

## LEGISLATIVE ASSEMBLY

Thursday, 27 October 1994

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**Mr Speaker (The Hon. Kevin Richard Rozzoli)** took the chair at 9.00 a.m.

**Mr Speaker** offered the Prayer.

### LOCAL GOVERNMENT (BOARDING AND LODGING HOUSES) AMENDMENT BILL

#### Second Reading

**Debate resumed from 13 October.**

**Ms MOORE** (Bligh) [9.02]: Under the Local Government Act 1993 boarding houses and lodging houses were specifically excluded from the residential rating category. As one involved very much in the development of that Act, I believe that this was an unintended consequence. The bill seeks to overcome that. Consequently, these boarding house properties were categorised as businesses and have been subject to commercial ratings, and this has resulted in substantial increases of rates levied on them. I know of a rating increase to a boarding house in my electorate of more than 350 per cent and of another case in which rates translated to \$100 per week per room. Rates of such proportions are simply not economically acceptable to a large majority of boarding house and lodging house owners. When these rates are translated into tariffs payable by residents, the residents cannot manage to pay.

The amendment to section 516 will rectify this unintended consequence of the Local Government Act 1993. I believe a residential categorisation is more appropriate for these properties for a number of reasons: first, for many people they are home; second, these amendments will bring the Local Government Act in line with the Government's policy to maintain this form of low-cost accommodation - I believe that is the policy of both sides of the House - and third, by removing the residential categorisation, the rates charged to boarding houses and lodging houses will no longer be inconsistent with the land tax exemption and State Environmental Planning Policy 10 presently applicable to these properties. Waverley Council, North Sydney Council and a number of boarding house operators have contacted me about this rate increase and its socially detrimental effects.

It is widely believed in the community that these rate increases will have significant undesirable effects, including the redevelopment of boarding houses and lodging houses as backpacker hostels or strata units, the deferment of maintenance work and an increase in tariffs charged to residents. In the light of recent studies and reports these fears are not unfounded. A systematic closure of boarding houses and lodging houses in the inner city area began prior to the bicentenary and can be seen as being directly attributable to that event. This is why, before I indicated my support for the Olympic bid, I asked the Minister for Transport, and Minister for Roads to undertake a social impact study to ensure that the same loss of low-income housing will not occur when Sydney hosts the Olympic Games as was certainly seen in the wake of the bicentenary.

A recent study by the housing research group at the University of Western Sydney and a housing policy group, Shelter New South Wales, looked at the effects of four major events on the rental housing market. The study examined the impact of the America's Cup in Fremantle, the Brisbane Expo, the Sydney Bicentenary and Melbourne's bid for the 1996 Olympic Games. The findings of this study are significant and I urge the House to consider them, not only when considering this bill but also in the larger context of the Olympic Games in the

year 2000. The study found that these events all led to increased rentals and conversion of boarding houses to tourist accommodation.

A study by Cummings in 1987 found that a particular feature of the bicentenary was the conversion of boarding houses and flats to short-term tourist accommodation. In my first year as the honourable member for Bligh I witnessed, probably on a weekly basis, the eviction of mainly older people from former boarding houses in my electorate. This was incredibly tragic. The end result for many of those older people was death when they were forced to relocate after having lived all their lives in the inner city area. The suburbs mostly affected by these redevelopments in my electorate include Darlinghurst, Surry Hills, Potts Point and Moore Park. I refer also to areas such as Ultimo, Pyrmont and Marrickville and I ask the honourable members representing those electorates to be concerned about this phenomenon.

The preservation of low-cost accommodation has been emphasised by the Burdekin report and a report by the boarding house task force. The Burdekin report found that there is a critical shortage of appropriate and affordable housing for mentally ill people, and that boarding houses are acting as de facto accommodation provided by our society for the mentally ill. This is why there are such huge problems in the Surry Hills area of my electorate. The loss of boarding-house accommodation will have, and has been shown to have had, particular impact on marginalised groups. Boarding houses and lodging houses have traditionally provided permanent accommodation for a significant number of the mentally ill, disabled, and low-income earners in our society. The loss of this accommodation or the increase in tariffs payable will have a serious impact. Specifically, it will lead to dislocation and homelessness, and will result in a considerable cost to the public. I seek the support of all honourable members for this bill.

**Debate adjourned on motion by Mr Downy.**

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## **LEGAL PROFESSION (ADMISSION) AMENDMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr HATTON** (South Coast) [9.07]: I move:

That this bill be now read a second time.

This bill removes from the courts any discretion which they may claim to possess that is contrary to legislative intentions regarding the tests to be applied to persons seeking admission as legal practitioners. The Legal Reform Act 1993 passed by this House sought to clarify such admission criteria by the introduction of section 11 and section 17, and by amendments to section 4 of the Legal Profession Act 1987. The Legal Reform Act was intended to ensure that the inherent power of the court to admit was revoked and that the charter of justice, as it related to admissions, remained revoked. The charter of justice had been revoked in section 4 of the 1987 legislation following the Wendy Bacon case, in which the court, in refusing her admission as a barrister in 1981, had relied upon a test of "fit and proper person" arising out of the charter. The court concluded that it was entitled to use a "discretion" to impose virtually any test upon a candidate for admission and could refuse admission on almost any grounds.

Further, section 9 of the 1987 Act sought to replace this abstract and subjective discretion of the court with an objective, definable test of good fame and character based on Law Reform Commission recommendations. Section 4 and section 9 of the Act were not tested until Kate Wentworth's interlocutory application to the High Court seeking admission. Having considered the 1987 legislation, the High Court still determined that a court could exercise a discretion about whether an applicant was suitable for admission and also could make projections as to the likely conduct of the applicant in the future based, in part, on past conduct. Having regard

to the view of the High Court, the Legal Reform Act 1993 attempted to introduce tighter, measurable criteria for admission, which would disallow indefinable subjective tests for suitability. However, on 21 April the High Court confirmed its 1991 judgment in *Wentworth v Bar Association of New South Wales*, despite senior counsel drawing its attention to the clear intent of the legislative changes enacted by the Parliament in 1993. The whole point of the bill is that its intent must hold sway in the court.

The High Court rejected such submissions and confirmed its view that "suitability" was at the discretion of the court and that it could range well outside any statutory legislation in its determination of "good fame and character". This means that all those who seek admission in the future are at risk if the legislation remains in its current form. Therefore, it has become necessary, once and for all, to spell out Parliament's intention to remove subjective, discretionary tests and to lay down, within stringent statutory parameters, those matters that the Legal Practitioners Admission Board and the court, on appeal, may have regard to when determining whether or not a person should be admitted as a legal practitioner. The point I make is that the question of admission as a legal practitioner is determined by the courts, and the judges of those courts have themselves been legal practitioners. If that were so in the case of the admission of a specialist doctor or a specialist or professional in any other profession, one could get an element of bias. We must have a totally objective basis on which to make the decision.

I refer now to the bill. The following major changes are proposed in this bill. First, in response to the High Court determination in April that there was still a discretion retained in the court by the word "may" in subsection 4(1) of the Act, it is proposed that it be omitted and replaced with the mandatory "must". Second, in order to remove any possible further misconception about what admission criteria are to be considered, the words "suitable candidate" will be omitted from subsection 4(2) and the specific criteria now in section 11 will be placed in section 4. Third, division 2, section 6 of the Act gives the Legal Practitioners Admission Board the right to make rules in relation to admission and registration. It is proposed that these rules be tied to the criteria in section 11 in the form set out in the draft as proposed section 6. Fourth, section 11 will be amended to clearly spell out the criteria to which the court and the admissions board may have regard.

The words "however qualified in other respects" will be omitted and replaced by the words "having the requisite academic qualifications". The words "is of good fame and character" will be omitted and replaced by specific criteria and tests which must be met by the applicant, and which are capable of objective assessment and evaluation. These relate to: criminal convictions; mental capacity - which, if required, will be investigated by the New South Wales Medical Board; and assessment of any finding by the Legal Services Tribunal. This criteria will also provide for attestation as to the person's good fame and character from four competent persons who have known the applicant for not less than three years. Amendments to sections 12 and 14 of the Act will also provide for consideration of candidature and appeals to be tied to section 11. Proposed section 17 is also intended to limit the power to admit that is exercisable under section 4 by specific reference to the test in section 11. This power is to be qualified by the tests in section 11 and no other power, making reference to subsections 11 to 14.

**Debate adjourned on motion by Mr Downy.**

## **PAY-ROLL TAX (COUNTRY INDUSTRIES EXEMPTION) AMENDMENT BILL (No. 2)**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr WINDSOR** (Tamworth) [9.13]: I move:

That this bill be now read a second time.

My remarks will be brief because I wish to refer honourable members to *Hansard* of 12 May, when the first bill

was introduced. It has now been modified by the removal of an initially proposed date of assent and  
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the insertion of a new date of assent. I refer honourable members to my speech on that occasion and commend this bill to the House.

**Debate adjourned on motion by Mr Downy.**

## **FARM DEBT MEDIATION BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr AMERY** (Mount Druitt) [9.14]: I move:

That this bill be now read a second time.

The purpose of the bill is to establish legislation to not only enable a farmer and a credit provider to apply for voluntary mediation concerning farm debts but also to make provisions for mandatory mediation covering farm debts before a creditor can take possession of property or other enforcement action under a farm mortgage. The history of farm debt mediation started with the rural crisis in the United States during the early 1980s. Voluntary farmer-creditor mediation services were first introduced in Iowa and Minnesota. The voluntary system failed and both States soon legislated for mandatory mediation schemes. By the end of 1986 farm-creditor mediation services had been established in Alabama, Iowa, Kansas, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming.

I bring this point to notice to highlight that although this type of legislation may be new to Australia, in the United States it is in place in varying forms, and it works. I refer interested members to the discussion paper issued by the Rural Development Centre, University of New England, Armidale, entitled, *Farm Debt Mediation - A Review of the Possibilities*. This excellent document provides a background to compulsory mediation. Whilst I do not propose to quote from the document at this stage, I refer honourable members to the section relating to the limitations of the existing programs and the section addressing the changing farmer-lender relationship that has developed since the deregulation of the banking industry.

In responding to this bill, the Australian Bankers Association has announced its own farm debt mediation proposal. This proposal, funded by the ABA, is just a glossy version of what already is occurring. There is no compulsion to mediate - banks can still proceed straight to court action. It is not an alternative to this bill. The Opposition has consulted with the banks. I must acknowledge that, although we disagree on the principle, the technical contributions of the banks have helped us with drafting many of the clauses in this bill. Notwithstanding this, I must say that the banking industry response has been disappointing and negative. The ABA has warned that a bill will dry up lending to the rural sector and increase interest rates. Had the banks made such a statement after this system had been in operation for say two years, we would have to accept that based on experience this might be the case.

However, as the American legislation has not had such an effect and as voluntary mediation appears to have no effect on finance and interest rates here in Australia, we should reject this argument as being reactionary and designed to scare legislators away from a mandatory mediation system. In turning to a brief description of the bill, I refer members to the detailed explanatory note which describes in more detail the provisions of the bill and the definitions. Part 2, relating to voluntary mediation, states that any farmer who owes money under a farm mortgage to a creditor may request the authority to arrange a mediation. This application will cost \$20. Upon acceptance of the application, the authority will direct a mediator to mediate between the farmer and creditor.

Part 3 sets out the procedure under which a creditor cannot take enforcement action unless there is compliance with this Act. A creditor who wants to take action must serve an approved mediation notice on the farmer. Within seven days the authority will then provide the farmer concerned with a list of persons or agencies who will assist the farmer with the preparation of a mediation request. The farmer will have 21 days to respond, requesting mediation. A lack of response will be taken as waiving the right to mediation, and the authority will issue a certificate clearing the way for normal enforcement action.

Penalties under this Act against a credit provider are in the form of civil penalties forfeiting interest charges, similar to those provided for by the Credit Act and imposed by the Commercial Tribunal. Concern has been expressed about the maximum periods for the mediation process, which could reach 180 days under the American system. The bill will reduce this process to 95 days. The bill contains many more provisions which, because of time constraints provided for private members' bills, I will be unable to address in this speech. However, I ask interested members to view this legislation in a positive light and to see it as a solution to resolving the many areas of concern that are not picked up by the existing voluntary in-house systems.

I pay tribute to the honourable member for Bathurst, Mr Clough, who has championed this cause for many years; to the many farmers who have brought this matter to notice; to Mr Dennis Cooney, solicitor, who has represented many affected farmers; and to Mr Jim Lees, Director of the Rural Development Centre at the University of New England for the research and hard work in the fight to get mandatory farm debt mediation established in this State. I look forward to constructive comments and suggested amendments, if necessary, from any member. With those brief comments, I commend the bill to the House.

**Debate adjourned on motion by Mr Downy.**

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## **RESIDENTIAL TENANCIES (RELOCATABLE HOMES) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mrs GRUSOVIN (Heffron) [9.21]:** I move:

That this bill be now read a second time.

This bill is an extensive piece of legislation consisting of some 72 pages. Because of the time constraints involved with private members' bills, I will not attempt to speak to each item of the bill. Rather, I will speak only to the major aspects of the proposed legislation, and cover some other matters in my reply at a later stage of debate. This bill proposes to deal with security of tenure in the following ways. A tenant may be required to relocate within the park or outside the park only if the dwelling is unsightly or in a dilapidated condition. A tenant who is in default of rent may be given a 14-day notice of termination. The tenant, however, cannot be evicted without the approval of the Residential Tenancies Tribunal. A tenant who has committed and persisted in breaches of the lease agreement may, with the prior approval of the tribunal, be given a 30-day notice of termination.

A tenant may assign the agreement or sublet the site with the prior agreement of the owner. In such instances the owner must not unreasonably withhold or refuse consent. A person who succeeds the park owner as a new owner is bound by the existing residential site agreement. On the death of the tenant or if the tenant no longer occupies the site, any person occupying the site at that time may apply to the tribunal to be recognised as a tenant. With the prior approval of the tribunal, a 180-day without-cause notice of termination may be issued only to a tenant whose principal place of residence is not the park. Otherwise, with the exception of rental default, the lease agreement of a tenant may be terminated only by order of the tribunal. A park owner may sell the park on a 180-day vacant possession basis providing it is a bona fide sale and not merely a scheme

designed to cancel the existing tenancies. In such instances the tribunal will determine the amount of compensation payable to the residents.

Security of tenure within manufactured and mobile home parks is an essential prerequisite to encouraging the further establishment of residential parks. In particular, to maintain park standards, it is essential to enable those people who seek this housing lifestyle to obtain finance to purchase new and established homes and to be in a position to upgrade existing homes as required from time to time by park owners. Security of tenure will assist in the creation of a liquid market for park homes. This will mean that many families who are presently unable to afford the cost of a traditional house and land package will be able to make the first step on the home ownership ladder. It will also enable the aged within the community to participate in the social and community aspects associated with park living and, at the same time, permit them to freely move into convalescent and aged-care accommodation as and when required.

This bill also deals with premiums on the sale of park homes and will prohibit those premiums. I am concerned that the Government has moved, in recent days, on two regulations, I believe as a result of the Opposition moving to introduce into this House for the first time protective legislation for people living in these circumstances. The changes to the regulation have not been made appropriately and will not provide a true prohibition on premiums on the sale of these homes. I am also concerned that the prohibition of visitors' fees will apply only in circumstances in which the unit of accommodation is totally self-contained. The Opposition has no problem with the concept of user pays, but believes that because some 75 per cent of people in these circumstances share toilet facilities and bathroom facilities in these establishments it will be possible for park owners to maintain their present system of visitors' fees rather than to deal with the matter by way of the user-pays system.

In the course of the past week there have been discussions with the Government. The Opposition has attempted to accommodate some of the concerns of the Government with regard to this legislation and has introduced into the House today a bill which will accommodate most of those concerns. I look forward to the Government's response to this legislation and a bipartisan approach to a vexatious problem that is impinging on the day-to-day life of people who are presently living in circumstances in which they have no security of tenure. This legislation is being well received by people throughout the length and breadth of this State. It demonstrates the ability of the Opposition to bring to this House effective policies in legislation designed to meet the needs of the nineties; legislation designed to work.

This legislation, apart from dealing with security of tenure, premiums on the sale of park homes, and the charging of visitors' fees, deals with rent increases, park rules, and standard lease agreements. No government can ignore the fact that a park owner is entitled to obtain an adequate return on his or her investment but, equally so, no government can ignore the responsibility to protect the weak. Unfortunately, some park owners will exploit their superior bargaining position without regard for the plight of the individual resident. This bill seeks to eliminate exploitation and provide a sound basis for investment in and financing of residential parks across the State. I commend the bill to the House.

**Debate adjourned on motion by Mr Downy.**

## **BADGERYS CREEK WASTE FACILITY BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mrs LO PO' (Penrith) [9.27]:** I move:

That this bill be now read a second time.

The reason that the Opposition is compelled to introduce this bill is because of the Government's totally inadequate waste management strategy. The basic premise of the Government's management  
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strategy is to give the problem back to local government - a return to the 1950s and 1960s mentality; to allow local communities to determine whether they have enough resources and influence to keep the depots out of their areas; to notify industries that they will be required to reduce waste; to allow the private sector to have the control of the waste stream and, as a consequence, guarantee that waste minimisation will diminish.

Several waste companies have shown delight at the Government's washing its hands of waste management in this State. Some companies that were already running non-putrescible waste depots saw this as a green light to convert from an innocuous depot to one that could become lethal to waterways. Pacific Waste Management Proprietary Limited is a company situated on Elizabeth Drive, Badgerys Creek. It already has a non-putrescible depot. Consent was granted to backfill a quarrying operation. Consent was given because it represented the best opportunity to rehabilitate an already degraded site. Pacific Waste Management made application to the Penrith City Council to convert its non-putrescible waste depot into a putrescible waste depot. The council refused the application and, predictably, Pacific Waste Management determined to appeal the decision.

The site is 45 kilometres from the Sydney central business district and is 600 metres north of Elizabeth Drive. It measures 972 metres by 1850 metres, a total area of 81.5 hectares, and it is affected by the one in 100 year flood. The public consultation process involved submissions from government agencies, residents and landowners within the vicinity of the site and community and environmental groups. No group wants this except the developers themselves. When time permits I will continue the debate. I commend the bill to the House.

