife Act, I have a statutory responsibility to protect the Aboriginal cultural heritage of this State. This House would wish me to enforce that responsibility vigorously and with due acknowledgment of our responsibility to our Aboriginal community and our responsibility to ourselves as the guardians of that great cultural heritage.

I also have, as do all honourable members, the responsibility to acknowledge the freehold rights of those who purchase land to ensure that they are allowed within the law to use the land for their own benefit. In this case there is a problem, and I have acknowledged that problem. I have met Mr and Mrs Holgate, who are a fine couple, to try to resolve that problem. At this point we have not been able to attain a satisfactory solution. The National Parks and Wildlife Service advises me that it is prepared to allow for a subdivision of lot 2 on various

conditions. Those conditions include dedication of certain of the area above the 200-metre contour as an Aboriginal place and that no dwellings be allowed to be erected in the area of the proposed Aboriginal place. This would enable use of the land and it would ensure proper protection of the Aboriginal site. To the present, it has not been possible to obtain the agreement of Mr and Mrs Holgate. I have written to them and I assure Mrs Holgate, who is in the gallery now, and her husband that I will endeavour to co-operate as much as possible to achieve a satisfactory resolution to that problem. [*Time expired.*]

Page 4545

CYPRIOT HUMAN RIGHTS VIOLATIONS

Mr HARRISON (Kiama) [5.40]: I bring to the attention of honourable members the sad plight of Cypriot citizens whose family members disappeared without trace following the Turkish invasion of Cyprus in 1974. During the 19 years since that unhappy event Cypriot families have attempted to rebuild their lives, but time has done nothing to heal the wounds left by the loss of fathers, mothers, sisters, brothers and children with no explanation as to what happened to them or whether they are still alive. At the conclusion of the recent Commonwealth Parliamentary Association conference in Limassol, Cyprus, a number of delegates met members of the Pancyprian Committee of Parents and Relatives of Undeclared Prisoners of War and Missing Persons. At that meeting I undertook to report back to the New South Wales Parliament their wish that all nations of the Commonwealth pursue the question of what has become of the 1,619 persons who disappeared immediately after the Turkish invasion.

The desire to be aware of the fate of loved ones is a profoundly human feeling and is consistent with the Universal Declaration of Human Rights adopted by the United Nations General Assembly resolution 217A(iii) of 10th December, 1948. The articles of that declaration state that everyone has the right to life, liberty and security of person; that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment; everyone has the right to recognition everywhere as a person before the law; no one shall be subjected to arbitrary arrest, detention or exile; and everyone has the right to freedom of movement and residence within the borders of each State. It is a matter of record that Turkey has been censured by the European Commission of Human Rights for unlawfully depriving of their liberty an indefinite number of Greek Cypriot citizens, concluding by 13 votes to one - with three abstentions - that Turkey had violated Article 1 of Protocol No. 1.

All attempts by the United Nations, Amnesty International, the Red Cross and the European Commission on Human Rights to resolve this matter in a humane way have been ignored by the Turkish Government. Family members of missing persons state that if their relations are no longer alive, they will be able to adjust their lives once they are informed that that is so. The Turkish and international press have given eyewitness accounts and have photographic evidence of citizens being arrested after hostilities had ceased, and in 1976 Amnesty International presented the Turkish Government with a list of 40 persons about whom such evidence had been compiled. No response has been received to Amnesty International's request for information. Enforced disappearance is one of the most serious violations of human rights safeguarded by international instruments.

Though I am not hopeful that representations by the New South Wales Government alone will meet with any more success than have the efforts of the United Nations, Amnesty International and other major human rights organisations, nonetheless I request the Attorney General to again raise with those bodies a plea for relevant information to be released. I place on record my appreciation that the Minister for the Environment is present in the Chamber, representing the Attorney General. It was an emotional experience for me to meet relatives of people who have gone missing and to experience the helplessness that they feel. I was not a delegate representing the Commonwealth Government, but represented the New South Wales Government. Nevertheless, I was able to hear details of personal misery that had been inflicted on people through no fault of their own.

I reiterate that when major organisations such as the United Nations and Amnesty International have been

singularly unsuccessful in eliciting information on the fate of the 1,619 citizens who disappeared after the invasion of Cyprus, it would be unrealistic to expect that representation from the New South Wales Government alone will be the straw that breaks the camel's back. However, the cumulative effect of representations from Commonwealth nations and from people of good will all around the world might eventually melt the hearts of those who were responsible for the mistreatment of those Cyprus citizens. Perhaps one day the minds of the relatives of those people can be set at rest so that they can get on with their lives.

Mr HARTCHER (Gosford - Minister for the Environment) [5.45]: The plight of people who have disappeared is tragic for them and their families, who must suffer long-term separation, anxiety and distress. That is manifest particularly in Cyprus since the incidents of 1974. The honourable member for Kiama has been faithful to his obligations to the people of New South Wales in his representations at the conference held in Cyprus and has reported to the Parliament on the deliberations that took place there. He has urged the Parliament to add its voice of concern to the voices that have been raised throughout the world in an attempt to seek redress for the distress suffered by the innocent victims of a holocaust that engulfed Cyprus from 1974 to 1976.

On behalf of the Government I assure the honourable member and the community that our hearts go out to these people in their distress. The Attorney General of New South Wales will make personal representations to the Turkish authorities seeking assistance in tracing the 1,619 missing persons so that their families can be informed of their whereabouts and, one hopes, be assured of their safety. I urge all honourable members to join with me in supporting that action by the New South Wales Government. I assure the honourable member for Kiama that all honourable members will do what they can, in conjunction with the United Nations, Amnesty International, the European community and the International Court of Justice - all of which have examined this problem - to urge the Turkish authorities to make available whatever information they have and assist in the investigation of the fate of

Page 4546

these missing people. Each citizen of this State has a responsibility to Cyprus. It is part of the Commonwealth of which Australia is a member. This Parliament acknowledges that responsibility. [*Time expired.*]

OAK PARK ROCK POOL

Mr KERR (Cronulla) [5.47]: The State Government strongly supports participation in sport and recreation. The Sutherland shire has some of the world's best sportsmen. It is the home of a number of Olympians, and many future Olympians. Yet in the Sutherland shire the Oak Park swimming pool is still in need of repair - a situation that has applied for many years. The *St George and Sutherland Shire Leader* carried a story on 31st January, 1991, which indicated that swimmers had to use Shelley Beach pool, as Oak Park and the main diving pool required repairs. That article stated:

Hundreds now vie for swimming space in the Shelley Beach baths at South Cronulla. Many of these swimmers are refugees from the rock pool at Cronulla Beach, which, five years after storms wrecked it, still awaits much-needed repairs.

Others have come to the Shelley Beach pool from Oak Park rock pool, which is also in need of repair. The majority swim for medical reasons and are incensed that nothing has been done to repair the tidal pools.

The article proceeds to mention that three early dippers, Barbara and Peter Hunt - who are known to me and reside in my electorate - and Barbara's sister, Elizabeth Taylor, all of Dolans Bay, collected 800 signatures on a petition to Sutherland Shire Council. In March 1990 the Minister for Sport, Recreation and Racing provided a grant of \$130,000 to Sutherland Shire Council to assist towards the total construction cost of \$300,000 for the south Cronulla rock pool. This grant was possible because of the agreement of the four members representing the electorates of Heathcote, Miranda, Sutherland and Cronulla to pool the allocations from the program, despite this being a council facility.

Work commenced early in 1991 and the pool was available for community usage in the 1991-92 summer

season. What is to be the fate of Oak Park pool? Recently, a public statement was made that repairs of approximately \$700,000 would be required to repair the pool. The average backyard inground pool costs about \$25,000. It is incredible that the cost of fixing the Oak Park pool would be the equivalent cost of installation of almost 30 backyard pools. If Sutherland Shire Council expects the ratepayers, and the residents of south Cronulla in particular, to accept this, it had better think again.

Mr Martin: Those are fighting words.

Mr KERR: I agree with the honourable member for Port Stephens that those are fighting words. The residents of south Cronulla pay tens of millions of dollars in rates and for years they have been in a fighting mood about the way their heritage has deteriorated. This is why the Sutherland Shire Council has such a poor reputation; it puts even the honourable member for Port Stephens in a fighting mood. I call upon the council to urgently examine a reasonable cost solution to prevent water seeping out of Oak Park pool at low tide. For the council to do otherwise would make it apparent that the council has a deliberate policy of allowing this pool to fall into total disrepair, thus denying residents and visitors the use of a safe pool when they picnic in south Cronulla. A letter drawing attention to this matter was sent to the editor of the *St George and Sutherland Shire Leader*. It suggested that the council may well have a secret agenda for removing the rock pool. The Sutherland Shire Council has not answered the letter - and that is very strange indeed. The rocky shores of the Cronulla electorate that have for so long withstood the envious seas of Neptune will continue. I seek to ensure that the residents enjoy the facilities to which they are entitled.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.52]: I am pleased that the honourable member for Cronulla is jumping off the deep end to support his constituents because there is no doubt that this matter is of great importance to them. If what has been said is correct it is a dastardly act by the Sutherland Shire Council. No doubt the honourable member for Cronulla will bring to the attention of the council the fact that its ratepayers are paying exorbitant rates, and those rates should be put to good use. Hopefully, the pool in question will be upgraded and those who wish to have a quick morning dip will be able to use the facility.

ARABIC FAMILY CARNIVAL DISTURBANCE

Mr MOSS (Canterbury) [5.54]: I refer to the confrontation that took place between police and civilians at the Arabic family carnival held in my electorate at Gough Whitlam Park, Tempe, on 17th October. Those who read a newspaper at that time would be well and truly aware of the friction that occurred on that day. I feel that the reporting of events of that day left many people with the impression that World War III had broken out in Gough Whitlam Park. I do not wish to downgrade the seriousness of the incident, and I agree with the Minister's comments that attacks on police were to be deplored. However, the events of that day should be put in their right perspective.

First, 3,000 people did not riot, as was implied. The estimate was really no more than the 104 police who were present to control the fighting. I admit that approximately 3,000 people did look on, and some of them may have booed or cheered, but they were not rioting. What is more, those who were onlookers did not gather until more than 80 additional police arrived with dogs. Most of the fighting occurred after the additional police arrived. I emphasise that most people enjoyed themselves that day. An estimated crowd of 35,000 attended this alcohol free function which was an excellent event for the majority for most of the time. Even the fighting that occurred towards the end of the day did so at an adjacent road, not in the park or picnic areas.

Page 4547

Since then a lot of soul searching has been carried out by the police and the Arabic community to explain why a fight between two girls should have erupted into a fracas between police and civilians. The actions of the police may have contributed to an escalation of the fight. I am not suggesting police deliberately provoked it, nor do I believe they would have been aware that their actions would have had a snowballing effect. The

police can learn a great deal from that incident. I question why 17 police were in attendance at the park on that occasion. I do not believe 17 were necessary throughout the day. A smaller number attend the football at Belmore sports ground where large crowds attend, crowds supporting opposing football teams, where there is more likely to be a blue than at a family picnic.

Who would not react at a picnic when, every time one looked sideways, one caught sight of a uniformed police officer. Many people from Arab nations come from war torn areas. They have been kicked around by people in uniform for a long time. I dare say that some of these people may have acquired a certain phobia about people in uniform. An oversupply of police presence throughout the day could have contributed to tempers boiling over when two women started to fight. It would have been preferable for only five police officers to have been in the park and, if more were needed, another 12 could have been placed strategically nearby and on stand-by.

For at least the past 10 years I have attended Arabic day celebrations. Large crowds have always attended but there have been certainly fewer than 17 police. On those occasions no friction has occurred between the crowd and police. Finally, I am concerned with remarks made by the Minister for Police when he appeared on television the evening following the incident. On that occasion he stated that 100 police officers deserved our praise for controlling a crowd of 37,000. Those remarks implied that 37,000 members of the Arabic speaking community were rioting in Gough Whitlam Park on 17th October. That is an offensive remark which I regard as an insult to the Arabic community. I call on the Minister to apologise for that insensitive comment, which obviously has humiliated many thousands of people with a Middle East background.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [5.59]: I note the concerns of the honourable member for Canterbury. If we sought to analyse what he said we could be a little confused as to whether he was supporting or attacking the police or, indeed, as to just exactly what he was saying. I was confused. I rocked from one side to the other as I listened to his statement. The honourable member for Canterbury would have heard about the Minister's announcement today of an inquiry into police and ethnic relations across the State. The inquiry will be conducted by the Office of the Ombudsman with financial support provided by the Police Service. The Minister has given his full support to the inquiry, which will canvass the opinions of many ethnic community groups with a view to providing constructive comment on police policies and practices. I suggest the honourable member direct any concerns to that inquiry. It does not matter whether it is an ethnic or Australian group that is involved, such behaviour cannot be condoned, particularly when residents of New South Wales or Australian citizens attack police. It has been an understanding and an Australia tradition that we are a law abiding nation and accept the law of the land. To say that the presence of police incited the riot -

Mr Moss: No, there were too many present.

Mr CAUSLEY: I cannot accept that statement. If there had not been any police and people had been injured, someone would have complained that there were no police. As Australians, we must accept there are laws to abide by, otherwise this nation and its traditions will fall by the wayside. We cannot attack police. [Time expired.]

BALLINA WHITE WATER RESCUE CRAFT ACCREDITATION

Mr D. L. PAGE (Ballina) [6.1]: I raise the issue of accreditation of our emergency services, particularly whether the current legislative and administrative arrangements meet the operational realities we are facing along the New South Wales coastline, especially at the bars where our rivers meet the sea. The nub of the problem in Ballina is that a purpose-built jet rescue boat, especially designed to carry out white water rescue work, cannot obtain accreditation largely because the accredited rescue service in Ballina is the Coast Guard. The reality is that the jet rescue boat service has, in fact, been carrying out rescues on the bar and near Ballina for more than 22 years. In the past 10 years alone the jet rescue boat service has performed 48 documented rescues and many more call-outs have taken place. Of the 48 rescues, the majority were life threatening and, in

all probability, could only have been undertaken by a jet rescue boat that was purpose-built to handle such specialist conditions.

History has shown that the jet rescue boat is the only boat capable of performing rescues with a high degree of safety on and around the Ballina bar in situations where other rescue boats have failed. The Ballina jet rescue boat has attended all call-outs from the Ballina police over the past 22 years of its service, all responses being successful, without loss of life or damage to rescue craft. The problem is that despite its suitability and proven record as a white water rescue boat, the current law, or at least the interpretation of the law by the State Rescue and Emergency Services Board, does not appear to allow any form of accreditation, even limited white water accreditation, for the jet rescue boat service in Ballina. This lack of accreditation means that those highly trained and capable people, led by skipper Ross Trease, have had difficulty raising funds because the accredited marine service in the area is the Ballina Coast Guard. I am not criticising the Ballina Coast Guard; it also does a good job in other areas of water

Page 4548

and off-shore rescue, but the fact that the Ballina police, who are in charge of all rescue operations, always call on the jet rescue boat for bar rescue work speaks volumes as to the suitability and effectiveness of the purpose built jet rescue boat and its crew for bar rescue work.

Despite my representations for some form of limited accreditation for the jet rescue boat service, subject to meeting all appropriate standards - and I have no doubt that they are more than adequate - the State Rescue and Emergency Services Board continually refuses to recommend to the Minister any form of accreditation. This is apparently because the board is concerned that it may establish a precedent and that it is not really necessarily because the local police commander can call out whichever service he chooses to perform rescues. My response to the board is that it should not worry about establishing a precedent. Indeed, it should be at the forefront of trying to establish a precedent, namely, that the best service qualified for the job does the job, in the interests of public safety. The board should recognise that it is highly desirable and, indeed, responsible, to accredit specialist services to handle specialised rescue work such as dangerous white water bar work. After all, the board controls accreditation, so it has nothing to fear in terms of inappropriate or untrained people operating an emergency rescue.

The Ballina jet rescue boat meets the requirements of the board's State rescue policy. The danger is that if the board does not respond to the specialised nature of emergency rescue work by granting limited accreditation, the equipment best designed to handle a particular rescue will not be available and lives will be lost. For example, continued lack of accreditation for the Ballina jet rescue boat service may well result in the surf life saving club at Ballina being unable to raise sufficient funds to meet the financial commitments necessary to enable the boat to respond to all emergency situations on the bar in the future. I add that the local police strongly endorse accreditation for the jet rescue boat. It is also worth noting that the concept of the jet rescue boat has changed dramatically since it was first established. The craft is now on 24-hour pager call-out and has been for the past 10 years. It can be activated by the Ballina police, the Coast Guard or the surf life saving club.

Frankly, the time has come to revisit this issue. The board must develop an approach more flexible than the narrow and potentially life threatening policy that it follows at the moment. If we need to accredit two units, so be it. Ballina needs the jet rescue boat and also needs the Coast Guard boat. Surely it is not beyond the capacity of the board, when lives are at stake, to move with the times so that those services that have properly trained staff and are equipped to do specialised rescue work are allowed to do the task and are, indeed, supported.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [6.6]: I am informed by the Minister that he acknowledges the concerns of the honourable member for Ballina and notes that the problem has been raised by the honourable member on two previous occasions. The Minister accepts that there should be a review of the accreditation for the Ballina surf life saving jet boat. I am sure the honourable member for Ballina will be pleased to hear that the Minister has undertaken to ask the board to re-evaluate the circumstances surrounding the accreditation of the jet boat.

PORT STEPHENS ELECTORATE POLICING

Mr MARTIN (Port Stephens) [6.6]: My contribution tonight relates to police requirements in Port Stephens, particularly over the Christmas holiday period. My electorate has six police stations. Mayfield police station is very much in need of repair. Its amalgamation with the patrol area of Hamilton is causing uncertainty and has built-in problems. Raymond Terrace needs a 24-hour station. This was to happen next on the list after Singleton. The previous Minister for Police had arranged for Singleton police station to become a 24-hour station in 1991, but this has not eventuated. Crime statistics for Raymond Terrace suggested that it would need to become a 24-hour station before 1991. Recently there has been a spate of crimes in Raymond Terrace, particularly involving Royal Australian Air Force homes. These people, who are not long-term residents in the area, feel very much threatened. Lemon Tree Passage is a growth area, but with five liquor outlets and two police there are major problems. In Karuah the one police officer performs a magnificent job under very trying circumstances, but he is certainly in need of assistance.

I next refer to two areas that focus my attention - Tea Gardens-Hawks Nest and Nelson Bay. Two police are located at Tea Gardens-Hawks Nest. During the Christmas holiday period the population increases, as happens in many other places along the coast. The area needs special attention to ensure the protection of life and property. Last year in Nelson Bay problems were brought to the attention of the local patrol commander and also to the chief superintendent who is based at Maitland. I am sure those officers do all they can, but I need assurance from the Minister that adequate resources will be put in place to address the peak holiday periods in Port Stephens, particularly at Christmas and New Year. I ask the Minister for Agriculture and Fisheries and Minister for Mines to convey my concerns.

Port Stephens holds an annual event, similar to that held on the Central Coast; and as occurred at Kings Cross in past years, where the crowds increase and there is liquor, people become unruly. Last year a rape occurred in broad daylight on Shoal Bay beach, which resulted in unseemly behaviour and an ugly scene. I ask that my concerns be conveyed to the Minister to ensure that the resources the chief superintendent requires should be made available for that event. I realise that police leave is often cancelled over the Christmas period, which is a

Page 4549

demanding time for police, but we must target those areas where life and property is threatened, and I have referred to one of the hotspots. I seek the assurance of all honourable members that common sense will prevail and that the Government will step in and do its rightful duty to protect those in need.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [6.10]: I note the statements made by the honourable member for Port Stephens. I would like to be a fly on the wall at the Labor caucus meeting. Obviously the honourable member for Canterbury does not want any police, and the honourable member for Port Stephens does. Perhaps they can do a deal and have some transferred. The honourable member should note that since this Government came to office an extra 1,600 police have come on duty in New South Wales. He cannot say that this Government has done nothing for the Police Service.

Mr Martin: I am calling for special assistance.

Mr CAUSLEY: I was appalled by some of the statements made by the honourable member. However, I am also appalled to think that Australians would stand back and watch something happen in broad daylight, as the honourable member mentioned. There is something to be said about a community that would stand by and allow that to happen. Obviously, the police are only as good as the community. If the community will support the Police Service, perhaps some of this anti-social behaviour can be overcome. I will refer the comments made by the honourable member to the Minister for Police and Minister for Emergency Services.

SYDNEY ELECTRICITY CHARGES

Mr KINROSS (Gordon) [6.11]: I raise a matter concerning a constituent of mine, Mr Darcy Cashmere, of 49 Elgin Street, Gordon, who has had a lengthy dispute with Sydney Electricity. The brief circumstances surrounding this unfortunate and lengthy controversy are as follows. In the period from about March to September 1992 - at least as per the reading conducted by Sydney Electricity of Mr Cashmere's electricity account - there was in anyone's language a statistically significant variation from any previous consumption of electricity by Mr Cashmere, so much so that I made representations on his behalf. I had representatives of the Chatswood division of Sydney Electricity attend a meeting at my office on Friday, 9th July. Those present were Mr Cashmere, as well as Mr Geoff Duggan, Mr Brian Doyle and Mr Les Yuille of Sydney Electricity. The meeting lasted for more than two hours.

A voluminous number of pages of correspondence between Mr Cashmere and Sydney Electricity has been produced. However, it appears that the problem is not resolved by any stretch of the imagination. The first principle to be learned from this case is this: my constituent, through his prodigious and prolonged inquiries of Sydney Electricity, uncovered a fraudulent employee who had not taken a reading of the meter but had guessed at it, even though he had in his possession equipment sufficient to take an accurate reading. The questions I posed to Mr Duggan, who is the Manager, Employee Relations of Sydney Electricity's northern region, were these: how many other constituents were affected by such a practice; how long had this employee been engaging in fraudulent readings of meters; and could my constituent on that basis gain any compensation for the incorrect reading?

As I said before, the matter has not been resolved in any manner satisfactory to Mr Cashmere, and that causes me much concern. It was my constituent's initiative that uncovered the fault in the system. I would have thought that that in itself would have been sufficient to entitle Mr Cashmere to some negotiation in relation to the matter, if not a relinquishing of it. The matter relates to a dispute about an account of more than \$1,000 for the six-month period alone. Mr Cashmere has analysed his electricity consumption and discussed it with his wife. He has produced precise tables of consumption since he occupied the house. It is quite clear that this usage is statistically significant when compared with other periods of usage.

I ask the Minister for Agriculture and Fisheries and Minister for Mines to refer this matter to the Minister for Energy. I understand that the employee in question has been dismissed, but my constituent's concerns have not been allayed by the treatment he received from that employee or from Sydney Electricity. Surely there must be some provision within Sydney Electricity for commercial considerations to come into play. As I said, three gentlemen from that organisation attended my office for more than two hours. In addition, there was a voluminous amount of correspondence but no satisfactory response. Surely the parties can be brought together to achieve an amicable and satisfactory negotiation, as I had requested specifically of Mr Duggan that day. That has not occurred. I ask that these remarks be referred to the Minister for Energy.

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [6.16]: I have noted the statements made by the honourable member for Gordon. Most people would be concerned if an employee of Sydney Electricity was not doing the right thing. Obviously, the constituent in question was concerned and has spent much time and effort in trying to overcome the problems that have been highlighted here this evening. I will refer the matter to the Minister for Energy, and I hope that Sydney Electricity will be wiser for this experience.

Private members' statements noted.

*[Mr Deputy-Speaker left the chair at 6.17 p.m. The House resumed at 7.30 p.m.]*4573

HIGHER EDUCATION (AMALGAMATION) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

Mr W. T. J. MURRAY (Barwon) [7.30]: Earlier I spoke about the land title of the University of New England. The University of New England Bill has a number of partially contentious provisions, and I should like the Minister for Industrial Relations and Employment and Minister for the Status of Women to answer some questions in an endeavour to come to some agreement about some problems that are developing. For example, clause 3(3) provides:

Former institutions that became a part of the University or a predecessor of the University (such as the Northern Rivers College of Advanced Education and the Orange Agricultural College) are not considered to be predecessors of the University for the purposes of subsection (2)(c) or section 14(2).

This part of the debate concerns the number of people who could become members of the post-graduate student body of the various universities. Concern was expressed that students who had graduated from Northern Rivers and Orange prior to 1989, when the initial amalgamation occurred, could grossly outnumber those who are deemed to be genuine graduates of the University of New England. I believe that clause 3 covers that particular problem but I should like the Minister to confirm that. Only students who graduated between 1989 and the commencement of this bill, be they from Northern Rivers, Coffs Harbour or New England, will be part of the New England post-graduate student body. I should now like to raise a matter referred to by the honourable member for Riverstone, who led for the Opposition, with regard to the appointment by the Minister of six councillors. I support the honourable member's statement that there is no requirement that the Minister consult with the University. Clause 8(4) states:

The appointed members comprise 6 persons appointed by the Minister following consultation by the Minister with such persons as the Minister considers appropriate, with at least one person from each of the following categories:

That very wide-ranging provision gives the Minister the right to consider, talk to and consult with virtually anyone she chooses. It would be a very unwise Minister who failed to consult with the university. However, that measure does not say she must consult, and the Minister's speech is contradictory in that regard. The Minister might give consideration, in her reply, to assuring the House that it is the intention of the Government to ensure that the Minister does consult with the university, although that may not be provided specifically in the bill. [*Extension of time agreed to.*]

I was interested in the Opposition's move to reduce the number of members on the council from 19 to 17. It is rather interesting that the original universities legislation nominated 23 members on the council: two persons representing students, six elected by members of the convocation, four elected by the academic staff, one elected by the full-time staff of the university, and four elected by other members of the council holding office, together with the Chancellor, the Vice-Chancellor and two members of Parliament. A reduction from 19 to 17 is interesting because I have received a number of representations, as has the Minister for Small Business and Minister for Regional Development in his capacity as the honourable member for Northern Tablelands.

As he will not be able to participate in this debate he has asked me to mention that he supports the change and acknowledges the representations that have been made by the University of New England Students Representative Council, the University of New England Teachers Association and the academic boards. These groups all want to increase the number of councillors to 23. There is no doubt that if that were accepted, we would end up with 2,000 people on the board. I think it balances out fairly well - two members from the academic board, plus the head of that section. As a result, three persons are representing those particular groups. I remember the discussion within the council about moves by the students to increase their representation. Staff were also moving to increase their representation. Where one group is increased over

another the result is a totally uncontrollable situation; hence I support the process of maintaining 19 councillors.

The University of New England Teachers Association claimed in a letter that, on the recommendation of the retiring advisory council convocation, teachers' representation would be reduced to less than half of that of any other university in New South Wales. I do not think that is correct. Likewise, the students also say that their representation is less than on any other university council in New South Wales. I do not accept that those claims are correct. I should like the Minister, if she could, to provide some answers regarding those particular groupings. The students wanted one internal and one external representative, but that would be fairly difficult. The other matter that is of concern is the directions that can be given to staff in respect of transfers under Schedule 3, clause 4(1), which states:

The Minister may, by order in writing, direct that a person who immediately before the transfer day held any salaried office or employment in the staff establishment of the former University of New England is taken for the purposes of this Schedule to have held that office or employment in the former University at Armidale, and any such direction has effect accordingly.

If that is applied in its strict interpretation, that could effectively mean that the University of New England would have to pick up any person from Coffs Harbour, Lismore or Orange who failed to get a job elsewhere. That, in itself, would grossly overload the University of New England and render the operations of that university very difficult. We need to make it abundantly clear that the former Lismore, Coffs Harbour, New England and Orange colleges will take responsibility for their staff and ensure that

Page 4551

redundancy packages for staff are spread evenly over all institutions. The University of Sydney will be responsible for Orange Agricultural College and the Lismore campus, the Southern Cross University will be responsible for Lismore and Coffs Harbour, and the University of New England will meet its own demands.

We must ensure, through this legislation, that the pro rata transfer of operation costs and any residual debts are covered by the institutions to whom this responsibility relates. This legislation will create a university system in the north of this State that will be of enormous benefit in the future. Though I recognise the propositions put forward by Opposition members that council numbers should be reduced from 19 to 17, I believe that, in order to maintain a balance, we should retain 19 council members. We should not increase membership to 23, which is the suggestion that has been made by many groups, nor should we reduce it to 17. The Minister, whoever he may be, will ensure a balance of representation. The professorial board, the students or some other section could ensure fair representation in the future. I support the bills.

Mr IRWIN (Fairfield) [7.41]: The remarks I wish to make tonight will relate particularly to the Southern Cross University Bill. I have a special interest in the establishment of Southern Cross University because I am presently completing a Master of Business Administration course through the University of New England, Northern Rivers. So in that way I am directly affected by this legislation. I fully support the legislation and later I will expand on what I believe is a positive move for education not only in New South Wales but in Australia as a whole. Without reflecting directly on the grievances between various campuses which led to the break-up of the University of New England, I think the remarks of the honourable member for Barwon were noteworthy. He referred to the University of New England, Armidale as the agricultural university. I know from my experience of the Lismore campus that the differences between the two universities led to that break-up.

One would expect that, by definition, a university would encompass a wide range of approaches. The best solution to the problem is the dissolution of that partnership and the establishment of Southern Cross University as a separate university. I know that a number of members from the North Coast intend to speak in the debate on this bill tonight. The establishment of the Southern Cross University is a milestone in the development of the North Coast. I acknowledge the growth in, and diversity of, the population in that area. This is a timely and important transition for the North Coast of New South Wales. Honourable members would be aware that I do not reside on the North Coast, but I participate in external programs offered by the University of New England, Northern Rivers. That is a significant part of the work of that university.

The establishment of a new university will meet the tertiary educational needs of students throughout Australia. The innovative educational programs provided by the Armidale and Lismore campuses have benefited tertiary students in particular. Recently, the director of TAFE in New South Wales referred to the need for a more flexible delivery package. It is essential for us to look at innovative and flexible tertiary education packages. Honourable members might wonder how I manage to do an MBA course and perform my parliamentary duties. It is not easy. It requires a very flexible course, which has been available to me through the University of New England, Northern Rivers. Many people in the work force have similar pressures on their time when they are undertaking courses at universities. I know that they will welcome the opportunity to undertake an innovative course which will fit in with their time constraints and cover the areas in which they seek to develop.

Those initiatives are essential if we are to develop tertiary education. I am pleased that the University of New England, Northern Rivers, which is soon to become the Southern Cross University, has been at the forefront in developing those initiatives. A growing number of overseas students are enrolling for the MBA program. Tertiary education is an important developmental area in which Australia has a lot to offer to residents of other countries. In years to come Australia will continue to provide this important educational facility for overseas residents. The honourable member for Barwon referred earlier to the arrangements for students studying at one institution prior to this change.

I hope to complete my MBA course at the end of this year. At present I am studying two units, and if I complete them I will finish the course. I will then be proud to accept my degree from the Southern Cross University. In doing so I will be among that university's first graduates. I believe that the Southern Cross University will become a fine educational institution that is highly regarded and well-recognised not only in this country but throughout the world. It certainly has my full support. Without being diverted by minor issues, such as council membership, I believe that this bill is a positive step - one that will improve tertiary education in this State for many years to come.

Mr WEST (Orange - Minister for Energy, and Minister for Local Government and Co-operatives) [7.49]: My contribution to the debate on this legislation will be in my capacity as the member for Orange. I acknowledge that the Orange Agricultural College will be transferred from the University of New England to the University of Sydney. This was one of the goals of the Orange Agricultural College back in the early days when it was first mooted that the university structure would become all-embracing. The former Minister for Education, Dr Metherell, negotiated this process.

The Government strongly believes that the long-term strategic interests of the Orange Agricultural College are best served by establishing links with a major metropolitan university. The Orange college has particular strengths in agriculture and commerce, and that union will be of particular importance. The
Page 4552

college's preference has always been for an affiliation with the University of Sydney, and of even greater significance is that this is not a shotgun marriage; the University of Sydney has also expressed a strong willingness for this affiliation.

The bill makes consequential amendments to section 17 of the University of Sydney Act to enable the Orange Agricultural College to be established as a college of the University of Sydney. Schedule 1 to the bill makes a number of amendments to the Higher Education (Amalgamation) Act 1989 that will ensure the smooth transition from the UNE network to the University of Sydney. Proposed section 17B(3) effectively passes to the University of Sydney the control and management of the land that was formerly under the control and management of the University of New England in relation to the Orange Agricultural College. The transfer of the college to the University of Sydney will open a wide range of opportunities for the college that will have an impact across the range of the activities of the local community with which it is associated.

This will enable the college to establish contact with a range of commercial business management, information technology and marketing programs on which the University of Sydney specifically concentrates. It will also enhance the agricultural management, or the agrimanagement business and marketing courses of that

university. I acknowledge the strong support of the academic staff at the college, the student body, the former student body - which is very active; all students who have gone through this college take a keen interest in its affairs and form an effective lobby group - and the rural community of New South Wales and Australia. This year - in fact, in the next week or so - this college celebrates the twentieth anniversary of its establishment.

I can well recall the early days when the first principal, Sandy McKenzie, was appointed. He was given the budget and he was given the program to form this college, and it has now established itself as a unique college providing agricultural education in that it maintains a close link with the agricultural community and is practically oriented. Its students attend this college and then go back on to the family farm, into the business of agriculture, and not necessarily into other technical areas; they maintain a practical application. In that regard, the various curricula that have been established over the years by the academic staff and by the board have been in recognition of that direction, and we should pay tribute for the strength that has existed constantly during this time, to Professor Chudleigh, the Acting Principal. His leadership since he took over from Rod Napier, who was the second principal at the college, has also contributed to a cohesive unit.

During the development of this bill - and it is a joint Federal-State exercise - very strong overtures were made for the agricultural college to be associated with the Charles Sturt University. It might be expected that some intercity rivalry might have been the basis for rejection of that proposed union. I do not think the reason for the rejection was intercity rivalry, but rather an acknowledgment that the agricultural base and practical training of this college is not aligned to the direction in which Charles Sturt is going and is more aligned to what the UNE is doing. With the changes that are being made, the union with the University of Sydney will be of benefit to the students, the academic staff and everyone involved in practical agricultural education.

This is an historic occasion. My colleagues from the Government, speaking as local members, recognise the importance of these changes, and I believe each one will have a particular relevance. I thank the Federal Minister for Education, and more particularly the State Minister for Education, the Hon. Virginia Chadwick in the other House, for her direction, perseverance and support. She stood by the many representations that I made to her and I am sure the Minister in the Chair will convey to her my appreciation and the appreciation that has been expressed from the entire academic staff and everyone involved - the students and the board at the college.

The Orange community acknowledges the importance of the establishment of this academic facility. The city of Orange has now become known as the agricultural capital of Australia. The head office of NSW Agriculture has been moved to Orange, resulting in a number of private sector organisations also moving to the city. Canobolas High School has been recently granted rural technology status by the Minister for Education. That again complements what is happening in the area. The Rural and Mining Institute of TAFE is also based at Orange. Putting all this together, the professional side of agribusiness is at Orange, and it is an acknowledgment on the part of the community leaders who worked positively in this direction to put the city of Orange and all of those agencies to the fore. I thank my colleagues for their support and I particularly thank the Minister for Education, Training and Youth Affairs for bringing this measure before the House.

Mr D. L. PAGE (Ballina) [7.58]: I strongly support this legislation. I speak as someone who has a close relationship with both the University of New England and the Southern Cross University. I am a graduate of the University of New England, with both a bachelor's degree and master's degree, and some of my fondest memories are as a student of that institution. My grandfather, Sir Earle Page, was instrumental in the establishment of the University of New England and was its first chancellor. In more recent times, I was appointed by the Minister as the Legislative Assembly's representative on the interim council of the Southern Cross University and in my capacity as the local member for Ballina many of my constituents attend that university. A couple of years ago I was asked to chair the advisory committee for the establishment of a bachelor's degree in tourism at the University of New England, Northern Rivers.

I feel very warmly about both of these institutions. The breakdown of the amalgamation has not given me any pleasure. Nevertheless it must be

said that the stand-alone university on the North Coast will be warmly welcomed by that community. The Southern Cross University is considered by residents of the region to be a major asset. It is a major educational resource for thousands of students and attracts a great deal of money for the benefit of the North Coast economy, in terms of the salaries of staff and the capital investment in the rapidly growing institution.

In my role as a member of the interim council I have been closely associated with the proposed legislation, but I shall not spend a great deal of time talking about the stage it has reached. Suffice it to say that all of the bugs have been ironed out. I take the opportunity to thank the Minister for Education for allowing the draft bill to be presented to the interim council for consideration prior to its being introduced into the Parliament. I shall reflect briefly on how we got to this stage and on what I believe will be important for the success of the Southern Cross University in future.

The Northern Rivers campus of the University of New England has established a reputation for excellence in the provision of tertiary education in a variety of disciplines, a flexible and accessible service to students, and co-operative education arrangements with industry and communities in the region. The modern university campus in Lismore today bears little resemblance to the origins of the institution as a teachers college more than 20 years ago. Higher education came to the northeast of New South Wales in February 1970 with the opening of the Lismore Teachers College in a former high school building in the city's central business district. At that time the college provided an initial 150 students with a two year infants and primary teaching qualification.

In January 1973 the independently governed teachers college became the foundation of the School of Teacher Education of the Northern Rivers College of Advanced Education, as the Commonwealth Government set up its binary system of higher education. After almost 20 years as a stand-alone tertiary institution the Northern Rivers CAE became a federated university in July 1989 under the University of New England Act. Today the Northern Rivers campus of the network offers approximately 40 award programs to almost 5,000 students across five faculties at its semi-rural campus. To reach this point the institution has undergone rapid transformation and development from that small specialist teaching training college to a major university campus providing education and training opportunities across a broad spectrum of disciplines to clients throughout the North Coast, Australia and overseas.

Traditionally the North Coast region has suffered from a dearth of tertiary education and employment opportunities. However, in recent years the North Coast has become a fast growing region; the people are more politically sensitive, with electorates changing hands, fortunately at the Federal level rather than the State level. People are more conscious of the real educational and social needs of the North Coast than they have been in the past. More than \$50 million has been spent on capital projects alone in the past 10 years and facilities are expected to expand further as a result of the increasing demand from prospective undergraduate and post-graduate students. The university campuses at Lismore and Coffs Harbour have been experiencing growth rates in student numbers of in the vicinity of 20 per cent a year. The projections that I have received indicate that those rates of increase can be expected into the future.

The impact of the bills will be that northern New South Wales in future will be served by two universities, one based at Armidale and the other at Lismore and Coffs Harbour. When introduced the bills will guarantee the future of higher education in the New England and North Coast regions and will ensure the continuing quality of course and research provision at the Orange Agricultural College. They are forward looking and take into account the aspirations of the New England and North Coast communities. I am confident that the arrangements now proposed will improve access to higher education in northern New South Wales and be more responsive to the needs of local communities.

As I said before, I should take the opportunity to thank several people. First, I thank the Minister for allowing the draft bill to be exposed to the interim council prior to its being introduced to the Parliament. I thank also the Director-General of the Ministry of Education, Mr Warren Grimshaw, and his staff for the assistance and guidance they gave to those who were involved in the drafting of the legislation in the interim council. The naming of the institution as the Southern Cross University ultimately was a unanimous decision by the council. When I attended the meeting where the decision was made, the name was not at the head of my

list. When the final vote was taken, after 30 or 40 names had been considered, it was agreed unanimously that Southern Cross University was the appropriate name.

The council agreed on the name for a number of reasons. Southern Cross is specifically and peculiarly Australian, in that it is identified on our national flag. The "Southern Cross" aeroplane piloted by our aviation hero, Sir Charles Kingsford Smith, in many ways was at the forefront of aviation. The university that is based in Lismore considers that it is very much at the forefront of education. When Smithy went off course on his flight from America to Brisbane he was blown south, came over the Ballina and Lismore region and realised that he was not where he should have been. He then headed further north. They are not the sole reasons for choosing the name Southern Cross, but they give honourable members a bit of a flavour of the points that were made in debate when the name was chosen.

The interim council decided as a matter of principle not to name the university after any individual, because of comments that had been made by various people. It was considered that it may have been controversial to do so and that it was not worth

Page 4554

the risk of establishing a new university and having the name become an issue. The principal object of the Southern Cross University Bill is the establishment of the new university on the New South Wales North Coast which will incorporate the University of New England centres at Lismore and Coffs Harbour. The bill provides for the Southern Cross University to be formally sponsored by the University of New South Wales, with two nominees of that university represented on the governing council of the new university.

The governing council will be consistent with those of universities of a similar size and regional role, except for the inclusion of sponsoring representatives of the University of New South Wales and the inclusion of six, rather than four, ministerial appointees. The additional appointed members are necessary because the university will not have a substantial group of graduates requiring representation on its council until some years after its establishment. They will also ensure a balanced membership of the governing council by including within the membership people with broad professional and business experience who will be able to assist the growth and development of the Southern Cross University.

As with the University of New England Bill, the Southern Cross University Bill contains complementary, savings and transitional provisions to transfer the staff, assets, property, liabilities and students from the Northern Rivers campus of the present University of New England network to the Southern Cross University. I should say something about the sponsorship arrangements, which are important as we launch the new university. In addition to the inclusion of two representatives of the sponsoring university on the governing council of the Southern Cross University, the sponsorship arrangements will require the new university to collaborate with the University of New South Wales in the development of academic programs.

The University of New South Wales should assist with the development and endorsement of the research strategy of the Southern Cross University and with the supervision of research post-graduate students. The sponsoring university also may be involved in senior academic and administrative appointments, advise on staff development strategies, and provide valuable advice in relation to admissions, curriculum and assessment issues. The University of New South Wales is the most appropriate university to sponsor the Southern Cross University because of its large overseas student enrolment, strong commercial activity and funded research record. The University of New South Wales should fulfil this sponsorship role for a period of three to five years, as required. [*Extension of time agreed to.*]

I express my appreciation and that of the interim council to Professor John Niland from the University of New South Wales. He has attended a number of meetings and provided invaluable advice to the interim council. Professor Niland has provided guidance and assistance in establishing the legislative framework for the university and the necessary arrangements to be put in place in selecting a vice-chancellor for the new university - probably the most important decision ever made by a university. Because we have an arrangement which will involve an open selection process based on merit, I am confident that whoever is selected will serve the university very well.

I wish to make a few comments about the joint education facility at Coffs Harbour because this is a landmark achievement. Clause 22 of the bill is an enabling clause, and that is probably a good thing because I have been involved in trying to sort out the memorandum of agreement between the university, the TAFE college and the Department of School Education. This is a complex issue involving a joint facility. It is the first time these strands of education have been brought together under one roof in an effort to integrate education. The Southern Cross University Bill authorises the new university to enter into arrangements with the New South Wales TAFE Commission and the Department of School Education to provide integrated education courses at Coffs Harbour, including university courses, technical and further education courses and senior secondary school courses.

The university of the future will need to work on the understanding that it is not simply an isolated academic grove but is one element in an increasingly interwoven fabric of national education and training provision. The potential for co-operative arrangements with TAFE is particularly great. The major reorganisation of the New South Wales TAFE system in recent years has improved the environment for co-operative activity by increasing the autonomy of regional managers and charging them with the responsibility of establishing closer working relationships with their regional universities. Within the North Coast region the level of rapport and communication between the two tertiary providers, I am pleased to say, is high.

It is essential that these bills come into effect on 1st January, 1994, in time for the 1994 academic year, so that continuing students do not suffer disruption and so that enrolments of new students with the new universities are guaranteed. The legislation is forward looking and takes into account the aspirations of northern New South Wales communities. I should like to comment briefly on the rapid growth of population in the region, which will clearly provide the necessary population base to guarantee the new university's success. The latest projection of the Department of Planning suggests that by the year 2016 the region's population could increase by 82 per cent to a total of 585,800, with major population centres being in the Ballina, Byron and Lismore areas 119,000, Coffs Harbour area 96,000, the Tweed area 84,000, and the Port Macquarie area 68,000.

Youth unemployment is particularly severe in my region. Many young people continue to leave the region to seek educational and employment opportunities. School-leavers still leave the region

Page 4555

after completing high school. For example, in 1988, 47 per cent of students left the region, and 64 per cent of those left to pursue further education. There is potential for further stemming of this outflow, particularly after scrutiny of the courses sought by these people, where it is clear that the greatest outflows are to enter courses in arts, humanities, social sciences, business administration, economics, education, health and science.

Those courses will all be offered by the Southern Cross University. The populations of many regions are relatively isolated and tertiary education opportunities are not freely available. Because of family and or economic reasons many are unable to leave their home towns. There is a potential for these people to become locked into a cycle of low educational standards and low employment chances in a rapidly changing rural environment. The university must work, along with TAFE and secondary education, to ensure that there is access to tertiary education for these people.

I want to conclude by saying that for this new university to succeed it will need to achieve five things. First, it will need to draw upon the entire North Coast region as its population base. It must be remembered that it is a university to service the whole North Coast region, a region stretching from Port Macquarie to the Queensland border. Second, it will require unified organisational structures in order to avoid the destabilising features which were so visible in the UNE network. Third, it will require unified academic structures so as to avoid destabilisation but, more importantly, to guarantee high academic standards to its clients wherever they might be located and to be able to develop and deliver the widest possible range of programs without unnecessary duplication.

Fourth, it must develop a presence throughout its region so as to provide equity of access for students, and

must be owned by its region. Finally, it must develop appropriate partnership arrangements and appropriate innovative and flexible educational delivery mechanisms so that the programs can be provided to the entirety of the region, thereby not creating false expectations as to the likelihood of each and every population centre becoming the next site of the bricks and mortar of a university campus. I strongly endorse the legislation. Considerable effort has gone into its drafting. In supporting this legislation I speak for every person who lives on the North Coast of New South Wales.

Ms MACHIN (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [8.17]: I should like to join with my colleagues, particularly those from the North Coast, in expressing support for the bill. I guess we are being unashamedly parochial in speaking about the Southern Cross University Bill in particular and the changes that have brought it about. I am quite proud to be unashamedly parochial about this because it is an historic event. It is not often that we see the birth of a new university in any State. Honourable members will recall that within the past few years changes were made at a Federal level involving the amalgamation of campuses and colleges of advanced education into new universities, but those arrangements related to existing campuses and bodies that merged to come under the umbrella of a particular university. That was an interesting process.

I was pleased to participate in that process through the University of Sydney, my alma mater at the time, and to serve on the council for some time after it settled into its new role. The establishment of a new university - which will effectively be the result of this legislation - is particularly exciting in this part of New South Wales. My colleague the honourable member for Ballina referred to the growth in the area and the significance of the region not only in political terms but in population, economic and social terms. It is fairly salutary to examine the rate of growth of the area, which is twice the average of New South Wales. At the turn of the century this area will have a larger population than Tasmania. It is rapidly on its way to becoming one of the largest regional centres in New South Wales.

Previously there were very few educational options for country students. Happily, many changes at all levels of education have given country students more opportunities. Developments in the TAFE network, the introduction of school TAFE courses and other options are providing more people with relevant training for the work force today. I was a young person who was forced to leave home in order to receive a university education. In a growing and rapidly developing area of major economic force, such as the North Coast, it seems a nonsense not to have a major educational facility, such as a university, available to the population of that area.

The Southern Cross University Bill establishes the university based on existing campuses at Lismore and Coffs Harbour. Coffs Harbour is a particularly interesting development because it networks the educational facilities of different institutions, keeping them separate but providing a good cross-over to enhance not only that area but education generally. The bill also encompasses the open learning access centres that now operate in the Tweed, Grafton and Port Macquarie areas, and will operate in the Taree area next year. I was particularly interested in that aspect of the bill to ensure - being totally parochial once again - that there was a mechanism to include the open learning access centres under the umbrella of this university.