**Debate adjourned on motion by Mr Downy.**

**Mr SPEAKER:** Order! It being 9.30 a.m., pursuant to sessional orders business is interrupted.

## **HOMEFUND MORTGAGES (REVIEWS AND APPEALS) BILL**

### **Second Reading**

**Debate resumed from 13 October.**

**Mr HATTON** (South Coast) [9.31]: The aim of this bill is to give HomeFund borrowers an avenue of appeal to the Commercial Tribunal if they are dissatisfied with a determination or discontinuation by the HomeFund Commissioner. The bill also extends time limits for appeals by loan holders who were excluded from the original restructuring package in December 1993 and who are now reaching a point at which their right of appeal is to be extinguished. The crux of the bill is to make the HomeFund Commissioner, who exercises considerable power over people's economic future, and through that over their lives, fully accountable. Currently there is no genuine appeal or review process. Appeals to the Supreme Court are limited to questions of law with the leave of the court and there is no avenue of appeal on questions of fact. There is also no avenue of appeal against the decision by the HomeFund Commissioner to discontinue an investigation.

The HomeFund Commissioner is also excluded from review by the Ombudsman. In the face of this lack of accountability there are concerns that the HomeFund Commissioner is not providing a satisfactory specialist dispute resolution centre. It has been suggested that the HomeFund Commissioner has deliberately avoided making determinations by discontinuing investigations. Currently this form of ruling nullifies any right of appeal for complainants. This effectively shields the commissioner's actions from review and scrutiny. There are further concerns about whether the HomeFund Commissioner is taking into account systematic patterns of verbal evidence from borrowers. This kind of evidence is invaluable because it can tell the HomeFund Commissioner whether borrowers with loans from a particular cooperative were consistently claiming the same kind of misrepresentation. This is a serious claim. The HomeFund Commissioner was appointed to gather and

consolidate such information to help him to make proper decisions.

There are also concerns that the HomeFund Commissioner is not making his determinations publicly available. It is not possible to tell whether these claims are correct. This is not a criticise-the-commissioner bill; it is an attempt to make the office fully accountable and to give proper avenues of appeal. This is crucial in view of the power the commissioner wields. However, it is possible to say that the present situation has arisen because there is no genuine avenue of appeal and review which would clarify the legitimacy of the HomeFund Commissioner's decisions once and for all. Given the damning findings of the Select Committee upon the Operations of HomeFund and FANMAC - of which I was chairman - on the continual failure by the Government to ensure accountability in the HomeFund scheme, I support any bill which provides for a proper review of decisions about HomeFund loans. Had I been able to turn back the clock, my actions would have been different in regard to supporting some measures to try to assist the Minister and the Government in resolving the problem.

The HomeFund committee, in conjunction with the Ombudsman and the Auditor-General, spent a year preparing the definitive document on HomeFund. It found that HomeFund was characterised by misrepresentation and deception on all levels. All the problems and inequities occurred because of the lack of checks and balances and the lack of accountability in HomeFund from top to bottom. The bill will institute a proper review process at last by providing a right of appeal to the Commercial Tribunal. It will raise the decisions of the HomeFund Commissioner above reproach by supporting them or by helping to correct them. I foreshadow an amendment which will enhance the review structure by retaining the existing right of appeal to the Supreme Court and by enabling the Commercial Tribunal to remit decisions to the

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commissioner for reconsideration. This will save valuable time and resources for the Commercial Tribunal. It can focus on identification rather than administration.

On this matter, there have been claims that the bill will result in massive costs as HomeFund borrowers embark on spurious or desperate appeals to the Commercial Tribunal. This claim completely ignores the reality of the finances, circumstances and attitude of HomeFund borrowers. Individual HomeFund borrowers just do not have the resources to mount these kinds of private actions. That was demonstrated time and time again, and I certainly know it as chairman of the HomeFund committee. Rather than stimulating thousands of individual claims, the bill will lead to a limited number of test cases - and that is the key - in the Commercial Tribunal which will clarify the decisions of the HomeFund Commissioner once and for all. The Commercial Tribunal is not being granted radical new powers to alter HomeFund mortgages; the same powers are currently vested in the HomeFund Commissioner himself. The bill merely extends the powers to the proposed review agent. This is wholly appropriate.

With regard to the extension of time limits for appeals by shared-equity and aged-persons loan holders, it should be noted that this protection has been enjoyed by other borrowers with affordable or low-start loans. Only the length of time that elapsed before the Government proposed a restructuring package for these very complex loans brought about this obstacle and necessitated this amendment. The Government left the most vulnerable borrowers with the most complex loans in the HomeFund scheme in limbo for nine months after they were excluded from the original restructuring package in December 1993. It has taken so long for the Government to do something about these loans that the time limits of the sunset clause have been reached. The bill merely seeks to give these borrowers the same protection that other borrowers were granted in December 1993.

I would like to add that the restructuring package offered for these shared-equity and aged-persons loans does not fulfil the recommendations of either the McMurtrie review or Mr Justice Rogers, the original HomeFund Commissioner. Both these experts were commissioned by the Government to come up with a solution for these difficult loans. They suggested that case-by-case treatment and individual loan packages would be required. Therefore, the Government excluded them from the original restructuring package while it considered a special response. In the event, all the Government offered was a small additional subsidy to the normal restructuring package. This would not have satisfied McMurtrie, Rogers or the HomeFund committee



in relation to the concerns it raised. We are not proposing anything radical here.

HomeFund has been buried as a major political issue since the committee reported in May this year. However, it has not gone away for thousands of borrowers who are still attempting to service their mortgages. The bill should be supported because it will ensure the transparency of the decision-making process by the HomeFund Commissioner and provide the necessary appeal structure for HomeFund borrowers to ensure they receive an equitable result. I support the bill.

**Ms MACHIN** (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [9.37]: I will deal with the remarks made by the honourable member for South Coast a little later. We have not yet received a copy of his proposed amendment so it is hard for me to deal with it at this stage. I am disappointed that the House is again spending quite a lot of time on HomeFund when there are a number of other issues we would like to deal with - both Government business and private members' business. Every session there is a HomeFund bill from the honourable member for Heffron. I can only assume that it is political. The honourable member for South Coast made a point about trying to bury HomeFund as a political issue. The fact is that we are simply trying to get on with the job but every four or five months there is an attempt to hijack the process and delay it. That is the bottom line. As I have said for the last 18 months, all that will do is send HomeFund borrowers on another merry-go-round of expensive litigious action with no certainty as to the final outcome - all in order to satisfy the expectations of the honourable member for Heffron.

Earlier this year when the matter was being debated it was telling that after I had said, "The Opposition just wants to make this a political issue", one of the colleagues of the honourable member for Heffron said, "Well, surprise, surprise!" The motivation is not particularly hard to work out. I question the bona fides of the honourable member for Heffron in regard to borrowers. I thought they were genuine to start with but now I do not. The honourable member for Heffron and a few other Opposition members who have spoken on the issue have not demonstrated a genuine effort to come to grips with the issues. They have not met with the HomeFund Commissioner and they have not seen the HomeFund Advisory Service or the legal service handling complaints and providing information. So how can they criticise the Government when they refuse even to go -

**Mr Amery:** We meet with the borrowers.

**Ms MACHIN:** That is half the argument. That is fine, but why would Opposition members not look at the processes the borrowers are going through? How fair dinkum are they? This Parliament has ensured that borrowers have access to justice. It set up the office of the HomeFund Commissioner, about which we had a lengthy debate. The honourable member for Heffron was closely involved in the decision, but since then she has continued to find fault with it and, as I have said, failed to look at how it operates and criticised both the office of the HomeFund Commissioner and the legal advisory

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services within days of their doors opening. The honourable member for Heffron in her second reading speech made a number of derogatory comments about the performance of the HomeFund Commissioner since the first commissioner was appointed in May 1993. She described his performance as appalling. It is absolutely outrageous to attack the judiciary in that manner. For the record, the total number of complaints finalised by the commissioner as at 30 September is 2,269, a figure she should know.

**Mr Amery:** To whose satisfaction?

**Ms MACHIN:** The borrowers have accepted it. The honourable member should know the figure because it was raised in the estimates committees. A total of 67 per cent of those complainants who have received the conciliation offer - the special offer that borrowers were made - have accepted it. The offer was along the lines of the philosophy being considered by Commissioner Rogers. As borrower categories are finalised, further conciliation offers will be made to those eligible. If the present acceptance rate is maintained, it is estimated that more than 4,000 complaints will be resolved during the course of the next eight or nine months. In that context, I am at a loss to understand the remarks made by the honourable member for South

Coast, who has now left the Chamber, when he said that borrowers had been left in limbo for the nine months since the restructure.

A lot has been happening in that nine months, including the recategorising of borrowers, about which a lot of positive feedback has been received, and their complaints have been dealt with. As I pointed out, nearly 2,300 complaints have been dealt with in the nine months since the restructure was put into place by this Parliament - not by the Government, but by the Parliament. To describe the commissioner's record of performance as appalling astounds me. If the 2,269 individual complaints that have already been resolved had been the subject of the conventional litigation process, how many would have been near resolution by now? How long would it take to hear 2,269 cases through our normal court system? It would be a hell of a lot longer than nine months. Honourable members opposite seem to be implying that by going to court borrowers would automatically get the outcome they want. What is the guarantee there? They will not get an outcome that suits them just because they go to court.

**Mr Fraser:** They would have a huge legal bill.

**Ms MACHIN:** Exactly. They would have huge legal costs, as my colleague the honourable member for Coffs Harbour pointed out, but there are still no guarantees that the borrowers would get help. They would be put through more and more hoops only, perhaps, to be disappointed at the end of it. The performance of both HomeFund commissioners since May last year is extremely impressive and history will show this alternative dispute resolution method to be groundbreaking for a problem of the size that it is. They have acted fairly, quickly, informally and in accordance with the substantial merits of the case without undue regard to technicalities, which is an unfortunate facet of our legal system. This is exactly what the Parliament intended when it passed the HomeFund Commissioner Act. The flair and flexibility in resolving the complaints reflect great credit on both the commissioners. It should also be remembered that the HomeFund Commissioner is independent of the Government. He has been at pains on many occasions to stress that. He does not take into account political considerations when deciding how and when to undertake his functions.

In what was a disgraceful abuse of the protection of parliamentary privilege, the honourable member for Heffron set upon the present HomeFund Commissioner, Mr McRae, in a way that can only be described as cowardly. It is just not good enough for her to behave in such a way. It is not something that is well regarded by the judiciary, and nor should it be. He cannot defend himself and why should he? He has nothing to defend himself for. Results are being achieved and, as I said before, when the Parliament enacted the legislation it wanted something that would provide to borrowers fair and speedy resolutions of their complaints. How many more than 2,269 cases would one expect to be completed since May last year, when the office of the HomeFund Commissioner was set up - in reality since Christmas, because the way in which some complaints were handled was changed as the restructure came into play. If that had been put to the Commercial Tribunal, which is the current suggestion, how much longer would it have taken? I will come to that later. We have made some estimates, as alluded to by the honourable member for South Coast.

The honourable member for Heffron described Mr McRae as a relatively unknown Local Court magistrate and claimed that his decisions are questionable. Commissioner McRae has extensive commercial law experience from his years in private legal practice. He is not unknown, having been in private legal practice for more than 20 years, and a magistrate for the past six years. In any event notoriety, surely, is not a prerequisite of appointment to the office of HomeFund Commissioner. It never was, it never should be and it never will be under this Government. The only relevant factor is whether the person is competent in the exercise of his powers and the performance of his duties. If the decisions of the commissioner are questionable, as stated by the honourable member for Heffron, they can be challenged in the Supreme Court. To my knowledge no appeals have been initiated to date against his determinations.

The honourable member for Heffron also made reference in her second reading speech to my consent for HomeFund Commissioner McRae to retain senior counsel to advise him on a number of issues. I make no apology for that. The issues involved are very complex legal issues, and Commissioner McRae is recognising those complexities, as did former Commissioner Rogers. It is a complaint-driven system. Borrowers who

wish to complain have to complete a lengthy guide, which is a narrative

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summary of events and evidence, if you like, in written form concerning their HomeFund loan. If those complaints were being dealt with before the Supreme Court in the usual manner, the parties would have highly skilled lawyers framing, in the most advantageous way, legal arguments on their behalf. The judge would have the benefit of all that legal expertise and research before reaching a decision. I think it is quite a reasonable thing for the commissioner to do and a good thing for the borrowers, because it ensures that they will have access to good legal advice and that he will ensure that he gets it right on behalf of the borrowers.

He bears a heavy responsibility to ensure that all possible grounds of legal relief available to the complainants are identified and considered, and that is what he is doing. It is sensible to leave open that option, and it is an option, of seeking advice from counsel from time to time, independent of the commission, to ensure that the legal rights of the complainants are fully explored. The commissioner has also devised a unique conciliation process that enables offers of \$400 to be made to approximately 6,000 borrowers who have lodged specific types of complaints with his office. That process was designed to provide a fair and quick resolution of the complaints in accordance with the requirements of the Act. The commissioner was most concerned that the voluntary offer was within his jurisdiction and that it complied with the requirements of procedural fairness. He consequently sought senior counsel's advice, independent of his office, on those issues. As I said, this action displays a desire to make sure that he performs his statutory functions fairly and that they do not disadvantage, at any time, those who have complained.

From an administrative point of view it is also prudent. If the same process is to be applied to 6,000 complainants, any legal defect in the process will potentially render every offer invalid, resulting in a considerable waste of resources and further delay. I think the commissioner should be congratulated on seeking the advice, not vilified in a way that reveals ignorance of his actions and the reasons for them. Last year members of the Opposition complained about Andrew Rogers who was being paid, at the time, \$3,000 a day to be the HomeFund Commissioner; then they whinged that he was a former Chief Judge of the Commercial Division of the Supreme Court. Since then the honourable member for Heffron and other members of the Opposition, having whinged about him the whole time, have tried to say that he was terrific, he was a great guy, we were not doing what he said, and we were not following his report. He did not take too kindly to that.

On 3 June last year the honourable member for Heffron was reported in the *Australian* as saying that Mr Rogers, "was being paid \$3,000 a day merely to use a computer to assess the problems and resolve the financial claims of HomeFund borrowers". That was a disgraceful attack and, again, made in considerable ignorance of what was going on. The honourable member for Campbelltown said in this Chamber that while Mr Rogers "dillied and dallied, dithered and fiddled, the victims have gone further into debt". But now we have this enormous change of heart. Mr Rogers is being quoted out of context by the honourable member for Heffron to suit her purposes, which she has done on a number of occasions in regard to other issues. The honourable member for Campbelltown was, of course, the great advocate for HomeFund. We have all seen his brochure with his photo on the front saying, "Come and get your HomeFund loans. They are terrific. They are the best thing". He was saying this right up until not long before people started to complain about the process.

It is a lack of accuracy and a lack of understanding of the issues. It must be taken into account that the honourable member for Heffron cannot answer any questions unless they are scripted, and that concerns me. She picks on people for the wrong reasons. She gets her facts wrong, then dreams up some brilliant scheme which, in this case, is not even original, and will not achieve the results that she seeks. Last year the honourable member for Heffron and other honourable members opposite talked about revolving doors. The honourable member kept writing to me saying that because borrowers were being delayed, they were being put through revolving doors. How many revolving doors is the honourable member putting in front of them? The honourable member is throwing yet another barrier in the way of HomeFund borrowers. The HomeFund Commission is not the only body set up by this Government to assist HomeFund borrowers. The HomeFund Advisory Panel hears appeals against decisions of the Home Purchase Assistance Authority in regard to requests for relief, and restructuring categorisation. It is looking at one aspect of the complaints.

The HomeFund Advisory Service provides expert and impartial financial advice and legal assistance services in relation to the restructuring program, in accordance with the legislation passed by the Parliament last year. This is a service that no-one from the Opposition has been near. The only non-Government member who bothered to see how it actually worked was the Hon. R. S. L. Jones. The HomeFund Financial Counselling Service provides counselling by accredited financial counsellors to assist borrowers considering the overall financial impact of their options under the HomeFund Restructuring Scheme. The Home Purchase Assistance Authority also provides a free legal service to assist HomeFund borrowers when executing the necessary documents to enter into a category B or C arrangement under the restructure.

The HPAA has established a panel of 200 solicitors throughout New South Wales to provide this service. They were trained by the Law Society. The HomeFund Complaints Legal Service was established to assist complainants who were offered the \$400 conciliation offer. The aim of that service is to enable borrowers to receive free legal advice about the offer

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and the legal effect of executing a deed of release. If honourable members are not already confused at the huge list of services the Government has set up at huge expense -

**Mrs Grusovin:** If there were no problems, why did you have to do that?

**Ms MACHIN:** The reason is twofold: to make sure that borrowers have every assistance, and because the Opposition keeps trying to throw all these spanners in the works. In order to satisfy the honourable member's demands the Government has provided these services. The honourable member has requested them. So why is the honourable member criticising these schemes now? She cannot hold the same ground and alter it in a few minutes. She says we need services and now she criticises them. The honourable member is all over the shop. She does not know where she is. The honourable member for Heffron quoted several times from the special report of the first HomeFund Commissioner but did not quote from page 51 where he stated:

After careful consideration I have come to the conclusion that I should report to the Parliament that the only satisfactory method for resolution of complaints is a legislative restructuring of the Scheme which would establish the entitlements of all complainants with but minimal exceptions where complaints would be required to be dealt with differently.

Parliament agreed to give effect to that policy and passed the HomeFund Restructuring Act. The HomeFund Restructuring Act provides for a scheme which groups borrowers into four categories. It is important to recount this because, following the lengthy debate, many honourable members would be confused. Those eligible for category A are regarded as being able to refinance with other lenders and no restructuring assistance is offered. Those in category B are unable to refinance but are able to repay their loan with an interest subsidy. The restructure offered an income-g geared subsidised loan based on initial repayments of 27 to 30 per cent of income, with no planned capitalisation of interest. Borrowers in category B have the opportunity to achieve outright home ownership within 25 years.

Category C borrowers are regarded as being unable to repay their loan, even with an interest subsidy. The restructure offers the sale of the property to the HPAA with a waiver of any debt remaining above the sale value and medium-term rental at subsidised rates. Borrowers in repayment arrears of three months or more are in category D. These borrowers can receive category B or C assistance if they arrange to repay the arrears. Otherwise, foreclosure action can be taken, although borrowers can stay in the home for up to 15 months from the date they enter into a temporary stay arrangement. Borrowers' rights to take action vary, depending on which category of assistance they receive. The HomeFund Restructuring Act sets out those rights, decided upon by this Parliament after intensive and wide-ranging consultation.

Borrowers who have refinanced, category A borrowers, and borrowers who accept the category B assistance, have no right to seek a remedy either from the courts or the HomeFund Commissioner against the New South Wales Government, FANMAC, the FANMAC Trustee, cooperative housing societies and persons acting solely on their behalf, apart from their right to complain to the HomeFund Commissioner about administrative mishandling of their loans. On the other hand, some borrowers retain all legal rights which may

be exercised in a court of competent jurisdiction and through the HomeFund Commissioner. This applies to borrowers who are categorised as C or D, unless and until they receive category B or category C assistance; to former borrowers who have left the scheme otherwise than by refinancing, so they have had to hand in their keys or whatever; and to borrowers with rent-buy or aged-persons update loans, to whom the HomeFund Restructuring Act does not apply.

Apart from any other remedy these borrowers are currently entitled to seek relief from the Supreme Court under the Contracts Review Act, which is partly the subject of the bill this morning. The bill provides that the powers of the Supreme Court under the Contracts Review Act 1980 may be exercised by the Commercial Tribunal. That means that borrowers who are currently entitled to seek redress through the Supreme Court will be able to approach the Commercial Tribunal instead. Yet those borrowers are entitled to complain to the HomeFund Commissioner anyway. Under section 25(3) of the HomeFund Commissioner Act the commissioner may make determinations relieving a HomeFund borrower of specified obligations, including current or future payments and arrears of payments; setting aside or altering a HomeFund mortgage; setting aside a HomeFund mortgage and entering into a new transaction; or ordering payment of an amount of money by way of damages or compensation. Section 26(2) sets the maximum amount that can be ordered at \$30,000.

However, the commissioner does have the right to recommend to me that greater compensation be paid, where it is warranted. The honourable member for Heffron says that her bill is needed so that borrowers will have an avenue of appeal against what she describes as the "questionable decisions now emanating from Mr McRae". I would like to see some proof of that. There was no such provision in the bill; in fact there were only two paragraphs in the honourable member's legislation. If she has evidence of flaws in the system I ask that she produce it because I will make sure that the flaws are fixed. During the autumn session honourable members will recall that throughout the debate on the HomeFund Legislation (Amendment) Bill - yet another attempt by the honourable member for Heffron to tinker with the scheme - the honourable member constantly argued that she had so many complaints from borrowers about the HomeFund Advisory Service she could quote for hours from the piles of correspondence she had received. Yet, when I consistently ask whether I

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can see the complaints she fails to produce them. I do not understand how a government of the day, which is in charge of the services and charged with resolving the complaints, is supposed to remedy situations if the honourable member is not prepared to pass on the information. In fact, borrowers have said that they have been concerned about some of the actions of the honourable member for Heffron. They are the sorts of matters that have been raised.

So what do we have now? We have the same situation all over again, almost where the same process started. We have allegations of questionable decisions, of things wrong with the system, but we have no evidence to support the claims made by the honourable member for Heffron that something is wrong. If there is a questionable decision why waste the time of the House by bringing it in here? Rather, it should be put through the proper channels in an attempt to resolve the claim. As I said, this issue has to be politically motivated. The colleagues of the honourable member have confirmed that it is a political issue, to try to keep HomeFund bubbling along. More and more borrowers are waking up to the fact that all this entails, every time it goes around, is more uncertainty for them because the ground rules keep changing, with more possible delays. The Commercial Tribunal is currently structured to handle between 160 and 180 matters a year. I am interested in the comments made by the honourable member for South Coast and others that only a few test cases will be referred to. I wish the honourable member could guarantee that.

**Mrs Grusovin:** If it is all going so well why are so many cases going to the Commercial Tribunal?

**Ms MACHIN:** If it is going so well, why amend the legislation? What is wrong with it? The Commercial Tribunal has a chairperson, two full-time deputy chairpersons and one part-time deputy chairperson to hear such matters. Last financial year the tribunal heard 166 cases, which is about average. Of the cases lodged in the Commercial Tribunal between 10 May 1993 - the date the first HomeFund Commissioner was appointed - and 30 September this year, the Commercial Tribunal finalised 153 cases. In the same period the HomeFund Commissioner dealt with 2,269 cases to finality. That is 153 versus 2,269; 15 times as many! It is

estimated that if this bill were passed approximately 6,500 current and former HomeFund borrowers would be eligible to seek redress from the Commercial Tribunal under the Contracts Review Act, while 4,700 complainants to the HomeFund Commissioner would be eligible to appeal the commissioner's decision and determinations before the tribunal.

That is a potential caseload of 11,200 matters to be heard by the tribunal, virtually the total number of complaints that have been made to the HomeFund Commissioner. Clearly, the Commercial Tribunal was not set up to handle such numbers. It would require a huge injection of taxpayers' funds if it were to do so within a sensible time frame. Speed is of the essence. We are trying to resolve borrowers' complaints within a short time frame. There is no need for this legislation. The HomeFund Commissioner's role does need not be duplicated. The Government cannot support such an unnecessary and wasteful measure. The bill would also allow appeals to the Commercial Tribunal from the HomeFund Commissioner's decisions and determinations. Section 12 of the HomeFund Commissioner Act allows the commissioner to investigate a complaint, to choose not to do so, to discontinue an investigation, or to continue one. Some of the factors which are to have a bearing on the decision include: whether the complaint is vexatious, frivolous or not in good faith; whether the subject matter is trivial; whether an alternative remedy is available; or whether the conduct of the complainant does not warrant it. This is an administrative power exercised by the commissioner and there has never been a right to appeal his decision.

Parliament has debated a number of bills concerning measures to assist HomeFund borrowers and has not found it necessary to provide an appeal from the commissioner's decision to conduct an investigation. I do not think it is necessary. Under section 25 of the HomeFund Commissioner Act the commissioner has power to make determinations about the whole or any part of the subject matter of a complaint. I referred earlier to the type of determinations that can be made if the commissioner finds a complainant has an entitlement to a legal remedy for the restructure of his or her mortgage, or to financial compensation. The commissioner may also make determinations about complaints relating to administrative mishandling of a loan, as listed in schedule 2 to the HomeFund Restructuring Act - which was much negotiated in and out of this Parliament last year. However, the determinations are limited to ordering the payment of money by way of damages or compensation for financial loss, based on a large number of issues listed in schedule 2.

With a right to appeal to the Commercial Tribunal, the bill would duplicate the current right of complainants to appeal to the Supreme Court against a determination of the commissioner on a question of law and with the leave of the court. Once again, there is no reason to change the current provision. There is also the potential to undermine the effect of the restructure scheme if borrowers who have accepted a restructure decide to seek relief through the Commercial Tribunal. This is, in effect, a form of double-dipping and gives HomeFund borrowers access to remedies in excess of those available to other people who may have legitimate complaints about their own mortgages, and those who were not HomeFund borrowers.

What is the benefit to be gained by borrowers who just want to get on with their lives and not have the stress of continual legal action hanging over them, which represents the vast majority of borrowers?

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They just want their problems solved and they want them out of the way. The honourable member for Heffron is encouraging them to shop around from one forum to another. If they do not like the commissioner's determination, appeal to the tribunal - no matter that they will encounter legal costs, delays, and more stress and uncertainty while awaiting each outcome. If only three-quarters of those eligible to appear before the Commercial Tribunal did so - that is, about 8,400 borrowers - up to another 130 deputy chairpersons would be required to hear all matters before 31 December 1995. Then there are the flow-on costs of extra professional and support staff, accommodation - a major factor in terms of the physical limitations at the tribunal - computer facilities and so on, which are estimated to cost a total of \$58 million by the end of 1995.

**Mrs Grusovin:** Ridiculous!

**Ms MACHIN:** The honourable member for Heffron says, "Ridiculous!" She does not go near any of these places and she does not look at any of the facts, but she says, "Ridiculous!" She could do the sums; they

are not really all that hard. The sums do not include all the borrowers going to the HomeFund Commissioner; they represent only three-quarters of borrowers. If, say, only 50 borrowers pursued a claim under the Contracts Review Act in the Commercial Tribunal and 140 sought to appeal a decision or determination of the HomeFund Commissioner before the end of next year, the estimated costs would range between \$18,700 for each Contracts Review Act case and \$4,200 for an appeal against a decision of the HomeFund Commissioner to deal with a complaint without making a determination. These figures do not include the cost of legal representation for the borrowers who would be involved.

What does the honourable member for Heffron have to say about that? She has not said anything. The Legal Aid Commission would be expected to provide that service. I have asked it for an estimate and it has indicated that the additional legal costs would take the cost of a contracts review case in the example quoted around \$20,000, while HomeFund Commissioner appeal cases would jump to almost \$5,000. The Government, naturally, could expect to receive a further request from community legal centres for additional funding for this purpose. This could add many millions of dollars to the overall bill, making this whole exercise an extremely expensive as well as unnecessary one, with no benefit to the borrowers. The lawyers would be the only people who would benefit from that system.

These costs make a mockery of the intent of this bill, particularly as the HomeFund Commissioner's estimated costs for dealing with complaints lodged with him will average around \$1,200 by the time all the complaints received by him have been dealt with to finality, compared to the amounts of \$5,000 and \$20,000 I have just referred to. I emphasise that the HomeFund Commissioner has the expertise. He is using the instruments that should be visited on the Commercial Tribunal. He is using the Contracts Review Act and the Fair Trading Act in making his determinations. Why send people off to another forum? This bill seeks to duplicate the measures being employed by the HomeFund Commissioner. Even on a conservative estimate the costs will be substantial. It should not be forgotten that the Opposition wishes to send borrowers to another fairly traditional legal forum. Even though tribunals have been established to create a less formal and speedier form of justice, legal representation is still involved. Where are the borrowers supposed to find that? The costs will be much greater than the total costs estimated for the Homefund Commissioner's office.

I want to address a few of the remarks made by the honourable member for South Coast. He talked about making the HomeFund Commissioner fully accountable. I am interested in this. He has never raised this matter before, although he was very much involved in deliberations last year when we looked at the restructuring Act. He has not been involved in talking to the Government about this. He has not been briefed by the Government. The honourable member for South Coast is biased; he is prepared to talk to the Opposition at length about HomeFund, but he is not prepared to talk to the Government. He likes to say that he is a true Independent; that he sits on the fence and that he is the honest broker of the Parliament. If he were, he would make an effort, given the significance of this issue, to be briefed by the Government. The honourable member for South Coast is not in the Chamber, but I would be happy to say these things to him in person.

It is very frustrating for the people trying to solve these problems to have these issues brought into the Parliament and to have amendments dropped on the table when we have no chance to have a good look at them. We adjourned debate on this matter last week not to delay it - we have no other Government speakers - but to give the Independents an opportunity to get a proper briefing on some of the implications of this piece of legislation. I am disappointed that that has not occurred. We now have, at this last moment, some amendments. We, in turn, would like the time to have a look at them. In regard to the test case issue raised by the honourable member for South Coast, and others outside the Parliament, I point out that the HomeFund Commissioner examines each complaint individually because each complaint has its own circumstances. Anyone who understands a little about HomeFund would appreciate that.

Each case should be decided on its merits. A decision by the Commercial Tribunal on the facts and the circumstances of an individual case would be unlikely to provide any precedent value because of the differences within cases. This has been our concern. Borrowers would need to present their own cases to the tribunal. If this legislation goes through they

would certainly have the right to do so. They should not be precluded because of the fact that there have been a couple of test cases a little similar to theirs. If I were a borrower I would want to have that right and I would want to be able to exercise that right. There are differing circumstances so it is not accurate to say that not many would go to the HomeFund Commissioner. Certainly not all of the 11,000 complainants would go. Frankly, we do not have any way of knowing how many would go, how long it would take, what it would cost and how much that would delay borrowers.

In regard to rent-buy and aged-persons' loans, the honourable member for South Coast suggested that the restructuring of those loans did not adequately address the difficulties faced by borrowers. I am advised that the restructuring of those non-standard loan products - the honourable member for South Coast would know that there are not many borrowers in those categories - are significantly different from mainstream HomeFund loans. First, the restructure of rent-buy contains a loan restructure similar to that specified in the HomeFund Restructuring Act. However, a number of further concessions have been made to the terms and conditions of rental payments and the acquisition of additional interest in the property. Second, the restructure of the aged persons' home update loan contains an interest reduction backdated to the loan's origination. Those features actually go beyond the main HomeFund restructure and we believe address the valid concerns raised previously by Commissioner Rogers. I am sure my colleague the Minister for Housing would be more than happy to provide further information if the honourable member for South Coast has any concerns about that.

I do not see anything to be gained by sending the borrowers to the Commercial Tribunal. The HomeFund Commissioner is exercising the same powers that it is proposed be given to the Commercial Tribunal. He is making decisions using the same legal instruments. He has taken 2,269 complaints to finality, as opposed to 153 in the Commercial Tribunal over the same period. The honourable member for Heffron should understand the implications. If the borrowers go to court will they get a result with which she or borrowers will be happy? We all know that there is no guarantee of winning before the courts. That is the great risk for the borrowers, apart from the much longer period of time before they may have a chance of their cases being resolved, thus costing them, or the community, more for legal representation. There is no guarantee they will get the outcome they want. In effect, it is a bit of a double dip. People who do not like the commissioner's determination or decision - and that is pretty much everything he is doing - can go to the Commercial Tribunal under the honourable member's proposed legislation. Do I read the honourable member's bill correctly? Does the honourable member understand it? Maybe she does not understand it, because she is not giving any response.

**Mrs Grusovin:** I will be responding when the Minister is finished.

**Ms MACHIN:** I would appreciate the honourable member answering this question: would every borrower who currently presents himself or his complaint to the HomeFund Commissioner have the right to go to the Commercial Tribunal in regard to the commissioner's decision or determination? He can make a decision not to continue or to recontinue, and so on. Virtually every decision he makes could go to the Commercial Tribunal. One has to ask why have a HomeFund Commissioner? Why should the Government keep him? Should we not just abolish the office of the HomeFund Commissioner? If this bill were to go through, we would have to seriously consider that. What happens to the 2,269 people who have already had their complaints resolved? They go back to square one.

What about all the borrowers whose complaints are part-heard? What does that do in terms of blowing out the time? I pose this question seriously, and the honourable member for Heffron might also answer it for me: if this bill were to be passed by both Houses, would the honourable member support the notion that we no longer have a HomeFund commissioner? To me that office seems redundant. We would have two bodies doing exactly the same thing, except that the HomeFund Commissioner is doing it much faster and much more efficiently. The commissioner is providing exactly what the Parliament sought in May 1993, an alternative means of dispute resolution, and doing it at low cost, speedily, and in a non-threatening way so that borrowers do not feel threatened or intimidated by all the legal hoopla they have to go through in the Commercial Tribunal. I do not think the bill is well motivated, as was stated by the Labor Party. The Opposition is just trying to keep HomeFund on the agenda as a political issue. The Government opposes the proposed legislation.



**Mrs GRUSOVIN** (Heffron) [10.13], in reply: This bill allows HomeFund borrowers to appeal the decisions and determinations of the HomeFund Commissioner to the Commercial Tribunal of New South Wales, and brings rent-buy, State partnership and aged-persons' update loans under the suspension of time limitations protection as is presently the case with low start and affordable home loans. It is important before going further to make clear what is contained in the HomeFund Commissioner Act 1993. Section 8 of that Act states:

The principal functions of the Commissioner are to receive complaints from HomeFund borrowers . . . and . . .

- (a) to provide advice about the relief and remedies available to HomeFund borrowers;
- (b) to refer HomeFund borrowers to appropriate authorities;
- (c) to investigate complaints;
- (d) to conciliate complaints;
- (e) to make determinations in accordance with this Act.

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The commissioner, in the last paragraph of his letter to borrowers where he has declined to investigate or has discontinued his investigation, wrote the following:

If you wish to investigate other avenues for seeking relief, I suggest you contact the Legal Aid Commission on 707 4555 or the South West Sydney Legal Centre on 601 7434.

He obviously believes that discharges his duty to the principal function of providing advice. The commissioner well knows that the Legal Aid Commission and community legal centres are not resourced to undertake such advisory functions. That was what his office was specifically resourced to do. This must be where the commissioner has got the bright idea of flicking HomeFund borrowers to principal function (a), that is, to provide advice about the relief and remedies available to HomeFund borrowers. Principal function (c) says "to investigate"; it does not say "not to investigate". As at 30 July 1994 - I know the Minister has given updates today in the House - the commissioner had decided not to investigate 392 complaints made by HomeFund borrowers and had made a proposal to the Government, which has been accepted, not to investigate the complaints of approximately 6,000 borrowers and to offer them \$400 instead as full and final settlement of their complaints. I will come back to some of the figures quoted by the Minister in the House today later in my reply. The office of the HomeFund Commissioner stated, in relation to principal function (d), "to conciliate complaints":

It should be noted that of the 8,291 complaints received approximately 6,000 will be subject to the conciliation offer process, whereby eligible borrowers will be offered \$400 in lieu of an investigation.

I would have thought that conciliations involve a dialogue between the interested parties. There has been no negotiation, no request for submissions, no mediation conference - just a unilateral, flat, paltry offer of \$400 for borrowers who took up defective and unfair loans which were vigorously promoted by this Government. This offer of conciliation is not about justice, it is about cost saving. The Government has to recognise - it should have recognised by now - its responsibility for the hardship, sacrifice, trauma, family breakdown and sickness caused to ordinary people caught up in the defective and unfair HomeFund scheme.

Almost 20 months ago, on 2 March 1993, the Opposition took the first initiative to deal with the callous apathy of this Government towards the plight of tens of thousands of severely disadvantaged HomeFund families across this State. That initiative was in the form of legislation, the HomeFund Mortgage Relief Bill. That bill proposed to follow the recommendations of the Trade Practices Commission and enable disadvantaged

HomeFund families to file complaints with the Commercial Tribunal. The Opposition sought to allow HomeFund families access to this quick and inexpensive method of obtaining justice. The Fahey Government has never wanted HomeFund borrowers to gain access to the Commercial Tribunal, because it feared the cost of justice, money it wished to otherwise conserve to buy votes. Instead of supporting redress through the Commercial Tribunal, the Government floated the HomeFund Commissioner proposal in this House as the panacea to resolve, in a speedy and non-litigious manner, the very genuine complaints by disadvantaged HomeFund borrowers.

I pay tribute to the efforts of the Independents in the matter of HomeFund, because without their support we would not have been able to achieve the few things that have been achieved for HomeFund borrowers. Arising from this attempt to put through legislation to provide relief for borrowers by way of the Commercial Tribunal, following conferences with the Independents, we came to a much greater understanding of the truth of the dimensions of the scandal of HomeFund. However, I will not take up the time of the House by going through the many events that have occurred since then, including the Hatton inquiry into the HomeFund debacle. The Public Interest Advocacy Centre issued a press release on 3 June 1994 stating:

PIAC also believes that many of the commissioner's assumptions are factually and legally wrong.

That was not the member for Heffron saying that, it was PIAC. It is now some 15 months after the appointment of the first HomeFund Commissioner. HomeFund borrowers have filed 8,294 complaints. To date only 11 cases have been determined by the commissioner. I note that the Minister referred to a figure of 2,269 borrowers. The Minister for Consumer Affairs has not explained or clarified that only 11 cases have been determined by the commissioner. Those figures have been made up.