Part 4, clause 16(1)(h) specifies that the council may establish and maintain branches, campuses and colleges of the university within the university and elsewhere. That touches on the point my colleague the honourable member for Ballina made in his concluding remarks. This is not just a university for Coffs Harbour and Lismore; it is a university for the region and the State. We are certainly not saying that the only people who will be able to attend will be students from the North Coast. A broad view needs

Page 4556

to be taken by the people on the far North Coast, where the larger campuses are, and the people of my region who are keen to see their facility ramp up to become ultimately a fine university campus.

Exciting opportunities exist for places like Port Macquarie and Taree that are close to a number of major cities but still far enough away to present problems for students. Those areas are growing rapidly, have good infrastructure, good transport links and the keen backing of all key bodies in the towns. In Port Macquarie the council, the Chamber of Commerce, the Tertiary Education Association and the open learning access centre

strongly support the proposal to eventually establish a Port Macquarie campus. It makes good sense to me because Port Macquarie is a fabulous town in a great location; it has tremendous facilities and is one of the few places on the North Coast that has the capacity to expand.

I would like to pay tribute to the work of the Hastings Tertiary Education Committee, the open learning access centre and the people who work to support it. They have done a tremendous job in keeping tertiary education alive and improving in Port Macquarie, to the extent where generic university courses will actually be carried out next year. This will enable students to complete their degrees at other universities, or maybe in the town if second and third year courses become available. That is a particularly exciting step for which we see great opportunities.

The sponsorship of the University of New South Wales is also a valuable aspect of this piece of legislation. As all honourable members would know, the University of New South Wales enjoys an outstanding reputation as a fine educational body. To have the Southern Cross University under the umbrella and guiding arm of the University of New South Wales for the first few years will be invaluable. As the honourable member for Ballina said, the University of New South Wales has a strong reputation for attracting overseas students, which is useful and attractive for the North Coast. The North Coast area has many overseas visitors, particularly from the Asian region. This is not the first time that it has been suggested that such students are attracted to the North Coast.

A few years ago a private proposal was put forward for a university in Port Macquarie. It proceeded some way down the track, with an acting vice-chancellor being appointed, but it is a tough game and it is a tall order to get a private university up and running successfully. I am sure Alan Bond or the people who currently own the university that he built would concur with that comment. There has been a longstanding interest in the establishment of tertiary education facilities in the Hastings area. With the population growth and sophisticated technology that is coming to the North Coast, it is only appropriate that we establish a university presence in this major part of New South Wales and regard it as a regional university in the true sense. Many people outside the two main campuses, particularly those who have been working so hard in the Port Macquarie and Hastings areas to establish and maintain that presence, hold a great deal of hope for this bill. Their task has been lonely at times but they have been dedicated.

In closing I will put in my bid, which I have mentioned to the Minister in the past. The council of the new Southern Cross University will comprise 18 people. It has a slightly larger number of ministerial nominees because there is not a body of students or graduates to draw from to form that council. Therefore, it is sensible that the Minister have the power to appoint extra expertise. However, if we are to adopt a regional approach, it is important for the Minister to look across the region when she is making her six appointments to the council. If the Minister is to set up this university and send the message that it is a North Coast university serving a large region, it is only appropriate that she looks to that area for representatives on the council.

I strongly support consideration of appointing someone from the Hastings area. The Hastings area representative on the interim council carried out a fine job and he is very interested in remaining a council member or ensuring that a local representative is appointed to that body. With that small bid from the local area I conclude my remarks. I congratulate the Minister on the work that she has done - it has been a good consultative process that has come out of some rocky circumstances. It has been a successful process and will lead to a successful outcome and a highly successful university.

Mr FRASER (Coffs Harbour) [8.26]: It gives me great pleasure to support the cognate bills for the formation of the Southern Cross University on the North Coast of New South Wales. This is a great initiative by the Government. As the Minister for Consumer Affairs, Minister Assisting the Minister for Roads and Minister Assisting the Minister for Transport has mentioned, it initially arose out of circumstances that I did not agree with. When the proposed amalgamation involving the University of New England was suspended, the Birt committee was set up. Information that has emanated from the committee and its report is all positive for the North Coast. I was fortunate to partially complete a degree in economics at UNE Coffs Harbour campus when the idea of a university in Coffs Harbour and on the North Coast was first mooted. Lismore already had

its campus. An idea that commenced in Coffs Harbour four years ago has now blossomed into a university with enormous support from the local community and all people on the North Coast. Graduates' results are proving to be better than those from UNE Armidale.

I suppose this is part of the growing process of any university or educational facility: the parent body has been disbanded and by mutual consent Orange, Lismore and Coffs Harbour will now be separated from UNE. Now we have the Southern Cross University to be established at Lismore and Coffs Harbour. I am aware that the name of the university is a cause for concern in the Coffs Harbour area. In my opinion, the name is pure window-dressing. What

Page 4557

we must accept and acknowledge is that this particular facility will be recognised in 100 years as a first in education not only in New South Wales but also Australia and probably the world. The eyes of all educators are on this concept that is being developed at Coffs Harbour.

This particular campus at Coffs Harbour will incorporate a university, TAFE and senior secondary high school presence. It is an exciting concept; it is something that will lead the way in education because it will provide a better use of infrastructure and teaching skills across the board, where there will be integration of those particular skills from all areas and a recognition of the courses so that they will be meshed together. Credits will be able to be gained by TAFE students and recognised by the university and administration will work in a cohesive way.

By this legislation the Government has demonstrated its support for the development of centres of excellence in education and training. Although some are fearful of this change, I believe that in the longrun it will prove to be second to none, providing an opportunity for local young people and adults to gain an education on the North Coast. In the past they have not had access to such facilities. Those who live in metropolitan regions must realise that people who live in areas such as Coffs Harbour have to contend with issues that do not affect metropolitan residents. Coffs Harbour has one of the highest unemployment rates in Australia. Many people move to the region for a better quality of life, not realising that jobs are unavailable.

An enormous burden is placed on parents of children who would usually qualify for university entrance but who cannot take up university places away from Coffs Harbour because of the costs involved. The cost of sending a student from Coffs Harbour to university in Sydney, Newcastle or Armidale is very high, with accommodation alone costing about \$5,000 a year. The establishment of a university in Coffs Harbour will provide an opportunity for students to be educated locally. The establishment of the local university will also give the opportunity for the establishment of TAFE courses at Coffs Harbour. TAFE is probably the greatest educator of people in New South Wales. We would all like to think that our children would have the opportunity and skills to attend university, but the fact is that a large number of people attend trade courses at TAFE colleges.

The TAFE college at Coffs Harbour will meet the needs of the local community, as it has already with its tourism courses that have earned a great reputation. There has been some integration of school and TAFE courses, with school students attending tourism and business courses at TAFE. This concept of an integrated facility is exciting. Last week I had the privilege to be at the site of the Coffs Harbour campus. About \$28 million will be spent on that campus, and in turn that will generate money for the local community. More than \$1 million worth of earthwork has already been carried out. When the campus is completed in early 1995 it will bring jobs and people to the region. It would be more pleasant for a student to undertake an economics course or a TAFE course in Coffs Harbour than it would be to take the same course in, say, Newcastle. We all know that Coffs Harbour has a wonderful climate.

The university will be part of local life, although I suspect that in years to come the TAFE facility will outstrip the university. The university site is magnificent, with views into the valley in one direction and out to sea in the other. Across the road from the site the council is building a stadium of international standard. There are already beautiful hockey and football fields and the school, university and TAFE college will use those facilities. I know that the council and the people of Coffs Harbour support this concept. I cannot

overemphasise the benefits this will bring for youth and education on the North Coast. This is a new and exciting concept that will provide better education, better training pathways, improved access and equity, and greater choice and diversity to help achieve excellence in education.

This project is something for which the Minister for Industrial Relations and Employment, and the Minister for Education, Training and Youth Affairs in another place are to be congratulated, as is the Premier. They have put drive and enthusiasm into this project, which is a first for New South Wales. I urge all honourable members to support the legislation. It is something that will be of great benefit to the local economy. It will provide an educational opportunity that has not existed in the local region and will provide the lead for Australian education. I support the bills.

Mr RIXON (Lismore) [8.35]: Those who live in Sydney or within a few miles of public transport that gives access to universities, and who have the funds to pay their way through university, cannot realise how important for the local people is the establishment of the Southern Cross University on the North Coast. For years those people were denied access to university, because of the tyranny of distance and because of their economic circumstances. They did not share the opportunities that others in this State had. At last people on the North Coast who have the ability - but have not had the money or the opportunity - will be able to gain tertiary education. Those who have had the opportunity of access to university cannot realise how valuable that opportunity is.

At last those on the North Coast who have been disadvantaged for so long will have the opportunities that they deserve. I congratulate the Ministers and staff involved in the negotiations that took place to set this project in train, including the negotiations to establish a name for the university. There can be no more important educational event on the North Coast than the establishment of the Southern Cross University. I give it my wholehearted support and pray that every member of Parliament will support it because it offers the people of the North Coast an opportunity that they have been denied for so long.

Page 4558

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [8.37], in reply: I thank all members who have taken part in this debate. Obviously, this issue is of great interest to members with electorates on the North Coast. I take this opportunity to join with them in thanking the Hon. Virginia Chadwick, the Minister for Education, Training and Youth Affairs, Minister for Tourism and Minister Assisting the Premier, for the work she has done. The honourable member for Orange said that his community welcomes the change. It is a great achievement for Orange and for the North Coast.

During the debate a number of issues were raised, in particular by the honourable member for Riverstone and by the honourable member for Barwon. Leaving aside for the moment the question of the foreshadowed amendment by the honourable member for Riverstone, I would like to respond to some specific issues he raised. He is concerned about representation on the council of the Southern Cross University to ensure it takes account of technical and further education and of appropriate regional and community groups. One of the reasons that the Minister has proposed that there be six ministerial appointees to the council is that it will provide the opportunity to ensure that local, regional and State needs, and the interests of the people of the area, are reflected by the appointment to governing councils of people of appropriate ethnic and Aboriginal background, women, and those with other qualifications that will be required by the university.

It will be obvious to all honourable members that the appointment of high calibre people to the councils of the universities is an important issue, and it is important to promote the ongoing development of the university. The University of New England Bill in clause 9(4) and the Southern Cross University Bill in clause 10(4) describe the categories of people from which the Minister may appoint people to the governing bodies. In the long term, these categories are intended to provide the broadest possible range of skilled and expert individuals from whom the Minister of the day may select appropriately qualified personnel, able to meet the leadership needs of the university, or the economic needs of the community they serve then or in the future.

An example of this is the possible need to appoint to the council of the Southern Cross University a person with appropriate experience or expertise in the delivery of technical and further education, and or a person with appropriate experience or expertise in the articulation of post-compulsory education services. It is intended, therefore, that the categories listed will be interpreted broadly. For example, persons who are practising or who have practised a profession will encompass the broadest meaning of the word "profession" and would include groups such as teachers, engineers, accountants, et cetera, as well as the legal and various medical professions. The Minister has assured me that she will take into account these matters and will consult widely when considering membership of the council of the Southern Cross University.

In relation to the honourable member for Riverstone's second concern, about consultations with the University of New England regarding appointments - which was also a matter raised by the honourable member for Barwon - the council has specifically requested that provision be made in the University of New England Bill for the Minister to consult with appropriate persons before making appointments to the council. The purpose of this provision is to assure the university that the Minister will consult with the council on the matter of appointments so that as far as practicable the appointments will reflect the needs of the council. The third issue raised by the honourable member for Riverstone was sponsorship of the Southern Cross University by the University of New South Wales. Clause 7 of the Southern Cross University Bill states:

That the University is to collaborate with the University of New South Wales in the development of the academic programs to be offered by the University, until the Minister otherwise directs.

The sponsorship of the Southern Cross University by the University of New South Wales is also provided for in clause 10(4)(a), which states that the appointed persons of the governing council are to include two persons nominated by the council of the University of New South Wales. The period of sponsorship is envisaged as three to five years, during which time progress of the university will be monitored regularly. On termination of the sponsorship arrangement, the representation on the council of the Southern Cross University of two nominees of the University of New South Wales will cease. This will be done by a minor amendment of clause 10(4)(a) to formally end the sponsorship arrangement. This will occur, however, only following consultations and agreement with both the Southern Cross University and the University of New South Wales. At the end of the sponsorship period additional consultations will need to occur with the council of the Southern Cross University on the issue of the longer term structure of the council.

The honourable member for Barwon was concerned about the question of the title of the lands that are to be transferred from the present University of New England to the reconstituted University of New England. Discussions have commenced between the interim council of the University of New England and the Ministry of Education and Youth Affairs with the intention, if at all possible, to have outstanding land issues settled by Christmas. The honourable member for Barwon further raised the issue of the responsibility of successive institutions for redundancy pay outs. Schedule 3 to the University of New England Bill, schedule 3 to the Southern Cross University Bill and the existing provisions of the Higher Education (Amalgamation) Act 1989, which will apply to the Orange Agricultural College, ensure that the liabilities of the present University of New England will become the responsibility of the successor institution that inherits the campus on which the liabilities first arose.

Further to this, however, representatives of the interim councils of both new universities and representatives of the University of Sydney senate, on

Page 4559

behalf of the Orange Agricultural College, have reached an historic agreement on an appropriate mechanism for ensuring all staff, save for three senior contracted executives, will transfer automatically to the successor institution, which will inherit the campus at which they are presently employed. The honourable member for Barwon further raised the question of student representation on the Southern Cross University. Owing to the higher post-graduate student population of the University of New England, in comparison to a university of a similar size, provision has been made for the council of the Southern Cross University to include both post-graduate and an undergraduate representative.

Honourable members may be aware that the University of New England has many correspondent students around the State of New South Wales and, of these, many are post-graduate students. The council membership, therefore, reflects a higher statewide representation of post-graduate students. The only outstanding matter is that foreshadowed by the honourable member for Riverstone, which I believe we should discuss in the Committee stage. It is the Government's intention to oppose that amendment because it believes it is important to allow the university to have the extra two positions on the council which we have included and which the honourable member for Riverstone is opposing.

I thank all those who have been involved in the debate. As someone who had some minor involvement in the process last year, when I was Assistant Minister for Education, I understand the enormous amount of good will and debate, and the blood sweat and tears, that went into the preparation of these particular bills. I am sure that the result of all the hard work will be that we shall end up with two fine education institutions, one on the North Coast and one in Armidale which, I am sure, will benefit the people of New South Wales. I commend the bills.

Motion agreed to.

Bills read a second time.

In Committee

The TEMPORARY CHAIRMAN (Mr Tink): Order! The Committee will deal first with the University of New England Bill.

Clause 9

Mr J. J. AQUILINA (Riverstone) [8.46]: I move:

Page 5, clause 9(4), lines 1-4. Omit all words on those lines. Insert instead:

(4) The appointed members comprise 4 persons appointed by the Minister from, as far as practicable, the following categories following consultation by the Minister with such persons as the Minister considers appropriate:

I have already indicated during the course of the second reading debate why I am moving this amendment. To have six ministerial appointees for the council of the University of New England is extraordinary because it goes beyond the provisions of all other universities in New South Wales with the exception of Charles Sturt University, which has four ministerial appointees with the addition of four other ministerial appointees on nomination from the University of New South Wales. We understand that will cease at some time to be determined by the Minister, bringing it then to four ministerial appointees only.

There is absolutely no reason in this instance why the University of New England should have six ministerial employees. It is not a university that will be made up of diverse campuses. One could argue, perhaps, that there is more rationale for universities such as the University of Western Sydney or even Charles Sturt University to have six permanent appointees by the Minister. They comprise diverse campuses and there could be argument put forward in those instances for the need for broader representation on a geographical basis.

Perhaps I would have some sympathy towards that point of view, although generally, as I indicated during the second reading debate, I am against having councils and boards of such institutions which, in many ways, are bloated by number. I do not accept the argument that to have expertise you need to have large representation. During my speech on the second reading I gave examples of many institutions throughout this nation which have diverse interests and, indeed, far more academic, technological, industrial and financial importance and involvement than this university, yet they have boards of directors that would number half or

even less than half of what is proposed here.

There is potential - not now, but at some time in the future - for the Government to manipulate other members of the board if there are six ministerial appointees on it. I am sure that all honourable members have aspirations for our academic institutions in Australia. I indicated earlier that universities are important institutions in our democracy. In many ways universities are regarded as the cornerstone of our democratic process. Freedom of thought and expression, freedom to research and freedom to articulate potentially unpopular arguments must all be guaranteed by the governing bodies of our universities. I am loath to create a situation - which I believe will be created if there are no amendments to this legislation in the future - where we have political or governmental control of the bodies in question. I feel strongly about that matter of principle and I know, because of the representations that I have received, that many other people feel strongly about it too.

People will say that, if we are to guarantee a wide spread of experience and take into account academic, industrial, financial and other types of expertise, we need six ministerial appointments. I cannot buy that argument. After all, these bodies will be comprised of a chancellor, a vice-chancellor, parliamentary appointees, academic staff, non-

Page 4560

academic staff and students. Surely we can find among these 17 people the expertise that is required to make up a cohesive body? Why do we need so many ministerial appointees? Given various circumstances, it could be said of the Minister that she has stacked the board, that she has directly controlled the number of people on that board. I cannot buy that argument and no one in a free-thinking educational environment would buy that argument. I can understand the feelings of members of the present interim council. I am sure that they want a guarantee that they will remain on that council. I accept and have sympathy for their point of view, but I have no sympathy for any government, irrespective of its political persuasion, which has the potential to dictate to and control that board. It is for those reasons that the Opposition has moved this amendment.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [8.53]: Though I understand the principles espoused by the honourable member for Riverstone, he failed to understand that the composition of the board, as set out in the bill, reflects the wishes of the interim council of the University of New England. His proposed amendment does not reflect the wishes of that interim council, which has been most concerned to ensure that it attracts to that university members of the highest calibre who are representative of a broad range of professional, industrial and entrepreneurial interests in the community. Those involved in the development of the university at the local level believe this would be best achieved by the Minister having the power to appoint six members, after consultation with the university on its needs. If the ministerial appointees are reduced to four there is a danger that the balance between the internal interests of the staff and students and the external interests of the local and wider communities served by the universities will be tipped in favour of the internal interests.

This amendment would present problems for the voting pattern of the council by guaranteeing a substantial majority for the internal interests and condemning to a minority position on the council those most likely to enhance the accountability of the university to the Parliament and to the Government. The existing provision for six ministerial appointees represents a consensual position established with campus communities during six months of detailed discussions. The chair of the Armidale Advisory Council of the present University of New England, who is also the chair of the interim council established to advise the Government on the development of this bill, stated today that the principle of providing for six ministerial appointees is to deliver sorely needed skills and community membership. The higher education community in Armidale does not wish any change to what is regarded as a carefully balanced membership. The Opposition's amendment is short-sighted and flies in the face of the stated wishes of the New England community.

Mr J. J. AQUILINA (Riverstone) [8.55]: I have listened closely to the Minister's prepared response. Though I can understand the basis upon which she has responded to my argument, namely, that existing members of the interim board are loath to forfeit their positions, I cannot accept what she has put forward. She has put forward no argument to counter my proposal that, under the proposed arrangement, there is every chance

that the board will be manipulated by the Minister. Though I cast no aspersions on the present Minister for Education I made that plain in debate in the second reading stage of the bill. I hope Government members do not have short memories about previous Ministers for Education and the fact that in recent times we have had certain rogue Ministers who have gone to extreme lengths to exert control over these boards.

Mr O'Doherty: Shame!

Mr J. J. AQUILINA: I agree wholeheartedly with the honourable member for Ku-ring-gai. It is a shame. In 1989, when we were debating the amalgamation of these universities, I said to the Hon. Terry Metherell, who was representing the Government, that I was extremely concerned about placing so many university boards and councils under his direct control. As I said earlier, he was the person who departed from that precedent and that tradition. Instead of appointing persons to university boards because of their academic, financial and industrial expertise he started appointing political hacks. Everyone accepts that fact. Everyone is aware of the fact that I do not tar with the same brush every member of every council and board of every university in New South Wales. I acknowledge that 90 per cent of those people are excellent people with required expertise, but the other 10 per cent, who have control of those boards, are dubious candidates. They are the people who enable rogue Ministers like the former Dr Terry Metherell to manipulate university boards.

There is no reason whatsoever to have six ministerial appointees on these boards; four will do the job quite adequately. Four people will be appointed by the Minister, one person will be co-opted to the council and, with the chancellor and vice-chancellor, that represents seven members who will bring a range of managerial, financial, entrepreneurial and educational skills and experience to that university. We do not need such bloated numbers on these boards. Why is it that a local government council which covers a population of 230,000 and which has a budget of \$90 million can function quite adequately with 15 councillors? Under the new Local Government Act there is provision for that number of councillors.

Why do we need 19 board members for a university? A company like BHP, one of the largest companies in Australia, functions quite adequately and provides a wide range of services not only in Australia but overseas with only 12 members on its board of directors, but we need 19 members on a university board. It is because every time the Minister so dictates, those members will manipulate the programs, policies and future direction of a university. I cannot accept that argument. I am

Page 4561

totally opposed to political control of our academic institutions; I am totally opposed to any hint of political manipulation of a university, which, in many ways, should be the cornerstone of the democratic process of the State and the nation.

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [9.0]: I would like to draw to the attention of the honourable member for Riverstone something that he missed in what I said. This position was reached with the six ministerial appointees. It was a consensual position established with the campus communities during six months of detailed discussion. It was not a position that was reached arbitrarily by the Minister; it was after detailed discussions with the parties concerned and it was at their request that the council have six ministerial appointees. To suggest that somehow this Minister or some future Minister will manipulate the council of the university for some political gain is a nonsense, and the honourable member for Riverstone knows that. This position has been requested of the Minister by the parties involved, and to suggest that there is some untoward reason for it is an absolute nonsense.

Amendment negatived.

Clause agreed to.

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

CREDIT (AMENDMENT) BILL

Second Reading

Debate resumed from 8th September.

Mr E. T. PAGE (Coogee) [9.4]: I lead for the Opposition on behalf of my colleague the shadow minister for consumer affairs and member for Mount Druitt, Richard Amery, who is overseas, and I indicate that we will support the bill. This bill is not unknown to us. In fact, with the exception of the formula used to set a maximum rate of interest, the bill is a copy of the private member's bill placed on the notice paper in the name of the honourable member for Mount Druitt. As this bill sets out to achieve the same goal as the Opposition's bill, any comments I make should be read in conjunction with my colleague's second reading speech in this House on 1st April, 1993, in introducing the Credit (Maximum Annual Percentage Rate) Amendment Bill. That speech set out a brief history on this subject dating back to the mid-1980s and later when Labor's Consumer Affairs Minister, Deirdre Grusovin, established the inquiry of the Commercial Tribunal under the chairmanship of Mr Hans Heilpern.

Though the Minister referred in her second reading speech to the Commercial Tribunal report of Mr Cavanagh, tabled in Parliament in May 1992, she overlooked Mr Heilpern's report tabled in 1988, shortly after the election of this Government. That omission is disappointing, although understandable. It is understandable because it highlights the fact that despite the problem having been formally recognised in 1988, it has taken over five years for the Government to act. That delay, from 1988 to 1992, prompted the Opposition to introduce its private member's bill. The difference between this bill and the private member's bill is the formula used to set a maximum interest rate. This formula set the rate at 48 per cent and is drawn from the 1992 Commercial Tribunal report. It more or less puts New South Wales in line with Victoria, which has had a 48 per cent rate since the early 1940s.