People have agreed to take the \$400 settlement. If the Minister were a little more frank, she would say that the majority of claims have been rejected or that borrowers have been offered a paltry \$400 as full and final settlement of their claims. This is an appalling record of performance, and clearly indicates the questionable approach of the current HomeFund Commissioner, Mr Ian McRae. The legal position of thousands of disadvantaged HomeFund families is, at best, not understood by Mr McRae and, at worst, is blatantly ignored by him. Despite a freedom of information request, the Minister for Consumer Affairs has refused to provide any information relating to the selection criteria and the recruitment process which resulted in the Local Court magistrate of Moss Vale being appointed as HomeFund Commissioner on a part-time basis. He succeeded the rather illustrious HomeFund Commissioner, Mr Andrew Rogers.

**Ms Machin:** You have changed your mind now.

**Mrs GRUSOVIN:** I did not query his legal ability. In March 1994 the Minister specifically authorised Commissioner McRae to retain senior

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counsel "in an endeavour to ensure that the commissioner's determinations are correct in law". The Minister has said, "Yes, we will ensure that the commissioner's determinations are correct in law because we will allow him to retain senior counsel". That is a bit of a worry. I thought she would appoint someone who was legally competent to make decisions. During budget estimates committee hearings the Minister advised that only Commissioner McRae had obtained outside help from counsel; his predecessor, Commissioner Andrew Rogers, expended nothing with respect to legal assistance. I am not surprised by that. I would expect that the legal credentials of Andrew Rogers QC, former Chief Judge of the Commercial Division of the Supreme Court, would mean that he had the unquestionable ability to make correct decisions at law. Sadly, his replacement does not have such eminent legal qualifications and experience, consequently -

**Ms Machin:** On a point of order: the honourable member for Heffron is enjoying considerable leeway, which is fair enough in this debate. The bill is fairly specific. She has been introducing new material for some time, which is not in order when one is in reply. In particular, she is making a concerted and personal attack on a magistrate of New South Wales. I think that is totally out of order. If she wants to make such an attack, she should move a substantive motion specifically dealing with that issue. She should not attack him in this way.

**Mr Hatton:** On the point of order: there is no substance to the point of order of the Minister for Consumer Affairs. The honourable member for Heffron is not making a concerted and personal attack on a magistrate operating as a magistrate or on a judge operating as a judge; this person is a commissioner. If we cannot talk about whether he is handling the job competently, we can talk about nothing in this House. The standing order is designed to protect the good reputation and standing of the bench. In this case, the good reputation and standing of the bench is not under attack; we are questioning whether this person is doing the job as commissioner. The Minister raised the matter in this House.

**Ms Machin:** Further to the point of order: I am not saying that we should not debate this; I am concerned about the form of the debate. There are ways to deal with such issues. I did not raise this issue in the House; the honourable member for Heffron raised it in her second reading speech when she introduced the bill some three weeks ago. I am concerned about the way this matter is being dealt with. If members, including the honourable member for South Coast, want to make an attack on a magistrate, seconded though he may be, this is not the forum in which to do so.

**Mrs GRUSOVIN:** On the point of order: I want to make it very clear that this bill is all about scrutiny - the scrutiny of decisions which are being made. If I cannot bring before this House matters of concern not only to me but to legal bodies in this State, we might as well all go home and forget about the whole procedure.

**Mr DEPUTY-SPEAKER:** Order! I do not uphold the point of order. I note that the honourable member for Heffron is in reply. In my contribution to the debate I certainly made comments about the HomeFund Commissioner, and in reply an honourable member is entitled to respond to matters raised in the debate. However, I remind the honourable member of a ruling by Speaker Ellis about reflections on members of the judiciary. Any comments about the HomeFund Commissioner must be relevant to the scope of the bill.

**Mrs GRUSOVIN:** Mr Rogers' replacement does not come to us with the equivalent eminent legal qualifications and experience. Consequently, I believe that the community has concerns that at present Commissioner McRae's decisions as the HomeFund Commissioner are not subject to a review and appeal process. I must give top marks to the Government: it was clever enough to place the HomeFund Commissioner outside the jurisdiction of the Ombudsman on all counts except the provisions of the Freedom of Information Act. Therefore, courtesy of this Government, no review of the commissioner's decisions is currently possible.

The HomeFund Commissioner, Mr McRae, has even sought to prevent HomeFund borrowers from obtaining documentation under the Freedom of Information Act. In this regard I refer to Mr Michael Stiff, who has been trying to gain access to documentation in his file for the past six months. The Ombudsman recently issued the HomeFund Commissioner with a notice specifying that as a result of the complaint, and of his own motion, he has decided to make the conduct of the commissioner the subject of investigation. Why? Why the secrecy over the papers in a borrower's file? What is Commissioner McRae afraid of?

It is the preliminary view of the Ombudsman that 26 documents being requested by Mr Stiff are not exempted from the Freedom of Information Act provisions, as is claimed by the HomeFund Commissioner. I believe that there could be no finer example to justify how the absence of a review process creates injustice, and why the decisions of the HomeFund Commissioner should be subject to scrutiny and review. That is exactly what this bill proposes to do - to level the playing field and put in an umpire. A lot has been said on this subject over a long period of time, and I do not intend to take up any more time of the House in this regard. I want some action to ensure that there is a level playing field and fairness. I am grateful for the support of the honourable member for South Coast. He has flagged that he will move amendments during the Committee stage. The Opposition will accept his amendments. We believe that they will strengthen the legislation and ensure that borrowers get a fair go, for which they have been fighting for a long time.

**The House divided.**

**Ayes, 47**

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

**Noes, 45**

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

## **Pairs**

Mr Carr	Mr Fahey
Mr Whelan	Mr West

**Question so resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

## **In Committee**

### **Schedule 1**

**Mr HATTON** (South Coast) [10.37], by leave: I move amendments 1 to 7 circulated in my name in globo:

- No. 1 Page 4, Schedule 1, line 21. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal".
- No. 2 Page 4, Schedule 1, line 27. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal".
- No. 3 Page 4, Schedule 1, line 28. Omit "Tribunal", insert instead "Court or Tribunal".
- No. 4 Page 4, Schedule 1, line 30. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal, respectively,".
- No. 5 Page 5, Schedule 1, line 10. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal".
- No. 6 Page 5, Schedule 1, line 12. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal".
- No. 7 Page 5, Schedule 1, line 14. Omit "Commercial Tribunal", insert instead "Supreme Court or Commercial Tribunal".

I was concerned that borrowers who exercised options after receiving advice about a matter might find they had no further legal rights to pursue that matter. This has greatly troubled me. I trusted the Government and I trusted the process, but to some extent I was wrong. These amendments are specifically designed to enhance the review structure proposed by the HomeFund Mortgages (Reviews and Appeals) Bill. The amendments provide for an appeal against the decision of the HomeFund Commissioner to be lodged with either the Supreme Court, as at present, or with the Commercial Tribunal, as proposed by the bill. In other words, the amendments provide for no option to be closed off while a new option is opened up. There is no reason why the availability of appeals to the Commercial Tribunal should rule out the existing avenue of appeals to the Supreme Court, where appropriate. This would erect an artificial barrier which may, for example, obstruct a test case to the Supreme Court.

The amendments seek to augment and widen the scope of the bill, when taken in conjunction with the new power of the appeal structure to review factual errors and not only errors of law, as the existing Act provides. Amendment No. 8, which I shall move shortly, furnishes a further option and provides flexibility to the Commercial Tribunal in its review function. The bill as drafted gives the Commercial Tribunal the power to uphold the commissioner's decision or replace it with a new one. I signal that amendments Nos 9 and 10 are consequential. I apologise to the Minister and the Government for not circulating these amendments earlier; it was an oversight. This week has been a hell of a week for the Independents. However, on many occasions we sincerely tried to attend briefings. On each occasion we had urgent meetings with Cabinet Ministers about

apologise also to Mr Manning for putting him to a considerable amount of trouble.

Notwithstanding that, I remind the Minister that I was chairman of the HomeFund committee and, therefore, have a detailed knowledge of the matter. Mr Bill Dunbar, my research officer, was the project officer of that committee. I have never felt that I could not learn something from a briefing, but the facts to which I have referred made attending the briefings less absolutely urgent, if I can put it that way, at a time when the Independents were desperately trying to find time to do all the things they had to do. The Minister says that nothing will be gained by appealing to the Commercial Tribunal, and there is no guarantee if one appeals to a court. But this bill is all about having the right to take action. The option to exercise certain rights should not be closed off; it should be opened up. The bill is about the exercise of considerable power by the commissioner. That power must be counterbalanced by accountability mechanisms. The appeal mechanisms proposed in the amendments will provide some degree of accountability.

**Ms MACHIN** (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [10.42]: Although the amendments are not difficult to understand, the Government opposes them on the same principles that it opposes the bill. As the honourable member for South Coast has said, the amendments will provide another forum for HomeFund borrowers. As many members of this House have said, HomeFund borrowers probably do not have the best resources in the community. They are not in a financial position to trot from one court or tribunal to another, and they do not easily understand the processes involved. The Supreme Court may be another forum, but it will also create another potential delay for HomeFund borrowers - a further line of confusion, if you like.

HomeFund borrowers now have many different avenues to pursue for financial or legal advice. They can go to the HomeFund Commissioner and, in certain circumstances, they can take their own legal action if they have the financial resources to do so. A plethora of bodies is available to assist HomeFund borrowers. I am concerned that they will become more confused than they were to start with, because I find it difficult to keep up with all the different bodies that have been set up at the request of the Parliament, the honourable member for Heffron and others involved in this issue. For those reasons the Government opposes the amendments. I do not propose to divide the Committee, but I place on record that the Government strongly opposes the amendments because they merely fiddle with the bill.

In my contribution to the second reading debate I stated the reasons that the Government does not believe the bill is an appropriate measure to resolve the complaints of HomeFund borrowers. The honourable member for South Coast probably remembers that an option already exists for an appeal to the Supreme Court on a question of law. His eighth amendment, which refers to remitting decisions or determinations to the commissioner to be redetermined in accordance with law, probably touches on that. If there is an appeal on a question of law, that is essentially the process that occurs now. If the commissioner makes a decision that is wrong in law, it is reviewed on appeal and referred back to him. He then has to deal with the matter again according to the due processes of the law.

Referring to the general comments made by the honourable member for South Coast, the Government was disappointed that he was not able to attend the briefing. I know the Independents have had every man and his dog chasing them for briefings. That includes me, my staff, and many of my departmental officers, who have spent many hours here late at night in case they could get an appointment with the Independents. The honourable member for Heffron thanked the honourable member for South Coast and the other Independents for their support. Obviously the Opposition has been able to brief the Independents. I say genuinely that that raises the perception of bias. If the Independents were briefed by the Opposition, why could they not find time to be briefed by the Government? The Independents are open to that charge of bias, and they should take it on board.

**Mr Hatton:** We have not been to any Opposition briefings.

**Ms MACHIN:** I accept that. I do not know what the honourable member for Heffron means when she refers to the cooperation and support of the Independents. The Government was disappointed because this is a serious issue. I know the honourable member for South Coast has a genuine interest in the plight of HomeFund

borrowers. If he is concerned about accountability of the HomeFund Commissioner, both the HomeFund Commissioner's office and I would be more than happy to discuss that with him. I do not believe that has occurred in the past. I do not believe these amendments will achieve accountability. They create duplication; they do not achieve all that much either way. The Government's objection to the principal bill leads me to oppose the amendments moved by the honourable member for South Coast.

**Mrs GRUSOVIN** (Heffron) [10.46]: The Opposition supports both these amendments and the amendments to follow. I find it hard to understand why the Government is so concerned about the amendments making provision for an approach to the Supreme Court as well as the Commercial Tribunal. In past years the Government has argued that HomeFund borrowers would always have access to the Supreme Court. The Opposition has argued week after week, month after month, year after year that although access to the Supreme Court may be available to HomeFund borrowers because of their financial situation, as the Minister has just conceded, it is highly unlikely that HomeFund borrowers would

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ever be able to access the Supreme Court. That is why the Opposition has long believed that at least the Commercial Tribunal would be a realistic possibility for them. I am happy to support the amendments.

#### **Amendments agreed to.**

**Mr HATTON** (South Coast) [10.47]: I move:

No. 8 Page 5, Schedule 1, line 18. Omit "made.", insert instead:

made; or

(c) may remit the decision or determination back to the Commissioner to be remade in accordance with law.

This amendment adds the option for the Commercial Tribunal to remit decisions to the HomeFund Commissioner for them to be reconsidered and remade. This option creates an appeal structure that is in accord with other appeal bodies such as the Administrative Appeals Tribunal. It means that the Commercial Tribunal will not be required to remake the whole decision of the HomeFund Commissioner in the event that it disagrees with the commissioner's decision. It can, at its discretion, merely send a decision back to the HomeFund Commissioner with guidance as to the correct approach in law.

The capacity to remit a decision will save valuable time and resources for the Commercial Tribunal. It will enable the tribunal to focus on identifying errors rather than undertaking the whole administrative task of redoing the decision. This means that the edifice created by the HomeFund Commissioner to deal with complaints can be used to implement the new decision and provide expeditious relief to all HomeFund borrowers. It is undoubtedly the intention of all parties involved in this process to bring the HomeFund fiasco to an equitable solution for borrowers. It has been put to me on behalf of the Government that the Government wants to confine the tribunal, so that where the tribunal finds only that the commissioner has made an error in law, that is referred back to the commissioner. I do not believe that the tribunal should be confined in that way. The tribunal will use its powers and discretion responsibly. I see no reason for confining the tribunal in that way.

**Ms MACHIN** (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [10.49]: The Government opposes this amendment. It is not so offensive; up to a point it is probably an indication of what happens with appeals to the Supreme Court on points of law. The Government's fundamental concern with the bill is that the honourable member for South Coast wanted to see the problems dealt with expeditiously. By adding layers the problem will not be solved expeditiously; it will create the revolving door that the Government was criticised for setting up. For those reasons the Government opposes the amendment. The honourable member for South Coast said that he trusted the Government and the process. The implication of the amendment is that the Government has welshed. The Parliament has been part of this process, and the restructure, for the last year. Obviously the

honourable member for South Coast was included. The Government consulted widely and has genuinely tried to get it right.

**Mrs GRUSOVIN** (Heffron) [10.50]: The Opposition supports this amendment which means that the tribunal will have the additional power to remit the case to the HomeFund Commissioner for reconsideration.

**Amendment agreed to.**

**Schedule as amended agreed to.**

### **Schedule 3**

**Mr HATTON** (South Coast) [10.51], by leave: I move the following amendments in globo:

No. 9 Page 6, Schedule 3, line 28. Omit "Tribunal", insert instead "Supreme Court or Tribunal".

No. 10 Page 6, Schedule 3, line 31. Omit "Tribunal", insert instead "Supreme Court or Tribunal".

There is no need to take up the time of the House to discuss these consequential amendments.

**Ms MACHIN** (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [10.52]: The Government opposes the two amendments for the reasons outlined earlier.

**Amendments agreed to.**

**Schedule as amended agreed to.**

**Bill reported from Committee with amendments, and report adopted.**

## **LAKE MACQUARIE STATE RECREATION AREA BILL**

### **Second Reading**

**Debate resumed from 22 September.**

**Mr HUMPHERSON** (Davidson) [10.53]: I am delighted to have the opportunity to speak to this bill. As other Government members have said, this bill, presented by the honourable member for Lake Macquarie, is illogical, poorly thought out, shonky and ill-planned. There has been little or no consultation with the various agencies and parties involved who propose to play a part. The bill aims to reserve six separate areas on the foreshores of Lake Macquarie as a single State recreation area under the provisions of the National Parks and Wildlife Act 1974. The honourable member with the carriage of this private member's bill has not consulted or sought the support of the relevant Ministers, the Minister for Land and Water Conservation and the Minister with responsibility for national parks and wildlife.

**Mr Souris:** In fact, he pulled out - by way of press release - of discussions and consultation that was going on.

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**Mr HUMPHERSON:** The Minister has just said that the honourable member pulled out of discussion with him, by way of press release. The honourable member for Lake Macquarie wants to unilaterally impose this bill on the relevant agencies and Ministers without regard to the implications it will have on the operation of



those agencies - or to the significant amount of staff time, agency time and cost involved in organising and preparing relevant meetings which the honourable member pulled out of. The bill has been a farce. Issues that have come to light since the bill was presented to this House make it clear that, with poor planning and lack of consultation in the early stages, the bill is doomed to fail. It is the most irresponsible and poorly presented and drafted bill that has ever been placed before the House. It is an example of how poor ideas, poor preparation and lack of consultation can translate into bad legislation.

**Mr Souris:** It is constantly changing.

**Mr HUMPHERSON:** The Minister says that the honourable member for Lake Macquarie has made a succession of changes to the bill. This emphasises the need for a bill to be well prepared and planned. The bill provides that six separate pieces of land, as identified, are to be reserved. From the date that reservation takes effect, the lands in question will become Crown lands. The bill also seeks to change the use of land owned by a number of government instrumentalities, a move that will have significant and adverse consequences for the operation of the relevant agencies. Land owned by the land and housing corporation at Awaba Point, owned by Pacific Power at Wangi Wangi South, and used by the health department at Morisset, will be removed from the control of those agencies without any form of compensation. This is a regressive, retrograde step in the transfer of assets and creates a highly undesirable precedent. It should not and cannot be supported.

The cost of the land involved is significant. Without regard to the vacant Crown land or land reserved for public recreation, the lands identified for inclusion in the proposed State recreation area are conservatively valued at over \$5 million - of the order of \$5.3 million. The following figures give an indication of the value of these individual portions: land owned by the Electricity Commission near Chain Valley valued at \$700,000; land at Wangi Wangi South owned by Pacific Power valued at \$250,000; and land at Morisset owned by the Department of Health valued at \$4.4 million. In addition, Lake Macquarie City Council has invested considerable capital funds into Wangi Wangi Point caravan park, and its improvements are valued at a further \$1.5 million. That brings the total to \$6.8 million. I wonder whether the people of Lake Macquarie are happy with the transfer of these assets from council control.

**Mr Mills:** Why don't you go and ask them? You are talking through your armpit.

**Mr HUMPHERSON:** I am just wondering what sort of say the people of Lake Macquarie have had in this process. Lake Macquarie City Council does not have the most brilliant reputation throughout the State.

**Mr Mills:** Lake Macquarie City Council has an excellent reputation.

**Mr HUMPHERSON:** No, it has a very poor reputation and I wonder how closely council's position on this matter relates to the informed view of relevant ratepayers. It is well known that the Australian Labor Party has significant influence on that council - a fact that would cause any informed person to question its motives in some detail. The transfer of these assets from council control and management is not in the interests of the people of Lake Macquarie. They should have had an opportunity to make an informed judgment on that issue. The bill could be amended to allow adequate compensation to be paid to landowners adversely affected by the proposal. However, there are other equally important aspects that the bill completely overlooks.