The bill before the House sets the maximum rate at four times the Supreme Court rate, which is currently 10.5 per cent and is reviewed twice yearly. The effect of this formula means that the current maximum rate will actually be 42 per cent during this current low-interest period, and could rise to above 60 per cent during high interest periods. While we could argue all night about which formula is the best, it is obvious that both bills attempt to address the problem, that is, to crack down on moneylenders who charge rates well above 100 per cent, mainly for short periods of time and mainly to low income earners. Because of that fundamental objective, we do not propose to argue or seek to amend the formula in this bill.

Referring again to the second reading speech of 1st April, it was said that we would invite submissions from interested parties. Accordingly, I would like to place on record our appreciation of many individuals and groups, particularly the Australian Consumers Association, who actively campaigned in support of the bill, the Australian Federation of Credit Unions and the Australian Finance Conference, which provided constructive input on the bill, falling short of supporting the maximum rate. One issue raised by the last two organisations was what interest rate should apply, arguing that an annual percentage rate is not in the Credit Act at present and will not be used in the uniform credit bill to be introduced as a result of the Standing Committee of Consumer Affairs Ministers process.

It was argued that any changes or amendments to the Credit Act should not introduce conflicting formulas for calculating interest rates. Currently the finance industry works on what is termed an effective interest rate. The shadow minister was considering amendments to our bill to ensure that our amendment did not introduce a new formula. However, the annual percentage rate is recognised as the best formula for informing consumers of their real obligations in any contract, and I will not seek to change the formula. Within twelve months this Parliament will be debating a bill which will introduce uniform credit laws throughout Australia. I understand that the uniform bill will recognise a State's right to regulate a maximum interest rate. Accordingly, when we are briefed on the uniform bill the Opposition expects to see a maximum retained in that legislation.

Of course, the interest rate, whether it is the annual percentage rate, an effective interest rate or the new

formula, should be uniform so that the finance

Page 4562

sector and consumers are comparing apples with apples and we end the confusion on this subject. Because the SCOCAM bill is not far away, I believe we can live with the conflicting methods of defining interest rates. We support the bill.

Ms MACHIN (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [9.10], in reply: I regret that the honourable member for Mount Druitt could not be with us to contribute to the discussion on this bill, but I thank Opposition members for their support of it. The legislation is not an exact copy of the private member's bill to which the honourable member for Coogee referred, as he acknowledged. There is a difference in the way the Government decided to strike a maximum rate. As I said in my second reading speech, it was decided to link the rate to the market in a way that would not lead to wild fluctuations. It will be linked to the Supreme Court rate, which will enable the Government to fix a rate of 42 per cent as opposed to the rate in Victoria which is 48 per cent. That should be compared with the recommendation in the most recent inquiry by the Commercial Tribunal.

The honourable member for Coogee referred also to the review undertaken by Hans Heilpern, a former commissioner, and the Commercial Tribunal. That inquiry was commissioned by a former Minister, the honourable member for Heffron. The bill was ultimately tabled by my colleague the Hon. Gerry Peacocke. Previously the power to set maximum rates rested with the Commercial Tribunal and not the Government. That is a fundamental change made by this legislation. The amendment to section 170 will take that power away from the tribunal, which felt - quite rightly - that it was inappropriate for a quasi-judicial body to set rates for the market. The honourable member for Coogee touched on uniform credit laws. That legislation will be brought before the Parliament next year. I look forward to a full and robust debate on its provisions. I thank the honourable member for Coogee for his contribution, in the absence of the shadow minister, the honourable member for Mount Druitt. I trust he will honour the commitment he gave to me privately and will withdraw his bill, which at present remains on the notice paper as a private member's bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BUSINESS OF THE HOUSE

Bills: Suspension of Standing and Sessional Orders

Motion, by leave, by Mr West agreed to:

That so much of the standing and sessional orders be suspended as would preclude the following bills being brought in and proceeded with up to and including the Ministers' second reading speeches:

Bookmakers (Taxation) (Bet Back) Amendment Bill
Courts Legislation (Amendment) Bill
Gaming and Betting (Amendment) Bill
Health Administration (Medicare) Amendment Bill
Industrial Relations (Public Vehicles and Carriers) Amendment Bill
Mines Rescue Bill
Statute Law (Miscellaneous Provisions) Bill (No. 2)
Summary Offences (Amendment) Bill
Sydney Organising Committee for the Olympic Games Bill
Traffic (Parking) Amendment Bill
Vocational Education and Training Accreditation (Amendment) Bill

SYDNEY ORGANISING COMMITTEE FOR THE OLYMPIC GAMES BILL

Bill introduced and read a first time.

Second Reading

Mr FAHEY (Southern Highlands - Premier, and Minister for Economic Development) [9.15]: I move:

That this bill be now read a second time.

On 23rd September, 1993, the President of the International Olympic Committee, His Excellency Juan Antonio Samaranch, announced that Sydney had been chosen to host the Games of the XXVII Olympiad in the year 2000. It marked the end of a long and arduous campaign by many dedicated people - by all of those associated, in whatever capacity, with the Sydney bid and the Australian Olympic movement who gave countless hours of their professional and personal time to ensuring that Sydney was successful in its bid to host the 2000 Olympics. The decision recognised that our entire community, across all walks of life, professions and cultures, shared a common desire to celebrate the Games that begin the second century of the modern Olympic movement in our city in September 2000.

The decision was recognition of the technical excellence of the Sydney bid, with its emphasis on the needs of the athletes, as well as a further recognition of Australia's standing in the international Olympic movement - one of only three nations to have participated in every summer Olympic Games of the modern era. Sydney's victory will be a wonderful boost for sport in Australia and for our Olympic neighbours in Oceania, not just for the Games in September 2000 but for the years preceding and beyond. It is of special significance for those Australian sports that have found it difficult to qualify for past Olympic Games. As host nation in the year 2000 Australia will be entered in every sport on the program of the Games, thus enabling all of our chosen athletes to savour the special thrill of Olympic competition.

For a nation where the love of sport is so ingrained in its character, the 2000 Olympics offers Australians the once in a lifetime opportunity to see the world's greatest athletes from the family of Olympic nations perform on Australian soil. The Games will provide Australian athletes with the chance to compete in front of home crowds in what

Page 4563

all Australians fervently hope will be our nation's greatest Olympic performance of all times. Now begins the greatest organisational and logistical challenge ever faced by our city - the staging of the Olympic Games when the eyes of the world will be focused on Sydney at the beginning of the twenty-first century. The bill will create the Sydney Organising Committee for the Olympic Games - SOCOG - setting in place the framework to manage and organise the 2000 Olympics.

In hosting the Games Sydney has a marvellous Olympic tradition to follow. As the IOC member resident in Australia, Phil Coles, said in Monaco only an hour after the decision: "We now have a great responsibility". We have a great responsibility to the 10,000 athletes who will come to Sydney to perform at their best in front of a massive global audience. They will reside during that period in the municipality of Auburn. We also have a great responsibility to the people of Sydney, New South Wales and Australia with the staging of the Games. The bill establishes the Sydney Organising Committee for the Olympic Games, whose primary objective will be to organise and stage the Games of the XXVII Olympiad from 16th September to 1st October 2000.

The bill covers the following: constitution of the organising committee, its roles and responsibilities; the establishment of the board of directors and the duties of directors; the appointment of committees and subcommittees within the structure; financial arrangements; and the committee's winding up once the Games are over. Throughout the bill it is made abundantly clear that proper financial management must be at the forefront

of all planning.

The bill also clearly states that the organising committee will be subject to the Public Finance and Audit Act, the Annual Reports Act, the Freedom of Information Act, the Independent Commission Against Corruption Act and the Ombudsman Act. This regime will ensure that the SOCOG is properly accountable. For the benefit of the House I will detail some of the key points contained in the bill. The SOCOG does not represent the State and it may not render the State liable for any debts, liabilities or obligations. The Act clearly states that the organising committee must act in a financially sound and responsible manner, have regard to the limits of the financial resources available to it and the State, and use its best endeavours to avoid the creation of debts and liabilities of both the SOCOG and the State once the Games are over.

To manage the affairs of the organising committee, a 15-person board will be appointed. The membership of this board, other than the chief executive officer, has been announced. The chief executive officer will be selected by the board and will be announced at a later date. The board is made up of the president of the board, Mr Gary Pemberton; members of the International Olympics Committee in Australia, being Mr Kevan Gosper and Mr Phil Coles; the President of the Australian Olympic Committee, Mr John Coates; the Executive Director of the AOC, Mr Perry Crosswhite; the Lord Mayor of the City of Sydney, Councillor Frank Sartor; two persons representing the Premier, Ms Sallyanne Atkinson and Mr Robert Maher; the chief executive of the organising committee; four persons with appropriate experience and expertise recommended by the Premier - Mr Nick Greiner, Mr Kerry Packer, Mr Graham Lovett and Mr Rod McGeoch; and two nominees of the Prime Minister, who also must be recommended by the Premier on the advice of the Prime Minister, the Hon. John Brown and Mr Simon Balderstone. I am confident that the range of experience and skills that these individuals bring to the task will ensure the board operates effectively.

Also provided for in the bill is the board's power to establish commissions and subcommittees to provide it with expert advice in specific areas related to the organisation of the Games. The bill sets out a framework for the management of budgets and expenditure to be controlled by the board. Detailed work on the budget has been completed. As an additional safeguard, provision has been included in the bill for the Premier and the Treasurer to approve any deviation from the existing budget. The committee may not borrow or invest money without the prior approval of the Premier with the concurrence of the Treasurer and in accordance with the Public Authorities (Financial Arrangements) Act 1987. Strict accounting procedures will be adopted, with the SOCOG being subject to the Public Finance and Audit Act.

As honourable members can see, the bill provides a framework which will ensure that the SOCOG is fully accountable. Part 7 of the bill deals with the winding up of the organising committee once the Games are over and all matters are concluded. The bill requires the organising committee to be wound up by 31st March, 2002, in accordance with the provisions of chapter 5 of the corporations law. The surplus funds of SOCOG will be distributed in accordance with the host city contract, which stipulates that 10 per cent must go to the IOC, 10 per cent to the AOC and a further 80 per cent to Olympic sports in Australia, under the administration of the AOC. Even though the Games will not be held for close to seven years, it is important that as soon as possible we have the proper mechanisms in place to ensure that those 16 days of competition are memorable. I believe that the Sydney Organising Committee for the Olympic Games Act will ensure that this process proceeds correctly.

During the bidding period, Sydney was widely regarded as having put together a thoroughly professional and technically excellent bid. Our painstaking research and planning for the Games in 2000 and the way in which we presented this and our city to the IOC and Olympic family paid off. We have created a very high level of expectation and we have to deliver. I am confident that this bill is steering us in the right direction. We can capitalise on the great opportunities with which the Games can provide us. The financial consulting group, KPMG Peat Marwick, recently undertook a study of the

Page 4564

economic impact of Sydney hosting the Olympic 2000 Games. The results were very interesting. According to the report the Olympics will add \$A7.3 billion to Australia's gross domestic product between 1991 and 2004; create over 150,000 full-time and part-time jobs during the same period; and bring an extra 1.5 million visitors to Sydney, of whom 1.3 million will be from overseas. Sydney will gain a magnificent world-class sporting

and cultural infrastructure that will service the Olympic Games and benefit future generations by taking into account the long-term sporting and cultural needs of Sydney.

As honourable members are aware, the majority of new facilities will be built at Sydney Olympic Park at Homebush Bay, in the demographic heart of Sydney. Three million people live within half an hour's drive of Homebush Bay. This means that Sydney's new sporting and cultural facilities will be accessible to many millions of people. In the lead-up to the Games, Sydney can expect to host several world championships and many other major international competitions as the international summer Olympic sports federations test Sydney's venues and organisational skills. Importantly, all of Sydney's Olympic venues will be completed at least one year before the Games.

As part of the Games, Sydney will get an 80,000-seat stadium. Not only will this be used as the centrepiece for the Olympics; it will be the centrepiece of sport and culture for many decades to come. But it will be the athletes who will benefit most, and we will stage a Games where their needs and comfort are the main priorities. Sydney will become a centre of sport with world-class facilities for sportspeople in which to train and compete. They will come from all over Australia, the Pacific, Africa and Asia to Sydney's centre of sporting excellence. With better facilities these athletes will deliver better results. Sydney's investment in Olympic facilities is an investment in our nation's sporting, entertainment and cultural infrastructure. They will last a lifetime. The bid process shows Australia can compete with the best in the world and when we really want something we can do it, and do it very well. As I said earlier, we have set ourselves a very high standard and the world is expecting something magnificent in 2000.

There is something I should emphasise here: the Sydney Olympics will be managed as a green Olympics. Environmental guidelines for the Sydney Olympic Games were developed by the Sydney bid committee with environmental groups such as Greenpeace and were released at Monte Carlo as part of the successful Sydney bid. I should like to reaffirm the Government's commitment to use these environmental guidelines as the framework to develop the Olympic facilities and stage an environmentally sensitive Games. The Sydney Olympics will be an international role model for how ecologically sustainable development can be implemented through the construction of facilities, the design of the athletes' village, and the management of the Games.

In view of the environmental and economic significance of the Olympics to the State, the Minister for Planning will be gazetting a new State environmental planning policy on the development of Olympic Games projects. The policy will apply to Olympic Games projects in the Sydney region. The aim is to facilitate the development of Olympic projects by establishing a planning process within which all projects can be considered and their impact fully assessed. The policy provides for consultation with relevant councils and public authorities, and advertising in the assessment of applications for specific Olympic Games projects.

The Government will undertake a detailed assessment of the impact of the environmental guidelines released in Monte Carlo to ensure that they are properly and fully taken into account. The Government proposes to include the guidelines in the State environmental planning policy. Once a detailed examination of the guidelines has been undertaken, the Government will undertake to assess ways of incorporating them more generally in the planning process. In view of the detailed planning already undertaken as part of the bid process, there is adequate time to properly prepare for the Games in a way which will respect planning processes. Further details of the State environmental planning policy on the development of Olympic Games projects will be provided by the Minister for Planning. The fact is that the Sydney 2000 Olympics will be a showcase for responsible developments based on sound environmental practices and principles. To get it right, we need the right people and these people must have the right framework in which to operate. The bill for the Sydney Organising Committee for the Olympic Games will ensure this occurs, and I commend it.

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

TRAFFIC (PARKING) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr BAIRD (Northcott - Minister for Transport, and Minister for Roads) [9.30]: I move:

That this bill be now read a second time.

The legislation before the House will amend the Traffic Act to enable councils to introduce various forms of paid parking at selected locations within the area of the council concerned. The proposal will give councils the opportunity to utilise cost-effective means such as coupons or tickets to regulate paid parking, rather than rely, as they do now, on expensive and unsightly parking meters which clutter our footpaths and impose heavy maintenance and operating costs. Experience overseas and in some Australian jurisdictions confirms that viable alternatives to meters are now available which are readily accepted by motorists, economical for councils and effectively enforced by police.

Page 4565

Whilst it is expected that, initially at least, parking coupons or tickets will be the means generally adopted by participating councils, the legislation has been drafted in a sufficiently broad fashion to enable the use of other forms of payment such as smart cards and the like as the technology becomes available. Applications by councils to introduce paid parking in any public street will be subject to the approval of the Roads and Traffic Authority, as is already the case with parking meters. This requirement reflects the need for the statutory authority to collect charges for the use of a public street and constrains councils from imposing parking fees as a convenient source of raising revenue without legitimate traffic or transport objectives.

The legislation will also provide for the rationalisation of paid parking arrangements administered by different councils, particularly those situated in close proximity to each other. Common schemes which impose common fees will be encouraged to avoid any confusion which could result at locations where, for example, council boundaries adjoin. Any council which fails to comply with a condition of an RTA approval will be unable to require or recover parking fees from the area specified in that approval.

The bill further provides that any surplus revenue gained from parking meters or other forms of paid parking is to be utilised by the council concerned to establish, improve or manage road, traffic, parking or public transport facilities. This provision repeals an amendment enacted during the autumn session of Parliament which, in respect of parking meters only, allowed councils to dispose of any surplus revenue from meters as they saw fit. In the Government's view, the present provision gives considerable incentive for councils to put in place parking schemes to maximise revenue rather than parking space and traffic management. This could result in pressure for an increase in undesirable parking schemes. The rationale which underlies the Government's position is that it is a method of allocating a scarce resource in certain areas, that is, parking space.

The uses to which the surplus proceeds may be applied, as set out in this bill, are directed to either providing further parking space or minimising the need for parking space by greater utilisation of public transport. It is more appropriate that revenue derived from motorists should be returned in the form of tangible benefits to the contributors. In determining applications by councils, RTA will apply guidelines which will address such issues as traffic density and parking demands at the location proposed, availability of coupons or tickets from agencies or vending machines, the installation of signposting and the provision of road marking as required. Various options to avoid a proliferation of parking meters have also been examined. The amending legislation will enable those councils which do elect to retain or introduce meters to use multi-meters, which are a single unit designed to regulate the use of several parking spaces. At present, legislation requires one parking meter for each parking space.

The purpose of this legislation is to ensure that councils and the motoring community have the benefit of flexible and modern paid parking schemes. Motorists will appreciate the convenience of a ticket, coupon or

card system, and any concerns that councils may seize the opportunity to impose paid parking indiscriminately will be allayed by the built-in safeguards I have already described. Supported by suitable regulations on which police, local government and RTA personnel will liaise, the legislation will provide councils with a flexible but controlled authority to implement and manage the paid parking system of their choice within their individual areas of responsibility in a cost-effective manner. I commend the bill to the House.

Debate adjourned on motion by Mr Clough.

HEALTH ADMINISTRATION (MEDICARE) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr PHILLIPS (Miranda - Minister for Health) [9.36]: I move:

That this bill be now read a second time.

In February 1993 New South Wales entered into a new five-year Medicare agreement with the Commonwealth Government. This is the third such agreement between New South Wales and the Commonwealth. The agreement took effect from 1st July, 1993, and will remain in force until 30th June, 1998. The Medicare agreement sets out the roles and responsibilities of the Commonwealth and New South Wales for the development, funding and delivery of public hospital services and other health services. The 1993 Medicare agreement also contains five general statements of principle about guidelines for the delivery of public hospital services. The statements about these guidelines are called Medicare principles and commitments. The Commonwealth Government has amended its Health Insurance Act 1973 to establish the funding mechanism for future Medicare agreements and to set out in legislation the Medicare principles and commitments contained in the agreement.

Under the Medicare agreement, all States and Territories undertook to enact complementary legislation to reflect the principles and commitments set out in section 26(2) of the Health Insurance Act 1973. The Health Administration (Medicare) Amendment Bill fulfils this undertaking to adopt the Medicare principles and commitments in New South Wales legislation as guidelines for the delivery of public hospital services in this State. The Medicare principles and commitments focus on the provision of public hospital services to eligible persons, while acknowledging that these services operate in an environment where individuals have the right to choose private health care in public and private hospitals, supported by private health insurance.

Page 4566

An eligible person is defined in the Health Insurance Act 1973 of the Commonwealth as "an Australian resident or an eligible overseas representative". This definition is adopted in the bill. The bill states that the Commonwealth and New South Wales are committed to three principles in the provision of public hospital services. The first principle relates to choices of services. It provides that eligible persons must be given the choice to receive public hospital services free of charge as public patients. The second principle provides a guideline on universality of services. It states that access to public hospital services is on the basis of clinical need. The third Medicare principle relates to equity in service provision. It provides that, to the maximum practicable extent, New South Wales will ensure the provision of public hospital services equitably to all eligible persons, regardless of geographical location.

In addition to these three principles, the bill sets out two commitments regarding public hospital services for eligible persons. The commitments assist the Medicare principles to be achieved. The first commitment is a general guideline for information about service provision in public hospitals. It provides that the Commonwealth and New South Wales must make available information on the public hospital services which

eligible persons can expect to receive as public patients. The second commitment covers efficiency and quality in service provision. It provides that the Commonwealth and New South Wales are committed to making improvements in efficiency, effectiveness and quality of hospital service delivery. The guidelines reflected in the principles and the commitments are clarified by explanatory notes to each of the principles and commitments.

The bill also provides that the amendments will not create new rights that do not otherwise exist at law. This provision reflects the fact that the guidelines espoused in the principles and commitments are statements of principle only. The amendments will cease to have effect on a day to be proclaimed. This provision is required in the event that the Medicare agreement between New South Wales and the Commonwealth is terminated. The introduction of legislation in New South Wales which reflects the wording of the principles and commitments will not require any changes to current public hospital service delivery arrangements in this State, provision to the Commonwealth of additional data on service delivery or additional standards monitoring requirements. Public hospital service delivery in this State is already provided in line with the guidelines set out in the principles and commitments. The bill clearly enunciates the guidelines agreed by New South Wales in a simple format.

The New South Wales health system uses a range of mechanisms for monitoring and ensuring the quality and effectiveness of public hospital services. For example, New South Wales public hospitals are accredited by the Australian Council of Health care standards. The New South Wales Department of Health's guide to role delineation sets out the minimum services necessary to support hospital core services such as medicine, surgery and obstetrics. New South Wales area health services, rural health districts and public hospitals have comprehensive quality assurance and utilisation review programs. Morbidity and mortality data collections are maintained and actively used to monitor the quality and effectiveness of care for specific diseases and for different services, including perinatal morbidity collection, inpatient statistics collection and the cancer registry.

The New South Wales health outcomes program is specifically addressing measures to improve outcomes based accountability in the New South Wales public health system. Public health units and health promotion units in area health services are responsible for monitoring the effectiveness of population health measures. The role of the recently established customer focus unit in the New South Wales department of health is to co-ordinate all the elements of customer service including information and quality in management. Monitoring continues via annual statewide customer satisfaction surveys, with improvements ensured by the establishment of key objectives to be achieved by all health services.

An important mechanism for the dissemination of information to consumers about public hospital services available to public patients will be in the form of a public patients hospital charter. This charter is mentioned in the explanatory notes to the first Medicare commitment. The public patients hospital charter is being developed separately by the New South Wales Department of Health, in conjunction with the Commonwealth. The wording of the public patients hospital charter is not required to be placed in legislation. The Medicare principles and commitments, as guidelines for the provision of public hospital services, reflect the commitment of the New South Wales Government to continue to provide high quality public hospital facilities and treatment for the people of this State. The Health Administration (Medicare) Amendment Bill provides a clear set of statements of principle about the New South Wales Government's commitment to the public hospital system. I commend the bill.

Debate adjourned on motion by Mr Clough.

MINES RESCUE BILL

Bill introduced and read a first time.

Second Reading

Mr CAUSLEY (Clarence - Minister for Agriculture and Fisheries, and Minister for Mines) [9.47]: I move:

That this bill be now read a second time.

The purpose of this bill is to repeal the outdated Mines Rescue Act 1925 and to reconstitute the Mines Rescue Board so that it can meet its responsibilities into the twenty-first century. The Mines Rescue Act 1925 was enacted to provide for rescue operations in coal and shale mines. It catered for an identified need

Page 4567

with a corps of trained and equipped rescue personnel to service the coalmining industry. The identification of that need arose from a number of disastrous events resulting in considerable loss of life. That Act authorised the establishment of district committees responsible for the operation of rescue stations in each of the State's coalmining districts. There are currently four rescue stations - at Singleton covering most of the Hunter Valley, Newcastle, Lithgow for western mines and Wollongong for southern mines.

In 1972 the Act was amended to create the Mines Rescue Board. At the same time the Central Mines Rescue Fund was established. This fund was established by the board and financed entirely by contributions from the coal industry. The board allocated funds to district committees. However, the committees were not responsible to the board and the Minister had no power of direction over the committees. The existing structure of the board and district committees is far from efficient. There is no power for the board to employ staff. The board's expertise in underground mines rescue and related matters, for example, repair and calibration of gas detection instruments, has been sought by industry not only in New South Wales but also in other States and overseas. The 1925 Act does not contain powers for the board to provide such services. Following negotiations with industry and the unions involved in the coalmining industry, agreement was reached to repeal the 1925 Act.

The bill now before the House will reconstitute the Mines Rescue Board. The board will be a statutory body representing the Crown. As such - and I wish to make this quite clear - it will be bound by such Acts as the Ombudsman Act, Freedom of Information Act, Public Finance and Audit Act, and the Annual Reports (Statutory Bodies) Act. I spell this out because, in the past, some members of the board have been of the view that, as the board is financed entirely by industry, little regard needed to be given to the powers and indeed the limitations of the Act which established it.

The bill provides for a board of nine directors. The chairman of the board will be the chief inspector of coalmines. Three directors will be nominated by the New South Wales Coal Association to represent the interests of mineowners. Three directors will represent mine employees. Of these, one will be nominated by the Australian Collieries Staff Association and two by the United Mine Workers Division of the Construction, Forestry, Mining and Energy Union. The New South Wales Mine Managers Association will nominate a director. The ninth director will be a person, nominated by the Minister, who has such financial, technical, legal or other professional qualifications as considered desirable.

In line with government policy, the bill spells out the core functions of the board. These are those services the board must provide for underground coalmines. The bill provides also for additional discretionary functions in respect of rescue services for open-cut coalmines and any metalliferous mine. In line with modern practice the day-to-day running of the board will be the responsibility of the chief executive of the board. The chief executive will be appointed by the Governor on the nomination of the board. The bill authorises the board to employ such staff as is necessary. The board, in the case of every underground coalmine, will be required to determine the number of mine personnel to be made available to the board. Such persons, and others appointed by the board, will comprise the New South Wales Mines Rescue Brigade.

The board is responsible for training brigade members in such matters as the use of breathing apparatus and other mine safety equipment, mine safety procedures, the work involved in rescuing persons who may become trapped in a mine, or who may otherwise need to be rescued from dangerous situations occurring at or in a mine, and the procedures involved in sealing an underground coalmine and reopening such a mine.

Mineowners must release members of the brigade to attend emergencies and for training. This accords with longstanding practice.

The bill contains a provision requiring the board to prepare a corporate plan for each financial year. The plan is to specify the objectives of the board, the policies of the board necessary to meet those objectives, and criteria that will enable the board's performance to be appraised and audited. All moneys received by the board are to be put into the Mines Rescue Fund. The board's functions will be financed by contributions levied on coalmine owners. Honourable members will note that the contributions are payable by owners of all coalmines and not only underground coalmines. This arrangement has been included at the request of the coal industry. Payments received from the board's consultancy work will be paid into the Mines Rescue Fund.

The members of the Mines Rescue Service have a long and proud tradition of service to their fellow workers. They are most professional in their approach to training. A number of generations of coalminers have now served as volunteers. I know how prepared for an emergency they always are. I hope, of course, that they never get called out for a serious accident. This bill will enhance the management of the board's functions which will, in turn, mean an even better trained and equipped brigade. The bill has the support of both industry and the relevant trade unions. I commend the bill.

Debate adjourned on motion by Mr Clough.

SUMMARY OFFENCES (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr HARTCHER (Gosford - Minister for the Environment) [9.53]: I move:

That this bill be now read a second time.

The purpose of the Summary Offences (Amendment) Bill is to remove the option of sentencing a person to imprisonment for the offence of offensive language.

Page 4568

Currently the penalty for this offence is a \$600 fine or imprisonment for three months. The proposed amendments will enable a court to instead sentence a person convicted of offensive language to either a \$600 fine or a community service order. The object of the Summary Offences Act, when introduced into Parliament in 1988 by this Government, was to consolidate and reform offences against public order. The Government had a clear mandate to reform the law based on its pre-election commitment of reducing street crime. The Act repealed the Offences in Public Places Act 1979 and reintroduced the offences and gaol penalties for offensive language and offensive conduct as contained in the former Summary Offences Act 1970.

In his second reading speech and in the parliamentary debates the then Attorney General, the Hon. John Dowd, Q.C., M.P., emphasised that imprisonment was to be used as a last resort and its use would be the subject of continued scrutiny by the Government. Recent comments on the impact of this section, particularly in relation to Aboriginal people, have reinforced the Government's concerns over the custodial penalty for the offence of offensive language. Recommendation 86 of the Royal Commission into Aboriginal Deaths in Custody criticised specifically this offence, stating this should not be the subject of arrest or charge. Also, in early 1993 Amnesty International released a report entitled "Australia: A Criminal Justice System Weighted Against Aboriginal People", which singled out the offensive behaviour and offensive language provisions as key factors leading to a disproportionate increase in the arrests of Aboriginal people.

The present amendment to remove the imprisonment penalty for offensive language, in conjunction with the existing right to bail and the adoption of the Justices (Amendment) Act, which allows police to issue court

attendance notices in lieu of arrest for prescribed offences - including offensive language - will address these concerns. It will benefit also the economic and social stability of the families of offenders. Their welfare, in particular where juvenile or Aboriginal offenders are involved, will be more carefully protected. Considerable progress has been achieved by the Government in implementing the recommendations of the Royal Commission into Aboriginal Deaths in Custody through the national and New South Wales responses to the commission's report. As a further important part of the New South Wales response, the Government considers that it is now appropriate for the imprisonment penalty for the minor offence of offensive language to be removed. I commend the bill.

Debate adjourned on motion by Mr Whelan.

GAMING AND BETTING (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mrs COHEN (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [9.58]: I move:

That this bill be now read a second time.

The Gaming and Betting Act was initially drafted in 1912, at a time when community values regarding gambling were significantly different to what they are today. It has become clear that a major review of the existing legislation is necessary, but there are certain obvious inadequacies in the Gaming and Betting Act which need to be addressed urgently. The current proposed amendments originated from an interdepartmental inquiry into prohibited amusement devices. This inquiry highlighted some changes which were clearly required immediately. Subsequent discussions with the New South Wales Crime Commission indicated that there was also an urgent need to strengthen existing laws in relation to unlawful bookmaking.

Because of the urgent need to strengthen controls over unlawful bookmaking and prohibited amusement devices, a task force of officers has been established to review the legislation in its entirety. The first meeting of the task force was held on 18th October, 1993. It is planned that the task force will provide its final report to me by 1st September, 1994, but provision has been made for staged reporting before that time, if required. In the meantime, in view of the fact that particular deficiencies in the Act have already been identified - deficiencies which are affecting the immediate control of illegal gambling - it is proposed to proceed with specific amendments to which I shall now turn.

The bill introduces several new controls aimed at starting price bookmaking. The Act is presently constructed in a way which makes it unlawful to operate a bookmaking operation in a public place - that is, street betting or to operate a bookmaking operation in a private place, that is, place betting or keep a betting house. This distinction means that some mobile S.P. operations can slip between the gaps of street betting and place betting. The bill introduces a new offence of unlawful bookmaking, for which it will be unnecessary to show that the activity occurred in a particular place or street in order to convict. A further new offence of having a financial interest in the business of bookmaking is also to be introduced, to assist law enforcement agencies to capture the principals behind large bookmaking businesses.

First offences of unlawful bookmaking will be able to be prosecuted either summarily - before a local court magistrate - or on indictment, before a District Court judge. The significance of this option is that it brings into play the provisions of the Confiscation of Proceeds of Crime Act, which defines a serious offence as one which may be prosecuted on indictment. The New South Wales Crime Commission believes that the ability to confiscate proceeds of unlawful bookmaking will prove a useful measure in combating major S.P. bookmaking operations. The final provision aimed at tightening controls over bookmaking relates to the forfeiture of

unlawful betting aids. Presently, police may seize unlawful betting aids such as ledgers, mobile telephones, tape-recorders, and diverters, but they are required to return these items even if the owner is
Page 4569

subsequently convicted of a bookmaking offence. The bill will allow the court to order the forfeiture of these devices.

The next group of amendments that I should like to address are those related to prohibited amusement devices. The existing penalty structure under the Gaming and Betting Act provides for a maximum penalty for possession of prohibited amusement devices under section 17A of 10 penalty units, which represents \$1,000, or imprisonment for 12 months. It is proposed to introduce the same penalties for offences relating to prohibited amusement devices as currently apply to street betting and place betting under the Act - that is, a maximum of \$10,000 or 12 months' imprisonment for a first offence, and a maximum of \$50,000 or 2 years' imprisonment for second or subsequent offences. It is also proposed to amend the Act to provide a maximum penalty of \$50,000 for corporations which are convicted of possession of a prohibited amusement device. This is consistent with the maximum penalty which may be imposed on corporations in disciplinary proceedings under the Liquor Act. The bill also provides the court with the power to order a defendant to pay the expenses incurred by the police in taking possession of, transporting, and storing under security a prohibited amusement device while it is held for evidentiary purposes.

The bill also introduces an amendment in relation to what has become known as phantom race-meetings. The Gaming and Betting Act was amended in 1989 to allow betting to be conducted on a racecourse following the abandonment of the race-meeting prior to the conduct of the first race. The declaration of a phantom race-meeting allows betting to take place on-course on intrastate and interstate race-meetings, and full services to be offered by the club to its patrons even though the race-meeting has been abandoned. The Australian Jockey Club approached the Department of Sport, Recreation and Racing seeking a further change to the legislation, to allow race clubs to postpone meetings on the day preceding a programmed meeting. At present, the declaration of a phantom meeting must take place on the scheduled day of the meeting. The bill provides for this extension of the "phantom" race-meeting concept.

The final amendments which I should like to discuss relate to validating certain proceedings which have been instituted outside the requirements of the Act. Section 60 of the Act provides that, except where otherwise provided, proceedings for an offence against the Act shall be dealt with summarily before a local court. Second or subsequent offences in respect of certain specified provisions are to be prosecuted on indictment and not otherwise. Some proceedings for second offences in respect of the specified provisions were instituted and dealt with by a local court. The bill provides for the validation of any such proceedings.

As I have indicated earlier, these amendments will not result in a perfect set of controls over unlawful gaming and betting operations in this State. The amendments are aimed at bringing some immediate assistance to the work of the two law enforcement agencies, the Police Service and the Crime Commission. Following the report of the task force, it is likely that more significant amendments to the Act will be identified as being necessary, in order to ensure that the act can provide effective controls over the unlawful gambling industry into the next century. It is hoped that those significant amendments will be brought before this House within the next 12 months. In the meantime, I commend the bill to the House.

Debate adjourned on motion by Mr Face.

COURTS LEGISLATION (AMENDMENT) BILL

Bill introduced and read a first time.

Second Reading

Mr PHOTIOS (Ermington - Minister for Multicultural and Ethnic Affairs, and Minister Assisting the

Minister for Justice) [10.7]: I move:

That this bill be now read a second time.

This bill seeks to make a series of amendments to various Acts affecting the powers of and procedures in some of our courts. It deals principally with civil jurisdictions. If it could be summed up, it would be described as a bill to remove several fairly minor hindrances to the more efficient operation of the courts. Most of its provisions have been sought by the courts themselves. I will deal with the provisions generally in the order in which they appear in the schedules to the bill. Schedule 1 will amend the Local Court (Civil Claims) Act 1990. The Local Court has a general civil jurisdiction of up to \$40,000 and it is important to the efficient functioning of the civil court system that actions within the jurisdiction of the Local Court be litigated there. As honourable members would be aware, one problem has been the inability of the Local Court to order the return of goods wrongly detained.

In an action in detinue in a Local Court a judgment for the plaintiff can be only for payment of money and, when the defendant pays the value of the goods, they become his or hers. The defendant can be given the option of returning the goods but cannot be compelled to return them. Item (1) of schedule 1 will give the Local Court jurisdiction to hear a claim for specific return. It then goes on to tidy up the drafting by recasting section 12, which is the major statement of the court's jurisdictional rights. Item (3) will give the Local Court the powers of the District Court to make orders for specific return and allows the court rules to provide for enforcement.

Another problem in keeping actions in the Local Court has been the unavailability of a defence under the Contracts Review Act 1980. Section 7(1)(a) of that Act enables the Supreme Court and the District Court to refuse to enforce a provision of a contract if the court finds that the provision, which is enforceable under general law, is unjust in the circumstances.

Page 4570

The Act does not apply to the Local Court, and a defendant who wants to rely on section 7(1)(a) in a Local Court action has to apply to the District Court to transfer the action there. Quite a few applications are being made on this basis, and it is suspected that at least some of them are spuriously made as a delaying tactic. Item (2) will give the Local Court the powers of the Supreme Court to grant relief under section 7(1)(a), but is careful not to extend any other provision of the Contracts Review Act to the local courts. Most of those other provisions involve equitable relief.

The Local Courts (Civil Claims) Act is far too specific in detailing the provisions and procedures relating to the financial examination of a judgment debtor. Because of the way the Act is worded, registrars are being compelled to conduct examinations in circumstances where it would be quite reasonable to insist on the creditors doing the work themselves. Registrars are very busy people, and it is inappropriate that the taxpayer should foot the bill for saving the creditor from having to attend the court when the creditor could quite easily do so. The District Court has a much more reasonable system, which is achieved by leaving it to the court to make rules about when a creditor may or may not require the registrar to conduct an examination. Items (5) and (7) of schedule 1 will bring the position in the Local Court into line with that in the District Court.

Where a judgment debtor fails to attend a Local Court as required by an examination summons duly served, the registrar is required by the Act to report the failure in writing to the court. The magistrate can then direct adjournment of the proceedings or the issue of a warrant for the apprehension of the judgment debtor. This warrant requires the sheriff to arrest the debtor and to bring him or her before the nearest registrar for examination. It does not authorise imprisonment of the debtor except in the very rare case where an arrest is made at a time when no registrar is available. Almost invariably the magistrate authorises the warrant to issue, and makes this decision without any knowledge of the matter other than the registrar's report.

There is no point in taking up the time of the court with what can only be described as a routine matter, or in accepting the delay the process causes in some remote areas where the capacity is generally not available. Item (6) of schedule 1 will enable the registrar to exercise the functions of the court to adjourn the examination

or issue the warrant for apprehension. Section 61 of the Local Courts (Civil Claims) Act prohibits the seizure of property under a Local Court writ of execution between 8 p.m. and 7 a.m. No other court has anything resembling such a restriction on its process. The origin of the provision has been traced as far back as the Small Debts Recovery Act 1846, but there is nothing to indicate why it is needed in 1993 in a court with a jurisdiction of up to \$40,000. Sheriff's officers do not execute a large number of writs at night, but there are occasions when a levy simply cannot be made except at night. Item (8) of schedule 1 will therefore repeal section 61. Items (9) and (10) deal with transitional matters.

Schedule 2 will amend the District Court Act 1973. Item (1) of schedule 2 will make the same provision for issue by the registrar of a warrant for apprehension as is made in schedule 1 in respect of the Local Court. Item (2) of schedule 2 will deal with a problem concerning orders for costs made in the District Court. In a recent decision the Court of Appeal held, by majority, that the District Court has no power to order costs to be taxed on an indemnity basis. The reason for this decision was that the definition of costs in the District Court Act was interpreted as restricting the court's powers to dealing with costs to be taxed on a party and party basis. Item (2) seeks to lift that restriction.

Very broadly, the distinction between the two types of costs order is that party and party costs are limited to the costs necessarily incurred in establishing the successful party's case, and further limited by prescribed scales. Indemnity costs include all the costs actually incurred by the successful party other than those unreasonably incurred or unreasonable in amount, and any doubt about the reasonableness is to be resolved in favour of the successful party. The difference in amount can be quite substantial. An indemnity costs order is punitive in nature and is made only where a party's unreasonable conduct of the proceedings has prolonged them or otherwise added to their cost. Such orders are not infrequently made in the Supreme Court, and the Court of Appeal in its judgment thought it highly desirable that they should be able to be validly made in the District Court.

The particular concern in the District Court has been with plaintiff's offers under the offer of compromise system. That system has been of great assistance in promoting early settlements. Where a plaintiff makes an offer to accept a specified amount in satisfaction of his claim, the defendant rejects the offer, the proceedings continue to judgment and the plaintiff recovers the amount of his offer or more, it is usually clear that the defendant's rejection has unnecessarily prolonged the proceedings. The plaintiff in such a case would seek and be granted an order that his costs incurred after the date of the offer be paid on the indemnity basis, and the District Court Rules provide for this.

Quite a number of orders for indemnity costs have been made in the District Court and, having been won, they would have been found appropriately under the amendments proposed here in a way that would be very satisfactory to the resolution of the case in question. Accordingly, with community consultation, they have now been incorporated in the bill. They were orders made on the merits of the case and in accordance with the rules of the court, and the court's understanding of its powers and the parties who were granted those orders should be protected.

Item (2) of schedule 2 will seek to validate those orders by providing that the court has had power to make them since 28th April, 1989, which was the date of commencement of the offer of compromise system. As is usual in such circumstances, the validation will

Page 4571

not affect the particular matter that was before the Court of Appeal. When the Legal Profession Reform Bill becomes law its new approach to costs will supplant the present system, and there will be no doubt about the court's power to award indemnity costs. But the provisions of that bill and this bill cannot stand together, so the latter provisions are expressed to be repealed on commencement of the former. It is not practicable to leave the present problem to be solved by the Legal Profession Reform Bill, because there will be necessarily a good deal of delay between assent to that bill and commencement of the relevant provisions.

The definition of costs which provoked the proceedings in the Court of Appeal is repeated in the Compensation Court Act 1984 and the Local Courts (Civil Claims) Act, 1970, and it is necessary to make the

same amendments to those Acts as to the District Court Act. The bill will attend to those matters in schedule 4 and in item (4) of schedule 1. The District Court Act makes extensive provision for the court to make orders for inspection of property in proceedings in the civil jurisdiction, but there is no provision at all in respect of the criminal jurisdiction. Serious doubt exists as to whether the court can order, for example, a view by a jury in criminal proceedings.

The Supreme Court relies on its inherent powers in this area, and item (3) of schedule 2 will allow the District Court to make rules conferring those powers on the District Court, but limited to orders for a view of real property. For caution, any such rules are included among those criminal procedure rules which need the approval of the Attorney General before they can have effect. Schedule 3 will amend the Contracts Review Act 1980 to include Local Courts in the definition of court, but only for the purposes of section 7(1)(a) of the Act. It complements item (2) of schedule 1.

Schedule 4, as I have mentioned, clarifies the power of the Compensation Court to order indemnity costs. Schedule 5 applies the Supreme Court (Fees and Percentages) Regulation to the Dust Diseases Tribunal. That tribunal was established in 1989 to take exclusive jurisdiction over the proceedings for damages for dust related injuries which were then brought mostly in the Supreme Court. The Dust Diseases Tribunal Act 1989 provided for regulations to be made as to fees in the Tribunal, but none was made. The tribunal has been charging the same fees as are charged in the Supreme Court, which was always the intention; but it now becomes necessary to validate those charges. The amendment will continue the application of the Supreme Court charges until regulations are in fact made under the Dust Diseases Tribunal Act.

The various amendments to be made by the bill will assist the courts in their endeavours to provide an efficient dispute resolution service to the citizens of this State. The Government again congratulates the courts on the very impressive progress they are making, especially in generating a number of these ideas that we hope will enjoy bipartisan support. The Government is glad to bring forward legislation that was sought by the courts to remove a few barriers to that progress. I commend the bill.

Debate adjourned on motion by Mr Whelan.

BOOKMAKERS (TAXATION) (BET BACK) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr DOWNY (Sutherland - Minister for Sport, Recreation and Racing) [10.23]: I move:

That this bill be now read a second time.

The purpose of the proposal before the House is to amend the provisions of the Bookmakers (Taxation) Act to provide bookmakers with a rebate of amounts paid as turnover tax on that part of bets taken by them which is subsequently bet back with another bookmaker or on the totalizator. In plying their trade bookmakers often reduce their liability on a particular contestant by using some of the money bet with them to place bets on that contestant with other bookmakers or the totalizator. The practice is known as betting back. Although in betting back a bookmaker reduces the amount held by him on a contestant, as the law currently stands he is still liable for turnover tax on the full amount bet with him. At present bookmakers are required in accordance with the provisions of the Racing Taxation (Betting Tax) Act, 1952 and the Bookmakers (Taxation) Act, 1917 to pay a tax equal to 1 per cent of all bets made with them.

As the bookmaker accepting the bet back also pays tax on the bet, tax is paid twice on the same bet. Similarly, bet backs on the totalisator are subject to further tax when commission is deducted from the totalizator pool. The proposed exemption from turnover tax on bet backs, which is expected to save

bookmakers approximately \$200,000 per annum, will correct an anomaly which has existed for many years and will provide a small measure of relief to the bookmaking industry at a time when the industry is struggling to remain viable. I might mention that at present bookmakers in all other States and Territories pay turnover tax on bet backs and this Government is the first to commence action to correct this anomaly. A similar concession was recently granted by the Australian Jockey Club and most racing associations in New South Wales in respect of turnover levies imposed by those bodies on bookmakers. The exemption is to be provided in the form of a rebate to be approved by the Minister or his delegate, thereby enabling refusal of claims subsequently found to be not genuine.

To avoid additional administrative processes by both bookmakers and my department, a claim for a rebate will be accepted at the time a bookmaker makes a return to the department. On the assumption that the rebate claim will be approved, the bookmaker will pay only the net tax, that is, he will reduce the

Page 4572

tax payable by the amount of the rebate. If the claim is refused, the claimant must be notified within two months. Part of the administrative process will require the bookmaker to sign a declaration that the claim relates to genuine bet backs only and bookmakers making false claims will leave themselves open to prosecution. In this regard the Act will provide that every bookmaker who makes any false statement regarding bet backs in a declaration shall be liable to a penalty. Furthermore, a bookmaker found guilty of breaching the provisions of the legislation may have his or her registration as a bookmaker cancelled or suspended.

To ensure that any exemption from the payment of turnover tax relates to genuine bet backs only and not to bets made by a bookmaker using his own money a number of conditions have been included in the bill. The amount of any claim relating to a bet back will not be allowed to exceed the amount recorded in the bookmaker's betting book at the time of making the bet back. Bet backs with other bookmakers will have to be recorded as a bet back in the betting book of both the bookmaker making the bet back and the bookmaker accepting the bet. Bet backs with the totalisator will have to be made by way of an account established with the club operating the totalisator in the name of the bookmaker making the bet back. I mentioned earlier that the proposed changes will provide a measure of relief to the bookmaking industry at a time when the industry is struggling to remain viable.

In that regard it is noted that during the late 1970s and until the mid-1980s the number of bookmakers registered in New South Wales remained at the 1,000 to 1,100 mark. However, since that time their number has dropped to 668 as at the end of June this year. Since 1987 total investments with bookmakers each year have fallen from \$1.3 billion to \$869 million last financial year. Furthermore, in the first three months of the current financial year investments have fallen a further 17 per cent when compared to the same period last year. I would like to table, for incorporation in *Hansard*, statistics relating to bookmakers between 1978 and 1993.

Leave granted. [*See Addendum.*]

Mr DOWNY: This table graphically sets out the decline in the number of bookmakers registered in New South Wales and investments with those bookmakers. Australian racing, with its attractive on-course operations backed up by efficient off-course betting organisations, is unique and is the envy of racing administrators throughout the world. Bookmakers are, of course, a vital part of the racing scene. They add to the colour, variety and vitality of racetracks. In addition, the odds established by bookmakers are an essential element in the overall betting market. Should bookmakers disappear from New South Wales racetracks then racing would be the poorer and government revenue would be severely affected. Accordingly this Government will continue to examine all proposals aimed at improving the viability of bookmaking.

In that regard, apart from the measures before the House, the Government in 1991 introduced legislation to provide for the issue of perpetual licences to bookmakers. Prior to this bookmakers needed to pay for licences each year and depending upon where a bookmaker fielded he may have had to pay for several different licences. The measure saved bookmakers approximately \$85,000 per annum and whilst still retaining necessary controls regarding licensing of bookmakers, minimised the red tape associated with the licensing process. I believe that it is appropriate at this time for me to place on record the Government's appreciation of the work done by the

outgoing chairman of the New South Wales Bookmakers Co-operative Society, Mr Ian Buxton. Mr Buxton served as chairman of the society between 1989 and 1993 and recently stood down from the position. During his term of office Mr Buxton was untiring in his efforts on behalf of his fellow bookmakers during a very difficult time for the bookmaking industry. I commend the bill to the House.