The Minister for Land and Water Conservation stated on the last occasion that there are a number of significant Aboriginal land claims which have yet to be determined, and that was the reason for adjournment of the debate. Land at Wangi Wangi Point south is the subject of Aboriginal land claims Nos 3306 and 3307, and the Morisset Hospital site is the subject of claim No. 3514. Clearly the honourable member for Lake Macquarie could not care less about those Aboriginal land claims or Aborigines in that area. In fact, he should be aware that a determination has already been made on two of the Wangi Wangi South claims. The bill has not taken that into account and the honourable member for Lake Macquarie has not outlined his position with regard to those claims. Does he intend to override the approved claims? What does he intend to do with the other claims covered by the ambit of this bill?

I am interested in the Opposition's position on this legislation. About three years ago the former member for Davidson indicated his desire to incorporate Crown land in Oxford Falls into Garigal National Park. Given those circumstances, I strongly support that initiative. However, the ALP on that occasion opposed that proposal in its early stages because it did not believe any undetermined Aboriginal land claims as a result of incorporation of such land into a national park should be overridden. Many of the land claims in the Oxford Falls area have been subsequently determined. Ongoing consultation and negotiation are taking place with the Department of Conservation and Land Management, relevant Ministers, me and the honourable member for Wakehurst, who also supports the concept of reaching a solution without the necessity of introducing this bill.

Clearly the honourable member for Lake Macquarie does not have regard for consultation or consideration of Aboriginal land claims in his area. Honourable members would be aware that Lake Macquarie has significant coal reserves, and that is no doubt one of the reasons for the proposal that this area be included in a State recreation area rather than in a national park to avoid any suggestion that the resources in the area would be sterilised. That is in

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keeping with the exploitation of national parks, which was endorsed by the ALP national conference recently. Mr Deputy-Speaker, I seek an extension of time.

**Question - That the member's time for speaking be extended - put.**

**The House divided.**

*[In Division]*

**Mr DEPUTY-SPEAKER:** Order! I remind honourable members of the necessity for decorum in the Chamber at all times, even when a division is called for.

**Ayes, 48**

Mr Armstrong	Mr Merton
Mr Baird	Ms Moore
Mr Beck	Mr Morris
Mr Blackmore	Mr W. T. J. Murray
Mr Causley	Mr O'Doherty
Mr Chappell	Mr D. L. Page
Mrs Chikarovski	Mr Peacocke
Mr Cochran	Mr Petch
Mrs Cohen	Mr Phillips
Mr Collins	Mr Photios
Mr Cruickshank	Mr Richardson
Mr Debnam	Mr Rixon
Mr Downy	Mr Schipp
Mr Fraser	Mr Schultz
Mr Glachan	Mrs Skinner
Mr Griffiths	Mr Small
Mr Hartcher	Mr Smith
Mr Hatton	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr Windsor
Dr Kernohan	Mr Zammit
Mr Kinross	
Mr Longley	<i>Tellers,</i>
Dr Macdonald	Mr Jeffery
Ms Machin	Mr Kerr

### Noes, 43

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

### Pairs

Mr Fahey	Mr Harrison
Mr West	Ms Nori

### Resolved in the affirmative.

**Mr HUMPHERSON:** We have just witnessed the real ALP, the cynical approach of this mob opposite trying to apply the gag, trying to deny free speech. That is the reason so many members are in the Chamber at the moment.

**Mr Face:** On a point of order: I cannot hear the honourable member's contribution.

**Mr DEPUTY-SPEAKER:** Order! Honourable members will leave the Chamber quietly and quickly.

**Mr Scully:** Come on, Point of Order.

**Mr HUMPHERSON:** The honourable member for Smithfield has a contribution to make. It will be interesting to see whether he speaks on the bill. If honourable members have been following debate, they will be aware that the Lake Macquarie area is significant for its coal reserves. One of the reasons for proposing that the area be a State recreation area rather than a national park is to avoid any suggestion that the resources would be sterilised. In case there is any doubt about the value of the coal reserves, the resources affected by the proposal, I inform the House that the Department of Health has been advised that approximately \$800 million - almost a billion dollars - of recoverable coal deposits are located under the Morisset site alone. This resource should not be put at risk.

The savings and transitional provisions of the bill are totally defective. Honourable members will also be aware that this important region generates a substantial proportion of the State's electricity. The lands

identified for inclusion in the State recreation area are subject to a substantial number of easements for power transmission lines. While the provisions of the bill do not extinguish the easements, a more thorough drafting would have removed any uncertainty about the future of these very important resources. The bill also proposes that the State recreation area will be managed by a trust. I do not oppose the formation of community-based trusts. As I said in my speech earlier, I support the concept of consultation.

The task that has been given to the proposed trust is an onerous one for the financial support of which no provision has been made. It is probably envisaged that the National Parks and Wildlife Service will fund the cost of the plan of management. Such a plan, if it is to address the management requirements of six separate sites, would cost a minimum of \$40,000 and, more likely, \$50,000 to \$60,000. The honourable member for Lake Macquarie, in his naivety, probably thought when he proposed the bill that the National Parks and Wildlife Service would trim its budget to fund the additional \$100,000 of capital funding required to establish such

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a State recreation area. Perhaps the honourable member for Lake Macquarie has not considered the signposting, visitor facilities and amenities worthy of a State recreation area.

**Mr Scully:** Point of Order has got nothing to say.

**Mr DEPUTY-SPEAKER:** Order! I advise the honourable member for Smithfield that if he wishes to make a point of order he should stand, address the Chair on the point of order, and make sure the point of order is substantive. Otherwise the point of order will be taken as frivolous and he may be removed from the Chamber.

**Mr HUMPHERSON:** Perhaps the honourable member for Lake Macquarie also thinks the National Parks and Wildlife Service will find from its budget the operational funds required for the day-to-day costs of running a State recreation area. In case members of the Opposition have given no thought to this issue, I inform them that at least \$0.25 million per annum would be required to allow base level operations. Two examples of this exist in the State recreation areas, to reinforce this point. [*Time expired.*]

**Mr HARTCHER** (Gosford - Minister for the Environment) [11.20]: I support previous speakers, including the Minister for Land and Water Conservation and the honourable member for Davidson. I will address this issue from the point of view of the National Parks and Wildlife Service and my own Act.

**Ms Allan:** Why is that? What is your attitude?

**Mr HARTCHER:** The honourable member for Blacktown has been in this House for six years, has been shadow minister for the environment and has asked a total of three questions on the environment in the almost three years that I have been the Minister.

**Ms Allan:** And I stumped you each time.

**Mr HARTCHER:** Yes, I tremble every time. I think, "Question time is coming, Pam might ask a question. Oh no". It is the most terrifying experience any member of this House could endure. Every time I see the honourable member for Blacktown jump, I think, "This is it; Armageddon is here". By interjecting, the honourable member for Blacktown is seeking to waste the time of the House and to distract me from the issue. This bill seeks to impose upon the National Parks and Wildlife Service and upon the Minister administering the National Parks and Wildlife Act a whole range of responsibilities and new approaches which are inconsistent with what everyone in this State believes should be done about the environment. What do I mean by this? The Government, through the National Parks and Wildlife Service, has a well-established program of nature conservation.

The function of the National Parks and Wildlife Service is to look after wildlife in this State - plants or animals. The service has a further objective to ensure proper tourist development and recreational facilities within New South Wales. This bill ignores the whole aspect of nature conservation which underpins the role of

the National Parks and Wildlife Service and seeks to appropriate various lands of the Crown and hand them over to a trust which it is supposed to administer in accordance with the National Parks and Wildlife Act. The bill does not provide for the handing over of land to the National Parks and Wildlife Service, it does not go even that far. It seeks to set up a hybrid body which will combine the roles of the Crown Lands Trust and the National Parks and Wildlife Service. The relevant lands, according to the National Parks and Wildlife Service, are inappropriate for administration by it under its Act. This is an important point: these lands are at Point Wolstoncroft, Wangi Wangi Point, Wangi Wangi South and Awaba Point.

**Mr Knowles:** Wangi Wangi Point is a beautiful place.

**Mr HARTCHER:** The honourable member for Moorebank has probably never been there in his life.

**Mr Knowles:** On a point of order: for the record, I have been to Wangi Wangi Point many times; my parents lived there.

**Mr DEPUTY-SPEAKER:** Order! That is not a point of order, it is a point of clarification.

**Mr HARTCHER:** If I have offended the parents of the honourable member for Moorebank I am only too willing to apologise. The parcels of land at Point Wolstoncroft, Wangi Wangi Point, Wangi Wangi South and Awaba Point, as proposed in the bill, have been investigated by the National Parks and Wildlife Service. The service has advised that reservation under the National Parks and Wildlife Act is not warranted. The body entrusted with responsibility for nature conservation in this State -

**Mr Hunter:** You told them to give you that report.

**Mr HARTCHER:** The honourable member would have asked for it under Standing Order 54 in any event. The National Parks and Wildlife Service is the body responsible for the administration of the National Parks and Wildlife Act. It is the body responsible for assessing land for its appropriateness, and significantly it is the body that will administer the land should the bill pass through the Parliament. However, it is the very body that has reported back and said that the reservation of this land is not warranted. The report further states that its management as regional open space would be more appropriate. One either believes in the values of nature conservation or one does not. One either has a national park and wildlife system or one does not.

**Mr Mills:** You either tell the truth, or you do not.

**Mr HARTCHER:** Coming from the honourable member for Wallsend that is an extraordinary statement. The honourable member admits by interjection that he does not tell the truth. I am advised by the National Parks and Wildlife Service that the Morisset Hospital site would require more

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detailed assessment before its natural heritage values and future management could be appropriately determined. In other words, the areas involved have been looked at and found to be inappropriate under the National Parks and Wildlife Act. In one particular case a further assessment is required. In accordance with the way the Government administers the lands of the Crown in this State separate systems have been set up to manage lands according to their nature conservation or according to their future usage by society. This bill is against rational land management practices in this State. So what is the imperative? The imperative that underlies the bill is the need by the honourable member for Lake Macquarie to be seen to be doing something in his electorate.

**Ms Allan:** It would be good if you could do something for the environment occasionally.

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

**Mr HARTCHER:** The honourable member for Blacktown has asked three questions on the environment in three years in this House.

**Ms Allan:** Didn't the earth move for you each time?

**Mr HARTCHER:** After what the honourable member for Blacktown put to me in the estimates committee I feel we should avoid that subject. This bill cuts across any rational system of land use planning in this State. It seeks to set up a trust system which does not represent the wider community. The trust will be the administrative body and, presumably, it will be responsible to the Minister who administers the National Parks and Wildlife Act. But that is not clear from the bill. Who will be the relevant Minister? The honourable member has not said. Further, the National Parks and Wildlife Service will be required to be the responsible body. This will result in further cost for the service, in terms of funding, staffing and the preparation of a plan of management. That responsibility will be imposed upon the service but it will receive no budgetary allocation to match the added responsibility. I remind the Opposition that this is an area which the service says is not appropriate to be handed over for administration under the National Parks and Wildlife Act.

**Ms Allan:** You are giving yourself away to Minister Souris. You should be ashamed of yourself.

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

**Mr HARTCHER:** Why should I be ashamed of myself? The honourable member should enlarge upon that. If it were not for all these interjections I could well and truly have completed my speech. I have faced a continuous barrage of interjections from the honourable member for Lake Macquarie, the honourable member for Moorebank, the honourable member for Blacktown and the honourable member for Wallsend. Only my old sparring partner, the honourable member for Auburn, has remained silent because he is doing a bit of legal research. The bill proposes that the six areas of land identified -

**Mr DEPUTY-SPEAKER:** Order! It being 11.30 a.m., debate is interrupted.

## **STANDING COMMITTEE ON THE ENVIRONMENTAL IMPACT OF CAPITAL WORKS**

**Dr MACDONALD (Manly) [11.32]:** I move:

That a Joint Standing Committee on the Environmental Impact of Capital Works be appointed to inquire into and report, from time to time, with the following terms of reference:

(1) As ongoing tasks, the committee is to:

(a) monitor and review both existing and proposed capital works projects of the public sector in relation to their effect on the environment and their compliance with relevant planning instruments and legislation; and

(b) conduct audits of the public sector capital works program.

(2) That such committee consist of five members of the Legislative Assembly and three members of the Legislative Council and that, notwithstanding anything contained in the Standing Orders of either House, at any meeting of the committee, any five members shall constitute a quorum provided that the committee shall meet as a joint committee at all times.

(3) That Ms Allan, Mr Humpherson, Mr Knowles, Mr Richardson and the mover be appointed to serve on such committee as the members of the Legislative Assembly.

(4) That the committee have leave to sit during the sittings of any adjournment of either or both Houses; to adjourn from place to place, and to make visits of inspection within the State of New South Wales.

(5) That should either House stand adjourned and the committee agree to any report before the Houses resume sitting:

- (a) the committee have leave to send any such report, minutes and evidence taken before it to the Clerk of the House;
- (b) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the order of the House; and
- (c) the documents shall be laid upon the Table of the House at its next sitting.

Today would be a landmark occasion if we were to establish this joint standing committee. The committee would do a number of things, but essentially it would scrutinise capital expenditure within this State. I shall outline a number of the reasons why this committee should be established. This is an attempt to coordinate the activities of the many agencies that impact on our environment. This is an attempt to measure and acknowledge the cumulative impact on the environment of all those activities. The linkages and coordination are weak. If there is any coordination at all it merely takes place at Cabinet level. At the moment proposals for projects that emanate from the Executive go to a Cabinet committee, but proposals for the Sydney area go to the urban policy committee. This is a secret

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process, one in which there is no transparency and there is no opportunity for parliamentary scrutiny. There is a lack of the coordination and linkage that I have described.

This committee will scrutinise all capital works that emanate from government, regardless of funding. All capital expenditure emanating from government departments shall be subject to scrutiny by this committee. There are two major areas of expenditure. The first is basic infrastructure - all the simple things - which amounts to \$6 billion a year. An amount of \$6 billion is spent by the public sector in this State on capital works and on inner and outer budget agencies. All infrastructure will come under the ambit of this committee. The *Australian Financial Review* of 4 October 1994 quoted a study done by Allen Allen and Hemsley. According to that study, at present \$6.7 billion is on the books for private infrastructure. Expenditure that emanates from government, which will have an effect on the community, will come under the ambit of this committee. I am putting forward a unanimously agreed recommendation of the Joint Select Committee upon the Sydney Water Board - the report of that committee was tabled in Parliament in April this year - that the committee I am proposing should be established. I wish to quote from page 40 of the report of that joint select committee, which states:

It will be the role of the Committee to comment only on the appropriateness of capital works projects vis-a-vis their anticipated effect on the environment.

It is proposed that the Committee would report during the Autumn (pre-Budget) session of Parliament and make recommendations in relation to existing and proposed capital works programs of inner and outer budget agencies, including State Owned Corporations.

After the Committee makes its recommendations for improvements to project or programs, it should become a decision of the government (or for a State Owned Corporation) how to respond to such advice either when preparing the state budget or reviewing programs or projects.

It is anticipated that the Committee's primary task would be to examine the capital works of the public sector, the State of the Environment Reports and their compliance with relevant existing planning instruments, and any other public sector business which aims to reduce the level of degradation of the state's land, air and water.

We must look closely at the impact this is having and we must adopt a coordinated approach. There have been previous attempts to provide a window into these expenditures. In fact, it goes back a long way, to November 1887, when a public works committee of the Parliament was established by the then Premier, Sir Henry Parkes. That committee continued to operate until 1930. It has never been formally abolished and is still provided for in section 21, subsection (7) of the Public Works Act. The Federal Parliament has a parliamentary standing committee on public works which has operated for the last 56 years. It has power to inquire into and report to the Parliament on each public work referred to it. There are comparable committees in other States. For example, in 1989 the Queensland Parliament, in response to the Fitzgerald inquiry, established a public works

committee to examine particular projects.

Many of these committees have an economic emphasis, but the committee I am proposing will be looking at the environmental impact of those capital works. There is nothing new in this proposal. This proposed committee will look at every capital works program and will take control of its own destiny, in the sense that it will initiate a review of those works. It is important to bring to the attention of the House a case study which highlights the need for this sort of committee. I refer to the Water Board's treatment plants. There are four water treatment plants to be built at an estimated cost of \$3 billion. Plants at Prospect, Macarthur, Woronora and Illawarra will be built, owned and operated by the private sector with possible purchase back by the board after 25 years.

I would like to make a few points about the process used to develop that concept. My observations are made with the benefit of my experience as Chairman of the Joint Select Committee upon the Sydney Water Board. First, the board and the Government approved the projects and selected preferred tenderers before commencing the environmental impact assessment process. Second, this lack of environmental assessment was compounded by the absence, prior to this, of a demand management policy, a catchment management policy and a cost-benefit analysis. The final contracts provided the board with no incentive to approve the water quality of the catchments over the next 25 years. I believe that this committee would make a difference if it were established. It would develop expertise in cost-benefit analysis and create an expectation of proper and holistic environmental analysis in the crucial early planning stages. The most benefit would come from the improved level of planning across all government expenditure. The certainty of scrutiny by the committee would provide an incentive for government to improve the standard of cost-benefit analysis before Cabinet decisions are made.

In the context of this debate I refer to ecologically sustainable development, which is in its early days. Central to the concept of ESD is the importance of merging economic and environmental decisions. This committee would provide checks and balances of the Executive by the Parliament. Part 1(a) of my motion requires the committee to assess projects and their effect on the environment. The definition of "environment" is the same as in the Environmental Planning and Assessment Act. It "includes all aspects of the surroundings of man, whether affecting him as an individual or in his social groupings". The committee would be able to examine ecological impacts and also social impacts and resource sustainability. This is an exciting prospect. I emphasise that the proposal has had the bipartisan and unanimous support of the Joint Select Committee upon the Sydney Water Board. That committee comprised members from both major parties and the crossbench. It is an opportunity to provide transparency, accountability and scrutiny to meet the balance between economic imperatives and protection of the environment. I hope my motion will be supported. It is not controversial and will provide a level of accountability that is warranted.

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**Mr ARMSTRONG** (Lachlan - Deputy Premier, Minister for Public Works, and Minister for Ports) [11.42]: The Government acknowledges the intent of this motion to review the environmental factors involved in capital works initiated through government agencies. However, the motion is fundamentally flawed in the manner in which it would go about achieving this objective. The motion would establish another layer of review - another level of bureaucracy - on top of comprehensive mechanisms which already exist and enjoy the confidence of this Parliament and the community at large. The motion of the honourable member for Manly seeks to establish a committee involving members from both Houses of this Parliament, with a legislative requirement that it monitor and review recurring and new capital expenditure by inner and outer budget agencies, including State-owned corporations.