Addendum

Bookmakers Statistics
For the Years Ended 30th June, 1978 to 1993

Year	Operating Bookmakers	Investment \$
1978	1,110	665,680,000
1979	1,060	732,462,160
1980	1,113	896,451,600
1981	1,052	965,535,360
1982	1,054	1,084,427,478
1983	1,031	1,055,804,720
1984	1,036	1,085,071,537
1985	964	1,076,269,045
1986	942	1,166,204,782
1987	876	1,330,010,694
1988	850	1,245,573,104
1989	798	1,382,223,189
1990	794	1,353,516,800
1991	728	1,236,401,000
1992	682	1,067,917,301
1993	668	868,994,589

Debate adjourned on motion by Mr Face.

INDUSTRIAL RELATIONS (PUBLIC VEHICLES AND CARRIERS) AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mrs CHIKAROVSKI (Lane Cove - Minister for Industrial Relations and Employment, and Minister for the Status of Women) [10.30]: I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Industrial Relations Act 1991 to extend the category of motor vehicles covered by contracts of carriage under

Page 4573

chapter 6 of the Act from "motor lorries" to "motor vehicles" generally, including motor cars and motor cycles. It also extends the principles of voluntary unionism under the Act, which presently only apply to employees, to drivers of those vehicles. The current provisions of chapter 6 of the Industrial Relations Act 1991 establish a scheme permitting the Industrial Relations Commission to regulate conditions of employment to a limited extent in the State's transport industry. In this regard, the commission is able to conciliate and arbitrate on contracts of bailment, which govern drivers of taxis and hire car; and contracts of carriage, which govern contracts between transport companies and lorry owner-drivers.

The commission may also register agreements made between associations of contract drivers and individual employing contractors and contractor associations. The commission may also make contract determinations which are binding on participants in an industry sector as a whole. Determinations presently apply to general carriers, interstate carriers, quarried materials carriers, car carriers, excavated materials carriers, concrete haulage, mini-truck concrete haulage, couriers and taxi trucks, and the taxi/hire car industry. On 27th November, 1992, my colleague the Attorney General, who was then Minister for Industrial Relations, the Hon. J. P. Hannaford, commissioned a review to examine the economic and social impact of the scheme of industrial regulation imposed by chapter 6 of the Act. That review was to have particular regard to the philosophy and framework of the Act and, equally, to the competitive forces in the industry, related costs and inefficiencies. The review commissioner, Ms Hylda Rolfe, issued a preliminary discussion paper in February 1993 and conducted public hearings from mid-May to the beginning of June this year. The final report was presented to me in late July.

The report of that review proposed a new approach to the scheme of regulation under chapter 6. In keeping with the philosophy and framework of the Industrial Relations Act 1991, the review recommended the application of important mainstream provisions of the Act to the contract driving industry, so as to extend to this industry the benefits and safeguards generally available to employees under the principal Act. First and foremost among these recommendations was the extension of enterprise bargaining provisions to chapter 6. It is my firm intention to bring forward a package of amendments to chapter 6 of the Act based on that recommendation in the near future. To this end, officers of the Department of Industrial Relations, Employment, Training and Further Education are presently engaged in the task of formulating the necessary policy and proposals. This task will involve extensive consultation with all industry parties, to assess the most effective manner in which to adopt enterprise bargaining in this industry. However, it was clear from the review that two areas of amendment would be of great benefit to the industry if progressed immediately. Those two areas are dealt with in this bill.

The first area this bill addresses is a situation which is a cause of considerable concern in certain sectors of the industry - it is known as the "motor lorry loophole". Section 663 as it presently stands in the Industrial Relations Act limits the scope of contracts of carriage to the transportation of a load by means of a motor lorry. The term "motor lorry" is not defined in the Act, but was previously defined in the Industrial Arbitration Act 1940 as having the same meaning as it had in the Motor Traffic Act 1909. That definition excluded motor cycles, which are now commonly used in the contract courier industry.

In order to ensure that the New South Wales Industrial Relations Commission has jurisdiction to make determinations and register agreements which are applicable to the industry as it presently operates, the bill replaces the term "motor lorry" with "motor vehicle" as defined by the Traffic Act 1909. The term includes

motor cars, motor cycles and other vehicles propelled by volatile spirit, steam, gas, oil or electricity, and trailers. In closing the loophole, the Government is concerned to ensure that no unnecessary burden falls on a particular section of the industry, through unintended or unforeseen consequences. The bill contains a provision, in item (2)(c) of schedule 1 of the bill, that registered agreements and contract determinations made before the commencement of the legislation will continue to apply only to motor lorries until such time as they are varied to apply to motor vehicles in addition to motor lorries. Further, the review of chapter 6 indicated that the industry sector involved in the delivery of prepared food to customers' premises, if caught by the closing of the loophole, might suffer adverse economic consequences. In order to prevent this, the bill also contains an amendment to section 663 of the Act extending exemptions from the operation of chapter 6 to contracts for the delivery of meals to the premises of a customer.

The bill also provides for the extension of the principles of voluntary unionism, which presently apply to employees under the Act, into the area of contract carriers. Honourable members will be aware that voluntary unionism is one of the basic tenets of the Government's industrial relations policy. In accordance with the general thrust of the review, the bill extends voluntary unionism to chapter 6 to ensure that the protection available to other workers also applies to contract carriers and bailees of public vehicles. Specifically, proposed section 2A provides that a registered agreement or contract determination cannot confer a right or preference of engagement in favour of a member of an association of contract drivers or contract carriers over a non-member. This provision will apply to registered agreements or contract determinations made before or after the commencement of the legislation. In keeping with the rest of the Act, the victimisation of a person who chooses not to belong to an association of contract drivers or contract carriers, or refuses to engage in industrial action, or who has involved himself or herself in a number of activities listed in proposed section 674C(1) will be an offence. The maximum

Page 4574

penalty is set at 100 penalty units - presently \$10,000 - the same amount as for the equivalent offence under chapter 5 of the Act.

Proceedings in relation to victimisation may be taken before the Industrial Court by the secretary of an association of contract drivers or contract carriers, whichever is appropriate, by an elected representative of the bailees or carriers who allege victimisation, or by a person authorised by the Minister. In addition, a person who alleges that he or she has been victimised may apply to the Industrial Court for an order for payment of an amount representing what the person would otherwise have received under their contract or for further damages, or to have a contract declared void or varied, in whole or in part, or directing that the circumstances of a person's engagement not be altered or otherwise injured, or that threats in relation to a person's engagement cease.

The Government has an absolute commitment to implementing the thrust of the review of chapter 6 of the Industrial Relations Act 1991. The provisions of this bill represent the first steps in the introduction, in a balanced and responsible manner, of an enterprise focus to this complicated industry. This will provide a more flexible and equitable industry, so that all industry parties might share in the benefits and enjoy the protection already available for other parties in New South Wales under this Government's industrial relations legislation. I commend the bill to the House.

Debate adjourned on motion by Mr Nagle.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (No. 2)

Bill introduced and read a first time.

Second Reading

Mr WEST (Orange - Minister for Energy, and Minister for Local Government and Co-operatives) [10.39]:
I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No. 2) continues the well-established statute law revision program which commenced in 1984. The bill is the twenty-first bill to be introduced in the program. The statute law revision program is recognised by all members as a cost-effective and efficient method of dealing with amendments of the kind included in the bill. The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. The schedule contains amendments to 20 Acts. I will mention a few of the amendments to provide honourable members with an indication of the kinds of amendments involved. Some amendments arise out of other amendments previously made to the Act concerned.

For example, the amendment to the Guardianship Act 1987 will ensure that the Supreme Court will not be able to make orders for the carrying out of special medical treatment, such as sterilisation, when the court is exercising its jurisdiction with respect to guardianship. The amendment reinstates a previous restriction on the power of the court. The removal of that restriction was an unintended consequence of earlier amendments to the Act. Similarly, amendments to the Liquor (Amendment) Act 1993 and the Registered Clubs (Amendment) Act 1993, together with consequential amendments to the principal Acts in schedule 2 to the bill, are made for consistency with similar amendments that were made during the committee stages of the debate on the bills for those amending Acts. For example, the Liquor (Amendment) Bill, as introduced, proposed to amend the sections relating to various kinds of liquor licences to allow the Licensing Court to grant applications for extensions of trading hours for a trial period. Amendments in Committee limited that trial to a period of up to six months in relation to hoteliers' licences. For consistency, one of the amendments in this bill imposes the same limitation on the proposed trial period in relation to the other licences concerned.

Examples of other amendments contained in schedule 1 are the amendments to the Disability Services Act 1993 and to the Zoological Parks Board Act 1973. The amendment to the Disability Services Act 1993 will allow full effect to be given to the disability agreement between the Commonwealth and the State that was entered into on 30th July, 1991. The effect of the amendment is to permit the Minister for Health to obtain financial assistance under the Act for the funding of certain psychiatric disability services. The services concerned will have to conform to the objects and principles of the Act. The amendment to the Zoological Parks Board Act 1973 is to make it clear that the board has the power to administer trust property as a trustee even if some of the purposes of the trust are not related to the functions of the board, and even if the board is, or could be, a beneficiary under the trust.

A final example of the kind of amendment contained in schedule 1 is the first of the amendments to the Geographical Names Act 1966. That amendment is concerned with the gender-specific language in the Act. The House will be aware that it is some time since legislation in New South Wales was couched in gender-specific terms. It is now proposed that this and future statute law legislation will amend older Acts with a view to ridding the statute book of sexist language. Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Some amendments in schedule 2 update obsolete references, some correct typographical errors, some omit unnecessary material or insert missing material, some make changes in consequence of amendments made by other Acts, some give effect to previous amendments that could not take effect and one revokes the repeal of an Act.

Page 4575

The revocation of the repeal, which is made by the amendment to the Statute Law (Miscellaneous Provisions) Act 1991, is to remove any doubt as to the status of an agreement ratified by the repealed Act. Schedule 3 contains repeals. It repeals amending Acts that are no longer necessary because the amendments have been incorporated in reprints of the relevant principal Acts. It also repeals an Act that is no longer of practical utility. More than 300 Acts were repealed by the Statute Law (Miscellaneous Provisions) Bills passed last year. Accordingly, only a small number of Acts is proposed for repeal on this occasion. Schedule 4 to the

bill contains provisions dealing with the effect of amendments on amending Acts, savings clauses for the repealed Acts and a power to make regulations for transitional matters, if necessary. The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts concerned.

Rather than repeat the information contained in those notes, I invite honourable members to examine the various amendments and accompanying explanatory material and, if any concern or need for clarification arises, to approach me regarding the matter. If necessary, I will arrange for government officers to provide additional information on the matters raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider, as has previously been the case, withdrawing the matter from the bill. I commend the bill to the House.

Debate adjourned on motion by Mr Whelan.

BILLS RETURNED

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

Appropriation Bill
Parliamentary Appropriation Bill
Business Franchise Licences (Petroleum Products) Amendment Bill
Motor Vehicles Taxation (Amendment) Bill
Road Improvement (Special Funding) Amendment Bill
Glenreagh to Dorrigo Railway (Closure) Bill.

CRIMES LEGISLATION (REVIEW OF CONVICTIONS) AMENDMENT BILL

Bill received and read a first time.

Second Reading

Mr HARTCHER (Gosford - Minister for the Environment) [10.47]: I move:

That this bill be now read a second time.

The Government has become increasingly concerned with certain anomalies which have been highlighted in recent times in the scope and operation of section 475 of the Crimes Act 1900. As honourable members will be aware, section 475 provides for the review of a criminal conviction in cases where some new evidence or mitigating circumstances come to light following a trial, and which cast some doubt on the justice of the conviction. Most importantly, the Government has been conscious that the present mechanism for the quashing of a conviction following a successful section 475 inquiry is not necessarily available to all deserving applicants because of existing procedural constraints. Similarly, it appears that definitional problems, per se, may now preclude intellectually and mentally disabled persons who are subject to a special finding of guilt under the Mental Health (Criminal Procedure) Act, from seeking access to a section 475 inquiry.

The proliferation of applications in recent years has reinforced the need for detailed reform of the operation and effect of the section. Following a number of significant cases where post-conviction inquiries have resulted in convicted persons being granted free pardons, the Attorney General directed the Criminal Law Review Division of his department to undertake a review of the procedures for re-examining convictions. This was the first comprehensive review of these procedures since the section was enacted in its present form in 1900, although some minor amendments were made by this Government in 1992.

The Criminal Law Review Division produced an issues paper entitled "Reform of Section 475 of the

Crimes Act" in November 1992, and public submissions were sought. This bill incorporates a number of important reform initiatives arising out of this review. Whilst the Government's proposals substantially revise and streamline the present law, most of the existing structure will be retained. A convicted person, or any other person on his or her behalf, will still be able to apply to the Supreme Court, or petition the Governor, for a judicial inquiry into the conviction. This is the existing position. Further, while the bill rationalises the two existing mechanisms for review of convictions under section 475 and section 26 of the Criminal Appeal Act, by incorporating both provisions into a new section 475 of the Crimes Act, the substance of section 26 has not been effectively altered.

For convenience I shall continue to refer to the new section 474 inquiries as section 475 inquiries. The most important changes in the bill will eliminate the present incompatibility between section 475 and section 26. At the completion of the hearing of the application, the justice or judicial officer, in addition to making a report to the Governor, will now be empowered to refer the matter directly to the Court of Criminal Appeal for its hearing of the application for the quashing of the conviction. Where the justice or judicial officer does not so refer the matter, a convicted person to whom a free pardon has been granted will be entitled to apply to the Court of Criminal Appeal to have the conviction reviewed, and quashed, if that is appropriate.

It is important to note that the Government proposes that these reforms governing the quashing of convictions should apply to all persons who have been pardoned, whether before or after the reforms come into force. Thus people who have already been pardoned, such as Mr Douglas Rendell and Mr Siegfried Pohl, will be able to apply to have their convictions reviewed and quashed by the Court of Criminal Appeal. In summary, the Court of Criminal Appeal will be able to review and, where appropriate, quash a conviction:

- (a) if the case is referred to it directly by the Attorney General following a petition to the Governor;
- (b) if the case is referred to it by a judicial officer conducting an inquiry under section 475; or
- (c) on the application of the convicted person after being granted a free pardon.

A further important reform initiative in the bill will ensure that a section 475 inquiry is available to intellectually disabled and mentally ill persons by expanding the definition of conviction in section 475 to include a special finding of guilt under the Mental Health (Criminal Proceedings) Act 1900. This will remove the present uncertainty in this area where it appears that a section 475 inquiry is not available to a person who has been the subject of an adverse finding under that Act. This anomaly has been recently highlighted in the case of Mr Michael Parker. The bill also provides for some limit to be placed on subsequent and further applications for a section 475 inquiry, by adopting a test similar to section 22A of the Bail Act.

The Government is concerned that in removing restrictions on the post-conviction inquiry procedure, some additional safeguards are required against the waste of judicial resources that can flow from repeated unmeritorious applications for inquiries. Consequently, either the Governor or the Attorney General in the case of petitions, or the Supreme Court in the case of applications to it, will be entitled to refuse to consider an inquiry if the matter is substantially the same as one that has already been dealt with and there are no special circumstances justifying further action. Other procedural reforms in the bill, which seek to clarify the operation of the section, include:

- when the judge is determining whether to direct an inquiry, he or she may consider any written submissions made by the Crown with respect to the application;
- the Crown will be given a right of appearance or to make submissions at the quashing hearing;
- a judicial inquiry will have the relevant powers of a royal commission for the purposes of obtaining evidence, summoning witnesses, and providing witnesses with the same protection given to witnesses before royal commissions.

In addition, when considering a quashing application, the Court of Criminal Appeal will normally only consider the relevant judicial inquiry report, and any Supreme Court report where applicable, together with the submissions of the Crown and the convicted person on the reports. The court will be able to grant leave to allow any other material to be introduced before it. The Court of Criminal Appeal will also not be bound by the rules of evidence in hearing the quashing application. These procedural reforms for quashing hearings will ensure that there is no unnecessary duplication of the evidence already heard in the section 475 inquiry, except where appropriate. In summary, the bill provides a carefully considered set of reforms which deal comprehensively with the problems of post-conviction inquiries. They will ensure better accessibility to the review of convictions generally, and will remove the stigma of convictions in appropriate cases by providing a more efficient and equitable mechanism for the quashing of convictions.

Debate adjourned on motion by Mr Whelan.

CORONERS (AMENDMENT) BILL

Second Reading

Debate resumed from 21st April.

Mr WHELAN (Ashfield) [10.55]: After the former Minister made his second reading speech on 21st April, I forwarded to the Government a list of long and detailed amendments that I propose to move to this bill. I am still awaiting the Government's reply. I hope that when the Minister replies he will be able to cover the matters on which I intend to move amendments. No one would deny that the Coroners Act is overdue for amendment. No one would dispute many of the matters raised by the former Minister in his second reading speech. I will refer to the amendments that I have foreshadowed to the Government and confine myself to the reasons why I feel the Government should reconsider the bill and probably withdraw it in order to consider my amendments.

The bill has been the subject of a great deal of discussion and input from a number of organisations, whether it be the Royal Commission into Black Deaths in Custody, a report from the former Coroner Kevin Waller, or other organisations. In my proposed amendments I suggested to the Government that it add to item (2) of schedule 1 to the bill, relating to definitions, a paragraph (d) in the following terms:

(d) After the definition of "justice" in Section 4(1), insert "'organisation' includes any voluntary association, public interest group, society, trade union, corporation, Government Department, Statutory Corporation, or Commission."

I am proposing to enlarge the right of appearance. It is my view and that of the Labor Party that the community is best served by allowing any person or organisation which has an interest in relation to a death or fire to appear and take part in those proceedings. Though there may be no record of any person being refused a right of appearance, there have been occasions during a hearing related to a controversial incident where the presiding coroner has threatened to exercise his powers and withdraw leave to appear, for argument's sake as occurred in the Hilton Hotel bombing inquest. The requirement of leave gives the coroner a coercive power which ought not be available to him. It is the Labor Party's view that the public interest is not advanced by the present restriction on the right of appearance, and that that should be removed. In relation to the entitlement to request a preliminary hearing, I foreshadow an amendment to omit section 32 and insert instead:

Page 4577

Any person or organisation may appear at an inquest or inquiry, or be represented thereat by Counsel or solicitor, and may examine and cross examine any witnesses on matters relevant to the inquest or inquiry.

The Government has claimed that potential parties to hearings are generally given access to documents to be

used at the hearing, but that is inaccurate. Such access is not given until the hearing actually commences and very significant delays occur before inquests and inquiries of a controversial nature commence. Commonly in hearings involving controversy, parties are denied access to documents until the last minute, thus in the first two Azzopardi fire inquiries and the Hilton bombing inquest parties were not given documents until they were tendered. Those representing the Chelmsford Private Hospital victims claim that conflicting medical reports held by the coroner in the Carter inquest were not revealed to his widow. Had they been made available she, a qualified nurse, would have raised questions that would have exposed the problems at that hospital in 1967.

The importance of that incident is that it shows that the public interest is not served by the present restrictive approach adopted by coroners. Under the existing system, the more likely that the Government or a government instrumentality or service will be criticised, the less likely the parties will receive access to documents until they are actually tendered in evidence. By postponing the commencement of the inquiry until the coroner is satisfied that all the inquiries he considers appropriate have been conducted, valuable time is lost and other parties are deprived of the real opportunity to have an input into the investigating phase.

The Government's response does not grapple with the present widespread disquiet in relation to coronial inquiries. Inadequate or controversial evidence always results in delays, but there are cases where an earlier exposure of the material available, in the hope that it will spark other investigations, is desirable. I mentioned the Chelmsford Victims Action Group, from whom I also received representations in relation to the bill and, though I do not intend to read a great deal of that material, it is important and even though it is somewhat dated, it is relevant. Annexed to that letter was a copy of the royal commission's report. Page 83 of that report is relevant and will be quoted. The action group asked that we,

... make amendments to the Coroners Act to address concerns of Justice Slattery in the recent Chelmsford Royal Commission.

Justice Slattery stated that had a Coroner passed his concerns about the death of Graham Carter, 22 years old as he should have done under the 1938 Medical Practitioners Act to the then Investigating Committee of the Medical Board, then all the deaths and sufferings after that date could have been prevented.

That is a substantial allegation: if the Medical Practitioners Act had been operating, or the investigating committee of the medical board had taken cognisance of the claims, the deaths and sufferings that occurred at Chelmsford could have been avoided.

Mr Richardson: When was that?

Mr WHELAN: In 1967. The judge is pointing out the inadequacy of the Medical Practitioners Act not having enough power, his point being that if it were drawn to public attention, the horror of Chelmsford could have been avoided. I quote:

Graham Carter's inquest was the first to be held into a death in Chelmsford.

In the Sharron Hamilton inquest, although policemen assisting the Coroner thought as a matter of course that a complaint would be lodged with the Medical Board, the information was not passed on by the Coroner.

In the 2nd John Adams inquest in early 1980, although it was shown that Dr. Gill was grossly incompetent in the manner in which he had administered drugs to Adams, no complaint to the Medical Board was lodged by the Coroner.

Again, that was the end of it. And again we have the inadequacy of the Coroners Act. If that had been done it would have been the first early warning sign that something was wrong with the Chelmsford victims. The quote continues:

Ken Crispin, Q.C. for the Chelmsford Victims Action Group recommended that the Coroners Act should be amended so as to make it mandatory for the Coroner to report all matters concerning medical practitioner's conduct which suggests substandard treatment and/or misconduct to the appropriate Medical Disciplinary Authority and that all documents should be made available to families.

Despite these major concerns there is no statutory obligation in either the present Coroners Act or the recent Medical Practices Act that obligates Coroners to pass on such findings and concerns to appropriate authorities.

The consequences of these failures by Coroners to pass on their concerns to appropriate authorities were tragic. It resulted in unnecessary deaths and injuries following the 1967 Carter inquest and because the Coroner failed to pass on similar concerns in the Hamilton and Adams inquest, Chelmsford doctors were allowed to continue practising medicine and have escaped being brought before medical disciplinary tribunals.

The delay by the Depart. of Health in finally acting on these Coroner inquests resulted in the Appeal Court Judgment of 1986 and the recent High Court Judgment which have permanently stayed disciplinary proceedings against these doctors.

In volume 4 in relation to Carter, the royal commissioner said:

In the circumstances, the papers should have been referred to the Investigating Committee under powers given to the coroner through the Medical Practitioner's Act:

"... any coroner may direct a transcript of evidence given in proceedings before him which appears to implicate any registered person, to be forwarded to the investigating committee."

From the viewpoint of the administration of justice, it was a terrible consequence that the only outward effect of the Carter inquest was a newspaper article which gave prominence to the coroner's unease about the breadth of the discretion given to nursing staff for the administration of the drug regime. Had there been full disclosure of the truth of the matter (that the death of the deceased had been caused by barbiturate poisoning) the out-moded therapy may have been immediately stopped.

The Coroner suggested that:

- (a) This Act should be amended along the lines of the Californian Act whereby the Coroner has an investigative team which includes a medical

Page 4578

practitioner trained in forensic medicine to investigate matters of concern to the Coroner. Such a system was immortalised in the television series "Quincy".

This forensic unit could not only gather evidence but could consult with relatives to ensure that all relevant information is placed before the Coroner.

Additionally, all relevant evidence, documents and transcripts should be made available to the families of deceased persons.

For example, Graham Carter died in Chelmsford during 1967. Although two medical experts wrote reports that the death was drug related the Coroner ignored this evidence and instead accepted the evidence of the treating doctor - namely Dr. Bailey - that the drugs were not excessive. Carter's widow was never made aware of the contradictory medical reports and the Coroner's attitude towards them. On being informed of this situation recently, Mrs. Carter (Jane Hardman) was most upset and indicated that if she had known these facts at the time of the inquest she would have taken the matter further. Mrs. Carter was at the time of the inquest a fully qualified nurse.