The committee would be required to assess the impact of capital works on the environment, as well as compliance of the works with a range of planning instruments and legislation. The committee would dictate its own priorities: it would conduct audits of the public sector public works program with a focus on standards and/or outcomes desired for the capital works program; in the end, it would comment on whether a proposed work is appropriate, based on an evaluation of its impact on the environment. The motion does nothing to acknowledge the effectiveness of existing planning control and review procedures. We are not faced with an



absence of appropriate mechanisms. In fact, a vast range of procedures, checks and balances are in place, and they are thorough and comprehensive.

Planning and construction of public projects has already been and will remain the subject of public scrutiny. The ministerial capital works committee, chaired by the Premier, and Minister for Economic Development, sets policies and priorities and demands accountability on a program-wide basis before and during construction of individual projects. That committee includes not only the Minister for Public Works but the Minister for Land and Water Conservation, the Minister for Planning and the Treasurer. This ministerial committee ensures that the Government undertakes comprehensive assessment based on factors that include a wide variety of planning instruments, such as environmental impact statements.

Public and parliamentary scrutiny of capital works may be undertaken through overview organisations, such as the Public Accounts Committee, the Auditor-General, the Ombudsman and the Standing Committee on State Development, each of which can and does initiate its own inquiries and respond to referrals. The parliamentary system - through the budget process, question time, legislative debate and the normal exchange of correspondence - also plays a role in the accountability of the capital works program. Most recently we witnessed this in estimates committees last week, where members were free to raise any questions regarding the capital works program. Freedom of information provisions constitute a further form of public scrutiny of capital works programs. Community organisations such as the Institute of Architects and the Institute of Engineers provide critical commentary on government projects.

Most importantly, existing provisions for review of capital works through planning instruments are comprehensive in assessing impacts on the community as well as the environment. The Environmental Planning and Assessment Act is applicable to all public sector projects. Requirements of the Act are strictly enforced by the Land and Environment Court. This Act is complemented by a range of local and regional planning assessments requiring proper assessment and public review of the development of projects. Recent amendments to part 5 of the Environmental Planning and Assessment Act in particular strengthen accountability in assessment and decision making. The amendments address the fundamentals of what the honourable member for Manly is attempting to do today.

A committee as proposed by the honourable member for Manly would seek to largely duplicate the Act's requirements and would cause significant confusion between legal and parliamentary proceedings. I draw attention to another recent initiative of the Government - the establishment of a Catchment Assessment Commission - which will further help in assessment of cumulative impacts of water resources through an open public process.

Over recent years, the coalition Government in New South Wales has acted to deal with the build mentality which dominated elements of the property development industry in the 1980s. It has adopted a total asset management approach to development and provision of capital works. The government has released a total asset management system manual, of several hundred pages, establishing unprecedented guidelines and requirements for works. I have a copy of the manual in my hand. It is most comprehensive. It certainly covers all of the matters raised by the honourable member for Manly both in his bill and in speaking to this motion.

The key features of the total asset management strategy are: the acquisition of assets must be driven by strategic objectives; these objectives must be pursued through techniques of demand management, innovation and optimism; and the process must be structured and systematic. This can lead to the adoption of non-build options, such as demand management and improved use of existing assets. It contrasts with the past approach to asset procurement under which demand for services was forecast and followed by construction to satisfy the demand. At the same time, the choice of asset was made on the basis of capital cost. This approach had in-built deficiencies, as demand was often fed by provision of assets, while the capital cost approach did not fully consider long-term operating costs, maintenance costs and environmental issues.

Total asset management recognises the need for a holistic approach to capital works planning. It is one of

the most important initiatives ever undertaken

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by governments to recognise environmental considerations and incorporate them in asset planning. To fulfil the requirements of the total asset management manual, incentives have been added to capital allocations by the ministerial capital works committee. These include an affirmation that non-build solutions and other such alternatives have been considered. They also require verification that foreshadowed projects have been subjected to a fully integrated assessment procedure, not simply economic assessment. They also require confirmation that asset management monitoring systems are in place. The average size of a capital works project is less than \$500,000. These are classified as minor works. Many projects over \$500,000 are routine in nature, such as the construction of school buildings, which follow the demands of increasing populations and are planned well in advance of capital funding approvals. It follows that a committee as proposed by the honourable member for Manly would deal only with specific, major projects.

With the current high level of scrutiny placed on these major works it is difficult to see any benefit in adding an extra layer to the review and approval process. However, such a committee would come at a substantial cost to the taxpayers of New South Wales. Expense would be incurred in supporting the committee and in preparing submissions to the committee. There is the cost of reviewing files, writing submissions, having the submissions reviewed and finalised, preparation of the committee agenda and papers, costs of arranging committee meetings, expenses of travel for committee members and support staff outside parliamentary sittings, and all the other expenses associated with running such a committee. Nowhere have I seen any estimate from the honourable member for Manly of the total cost that would be incurred.

The Government is absolutely intent on reducing the budget deficit and extracting 100 cents of value from every hard-earned taxpayer dollar. Perhaps more important still is the concern over delays necessitated by an extra level of review and bureaucracy. The motion before the House suggests the committee would inquire into and report from time to time. Clause 4 gives the committee leave to sit during adjournments of the Houses but, as we all know, the diaries of honourable members are not easily coordinated and a committee of this kind simply cannot be drawn together at short notice, especially with the frequency suggested in the motion. The New South Wales Public Works Department has direct involvement with a Government capital works program in the vicinity of \$1,000 million per annum.

This does not include roads, railways, or other such works, all of which might be captured by the terms of this motion. It is estimated that the replacement value of the entire New South Wales public asset stock is approaching \$300 billion. Honourable members can readily see that this committee would be absolutely bogged down in paperwork, and the works program timetables severely compromised. The disadvantages of this motion clearly and substantially outweigh any benefits that might accrue. The motion is not consistent with sensible, rational management of capital works projects. The motion ignores the vast range of environmental review mechanisms already established, threatens a totally unacceptable waste of taxpayers' funds, and should be opposed.

**Motion, by leave, by Mr Knowles agreed to:**

That so much of the Standing and Sessional Orders be suspended as would allow an Opposition member being permitted to speak to the motion for 10 minutes, instead of two members speaking for a period of five minutes each.

**Mr KNOWLES** (Moorebank) [11.52]: The proposal of the honourable member for Manly is to establish a bipartisan standing committee to oversee the environmental impact of capital works. The committee's tasks would be to inquire into and report from time to time on a range of matters, including: monitoring and reviewing existing and proposed capital works projects in the public sector in relation to their effect on the environment and their compliance with relative planning instruments and legislation; and the conduct of audits of the public sector capital works program. The Director of the Department of Planning has expressed her concern about these proposals in a briefing note to her Minister dated 13 October.

At that time the Deputy Premier, Minister for Public Works, and Minister for Ports in his remarks

addressed many of those concerns. However, in summary, the director's concerns relate to her view that there are already sufficient environmental assessment, monitoring and auditing procedures incorporated in the Environmental Planning and Assessment Act and that the establishment of a joint standing committee will only confuse matters and cause duplication. The director makes the point that the Environmental Planning and Assessment Act binds the Crown, and that the provisions of the Act, including its environmental impact assessment and public participation procedures, fully apply to major capital works projects. In the memorandum to her Minister she also makes the point that part 4 covers many of these major capital works programs, as do the recent amendments to part 5 of the Act, sponsored by the Australian Labor Party.

Nonetheless, the proposal to establish this joint standing committee was first discussed in the joint select committee of inquiry into the Sydney Water Board earlier this year. The committee found that such a standing committee would offer a valuable way to achieve significant economies in public expenditure; it noted the historic public works committee of Parliament, established by the then Premier, Sir Henry Parkes, in 1887; it acknowledged the fact that other States and the Australian Parliament have similar standing committees; and it expressed the view that, at present, the Public Accounts Committee and the Auditor-General's jurisdiction do not extend to joint venture entities and private sector partners in the provision of public infrastructure. Certainly, that is a topical issue at the moment. It is interesting to note

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that the report of the committee of inquiry into the Sydney Water Board produced almost no consensus, and was peppered on almost every page with dissenting views and alternative comments, particularly from Government members. However, there was one point of consensus. In relation to this proposal, Government members offered conceptual support for the establishment of this joint standing committee. The committee said, on page 47 of its report:

. . . the Government members have no objection to the proposal conceptually, although the Committee's Terms of Reference need to restrict it to examining the Capital Works Programme on a long term scale, not a project by project basis.

They did, in concept, support the proposal for the establishment of the joint standing committee.

**Mr Armstrong:** On a point of order: I must make the point that, at that stage, the members of the committee had not had the benefit of either seeing the motion or of hearing the presentation of it.

**Mr ACTING-SPEAKER (Mr Rixon):** Order! No point of order is involved.

**Mr KNOWLES:** I appreciate the point of order taken by the Deputy Premier, Minister for Public Works, and Minister for Ports, but while the backbench rowers on the Government side may not have had the benefit of the wisdom of their frontbench colleagues, they certainly spent an enormous amount of time, as did members from this side of the House, inquiring into and investigating the proper procedures for assessing capital works projects. Before they were corralled, before they were beaten into the view that this was not a good idea, they had the opportunity to express their independent views. I thought that was a hallmark of that side of the House. I quote again from page 47 of the report:

. . . the Government members have no objection to the proposal conceptually, although the Committee's Terms of Reference need to restrict it to examining the Capital Works Programme on a long term scale, not a project by project basis.

I might point out that their objection was on the basis that individual projects cannot be examined in isolation from a department's or government's total capital works program. I understand the concerns of the Director of the Department of Planning - and to some extent the concerns expressed by Government members on the Joint Select Committee upon the Sydney Water Board - but it is fair to say that there is, as a result of a number of forced inquiries into a number of major capital works projects, a high level of cynicism and broad concern in the community that major items of capital expenditure are being authorised by executive government, or at senior bureaucratic levels, without proper scrutiny and without the appropriate endorsement of this Parliament.

In many ways this debate is less about the establishment of a standing committee and more about the role

of the Parliament and its relationship to executive government. Honourable members have just witnessed an attempt by a member of the Executive to nobble a member of Parliament who was expressing an independent view on a committee of inquiry report, because it is contrary to Executive view. The establishment of a joint standing committee, provided it rigorously maintains a focused view on its stated objectives, offers an opportunity for joint, bipartisan assessment of the environmental impact of existing and proposed capital works projects by this Parliament - projects such as the water treatment plants for Macarthur, Prospect and Woronora; the M4 and M5 tollway proposals; the M2 tollway proposal; and Eastern Creek could be subject to scrutiny.

Imagine if the joint standing committee had been established when those proposals were being considered. There would have been a great opportunity to assess the environmental impact before the Government entered into binding financial and contractual arrangements. For example, in respect of the water treatment plants, we could have discovered before the secret deals were done why, despite every member of the technical evaluation committee assessing Wyuna Water as far and away the best tender of technical and environmental merit, the contracts were awarded to inferior bids. One of the members of the technical assessment panel, Mr G. Cahill, said in his summary of the assessments:

Wyuna Water probably provides the best in terms of positive and negative impacts due primarily to New South Wales Water's increased risk to acacia and lack of expressed operational safeguards.

Yet Wyuna Water was awarded only one of the three contracts. These bids were kept secret from the Parliament. Only by the use by the Opposition of the archaic Standing Order 54 provisions were these shabby deals brought to light. Recently the Auditor-General reported on the deals relating to the M5 Motorway. In relation to the environmental assessment the Auditor-General found that because of financial considerations key components of the environmental impact statement were either deferred or dropped from the construction contracts. That is totally inappropriate. The contracts should have been subjected to parliamentary scrutiny and comment. For example, the Auditor-General found that the east-bound exit ramp off the Hume Highway was deferred for two years; the widening of the Georges River Bridge was deferred; noise barriers were constructed only to a height needed to meet Roads and Traffic Authority noise guidelines for present traffic rather than traffic in the year 2010; and the separation of the intersection of Moorebank Avenue and the M5 was deferred not for any environmental considerations - despite the fact that those considerations were included in the environmental impact statement process - but simply to save \$20 million, to give a free kick to a private company.

The University of Western Sydney and the NRMA recently conducted a report into the environmental impact of the motorway since it commenced operations. It is a fairly damning report and I will say more about it when time permits. However, I want to make the point that in essence I

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agree with the Director of the Department of Planning when she says in her briefing note that there are at present sufficient legislative controls to allow proper scrutiny of the environmental impact of major capital works projects. Sadly, those processes, at least in the perception of the broader community, are being abused by a government less interested in proper environmental management than in progressing, fast-tracking and railroading shabby deals with the private sector. Until such time as the Government learns that due process must be observed, that public scrutiny is important, and that the principles of probity and transparency must be observed, none of the existing processes, Acts, and regulations - and I agree with the Deputy Premier that there are a lot on the books - will be any good to anyone. The proposed establishment of the standing committee is as much a result of the failure of a government to observe due process as it is a result of anything else. I support the establishment of the standing committee. [*Time expired.*]

**Mr RICHARDSON** (The Hills) [12.02]: I oppose the motion, although I am flattered to have been named by the honourable member for Manly in his motion, together with other lower House members of the Joint Select Committee upon the Sydney Water Board. I suppose he is trying to bring the members of that committee together again at regular intervals for some sort of reunion because we had such a good time on that committee. During that inquiry I spoke against the proposal to establish an environmental committee on public works, as indeed many of my colleagues did. The honourable member for Moorebank referred to the minority

report of the committee on the Water Board. It is true that we said we had no objection to the proposal conceptually, but we strongly hedged our remarks. We said that any such committee's terms of reference would need to be restricted to examining the capital works program on a long-term scale, not on a project-by-project basis.

Nothing I have heard from the honourable member for Manly leads me to believe that he has that in mind. We said also that individual projects could not be examined in isolation from the total capital works program of a department or a government, and that the environmental cost of a particular project may be more than compensated for by the total capital works program over more than one year. Those remarks go to the heart of the matter, and honourable members should bear them in mind when considering the motion. As the Minister has remarked, on the surface it is attractive to add mechanisms for review of environmental issues, but the motion goes too far in adding to existing mechanisms for negligible benefit but at substantial cost. I am concerned - and I have voiced my concerns to the honourable member for Manly - that the proposed committee would not have sufficient flexibility to meet quickly and frequently to ensure planning and construction are not unduly delayed.

The honourable member for Manly has acknowledged that the members of any such committee will have an enormous amount of work. Bearing that in mind, I am surprised that the honourable member, the holder of a marginal seat, has moved the motion. As he has said, there are only seven days in a week. The honourable member for Manly has noted that this State's annual capital works program involves about \$6,000 million and that the value of public asset stock in New South Wales is estimated as being as much as \$300 billion. The task before the members of the proposed committee will indeed be formidable. I draw attention in particular to the planning instruments already requiring comprehensive environmental assessment, including environmental impact statements and reviews of environmental factors.

The honourable member for Moorebank discussed the M2 briefly. The environmental impact procedure undertaken in relation to that project was one of the most comprehensive in memory. For us to go over the top of that and suggest that a parliamentary committee would have a greater degree of expertise than the planning authorities and the Environment Protection Authority did at that stage is a nonsense. There is a specialist Land and Environment Court to oversee implementation of the Environmental Planning and Assessment Act. That court evaluates everything from small development applications that may be opposed by councils to very large projects. Organisations from builders to community groups to environment groups already have substantial access to decision-making processes.

It is misleading to make direct comparisons with other States or the Commonwealth, as these jurisdictions do not benefit from the extensive public participation and appeal rights available in New South Wales. It is indeed true that there was a New South Wales parliamentary public works committee, and that there is a Public Works Committee of the Federal Parliament, but both committees were established to examine economic factors, not environmental concerns. I should like to address some remarks to what the honourable member for Manly had to say about water treatment plants because that seems to be his major concern. He said there is nothing in the contract that would provide for the Water Board to maintain its catchments. Clearly that is not true. I remember asking a question during the inquiry of a Water Board officer regarding that issue. He said quite clearly that a penalty would be associated with not providing water of a certain quality. [*Time expired.*]

**Ms Allan:** Mr Acting-Speaker -

**Mr ACTING-SPEAKER (Mr Rixon):** The honourable member for Coffs Harbour.

**Ms Allan:** No, it is the Opposition's turn.

**Mr Knowles:** On a point of order: the arrangements negotiated with the Government Whip were that I would take two of the five speaking spots. That was agreed to. However, it was also agreed that the normal order of speaking would be maintained and the Opposition would lose its last spot on the speaking list.

**Mr Armstrong:** On the point of order: the Government Whip is not in the Chamber but my understanding is that the Opposition requested - and the request was granted - that its two five-minute slots be amalgamated into one 10-minute speaking slot.

**Ms Allan:** You get four slots.

**Mr Armstrong:** You cannot listen and talk at the same time.

**Ms Allan:** No, because you are not worth listening to.

**Mr ACTING-SPEAKER:** Order, the Minister has the call.

**Mr Armstrong:** You do not have to be cheeky as well as nasty.

**Ms Allan:** I am not being cheeky; I am being rude.

**Mr ACTING-SPEAKER:** Order! The honourable member for Blacktown will resume her seat.

**Mr Armstrong:** The Government is content to acknowledge that the presentation of the honourable member for Moorebank is correct. However, in future these agreements should be far more visible.

**Mr ACTING-SPEAKER:** Order! Now that the matter appears to have been clarified, I call the honourable member for Blacktown.

**Ms ALLAN (Blacktown) [12.09]:** I move:

That the question be amended by omitting all words after the word "That" with a view to inserting instead the following words:

"a Standing Committee on the Environmental Impact of Capital Works be appointed to inquire into and report, from time to time, with the following terms of reference:

(1) As ongoing tasks, the committee is to:

(a) monitor and review both existing and proposed capital works projects of the public sector in relation to their effect on the environment and their compliance with relevant planning instruments and legislation; and

(b) conduct audits of the public sector capital works program.

(2) That such committee consist of seven members of the Legislative Assembly and that, notwithstanding anything contained in the Standing Orders of either House, at any meeting of the committee any four members shall constitute a quorum.

(3) That Ms Allan, Mr Humpherson, Mr Knowles, Mr McManus, Mr O'Doherty, Mr Richardson, and the mover be appointed to serve on such committee.

(4) That the committee have leave to sit during the sittings of any adjournment of the House; to adjourn from place to place, and to make visits of inspection within the State of New South Wales.

(5) That should the House stand adjourned and the committee agree to any report before the House resume sitting:

(a) the committee have leave to send any such report, minutes and evidence taken before it to the Clerk of the House;

(b) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the

order of the House; and

(c) the documents shall be laid upon the Table of the House at its next sitting.