- (b) Another area of major concern is the fact that two further inquests - one in 1976 (Audrey Francis) and another in 1977 (John Adams) - also failed to establish, although supporting evidence was freely available, that these deaths were also related to the drug regime given to these patients whilst undergoing sedation at Chelmsford.
- (c) We also draw attention to the Sharron Hamilton inquests where the Coroner (and the assisting police) was concerned about the medical ethics of Dr. Bailey and his relationship with his patient. Although evidence before the Commission shows that the policeman assisting the Coroner thought as a matter of course that a complaint would be lodged with the Medical Board, nothing was done.

Also of concern is the evidence of Sgt. Simms before this Commission regarding the second Adams inquest in early 1980. Although it was shown that Dr. Gill was grossly incompetent in the manner in which he had administered drugs to Adams, no complaint to the Medical Board followed this evidence.

This is what the Chelmsford group, one of the number of groups who made representations to me about this matter, recommend:

In our submission the Coroners Act should be amended so as to make it mandatory for the Coroner to report all matters concerning the medical practitioner's conduct which suggests substandard treatment and/or misconduct to the appropriate Medical Disciplinary Authority.

- (d) The Coroners Act should also be amended to provide a right of appeal to people dissatisfied with a decision not to hold a Coroners Inquest. We cite the decision by the Coroner in 1963 not to hold an inquest into Xigi's death even though Dr. Bailey himself indicated to the Coroner that this death could have been related to his treatment at Chelmsford. The family of Dulcie Rothberg also wanted an inquest which was dispensed with.

A Coroners Ombudsman would be a solution to the problem.

Denise Clarke has not only encountered problems in her attempts to obtain a Coroners Inquest into the death of her husband Peter Clarke but has also experienced great difficulties in attempting to ascertain her late husband's true cause of death during the course of this Royal Commission. This has occurred despite the fact that Mrs Clark had received an assurance from the Attorney General that the Commission would do the same job as a Coroner.

Again, there is a flaw in the law. The report continues:

It is also essential for records to be stored in a form which will enable those assisting the Coroner or other interested persons to access the relevant facts by computer. It should be possible to devise a system which would enable one to review other deaths of patients treated by the same doctor or in the same hospital or due to the same cause.

Those are the views of one organisation, the Chelmsford Victims Action Group, which has been very active in investigating the deaths of Chelmsford victims. That group has reported the heartbreak and concerns of many people and it has pointed out the inadequacies in the law. I foreshadow that I will be moving an amendment to section 4 of the Act to include a definition of "organisation", as including "any voluntary organisation, public interest group, society, trade union, corporation, government department, statutory body or commission". The Opposition will seek to repeal and replace section 32 to provide that any person or organisation who chooses to would be able to appear at coronial proceedings without the need to seek leave from the presiding coroner.

Honourable members would be aware that section 32 provides that the coroner will grant leave to appear at an inquest or fire inquiry to any person who, in the opinion of the presiding coroner, has sufficient interest in the subject-matter of the inquest or inquiry. The Government's bill proposes to add a subsection to section 32 which will provide a presumption in favour of being granted leave to appear to a relative of a deceased whose death is the subject of an inquest. The definition of "relative" has also been extended to include people who are in loco parentis to the deceased or who were the guardians of the deceased.

As a matter of practice, there is no record of any person being refused the right of appearance to an inquest or a fire inquiry that was raised during the course of consultation and preparation of the bill. As I have said, the effect of my proposed amendment is to give the right of appearance to every person in the State. The present position is unworkable. I ask the Government to give serious consideration to my proposed amendment. I foreshadow that I will move another amendment to insert a new clause 21A which states:

21A. Section 17 (Time and place of Inquest or Inquiry)

Add the following sub-section -

(17)3(a) Any person or organisation intending to appear, or be represented, at an inquest or inquiry may request the State Coroner to commence such inquest or inquiry.

(b) A request that the inquest or inquiry be commenced shall be made in writing and shall be served on the State inquiry.

I advise the House that there are no existing provisions in these terms. However, potential parties to inquests or inquiries are generally given access to documents to be used at the hearing. The arrangements are informal. The Opposition proposes

Page 4579

to move an amendment to section 17 to allow any person or organisation intending to appear at an inquest or inquiry to request the State Coroner to commence the inquest or inquiry and, if that inquest or inquiry cannot be completed, to seek access to statements or documents to be used at the hearing. The part of the proposal which relates to the access of documents is not objectionable. Informal access to material is given now. Access often forms part of the investigative process which is the essence of coronial proceedings. By allowing interested parties to see the material it enables them to identify any areas which still need to be addressed in the investigation. However, the proposal that the parties should be able to demand that the inquest or inquiry be commenced is opposed.

The Government's view is that the coroner, as the person directing the investigation, is best placed to determine when a matter is ready to be listed. Listing a matter prematurely would offer no real advantage. For argument's sake, a witness may give his or her evidence and then the inquest has to be adjourned for inquiries to be completed. I am sure that the Minister will enlarge on that. I foreshadow that I will move another amendment to add a proposed new section 23A. This proposal will allow any person or organisation intending to appear at an inquest or inquiry to be held with a jury to make addresses to that jury. The amendment to which I refer relates to section 18, inquests and inquiries, with or without juries, and states:

After sub-section 4 insert the following sub-section:

(18) 5. At any inquest or inquiry (including any special inquest or inquiry) held before a Coroner (or District Court Judge) with a jury:

- (a) the person assisting the Coroner may make an opening address to the jury; and
- (b) at the conclusion of evidence adduced by the person assisting the Coroner, persons and organisations appearing and intending to adduce evidence, or their representatives, may make an opening address before adducing such evidence, and
- (c) at the conclusion of the evidence each of the persons or organisations appearing, or their representatives, may make a closing address to the jury, and the person assisting the Coroner shall have the right of reply.

The Government has made the point that juries are rarely used in coronial inquiries. If it is the practice to use juries they should allow any person appearing to make an address. Though I do not have in front of me my foreshadowed amendment, I want the Government to consider an amendment relating to the reintroduction of the old grand jury system as part of the bill. I did not expect that debate on this bill would be proceeding this evening, even though it has been listed for some time. I foreshadow that I will move an amendment to clause 24 in the following terms:

Omit Clause 24, and substitute:

19(1) If, before inquest or inquiry commences, or after it has commenced, any person is charged with an indictable offence, and that offence is one in which the question whether that person, or some other person, caused the death or suspected death, or the fire or explosion, is in issue, the hearing of the charge is to be adjourned until the completion of the evidence at such inquest or inquiry.

My proposed amendment to section 19(2) is as follows:

(2) If, at the conclusion of the evidence at any inquest or inquiry, it appears to the Coroner, or a jury finds, that so much of the evidence adduced at that inquest or inquiry as would be admissible in a criminal trial would be capable of satisfying a jury, properly instructed, beyond reasonable doubt, that an indictable offence has been committed by any known person, then the Coroner is to cause that person to be charged with such indictable offence, and is then to proceed to deal with the matter in accordance with the provisions of section 41(4), (5) and (6) of the Justices Act, 1902.

(3) Where a person has already been charged with an indictable offence, as set out in Section 19(1), or is charged with an offence pursuant to the preceding sub-section, the Coroner shall continue and conclude the inquest or inquiry, but:

(a) in the case of an inquest, shall enter findings only as to the death, the identity of the deceased, and the date and place of death;

(b) in the case of an inquiry, shall enter findings only as to the date and place of the fire or explosion;

(c) and in either case may record any recommendation which may be made pursuant to Section 22A.

(4) (a) In the event that the Attorney General or the Director of Public Prosecutions directs that no further proceedings are to be taken in relation to an indictable charge laid as hereinbefore mentioned, notice of that decision shall be given, in writing, to each party represented at the inquest or inquiry.

(b) If any party represented at the original inquest or inquiry so requests, in writing, within 21 days after being so notified, the State Coroner, or a Coroner nominated by the State Coroner, sitting alone, shall reconvene the inquest or inquiry, for the purpose of making a finding as to the cause and manner of death, or as to the cause and origin of the fire or explosion.

This proposed amendment will repeal and replace section 19 to provide that, where a coroner or a coronial jury finds that a prima facie case or an indictable offence has been established against a person, either during or at the conclusion of the proceedings the inquest or inquiry may be conducted and steps will then be taken to charge the person and deal with him or her under the Justices Act. If a person is being charged with an indictable offence relating to a death or fire it is proposed that the hearing or charge be delayed pending completion of the inquest or inquiry.

For at least the past 20 years whenever controversy has been raised by death or fire, the practice has been to appoint a coroner qualified as a magistrate to proceed. As proposed, the amendment to section 19 will give a greater and more meaningful role to coronial juries and will result in a substantial improvement in the present system where, in most cases relating to controversial fire or death, the coroner returns a verdict because at some stage in the proceedings an indictable charge is preferred. As a consequence, the role of the jury is generally limited to sitting in court while a substantial portion of the

Page 4580

evidence is adduced. The jury never returns a verdict. This amendment will ensure that a coronial jury will return a verdict in every case in which it is empanelled. That is what the parties want, it is what the public wants, it is what the government of the day often promises, and it is now what the law should decide.

It will not represent a mingling of the coronial and judicial functions. On the contrary, they are kept separate. The participation of the jury will end when it finds that there is a prima facie case. Thereafter the presiding coroner, sitting as a magistrate, will carry out the functions presently carried out by a magistrate in relation to every indictable offence once a prima facie case has been established. The proposed amendment to section 19(2) provides that the jury may only find a prima facie case on the basis of so much of the evidence as would be admissible in a criminal trial and, accordingly, no relevant prejudice can be said to flow from any jury finding that there is a prima facie case. In general, evidence given before a coroner or a magistrate may be reported and the amendments now proposed do not make any relevant change to that right. I foreshadow that I will move proposed amendment E as follows:

Delete the existing Clause 25.

And I foreshadow that I will move proposed amendment F as follows:

Insert a new Clause 25A as follows:

(25A) Insert a new heading and a new Section 20 as follows:

Scope of Inquest or Inquiry

20(1) An inquest concerning a death, or suspected death, shall inquire into and report upon the circumstances surrounding the death, or suspected death, including any question of negligence, malpractice, or misconduct in relation to the same, and any means of preventing a similar death.

20(2) An inquiry into a fire or explosion shall investigate the following matters, namely:

- (a) the cause and origin of the fire or explosion;
- (b) whether there was any negligence, malpractice or misconduct which may have led to, or have been associated with, the fire or explosion;
- (c) any question regarding the detection, extinguishing, control, or prevention of the fire or explosion, and
- (d) any means that may be available to detect, extinguish, control or prevent any similar fire or explosion in the future.

That proposal was intended to repeal and replace the present section 20 with a new section to extend the ambit of an inquest or inquiry to include the circumstances surrounding a death or suspected death and any question of negligence, malpractice, misconduct or criminal conduct or means of preventing a similar death and, in relation to fires and explosions, to require the coroner to investigate whether there is any negligence, malpractice or misconduct regarding the fire, and any question as to the detection, extinguishing, control or prevention of the fire and the means to detect, extinguish, control or prevent similar fires.

The only area in dispute in this amendment would seem to be whether an inquest or inquiry should be empowered to investigate any question of negligence, malpractice or misconduct. The amendment does not envisage that an inquest or inquiry would necessarily make a finding of negligence, malpractice or misconduct. No finding would be made on any of these matters unless they were relevant to a finding as to the manner and cause of death pursuant to section 22(1)(c). To put the matter at rest, proposed section 20(1), as proposed to be inserted, should be further amended by substituting for the words "including any question of negligence, malpractice, or misconduct in relation to the same", the words "and may investigate whether any act of negligence, or any malpractice, or other misconduct caused or contributed to the same". Section 20(2)(b) should be further amended to read:

Whether any negligent act, or any malpractice, or any misconduct, caused or contributed to such fire or explosion.

The effect of section 20(1) and 20(2)(b), as further amended, will be to permit evidence to be led as to acts of negligence, malpractice, and misconduct, which contributed to a death or fire or explosion. So far as the question of negligence is concerned, it will often be the case in relation to industrial accidents that the coronial hearing will be followed by common law proceedings in which negligence will be alleged. It would be to the ultimate advantage to the court system, and the parties, if evidence on that issue were to be led at a coronial hearing. However, the fact that such evidence was admissible, and was led, would not compel a finding on that issue. As a result of the amendment, evidence would be led when memories were fresher, before a tribunal in which the associated court costs were less than the costs involved in proceedings in the Supreme Court or the District Court.

The exposure of the evidence before the coroner would lead, in practice, to earlier and cheaper resolution of liability issues in subsequent proceedings. The volume of additional evidence relating to negligence would usually be small, and it would usually entail little extra court time before the coroner. Evidence as to

malpractice and misconduct is relevant to the wider functions served by a coronial hearing, and could lead to a recommendation pursuant to section 22A as now proposed to be inserted, that disciplinary action be taken in relation to neglect, or misconduct, by a professional person. The Minister will obviously give me a reply in relation to amendments E and F. Proposed amendment G reads:

Omit the existing Clause 26 and substitute the following:

(26) Section 22 (Finding of Coroner or Verdict of Jury to be Recorded):

(a) delete from Section 22(1)(c) the words "continued or";

(b) omit Section 22(2) and substitute the following:

22(2) The Coroner holding an inquiry concerning a fire or explosion shall, at its conclusion or termination, pursuant to Section

Page 4581

19, record in writing the Coroner's findings or, in the case of an inquiry held before a jury, the jury's verdict, as to:

(a) the date and place of the fire or explosion.

The Government has indicated that the proposal will be opposed. The Government said the second half of the amendment is unclear. The amendment to section 22 is essentially consequential to the amendment of section 19. The findings which are to be made pursuant to section 22 and section 22A are cumulative, and no conflict arises between them. Any finding that there is prima facie evidence of an indictable offence would be made pursuant to section 19. The amendment of section 20 so as to give power to inquire into questions of negligence, malpractice and misconduct widens the ambit of the inquiry. But as indicated when discussing items that have been referred to previously, namely items E and F, the amendment to section 20 does not compel a finding in relation to negligence, malpractice and misconduct, although evidence on these issues may lead to a recommendation under section 22A as to the need for changes in working practices, or as to disciplinary proceedings in an appropriate case. It is not necessary to amend section 22(3). In view of the query raised as to section 22(b), it is proposed to further amend the section to read as follows:

22(2) The Coroner holding an inquiry concerning a fire or explosion shall, at its conclusion or termination, record in writing the Coroner's findings or, in the case of an inquiry held before a Jury, the Jury's verdict as to:

(a) in the case of an inquiry to which Section 19 applies, the date and place of the fire or explosion, or

(b) in any other case, the date, place, cause and circumstances of the fire.

My understanding is that the Government objects to that, but I ask that the matters I have raised be considered. In relation to increasing the power to call witnesses, it is proposed to delete clause 32. This amendment will enable parties to call as a witness any person who is likely to be able to give material evidence whereas the Government wishes to retain the coroner's control of the proceedings by empowering the coroner to decline evidence or not to require a witness to attend unless, in the coroner's opinion, the evidence of that witness would assist.

I am now speaking about amendments that I propose to move under items H and J. In all other proceedings it is a matter for the parties to decide what evidence they will adduce. Because of the inquisitorial nature of coronial proceedings, the coroner has an unimpaired right to conduct his own inquiries, but persons with an interest in an inquiry should have an unimpaired right to adduce evidence. The proposed amendment will not in any way harm the public interest. The striking feature in relation to controversial deaths in fires over the last 20 years has been the number of occasions on which the parties appearing - for example the Hilton bombing inquest and the Azzopardi inquiries - have complained of their inability to require witnesses to attend. I foreshadow that I will move proposed amendment J:

Delete clause 35 and substitute the following:

35. (1) Whenever by the oath of a credible person it is made to appear to a Coroner, or any justice:

- (a) that any person is likely to be able to give material evidence, or to have in his or her possession or power any document or writing required for the purposes of evidence at an inquest or inquiry; and
- (b) that such person will not appear voluntarily to be examined as a witness, or to produce the document or writing at the time and place appointed for the hearing of the inquest or inquiry,

the Coroner or justice may issue a summons for the appearance of the person to be examined as a witness, or to attend and produce the document or writing.

(2) If the Coroner or justice is satisfied by evidence upon oath that it is probable that the person will not appear to be examined, or to produce the document or writing, unless compelled to do so, the Coroner or justice may issue his or her warrant in the first instance for the apprehension of the person.

(3) No person is bound to produce any document or writing not specified or otherwise sufficiently described in the summons or warrant, or which the person would not be bound to produce upon a subpoena for production in the Supreme Court.

This proposal would amend section 35 to allow any person to approach a coroner or justice to seek the issuing of a summons or warrant for the appearance of a person or the production of documents at an inquest or inquiry. I shall be interested to hear the Government's attitude to the proposed amendment. The amendments in item K relate to the proposed right of appeal. These amendments will allow an appeal in the nature of a fresh hearing, subject to the qualification that the evidentiary material in the court below will be evidence in the appeal and that it will be necessary to recall a witness for further cross-examination only if a request is made. It is now usual to provide an appeal or some method of review in relation to both administrative and judicial findings, and such a remedy should be available in coronial inquiries.

The right of appeal conferred by the proposed amendment differs from the power of a coroner to order a fresh inquest or inquiry under proposed section 23A, which will be dependent upon fresh evidence emerging. The power of the Supreme Court under section 47 to order an inquest or inquiry is dependent upon proof that it is in the interests of justice that such an order be made. In practice this has usually entailed the emergence of fresh evidence. While additional evidence may be adduced on the hearing of the appeal, and commonly would be, the right of appeal provides a mechanism for testing the result reached in the tribunal below on the evidence adduced before it. The appeal would be broadly analogous to an all grounds appeal to the Supreme Court from the District Court.

The Government's argument that there is no provision for an appeal against a finding of a royal commissioner is not apt. Royal commissions are engaged in far more detailed investigations and are usually concerned with questions of gross misconduct or fundamental policy. Their recommendations as to the bringing of criminal charges are, in effect, tested

Page 4582

by the courts when such charges are heard, while their recommendations as to policy are effectively reviewed when they are debated in Parliament. More importantly, reports by royal commissioners have not attracted as much criticism as have contentious inquiries and inquests over the past decade. Proposed amendment K is as follows:

Instead of new clause 40A insert a new heading and sections as follows:

Division 3 - Appeals

Appeal from an inquest or inquiry held before a Coroner.

46A (1) Except where a person has been committed for trial pursuant to Section 19 a person or organisation that has appeared or been represented at an inquest or inquiry (including any special inquest or inquiry) held before a Coroner, or before a Coroner and a jury, may appeal to the District Court against the findings and recommendations made at such inquest or inquiry, within 28 days after the same were made.

(2) A notice of appeal, containing the general grounds on which it is brought, must be filed with the Clerk of the Coroner's Court where the finding was made, and the Clerk is to forward such notice to the Registrar for the nearest proclaimed place at which the District Court is held, and is to forward copies of such notice to all other parties who appeared or were represented at such inquest or inquiry.

(3) The transcript of the oral evidence in the Court below, and the exhibits in the Court below, shall be evidence in the appeal, provided that any party appearing in the appeal may request that a witness who gave evidence in the Court below attend for further cross examination, and a party appearing on the appeal may make submissions as to the admissibility and weight of the evidence adduced in the court below, and all parties may adduce further evidence.

Appeal from a Special Inquest or Inquiry held before a Judge of the District Court

46B (1) Except where a person has been committed for trial pursuant to Section 19, a person or organisation that has appeared, or been represented at a special inquest or inquiry held before a Judge of the District Court, whether sitting with a jury, or sitting alone, may appeal to the Supreme Court against the findings and recommendations made at such inquest or inquiry within 28 days after the same were made.

(2) A notice of appeal, containing the general grounds on which it is brought, is to be filed with the Registrar of the District Court in which the findings and recommendations were made, and the Registrar is thereafter to deal with the notice in the manner prescribed for appeals to the Supreme Court from the trial of civil actions in the District Court, and is to forward copies of such notice to all other parties who appeared, or were represented at such special inquest or inquiry.

(3) The transcript of the oral evidence in the Court below, and the exhibits in the Court below, shall be evidence in the appeal, provided that any party appearing in the appeal may request that a witness who gave evidence in the Court below attend for further cross examination, and a party appearing on the appeal may make submissions as to the admissibility and weight of the evidence adduced in the Court below, and all parties may adduce further evidence.

Leave to Appeal

46C (1) A person who, or organisation which, would have been entitled to give a notice of appeal under the proceedings sections, but fails to do so within the period prescribed, may apply to the Court to which such an appeal could be brought, within three months from the making of the findings or recommendations against which it is desired to appeal, for leave to appeal against the same.

(2) An application for leave to appeal shall:

- (a) state the reasons why a Notice of Appeal was not filed in time, and
- (b) state the reasons why leave should be given, and
- (c) be accompanied by a Notice of Appeal containing the grounds on which the appeal would be brought, and
- (d) shall be filed with the Clerk or the Registrar of the Court where the findings and recommendations were made.

(3) The Clerk or the Registrar of the Court with whom an application for leave to appeal is lodged shall deal with it, in accordance with sub-section 2 or 4 hereof, as though it were a Notice of Appeal.

This proposed amendment would include a new section 46A to provide that any person or organisation who appeared at a coronial proceedings would be able to appeal to the District Court against a finding made at the

inquest or inquiry. New section 46B would provide a similar right of appeal to the Supreme Court from the findings of a special inquest or inquiry. The Government's response to that proposed amendment is awaited. The next item with which I shall deal is special inquests and inquiries, in item L, with which we will be persisting. The foreshadowed amendment is:

Insert a new clause 47A.

47(A) After Section 47 insert:

Power of the Supreme Court to order a special inquest or inquiry.

47A(1) If the Supreme Court, on application made by, or under the authority of, the Minister, or by any other person or organisation, is satisfied that it is necessary or desirable in the interests of justice, or in the public interest, that an inquest concerning a death, or suspected death, or an inquiry concerning a fire or explosion, should inquire into matters additional to those specified in Sections 13 and 15, then the Court may order that a special inquest or inquiry be held in relation to such further and other matters as the Court may determine. The Court may further order that such special inquest or inquiry be held before a Coroner, or before a Judge of the District Court, in each case either sitting alone, or with a jury of six.

47A(2) Where the Supreme Court orders that a special inquest or inquiry be held with a jury, the jury is to be summoned and selected in accordance with the provisions of the Jury Act, 1977.

These amendments are to insert new section 47A to allow the Supreme Court to order that a special inquest or inquiry be held before a coroner or a judge of the District Court either sitting alone or with a jury. A special inquest or inquiry would be able to inquire into matters outside the usual ambit of coronial inquiries, and that includes matters referred to in my foreshadowed amendment, item F. The Opposition is persisting with this amendment in its current form. A continuing problem in relation to coronial hearings has been the practice of Government members to promise a far wider inquiry than in law is permissible under the present Act, even that which is proposed to be amended.

There are occasions where a death or a fire explosion raises important, controversial issues, and complex questions of law and fact. This amendment

Page 4583

will enable interested parties to go to the Supreme Court and seek a wider inquiry based on the circumstances that exist in appropriate cases in order that the hearing proceed before a judge of the District Court. In such cases the hearing may resemble a minor royal commission, but would lead to a more effective inquiry and a more acceptable result that will be in the public interest. The general public is more likely to accept the decision of a judge of the Supreme Court as the appropriate presiding judicial officer and as to any special terms of inquiry. I am now speaking about my amendment item M, and I foreshadow that I will move

Delete item (43) and substitute:

(43) Re-number the existing Section 48, Section 48A, and insert before that section:

Coronial Medical Officers

48(1) The regulations may make provision for, or with respect to, the appointment of medical practitioners as Coronial Medical Officers for the purposes of this Act.