The Opposition is very enthusiastic about the motion of the honourable member for Manly and the amended motion that I propose. The honourable member for Moorebank and I represented the Opposition on the Water Board standing committee earlier this year. One of the many fruitful discussions within that committee was the proposal for an ongoing monitoring process for the environmental impact of capital works. The focus of that committee was the Water Board, but it is obvious that that type of committee would have far-reaching impacts on many areas. The honourable member for Moorebank outlined those areas in greater detail.

I listened carefully to the Deputy Premier when he spoke opposing the formation of the committee. I was disappointed with his attitude because, as the honourable member for Moorebank said, Government members expressed enthusiasm for the formation of that committee. It is disappointing that the Government has now reneged on its commitment. The Deputy Premier seemed to indicate that everything is okay, everything is fine, notwithstanding a barrage of individual and organisational commentaries, criticisms, scrutinies and reports to the contrary. Even in a number of key projects that have major environmental impact - whether it is tollways; the Sydney Harbour Tunnel; various water treatment works; or activities of the Roads and Traffic Authority, to name just one major public authority with an active public works program of major environmental impact in the community - everything is fine and we do not need to do anything more! The Public Accounts Committee or the Auditor-General can continue to produce reports and everything will be fine, because the current system works well!

The Deputy Premier's attitude, certainly to important and significant reports, is naive. The standing committee that the motion proposes may give the current environmental planning assessment processes in this State an additional focus and could play an interesting coordinating role. The Deputy Premier also expressed concern about the cost of this proposed committee. It is pleasing that a Government Minister is concerned about the cost to New South Wales taxpayers, especially after the luxury of promises the Government made during the Parramatta by-election campaign, but his effort in the debate is merely to delay the process and to be negative. When has the cost of setting up a particular committee in this Chamber every been raised? Most committees work well and are fairly frugal. The cost of setting up this committee is not an issue. The Deputy Premier is also concerned about delays in the planning processes generally that the committee might generate. *[Time expired.]*

**Motion, by leave, by Mr Whelan agreed to:**

That so much of the Standing and Sessional Orders be suspended as would allow the member for Coffs Harbour to speak to the motion for five minutes.

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**Mr FRASER** (Coffs Harbour) [12.14]: It is about time that members of Parliament realised that homo sapiens, that is, two-legged human beings that populate this State, are part and parcel of the environment. Honourable members vying for the environmental vote are trying to put in another layer by investigating proposed capital works, that is, basically public infrastructure.

**Mr SPEAKER:** Order! I draw to the attention of members that the standing orders do not allow members, other than the member with the call, to remain on their feet other than for the purpose of entering and leaving the Chamber. The practice, which seems to have developed this morning, will cease.

**Mr FRASER:** This motion is all about putting in another layer of investigation, on the basis of scrutinising proposed capital works - basically, public infrastructure, that is, work that is needed by the community. Minority groups are being appeased and homo sapiens are not considered important. The provision of schools, roads and hospitals will be given the nod by a committee. But that will only delay

essential capital works projects in developing areas of New South Wales. The proposal is put forward by the honourable member for Manly whose electorate is basically developed: there is no more need for infrastructure, apart from redevelopment of existing sites. He does not understand the pressing need for the provision of infrastructure in electorates such as Coffs Harbour and others on the north coast. The people in north coast communities need the same opportunity for the provision of infrastructure, such as hospitals, roads, schools and ocean outfalls, as people living in major metropolitan communities have.

The honourable member fails to recognise that any project is subject to environmental scrutiny, whether it is a capital works project by government or major works by the private sector. For his benefit and for the benefit of other honourable members I will list the obligations on developers, whether in the public sector or the private sector, in relation to the environment. They are: local and regional planning instruments; the Environmental Planning and Assessment Act, which includes environmental impact statements that give every opportunity for input into any proposed development; the Land and Environment Court; the Public Accounts Committee; the Standing Committee on State Development; the ministerial capital works committee; the Ombudsman; the Auditor-General; parliamentary committees, debates, questions, and correspondence; and freedom of information procedures. All these avenues now exist for the proper investigation of any capital works project in this State.

The honourable member for Manly wants a committee that will sit behind closed doors and will give a philosophical point of view on a capital project, and at the same time ignore the dire needs of the people that the capital project may benefit. The university in Coffs Harbour is almost complete. If the process proposed by the honourable member for Manly were applied to that project, the completion of the university would be delayed for many months. A university and TAFE college has been needed for many years in the Coffs Harbour area. It will save the community money and will give people on the north coast an opportunity for education that they have never had. The type of committee proposed by the honourable member for Manly delays those kinds of projects.

Environmental concerns were raised about the university site and they were dealt with. There is an osprey's nest at the site. The planning of the site went through the due process and the environmental impacts were considered. The process is already available. This motion is nothing but politicking by the honourable member for Manly, who likes to go under the guise of the green umbrella, and the Labor Party follows and says, "Let's do this because it is a chance to embarrass the Government". This proposed committee will not make any difference; it will cause delay and will have no result. It will be another delay to providing badly needed infrastructure for the people of New South Wales. I cannot support this motion. The estimates committees have recently concluded and very few questions on environmental impacts were asked in the Public Works committee - *[Time expired.]*

**Dr MACDONALD** (Manly) [12.19], in reply: One of the remarkable things about this Chamber is the variety of intellect that is brought to debate, and the honourable member for Coffs Harbour certainly invites comment with some of his remarks. He is probably off the beam as to the intent of the motion. It is not about delaying development; it is about proper assessment and scrutiny and coordination of often competing projects, not necessarily a university in Coffs Harbour. It may well be that it must undergo a part 4 process or an environmental impact statement, and so it should. I wish to make a general comment about the Government's reaction to this. It is disappointing because, as soon as an initiative comes from the Opposition or members on the crossbenches, the Government adopts a siege mentality and thinks that it must be a bad thing. The Government resists change but ultimately can be brought round.

There is a wisdom in this, and that was debated within the Joint Select Committee upon the Sydney Water Board, as reflected in its report. This measure is not new; it was foreshadowed in the report of that committee. I wish to comment on something said by the Deputy Premier, Minister for Public Works, and Minister for Ports. He said, as the honourable member for Coffs Harbour said also, that there are ministerial capital works committees, EIS processes for each of the projects, the Standing Committee on State Development, and so on. However, he did not acknowledge, nor did other Government members, that there needs to be a committee overview, a coordination of all those projects.



I shall give an example. The Glebe Island Bridge is being constructed over White Bay by the Roads and Traffic Authority at a cost of \$350 million. A question for the committee would be whether that \$350 million is best spent on a road with a bridge over White Bay, or would it be better spent by

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increasing the capacity of the State Rail Authority? Agencies compete amongst each other, and at the moment the RTA tends to dominate. A committee such as I propose could take an arms-length approach, consider the comparative merits and overview the proposals. It is important to note that there is no effective integration of all those projects. But there is nothing new in that. Former Premier Greiner and his assistant, Mr Sturgess, also spoke about a whole of government approach. There is nothing new in that idea. If New South Wales were ever to be run by people such as the honourable member for Coffs Harbour, where would this State be? This initiative is not inconsistent with Government policy. I say to the Deputy Premier and the honourable member for Coffs Harbour that central government has been concerned for a long time about the lack of focus and the need to have coordination.

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

**Dr MACDONALD:** The question of the cost of running the committee was also raised. Those costs will be minuscule compared with the savings achieved through proper coordination and overview, and I believe the Minister has recognised that. It is not a criticism of the Government but the fact that agencies often get away with murder. This is an opportunity for Parliament to try to break down these interagency rivalries, to try to break down the turf wars, and to save money. The committee will come at some cost because it will have to be a comprehensive and well-resourced committee. The honourable member for The Hills also referred to time constraints. That is a valid point; it will be a load on members' time. But there are other committees - including the Public Accounts Committee, the Committee on the Independent Commission Against Corruption and the Staysafe committee - that work hard and meet every few weeks. The committee secretariat assists in that regard. The question of time constraints is not a valid reason for opposing the motion. The fact that the mountain is steep is no reason not to climb it, so far as I am concerned.

The proposed committee will have the ability to scrutinise recurring capital and new capital expenditure of both inner and outer budget agencies, including State-owned corporations. The committee will dictate its own priorities, conduct audits from time to time, focus on standards or outcomes desired for capital works programs. It will comment on the appropriateness of capital works in the light of their anticipated effect on the environment. Once the committee makes its recommendations it should be a decision for the Government or the State-owned corporation as to how to respond to such advice, either when preparing the State budget or reviewing programs or projects. It is expected that any additional costs incurred by public sector agencies as a result of exposure of capital works programs to the committee will be offset by a reduction in environmental damage and increased economies of capital expenditure. I urge honourable members to support the motion.  
[Time expired.]

**Amendment agreed to.**

**Question - That the motion as amended be agreed to - put.**

**The House divided.**

**Ayes, 46**

Ms Allan	Mr McManus
Mr Amery	Mr Markham
Mr Anderson	Mr Martin
Mr A. S. Aquilina	Mr Mills
Mr J. J. Aquilina	Ms Moore
Mr Bowman	Mr Moss

Mr Clough	Mr J. H. Murray
Mr Crittenden	Mr Nagle
Mr Face	Mr Neilly
Mr Gaudry	Ms Nori
Mr Gibson	Mr E. T. Page
Mrs Grusovin	Mr Price
Mr Harrison	Dr Refshauge
Ms Harrison	Mr Rogan
Mr Hatton	Mr Scully
Mr Hunter	Mr Shedden
Mr Iemma	Mr Sullivan
Mr Irwin	Mr Thompson
Mr Knight	Mr Whelan
Mr Knowles	Mr Yeadon
Mr Langton	
Mrs Lo Po'	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Dr Macdonald	Mr Davoren

**Noes, 45**

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

**Pairs**

Mr Carr	Mr Fahey
Mr Doyle	Mr Griffiths
Mr Rumble	Mr West

**Question so resolved in the affirmative.**

**Motion as amended agreed to.**

## **BUSINESS OF THE HOUSE**

### **Precedence of Business: 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 Government Business taking precedence over General Business until 2.15 p.m. this day.

## **APPROPRIATION BILL**

### **PARLIAMENTARY APPROPRIATION BILL**

#### **BUSINESS FRANCHISE LICENCES (PETROLEUM PRODUCTS) AMENDMENT BILL**

#### **MOTOR VEHICLES TAXATION (AMENDMENT) BILL**

#### **ROAD IMPROVEMENT (SPECIAL FUNDING) AMENDMENT BILL**

### **Second Reading**

#### **Debate resumed from 26 October.**

**Mr COLLINS** (Willoughby - Treasurer, and Minister for the Arts) [12.34], in reply: I thank all honourable members who have contributed to the budget debate. Members have had a significant opportunity to state their views about the budget and, accordingly, the various points that have been made no doubt will assist in the general understanding of this year's budget.

#### **Motion agreed to.**

#### **Bills read a second time.**

### **Estimates Committees Reports**

**Mr West**, on behalf of the chairmen, brought up the reports from Estimates Committees Nos 1 to 21.

#### **In Committee**

#### **Estimates Committee No. 1 - The Legislature - Report**

##### **Report adopted.**

#### **Estimates Committee No. 2 - Premier, and Minister for Economic Development - Report**

##### **Report adopted.**

#### **Estimates Committee No. 3 - Treasurer and Arts - Report**

##### **Report adopted.**

#### **Estimates Committee No. 4 - Agriculture and Fisheries and Mines - Report**

**Mr ROGAN** (East Hills) [12.37]: By and large the questions that were asked of the Minister for Agriculture and Fisheries, and Minister for Mines at the estimates committee hearings dealing with agriculture, fisheries and mines were responded to satisfactorily by the Minister and his officers. Today I wish to pursue one area of interest to me, the preservation and full development of the State's mineral resources. The budget papers state that the Department of Mineral Resources is responsible for encouraging and advancing the exploration, assessment and development of the mineral resources of New South Wales. Staff are allocated for this purpose. Extensive coal resources in the Camden area are in danger of being locked up and sterilised. The Treasurer would agree that coal is the number one export of the State and the nation and it makes a significant contribution to the economy. Therefore it behoves us to ensure that mining can continue into the future. Decisions taken in relation to the Camden area will lead to the locking up or sterilisation of the resources. If the land involved is sold for housing, being zoned as such, houses built there will be in a mine subsidence area, and that inevitably will lead to conflict.

We should have learned a lesson from what happened in Lake Macquarie, Wallsend and the Newcastle area generally, where housing development has been allowed above the coal resources - which has been the cause of some consternation, and understandably so, among home owners about the safety and quality of their homes. Land in the Camden district and at Cawdor in the Wollondilly shire will be rezoned to allow for mining. Consequently, there will be an inevitable clash between those wanting to maintain and preserve their homes and those who favour mining. Every resident of those areas concede that mining activities contribute to employment and the local economy, but no resident wants mining to take place under their homes. Though this is basically a planning decision, the Minister for Mines, responsible as he is for mineral resources, has a significant say in things. It has been decided that mining will occur under homes. This could have been avoided and should have been avoided, but the decision has been made. For those reasons I considered it of such importance that I should raise the matter in the debate on the estimates committee report. [*Time expired.*]

**Mr MARTIN** (Port Stephens) [12.42]: I express special thanks to fellow members of the estimates committee, particularly my colleague the shadow minister for minerals and energy. We were able to ascertain from the budget papers that the Government has \$200 million stored away for a rainy day. We suggested areas where this money could be spent, particularly in time of severe drought. That brings me to the Rural Assistance Authority. Last Tuesday the House resolved to refer this issue to the Public Accounts Committee. The Opposition and the public at large are concerned about the allocation of drought relief funds from the Rural Assistance Authority.

Drought relief funds are allocated by the Premier, the Treasurer and the Minister for Agriculture and Fisheries. There is no coordination of allocation. The public are not informed about that allocation process, to whom and where funding is made available. I refer also to fisheries. I am disappointed that though the Fisheries Management Bill, which was rushed through the Parliament in  
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May, was supported by the Commercial Fishing Advisory Council, the Oyster Farmers Association, Ocean Watch and the Recreational Fishing Advisory Council, no mention is made in the budget papers about funding the various objectives of the legislation.

There is a major problem in the fishing industry of New South Wales. The recreational fishing industry spends between \$125 million and \$140 million each year in tackle shops alone, but there is a great need to collate such information to enable value judgments to be made about fish stocks and fish management to protect marine habitats and breeding grounds. The budget papers reveal a problem with regard to staffing levels. Though there seems to be adequate staff on the books, the creative accounting practices of the department distort the true picture. I refer particularly to the periods of time that staff vacancies remain unfilled on average. There is a poor correlation between the budget estimates and reality. This matter should be further investigated by the Treasurer and other agencies.

Agricultural activities are being wound down. Rural New South Wales deserves better, particularly at

present during the drought. Many programs are winding down, and there is movement towards a user-pays system. This was reflected in many of the questions that were asked. Major problems have arisen with regard to the senior executive service and the appointment of women to senior positions throughout the department. The problems facing our farming community are not being addressed. The Government has missed its opportunity in the past seven years and, as a result, the electorate will not entrust it to deliver further budgets. The budget papers do not contain sufficient information for those who desperately need to know about expenditure and where taxpayers' money is going, and I am deeply concerned about that. [*Time expired.*]

**Report adopted.**

#### **Estimates Committee No. 5 - Attorney General and Justice - Report**

**Report adopted.**

#### **Estimates Committee No. 6 - Chief Secretary and Administrative Services - Report**

**Mr E. T. PAGE** (Coogee) [12.48]: This committee was conducted in an appalling fashion, and the Minister's attempts at providing information to the Parliament and its members were poor. Mr Chairman, you would recall that last year the chairman of the estimates committee arbitrarily decided - contrary to the practice of previous year and what other estimates committee chairmen were doing - to split the time for questions equally between the estimates for the Chief Secretary and the estimates for administrative services. I objected to that proposition but was overruled by the chairman. The Minister took it upon herself to provide as little information as possible, claiming that the majority of the questions related to items that were off budget. This year the chairman did the reverse. Without explanation, he did not divide the time for questions evenly.

**Mr Martin:** Who was the chairman?

**Mr E. T. PAGE:** The chairman will identify himself at some future stage. The Minister claimed privilege by saying that most of the questions being asked by my colleagues related to off-budget items. The Chief Secretary would not answer questions to do with the casino. The Parliament and members were constrained in getting information concerning this matter. I thought that was appalling! The other night the Treasurer was keen to tell members that information should be provided, but the Chief Secretary, and Minister for Administrative Services was obviously not of the same view, and the estimates committee session became a farce. I had hoped that a Minister responsible for the casino and administrative services would have attempted to provide information to members, the Parliament and the public at large.

I asked a question concerning BT Australia, a company charged with the setting up and management of the telephone network. The Minister should have been keen to tell the Parliament what controls she and her staff had over costs and savings to the Government. She said that it was an off-budget item and that she would not provide any information about that matter. She hid behind the chairperson. She had a responsibility to tell the Parliament and the members about the control the Government had in this matter, but she made no attempt to do so. The chairman supported her decision. I took a point of order; and the chairman, in an arbitrary and incompetent fashion in my view, did not allow the committee to operate in a reasonable manner. I am forced to raise this matter at this time. As the honourable member for Port Stephens said earlier, this will not happen again as there will be a change in government in March 1995. When Labor is in charge of estimates committees members will get proper information and will be able to look - [*Time expired.*]

**Mr KINROSS** (Gordon) [12.53]: It was interesting to hear the same, old, tired comments from the honourable member for Coogee. We heard the same, old, tired comments last year in the estimates committee. The honourable member for Coogee was critical about my behaviour and my comments. I can only say that the majority of committee members were appalled by his behaviour. The honourable member for Coogee said that we did not split up the departments under the administration of the Chief Secretary. The honourable member for Coogee obviously paid no attention to what was agreed to between the parties - that they would not be split up and that wide-ranging debate would be allowed across all portfolios. Last year we split up the portfolios,

but a number of honourable members, including the Independents, said that they did not have sufficient opportunity to raise pressing matters.

The honourable member for Coogee needs a lobotomy. He has problems with his mental processes, to say the least - although that would not be a problem for a person with no brains. Members of the Labor Party wanted to spend all their time asking

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questions about the Casino Control Authority; they did not want to spend time asking questions about the Minister's department. They spent all their time talking about irrelevancies. I, as chairman, was happy to rule them out of order when they asked the following questions: who were you going to visit? Was it Louis Rousseau III? What did you ask him? When did you last meet with him? Opposition members were asking questions that had nothing to do with any matter that came under the Minister's portfolio. It was a total joke!