48(2) The State Coroner may notify a Coroner in writing that a particular post-mortem examination to be carried out at the direction of the Coroner must be carried out by a Coronial Medical Officer, and the Coroner must ensure that such a notification is complied with.

I understand the Government will agree to this amendment, so the Opposition will have at least one victory. In relation to my amendment item N, I foreshadow that I will move:

Delete item (44) and substitute:

(44) After Section 48A(3) insert:

(4) An Assistant Coroner may, in accordance with the directions of the Coroner, given either generally, or in a particular case, exercise any function of the Coroner under this section.

I understand the Government will agree to that amendment. I foreshadow the following amendment in relation to item O:

Add a new section 6 to the bill as follows:

Consequential amendment to the Jury Act 1977

6. The Jury Act 1977 is amended as set out in Schedule 3.

The amendment foreshadowed in respect of item P states:

Insert Schedule 3 as follows:

Schedule 3 - Amendment of the Jury Act 1977 (Section 6)

Section 50 - Balloting for Jury at Inquest or Inquiry

- (a) In Section 50(1) after inquest insert "or inquiry (including a special inquest or inquiry)";
- (b) Omit the existing Section 50(2)(b), insert instead: "50(2)(b) Draw out of that box those cards, one after another, and call out the names on them, until all just challenges for cause have been allowed, and a sufficient number of the persons appear for the purposes of sub-section 4.
- (c) Omit the existing Section 50(3), insert instead: "50(3) A list of the names appearing on the cards drawn out of the box pursuant to sub-section 50(2)(b) is to be prepared in the order in which they were drawn, and delivered to each person or organisation appearing at the inquest or inquiry (or to the legal representative of the party concerned) and each such person or organisation shall strike two names from the list.

Add a new sub-section 50(2)(4) as follows: 50(2)(4) The six persons whose names then remain on the list shall constitute the jury for the Coronial Inquest or Inquiry, or Special Inquest or Inquiry as the case may be.

The Government has indicated that it will agree to this amendment. The amendment to the Jury Act allows parties appearing or represented at an inquest or inquiry to exercise a right of challenge to individual jurors. There are no specific provisions in the Jury Act relating to challenges to coronial juries. The amendments will enable parties appearing at an inquest to participate in the selection of a jury in a manner similar to that enjoyed in relation to civil jury trials. Traditionally, parties to an issue to be tried before a jury have had a right to participate in the selection of the jury by challenging some jurors without cause, that is, without having to offer an explanation for the challenge, as well as having a right to challenge with cause, that is, to raise a specific objection to a particular juror. The right to challenge gives parties a greater say in the composition of the jury and helps to foster acceptance of the jury as empanelled and will entail minimum prolongation of the hearing.

The concept of peremptory challenge or challenging for cause is well understood in law, and it is unnecessary to define the circumstances in which a juror may be challenged for cause. A challenge for cause would normally be made when a party was in possession of evidence which would suggest that it would not be appropriate for the potential juror to be selected, for example, proof of known bias or, more commonly, the appearance of bias. This might arise if, for example, a retired police officer were to sit on a jury when the essential issue was the propriety of police behaviour. Incapacity may be another cause; for example, a potential

juror may have a limited grasp of the English language or suffer from a psychiatric disability. As the Attorney General would be aware, challenges for cause are extremely rare, although not unknown.

I apologise to Hansard. I will provide these amendments to them. I was expecting the bill to be debated, but I did not have sufficient time to enable the preparation of the amendments so that Hansard could be supplied with them. The Government was provided with the proposed amendments and I was in error when I said that the Government had not responded to the amendments. It has responded, but not as favourably as I had hoped. I am grateful to the Government for agreeing to some of them. I would expect that after consideration the Government will probably agree with a few more.

This measure provides the Parliament with an opportunity to consider amendments to the Coroners Act, the last serious amendments having been made 13 years ago. Every member of Parliament has been outraged by what has happened in the coronial system. Many grave legal disabilities have been suffered by people associated with Chelmsford Private

Page 4584

Hospital. Also, I mention the three coronial inquiries with which Eddie Azzopardi has been involved. These amendments do not address the principal areas involving ongoing complaint about the inadequacy of the present coronial system. That is why the Government should take stock and reconsider pursuing the legislation merely for the sake of achieving a change to the Coroners Act.

The present complaints are that the practice of delegating much of the conduct of inquiries into deaths, fires and explosions to members of the police force, and of refusing to start a hearing until the police have completed their inquiries can entail an unreasonable delay which inhibits investigation, and unfairly prejudices those who wish to be represented at an inquest or inquiry. Where the death or fire is controversial, and particularly where the investigation is likely to expose conduct or neglect which will attract criticism, the delay has often been so long that the investigative trail was cold by the time the hearing commences.

During the long interval which elapsed between the original incident and the commencement of the inquiry those wishing to take part were not given an adequate opportunity to consider the material assembled, and were deprived of an opportunity to make an input into the investigation. We believe that a more co-operative approach, with an opportunity for all parties to contribute to an inquiry, will achieve more than the present reliance, almost exclusively, upon the police force. Second, and more critically, the ambit of the inquiry into a death or a fire, as framed by the present statute, is too narrow, and the real issues which arise in controversial inquests and inquiries cannot be adequately litigated.

We believe, and the amendments propose, that a wider inquiry is in the public interest. Third, the present limitation on the right of representation before a coroner can operate to preclude the participation of parties who ought to be heard. In our view there is nothing to be feared from the unfettered right to appear. Fourth, although more commonly than not at least one party is dissatisfied with the findings made in relation to a controversial inquest or inquiry, there is no right of appeal. The provision for a further inquest or inquiry, even as embodied in the present bill, provides an unsatisfactory and unwieldy mechanism for resolving that dissatisfaction.

Moreover, a right to further hearing if fresh evidence is obtained does not provide an adequate remedy for a party who would prefer to test a coronial finding on appeal. As we see the position, the creation of a right of appeal is clearly in the public interest. Finally, and most importantly, the Act as presently framed does not make adequate provision for the participation of a jury. We believe that the role of the jury should be strengthened. Unfortunately, apart from the Minister's comment at the second reading of the current bill that "attempts to make the system a mouthpiece for individual or interest groups, a monitor and commentator on social problems, or a quasi royal commission, were to be rejected", the Government has made no real effort, in my view, to address the substance of these complaints.

Complaints as to the inadequacy of the coronial system are longstanding. For many years Mr Azzopardi has campaigned for extensive amendment of the Act. Whilst he was a member of the Legislative Council and a

government member, Dr Freeman also pressed for reform. More recently, the Independent honourable member for South Coast, Mr Hatton, and the Hon. Elisabeth Kirkby, M.L.C., have led the fight to reform the Act. The Hon. Elisabeth Kirkby introduced reforming bills to the Legislative Council in 1989 and 1991 but the passage of those bills was blocked by the Government of the day.

The amendments I have set out in the schedule accompanying this explanatory note borrow heavily from the bills introduced by the Hon. Elisabeth Kirkby. I acknowledge my indebtedness to her and the suggestions she put into those bills and my indebtedness to Mr Azzopardi and the honourable member for South Coast. The amendments I propose to the Coroners Act have four purposes: to enlarge the rights of those who appear before coroners, to widen the ambit of the inquiry, to increase the role of a coronial jury, and to provide a right of appeal.

For many years the Government of the day and the coronial courts administration have opposed attempts to enlarge the scope of the coronial inquests or inquiries. As I understand, when introducing the current bill the then Minister for Justice also rejected any such proposal. However, through the past 20 years almost every controversial death or fire has led to an assurance being given by the relevant Minister of the Crown, and often by the Premier, that there will be a comprehensive and wide-ranging inquiry before a coroner. But when the hearing proceeded, inevitably the coroner would adhere strictly to the provisions of the present Act, which precluded, as honourable members know, a wide-ranging investigation.

In its present form, section 19 of the Act requires that if at any stage of proceedings before a coroner the evidence thus far adduced establishes a prima facie case for an indictable offence, the coroner must terminate the inquiry and forward the papers to the appropriate authorities to consider whether the offender should be indicted. On a number of occasions, the most notable being the Hilton bombing inquest, although the hearing had not been completed and the parties had been assured that the inquest would be determined by a jury, the coroner announced that there was sufficient evidence that an indictable offence had been committed, peremptorily discharged the jury and terminated the inquest. At that stage many of the issues which the parties sought to be raised, or believed would be resolved, had either never been addressed or were left inadequately answered.

Members will recall that the Hilton bombing inquest was terminated before the cross-examination of a critical Crown witness had been completed. At

Page 4585

a subsequent inquiry, where he was fully cross-examined, his evidence was shown to be worthless. It is no surprise that those represented at such an inquest feel outraged while those who have served on coronial juries so discharged feel that their services were a farce. In the past, even if an inquiry proceeded to completion, the terms of the existing statute required a jury to be directed to return a very narrow verdict. More often than not many of the issues sought to be raised during the hearing fell outside the scope of the verdict that could be returned. It is for this reason that the current proposal to insert section 22A into the Act so that appropriate recommendations can be made is to be welcomed.

Because many inquests involve a consideration of the conduct of police officers or public officials, a wide-ranging inquest is often an embarrassment to the Government of the day. However, with the benefit of hindsight, it can be said that the public interest would have been better served, and police corruption would have been earlier exposed, had there been a wider inquiry in relation to the Azzopardi fire, or the Lanfranchi inquest, whilst public money would have been saved if there had been a fuller investigation into the Hilton bombing. In relation to almost every controversial death or inquiry over the past 20 years, a wider inquiry than was in fact made would have served the public interest better.

The narrowness of past inquiries has helped to fuel widespread public dissatisfaction and distrust of the police and of governments. As an example of this, I refer to the inquest into the Hilton bombing, which was conducted very narrowly. It never investigated a number of serious allegations made in relation to the involvement of various Commonwealth instrumentalities, including the Australian Security Intelligence Organisation. The termination of that inquest never enjoyed public acceptance, and a subsequent inquiry

showed that the inquest had seriously miscarried.

Because of the continuing failure to provide an adequate response to the allegations then, and subsequently, against ASIO, there has been a growing suspicion of a government cover-up, which erodes public confidence in the impartiality, thoroughness and effectiveness of the coronial system and encourages distrust of governments. The effectiveness of judicial and administrative systems is only partly measured by assessing how well they perform in routine cases - the true test of their adequacy is how well they perform in those cases in which there is great controversy. Unfortunately, the coronial system has not worked well when dealing with controversial cases. The continued existence of widespread dissatisfaction in relation to controversial cases highlights the need for a wider ambit to coronial hearings, and for a right of appeal.

In the past, the narrow scope of the existing legislation has been defended on the basis that a wider inquiry would be more costly. But had there been a wider inquiry at the time, it is probable that successive governments would not have incurred the ultimate expense of the subsequent Azzopardi inquiries, the Chelmsford Hospital inquiry and the Royal Commission into Aboriginal Deaths in Custody, whilst developing police corruption would have been exposed at least a decade earlier than in fact has occurred. In addition, the increasing complexity of our society requires that there be a greater opportunity for concerned citizens to explore what are perceived to be inadequacies in relation to the performance of public duties where death has ensued, or explosions or fires have occurred, in controversial circumstances.

I turn to the amendment of section 20 to increase the ambit of the inquiry. The amendment of the section will greatly widen the ambit of inquiry to include questions of negligence, malpractice and misconduct. For example, if one turns to the Gundy inquest, the real area of concern, and of public interest, related not so much to the immediate cause of Mr Gundy's death but rather to the organisation and deployment of the specialised police team which was concerned in that unfortunate event, and to the general police response to incidents alleged to involve members of the Aboriginal community. In the Gundy inquest, the coroner allowed the inquiry to range more widely than usual, but not every issue sought to be raised was allowed to be pursued. It is notable that even the inquest in that case was followed by criticism.

I digress to say that I do not wish this note to be regarded as a personal attack on various coroners who presided over any of the inquests mentioned but, rather, wish to draw attention to the inadequacy of the Act, which led in each of those cases to an ultimate result that attracted widespread dissatisfaction. In each case where there has been a subsequent investigation, such as the Azzopardi inquiry, the Hilton bombing inquest, and the Chelmsford inquiry, it has raised serious doubt as to the inadequacy of the initial hearing. While mentioning coroners I want to pay special tribute to the former Coroner, Kevin Waller, a man I hold in great and high esteem.

The extension of the width of the inquiry to include questions relating to negligence may be resisted by the Government. But the omission to inquire into civil negligence really adds to the cost and delay of any subsequent proceedings because the issue remains unexplored. Even if there is additional time involved, it cannot be denied that the cost to the State and to litigants will be less than under the present system where these issues are explored in the more expensive District Court and Supreme Court. In practice, the reception of evidence as to negligence would add little to the length or complexity of any coronial hearing, but would provide material that was of invaluable assistance in any subsequent proceedings before another tribunal.

Moreover, the timely investigation of that issue, shortly after a death, fire or explosion, would tend to be more productive and more efficient than an examination some years later in some other jurisdiction. The legal system functions best when all the evidence relating to an incident is produced at the

Page 4586

first inquiry. In the long run, civil litigation arising out of accidental death or fires is more likely to be settled, and probably will be settled, at an earlier stage if questions of civil negligence can be raised in proceedings before the coroner. This will prove to be both time and cost effective.

Although the amendments now proposed would permit evidence to be led in relation to civil negligence,

that would not disadvantage parties to a subsequent civil action because such evidence would not give rise to findings which would raise an issue estoppel precluding the question of negligence being relitigated in the civil court in an appropriate case, such as *Barnett v. Callan* and the discussion in the fourth edition of Halsbury, volume 9, paragraph 1161. On the other hand, the evidence adduced before a coroner would undoubtedly affect the attitude of the parties in relation to any subsequent litigation and would, in the overwhelming majority of cases, as a matter of practice, lead to earlier resolution of civil liability.

It is very important to enlarge the rights of those who appear before the coroner, as I have referred to in the foreshadowed amendments. Section 32 of the Act gives a right of appearance by leave. The need to obtain leave can impose a formidable bar to representation at an inquest or inquiry. It is hard to see any public benefit in the presentation of this discretion in the coroner and for that reason I intend to move the amendments I have foreshadowed. I turn now to increasing the power to call witnesses. If parties wish to procure the attendance of a witness, they must apply for the issue of a summons under section 35, and the coroner has a discretion to decide whether such a summons shall be issued. In practice, coroners often decline to issue a summons unless the person seeking the summons has obtained a written statement from the witness whom it is sought to bring to court.

There are many situations in which persons represented at an inquiry desire the attendance of a witness whom they honestly, sincerely and, indeed, correctly believe has information relative to that inquiry, but that witness - who fears attendance at such an inquiry may expose the witness or his department, or some fellow servant or officer, to criticism - is most unwilling to appear and, accordingly, the witness declines to give a written statement. Because of the framework of the existing legislation, in many cases - particularly during the Hilton bombing inquiry and the earlier Azzopardi inquiries - witnesses whom the parties wished to examine and who should have been compelled to attend to give evidence, were able to avoid doing so by declining to make any written statement. As a consequence, those inquiries failed to fulfil their statutory purposes.

The proposed amendment to section 35 would make it similar in form to section 61 of the Justices Act, which has been in existence since 1902 and has not given rise to any difficulties in its day-to-day operation. It removes the discretion to allow a witness to be brought to court because the witness has not signed a written statement and should substantially improve the reach of those endeavouring to obtain evidence from persons whom they believe would assist an inquiry. Some objection has been raised by the Government to allowing organisations to appear. Many inquiries affect the members of trade unions and other organisations. Those organisations are often better geared to handle the issues arising than the relatives of those directly involved, and they should have an unfettered right to appear. The proposed amendments meet this problem by inserting a definition of organisation in section 2 and by amending section 32 to enable an organisation to be represented before an inquest, and by eliminating the need for leave to appear.

Honourable members may recall the very tragic building accident at Darling Harbour where several people were killed. It would have been appropriate for representatives of the unions, who had access to funds, to have been represented at first hand on behalf of the families. I think five people were subsequently represented but it would have been better and of financial benefit for all concerned if they were represented by their organisation. I turn now to overcoming the prejudice caused by delay. The proposed amendment to section 17 will provide an opportunity for persons who intend to appear, or to be represented at an inquest or inquiry, to request a preliminary inquiry and to apply for access to such statements and documents as are already held by the coroner when they attend that preliminary inquiry.

The advantage of this provision is that it will enable those seeking leave to appear before a coroner to gain access at an earlier stage to material already collected, and to make some input into the investigation. It is in the public interest to move towards greater co-operation between parties and interests in the production and exchange of evidence. The amendment to section 17 will not require police to produce running sheets or other confidential information, and the coroner will have a discretion to withhold information which would impede or prejudice any continuing investigation, or in relation to which the probative value is outweighed by the prejudicial impact. The amendment will help to minimise the prejudice suffered by parties as a result of delay in the completion of inquiries and will provide a mechanism whereby a party may bring an inquest forward

where those charged with the investigation are dragging their heels.

The Opposition believes it is important for the jury's role in an inquest to be enlarged. Item (27) of schedule 1 of the bill, as propounded by the Government, will effect one desirable change in that it will enable coroners and juries to make recommendations. But it does not attack the heart of the problem as the Act now stands, that is, that a jury's role is emasculated - and this is not uncommon in the case of controversial inquiries - if there is evidence that an indictable offence has been committed because, as the Act stands, in such a case the coroner can preemptorily discharge the jury before it has returned a verdict.

Page 4587

The amendments proposed to section 19 will ensure that a jury is retained until the completion of the hearing before it and, more importantly, it will be for the jury to decide whether there is a prima facie case that an indictable offence has been committed. In making that finding a jury will be doing no more than was originally done by a grand jury. Grand juries have been retained in the United States to this day. As proposed, the amendment ensures that if an inquiry begins in front of a jury, it will continue until either the inquest is completed or, if there is prima facie evidence that an indictable offence has been committed, until such a finding is made. This will ensure that once a jury is empanelled it will return a verdict in every case.

In the case of an indictable offence the jury will decide whether a prima facie case has been established. If it so finds, it will be then for the coroner, sitting as a magistrate, and following the procedure prescribed by the Justices Act, to decide whether the person named should be committed for trial. In practice, this should not add to the length of an inquest but will ensure that, once empanelled, jurors play a meaningful role in the inquiry, and will give reality to their participation in the system. The coronial jury is a very ancient and honourable institution. Entitlement to trial by jury should not be regarded as a mere matter for procedure but, rather, as a fundamental right. It exemplifies a significant division of judicial function in that the law, which ought to be certain, is declared and decided by the presiding judicial officer, while issues of fact, which are often controversial, are decided by ordinary citizens.

Trial by jury ensures that people as represented by the jury play a part in the application of the laws that their representatives in Parliament enact. The jury has enjoyed popularity, and I note that a poll of jurors conducted in 1992 by the *National Law Journal* revealed that 75 per cent of jurors polled preferred to be tried by a jury rather than a judge. More importantly, a right to elect for trial by jury provides a means whereby those involved in the legal system may make a choice as to the tribunal that will decide the facts, and the right to make that choice is itself a check on oppressive judicial behaviour. Coronial juries have been used in New South Wales since 1848. Where there is great controversy as to the fact, a jury is to be preferred for a number of reasons.

A jury provides a protection against potential judicial prejudice. It is widely constituted, as all citizens entitled to vote are eligible for jury service unless especially exempt. The virtual anonymity of the jury ensures that if there is any prejudice, no one can approach the jury aware of its existence, and therefore it cannot be exploited, whereas the known predisposition of a coroner or a judge can be exploited. Jurors bring a wide diversity of experience with them and reach their decision collectively with all the advantages that flow from the collective perception, recollection and analysis of the evidence.

The standard adopted by a jury will be more representative of the community and ensure that the evaluation of facts within the judicial system is kept in step with the standards and values of the ordinary community. A jury tends to base its verdict on the broad equity of the case rather than on a narrow technical approach. The jury is both a practical and symbolic expression of a democratic institution that gives reality to the trial of issues of fact by one's peers. Jury service involves citizens in the administration of justice, and their involvement ensures continued community support of that process. Because the jury is assembled for the instant case only, it has a freshness of approach that ensures the case will be decided on its individual merits.

There are some consequential amendments to the Jury Act. The amendments will add a new section 6 and

a third schedule to the Act, which effects consequential amendments to the Jury Act. Section 50 of that Act is amended to provide those appearing at an inquest or inquiry at which a jury is empanelled with a right of challenge analogous to that allowed in civil trials in the Supreme Court and District Court. Section 18 will be amended to give a statutory right to the parties to make an opening and closing address. A continuing source of dissatisfaction in relation to coronial hearings has been the habit of representatives of the government of the day giving an assurance that there will be a wide-ranging inquiry before a coroner, whereas when the hearing commences, the coroner - either of his own notion or because those appearing for the parties threaten to take an appropriate objection - limits the inquiry to the narrow focus of the existing legislation.

It is inevitable that from time to time controversial deaths or fires will raise matters of great concern about which the Government and those directly and indirectly involved differ. An impartial tribunal can formulate the issues so that the inquiry will be appropriately focused, and suggestions of some government cover-up do not arise. To meet this difficulty, the Opposition proposes the insertion of section 47A into the Act. It will enable a judge of the Supreme Court to order a special inquest or inquiry with power to inquire more widely than the statute provides, so long as the judge is satisfied that it is necessary or desirable in the interests of justice or the public to do so.

From time to time the complexity of the issues arising from a death or fire is such that it would be preferable that the hearing relating to it be presided over by a District Court judge rather than a coroner, and section 47A will provide the Supreme Court with a discretion to order that an inquest or inquiry proceed before a District Court judge. The discretions conferred by section 47A will provide parties who have been promised a wide-ranging inquiry with an opportunity to ensure that any such promise is fulfilled. It is somewhat extraordinary that, although in almost every instance the legal system provides a right of appeal, there is no right of appeal against the findings made at a coronial inquest. The absence of

Page 4588

a right of appeal has been one of the reasons for discontented parties down the years alleging that they have been denied justice.

Sections 46A to 46C provide a framework for an appeal from a coroner to a District Court judge or, in the case of a special inquiry before a District Court judge, from that judge to the Supreme Court. There does not seem to be any real reason for the judicial system not providing a means of testing the findings made before a coroner, just as it provides a right of appeal in almost every other case. The insertion of section 47A will necessitate amendments to sections 48 and 48A. Effectively, they embody the amendments proposed in clauses 43 and 44 of the present bill.

I want to mention Mr Azzopardi because members of this House will be aware of the long history of the unsatisfactory investigation of a fire at his home. It is now common ground that the initial inquiry into that fire miscarried and that Mr Azzopardi was unjustly treated when he endeavoured to have the matter reinvestigated. Mr Azzopardi's attempts to secure justice have from time to time attracted criticism and, like most reformers, his enthusiasm for his reforms has at times led him to make allegations he has not been able to prove. But it cannot be denied that as a result of his investigations over the years, a number of corrupt police officers have been exposed and that that exposure has been very much in the public interest. Mr Azzopardi's long and persistent campaign has played a role in persuading governments to grapple more earnestly with police corruption, and to that extent the citizens of this State owe him a debt.

As those members who have had contact with him would be aware, Mr Azzopardi's struggle has taken a heavy personal toll on him and on members of his family. They have had to endure ridicule, contempt, harassment and threats, and the time has arrived for the Government to recompense him for his suffering and for what he has achieved. I deeply regret that the Government opposed my private member's bill that fortuitously proceeded through this House. I thank those members of the Government who had the courage not to vote against the private member's bill. I hope that the Government will consider the amendments I have foreshadowed and that the Committee stage will involve a comprehensive debate that will, for the first time, lead to a thorough review, a modern approach and a modern view of the Coroners Act. I look forward to the debate at the Committee stage.

Debate adjourned on motion by Mr Kinross.

House adjourned at 12.17 a.m., Thursday.