I wish now to deal with another matter raised by the honourable member for Coogee concerning communications. He said there was no attempt by the Minister to answer questions concerning BT Australia. The Minister provided the most adequate answer: the matter was off budget. Honourable members cannot ask questions about off-budget issues. The ground rules concerning the running of estimates committees were very clear: off-budget items were not to be examined. But the honourable member for Coogee spat the dummy and wanted to break the ground rules concerning the time allocated to different portfolios and the leeway given in relation to off-budget items. He would not accept the umpire's decision. The ground rules were laid well and truly before there was any discussion in this committee.

I recall an occasion when the honourable member for Coogee asked 10 questions in one breath. I refer honourable members to page 81 of the *Hansard* daily, where the honourable member for Coogee asked questions in relation to the Department of Administrative Services. At least he was on the ball in this instance; he was asking questions relating to the budget. Any honourable member who remembers the questions asked by the honourable member for Coogee would be doing extremely well. There is no foundation to the assertions of the honourable member for Coogee. He has no recollection of the rules that were agreed to when these committees were first established to examine this year's budget.

**Mrs COHEN** (Badgerys Creek - Chief Secretary, and Minister for Administrative Services) [12.58]: I will not say much; the honourable member for Coogee said it all. I enjoyed the comments he made about BT Australia and my failure to answer his questions. That subject was off budget. The honourable member for Coogee asked those same questions last year. His questions were answered last year. If he refers to the *Hansard* for last year's estimates committee, he will find the answers to those questions. The questions asked concerning the Casino Control Authority were well orchestrated by Bruce Hawker. I congratulate him on keeping up such a strong flow of questions for Opposition members. The questions asked could not be answered because the matters referred to were covered by the secrecy provisions of the Casino Control Act. I could not answer the questions, as I was not the investigator and, as they were covered by the secrecy provisions, they could not be answered in that forum.

The honourable member for Coogee does not remember that Murray Tobias, the person holding the public inquiry into the authority, said he would release appropriate details of investigations concerning individuals in due course. Opposition members do not have long to wait before they receive those details. The report of the inquiry will contain the various details that they were asking about, albeit in the wrong forum. I thank the members of my estimates committee for the work they put in and for the questions they asked. I congratulate the honourable member for Coogee for asking the same questions two years in a row.

#### **Report adopted.**

#### **Estimates Committee No. 7 - Community Services and Aboriginal Affairs - Report**

**Mr MARKHAM** (Keira) [1.00]: This committee examined estimates for Community Services and Aboriginal Affairs. I was concerned that only 2½ hours were allocated for the hearings of the committee. In

that time the Opposition had the opportunity to ask only five questions in relation to Aboriginal affairs. That is appalling. The time allocated for that committee should have been split in two so that members had a greater opportunity to quiz the Minister on the estimates for Aboriginal affairs. During the estimates committee I referred to the reduction in funding available to the State Land Council to carry out its activities. A couple of years ago this Government changed the way in which land taxes are levied. Aborigines miss out as a result of that decision.

Over the last two years the funds available to the State Land Council have been reduced by some \$22 million. That has caused problems within the State Land Council and within local land councils throughout New South Wales. Funding to those organisations has been reduced dramatically. As a result, the State Land Council may have to shed 38 positions from within its structure. That is a horrific position in which to place the State Land Council. This Government should have done something to ensure that the funding shortfall, caused by a change in government policy, was addressed.

I refer to community services, particularly disabled services. During the committee hearing we were told that five years ago, when the Department of Health handed over responsibility for the disabled to the Department of Community Services, \$50 million was put in Treasury so that capital works programs could be accelerated in the changeover. We have found out that that \$50 million is still in Treasury though there is a desperate need for services for people with disabilities throughout the State.

Honourable members may have visited the display of the New South Wales Council for Intellectual Disability which is currently in the foyer of Parliament House. The council is handing out its report which outlines a number of issues affecting disabled people in this State. The report is entitled "Report On Unmet Need For Accommodation,

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Respite And Post School Opportunities For People With Intellectual Disability In NSW: Survey Of The 20 NSW Department Of Community Services Areas". The \$50 million would go a long way towards alleviating many of the problems families with disabled children are suffering. I encourage members of this House to visit the display, if they have not done so already. Today is the last day of the display. The council's report stated:

The survey findings have confirmed Council's belief that insufficient growth in support services for people with intellectual disability and their families in NSW is causing widespread distress. The conservative estimates of 585 people needing permanent accommodation urgently, and 172 people living in respite on a permanent or semi-permanent basis, are particularly disturbing. Clearly more quality supported accommodation options are urgently needed . . . In the next five years at least 1649 people will require permanent accommodation and this will require longer term planning.

The report goes on to outline the problems the council foresees for people with disabilities and their families. In the electorate of Keira a respite centre in Margaret Street has five respite care beds, two of which provide long-term accommodation for disabled people because there is no group home in which to place them. [*Time expired.*]

### **Report adopted.**

### **Estimates Committee No. 8 - Consumer Affairs - Report**

**Mr AMERY** (Mount Druitt) [1.05]: The estimates committee which examined Consumer Affairs met on 18 October. I certainly have no complaints about the way in which the hearings were conducted. The committee was chaired by the Hon. R. T. M. Bull. A number of questions and answers are on the record. During the committee the Hon. K. J. Enderbury asked an important question relating to the level of funding for financial counsellors. He referred to the allocation of \$403,000 and asked whether the Minister could supply details of the locations and catchment areas of the services. The question obviously related to the fact that we need financial counselling services in New South Wales, particularly in the drought-affected rural areas.

The Minister's answer confirmed that the level of funding for rural financial counselling services is

appalling when compared with other States. The New South Wales Government has allocated \$403,000 for financial counselling services; Western Australia has allocated \$1.3 million; Victoria has allocated \$1.3 million; Tasmania has allocated \$1 million; and Queensland has allocated \$1 million. The Minister detailed where the \$403,000 would be distributed. The Credit Line in Sydney is to receive \$81,125. Funds will also be allocated to the Redfern Legal Centre, the Ryde-Eastwood Centre, the Penrith financial counselling service - which is required to provide financial counselling as far west as Bathurst - the Credit Line at Fairfield, Centacare at Liverpool, the Campbelltown Legal Centre, Wyong, the Newcastle Credit Line, and the Illawarra. The central west is to receive \$10,247. Last year the total was \$393,000; this year the total is \$403,000.

The Minister's answer confirms that there is limited funding for financial counsellors in rural New South Wales. The area of responsibility of the Penrith service to which I referred stretches as far west as Bathurst. The next closest financial counsellor funded by the Government can be found at Broken Hill. That counsellor does one day a week at Broken Hill and one day a week at Wilcannia. The Federal Government has responded to the need for rural financial counselling. Its assistance is primarily for farmers. That initiative is jointly funded by the Federal Government and the State Government. It is not only the farmers affected by the drought who require financial counselling - small business people and individuals are losing their jobs; and people cannot keep up with their home loan repayments. The Treasurer should give the Minister for Consumer Affairs some funding to at least bring New South Wales in line with other States.

During the estimates committee I asked the Minister for Consumer Affairs whether a holder of a Seniors Card receives concessions for products or services supplied by her department. The Minister gave an honest answer, which justified our criticism of the Seniors Card. She answered, "I think the answer is no". We have raised the issue of providing Seniors Card concessions to people making claims at consumer claims tribunals. The Department of Consumer Affairs provides a number of products and services for which there is a fee. If the Government is serious about making the Seniors Card work, it should lead by example. It should not just make the Seniors Card something the business community has to pick up. The Government should provide Seniors Card concessions for its services. This department is just one of many government departments that allow no concessions to seniors who are not recipients of social security benefits.

The other interesting question to the Minister related to the number of senior executive service positions in her department - seven; and a follow-up question sought details of how many of the seven were women. Members of the Opposition were surprised to learn that none of the seven senior executive service positions in the Department of Consumer Affairs are occupied by women. Honourable members will be aware that women play a prominent role in organisations such as the Australian Consumers Association, and agree that the Government is out of line with that movement. [*Time expired.*]

### **Report adopted.**

### **Estimates Committee No. 9 - Education, Training and Youth Affairs and Tourism - Report**

**Mr J. H. MURRAY** (Drummoyne) [1.10]: Honourable members know of my longstanding interest in retaining Drummoyne boys high as a high school for the electorate of Drummoyne. Unfortunately, the school was recently closed. The budget for the Department of School Education was \$4 million better off as a consequence of the sale of that school site. The school has played a major role in the provision of amenities, before and after school, within the community. It did not merely have the role

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of a 9 a.m. to 3 p.m. high school. Originally, the school was set up in the Drummoyne primary school. Recently the primary school parents and citizens association wrote to me, asking that I make contact with the Minister for Education, Training and Youth Affairs seeking the return of some of that \$4 million to the community. In fact, the resolution put forward by the Drummoyne public school group sought the payment of \$1 million from the Department of School Education, being a share in the more than \$4 million in proceeds from the sale of Drummoyne Boys High School as compensation to the school community, present and future, for the loss of that facility.



I believe that that figure is a very accurate assessment of the loss to the community from the sale of the Drummoyne Boys High School. As honourable members are aware, I have fought a battle in this House for more than 2½ years, in association with the Drummoyne Public School Parents and Citizens Association, in an attempt to maintain the high school site for purposes of public education. However, we were unsuccessful and the school buildings are now occupied by the Wesley Church. The land that was excess to the church's requirements was recently sold for more than \$1 million as residential building sites. I remember when the school was operating that the soccer fields, tennis courts and general play areas were continually being used by the local youth in the community, before and after school. It would be a normal thing to drive past the school and see 20 or 30 children playing tennis, kicking a soccer ball around or playing touch football. That has all gone.

The school community should be compensated for the loss of such an important facility. Not only that, the school had a sizeable hall which provided the focus for community activities; but all of that is lost to the community forever. The whole site is alienated from public use. Drummoyne public school is currently facing a crisis in respect of before and after school care. The centre which services the school is housed in inadequate premises, the owners will not commit themselves to a lease and there is no capacity for expansion. The school currently has a waiting list for 1995 Kindergarten enrolments. The school has capacity enrolments for 1995 and cannot spare space to be used for before and after school care facilities.

The former high school grounds, if still in public ownership, could have provided a solution to this problem. I therefore seek compensation for the community's loss, with the positive aim of using those funds to provide a much-needed community facility. The Government, having flogged off the silver, has created additional problems within the community and there is no commensurate return to the community for the \$4 million that the Government has acquired. I call on the Minister to allocate \$1 million from that allocation of \$4 billion for those purposes. I say that because the education budget is \$4 billion. That is the sort of money that the Minister has at her disposal. Of that \$4 billion, \$4 million has come from the Drummoyne area and I am asking for a quid pro quo, a pro rata return of one-quarter of that money to the community.

#### **Report adopted.**

#### **Estimates Committee No. 10 - Environment - Report**

**Mr KNOWLES** (Moorebank) [1.15]: During the estimates committee on the environment the honourable member for Granville asked the Minister for the Environment about the stormwater task force. His reference was to Budget Paper No. 3, page 384, program 36.1.2. The honourable member for Granville asked whether the Minister had established a stormwater task force in September 1993 to devise a strategy on how to tackle Sydney's stormwater pollution problems, and why, more than one year later, the task force had failed to release a strategy. In response, the Minister advised that the stormwater task force was convened jointly by himself and the Minister responsible for the Water Board, the Hon. Robert Webster. He indicated that the task force would reconvene in November to consider various initiatives and programs.

The Minister also indicated that he "regards stormwater as probably one of the last great enemies to be overcome in cleaning up our waterways". They are the Minister's words. I want the House to compare the Minister's rhetoric at the estimates committee with his formal response to me about a proposal by the Stormwater Industry Association to establish a stormwater and urban run-off education, research and demonstration centre in my electorate at Chipping Norton on the banks of the Georges River. The Stormwater Industry Association is a national body. In fact, its membership boasts most of the leading academic, scientific, government and industry personnel working in the water and drainage industries. The association's secretary is Dr David Robinson from the Sydney Water Board and one of the executive committee members, a Mr Russell Cowell, is an employee of the Environment Protection Authority.

The executive director of the SIA, Mr John Anderson-Wood, is the convenor of the education subcommittee of the stormwater task force that, during the estimates debate, the Minister was so proud to be associated with. In an effort to assist the SIA achieve its objective to establish an education centre, I wrote to all

Government agencies and Ministers, as well as to all organisations concerned with water quality and urban run-off issues, in an attempt to obtain bipartisan support. It is fair to say that the responses to my efforts and those of the SIA have been very encouraging, bipartisan and positive. I have received letters of support from the Independent members of this Parliament; from organisations such as the Georges River Catchment Management Committee, an organisation auspiced by the Environment Protection Authority; from the Georges River Environmental Alliance; and, of course, last but by no means least, from the Minister for Planning, and Minister for Housing. The Minister indicated in a recent letter to me that he looks forward:

. . . to the emergence of an overall development concept and viable strategy for community use of the area (at Chipping-Norton) as a result of discussions between council, the Stormwater Industry Association and Department of Planning officers.

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The only person who is out of step with this proposal, despite his comments to the estimates committee, is the Minister for the Environment. In a letter to me dated 30 September the Minister sought to pour cold water on the SIA proposal. He said he believes education on the important issue of urban run-off and stormwater pollution would be better catered for by an existing institution than by attempting the large task of beginning a new institution. It might be news to the Minister for the Environment, but no such organisation exists. The Minister concluded his letter by telling me that he is unable to endorse the establishment of the SIA education centre. To quote the Minister's words, he encouraged the SIA to develop and promote "novel solutions to this ubiquitous problem".

That is an absolute joke, and I suggest that the Minister is also a bit of a joke. While the entire Government, including the Minister for Planning, and Minister for Housing, and organisations established by the EPA are supporting this proposal, the Minister for the Environment, with his head in the sand, is refusing to lend his support. It is disgraceful that a Minister who is charged with the responsibility of regulating organisations such as the Sydney Water Board - with the broader responsibility of educating the community about the massive environmental, economic and social costs associated with the profligate waste currently inherent in our urban stormwater system - refuses to participate.

This proposal is nationally sponsored and has the endorsement of the community. It will result in the establishment of a centre for international best practice that will develop leading edge technology solutions to manage stormwater and urban run-off. That centre will be located at the centre of one of the most rapidly growing urban regions in Australia. The problems of urban run-off and stormwater pollution in water catchments of Sydney, the Hawkesbury-Nepean, and the Georges and Cooks river basins need urgent attention and bipartisan support. If, as the Minister said in his estimates committee remarks, stormwater is probably one of the last great enemies to be overcome in cleaning up our waterways, the Stormwater Industries Association proposal can be regarded only as one of the great allies in that fight.

**Report adopted.**

#### **Estimates Committee No. 11 - Multicultural and Ethnic Affairs - Report**

**Report adopted.**

#### **Estimates Committee No.12 - Health - Report**

**Mr BECKROGE** (Broken Hill) [1.20]: I am concerned particularly about the estimates in subprogram 40.2.1 and the funding of ambulance transport services. I am sure all honourable members agree that it is important that sufficient resources are allocated to the Ambulance Service. People who are involved in accidents are dependent on those first aid services. Over the years the Ambulance Service has undergone changes. Some of those changes have caused a great deal of angst among members of the Ambulance Service. I am particularly concerned that in my electorate, which is in the western region of New South Wales, the funds available to the Ambulance Service for training seems to have been scaled down. It is no good if the

ambulance merely gets to the scene of an accident on time. Although the ambulance may have an excellent driver, unless he or she has the necessary training to deal with an emergency the ambulance is really only providing a taxi service.

The Broken Hill Town Employees Union has written to the Minister, and I have been provided with a copy of that letter. The union is concerned about the constant decrease in divisional budgets each year. Those decreases have now resulted in the western division being placed in the position of having to obtain cost savings by decreasing staff training. That has a direct relationship to the provision of high-quality service. The Ambulance Service of New South Wales aims high, and I am sure all honourable members support those aims. Without continued training of staff to higher clinical levels and regular assessment of staff performance, the only foreseeable result will be a decrease in the standard of delivery of pre-hospital care. Honourable members must be aware of cost cutting. We must ensure that if savings are to be made, they are not made at the expense of training staff to the highest standard. Obviously decisions are being made at divisional level about the number of officers who will receive higher degrees of training associated with their work. I encourage and support an increase in the allocation of funds to the Ambulance Service for training.

**Report adopted.**

#### **Estimates Committee No.13 - Industrial Relations and Employment, and the Status of Women - Report**

**Report adopted.**

#### **Estimates Committee No.14 - Police and Emergency Services - Report**

**Mr KNOWLES** (Moorebank) [1.24]: I want to make some brief remarks about the emergency services portfolio. In the estimates committee hearing there was some discussion about the allocation of capital funds for the construction of fire stations and about recurrent allocations for staffing. I want to link those general allocations to a proposal by the Government to close the Ingleburn fire station, which is located in my electorate. On two previous occasions in the House I have urged the Minister to review the decision made by the former Minister for Police, and Minister for Emergency Services in December of 1993 to close the Ingleburn fire station. It is fair to say that the people of Ingleburn and the business communities of Ingleburn were outraged by that decision. The Ingleburn fire station is located in the centre of the town. In conjunction with the Macquarie Fields and Campbelltown fire stations it fulfils the important function of providing integrated fire services. Figures taken from New South Wales

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Fire Brigades annual reports for at least the past three years indicate that those three stations have more than twice the number of call-outs of any other local government area in the State.

When confronted with strong opposition to this proposal to close the fire station, the former Minister for Police, and Minister for Emergency Services announced a review of the decision. That review was conducted in the first half of this year, and included a re-analysis by New South Wales Fire Brigades of its standards of fire cover. Those standards are used to establish the locational aspects of fire stations. The review revealed that the closure of the fire station had created a major problem for the residents of Ingleburn in that the entire Ingleburn town centre, together with substantial parts of the Ingleburn industrial estate, including category one, two and three hazard areas, had been exposed to risk. Those areas were located outside New South Wales Fire Brigades' standards of fire cover. Confronted with that information, one might have thought that the Minister for Police, and Minister for Emergency Services may have put his hands up and said, "Okay, we have made a mistake, we will allow Ingleburn fire station to remain open". Nonetheless, my understanding is that at present negotiations are taking place with the existing personnel of the three fire stations I have mentioned to try to persuade them to split their rosters. If they agree to do so, the number of hours they work will be reduced and they will be able to staff the three existing stations and a fourth station, to be built at St Andrews.

No-one would deny that a new fire station should be built at St Andrews. Geographically St Andrews is split from the remainder of my electorate by the freeway and the main southern railway line. The area is isolated

and needs its own facilities, particularly emergency services facilities. Nonetheless, the provision of those facilities should not be at the expense of closing another fire station. The Government must understand that providing fire services on the cheap will ultimately cost lives. As I have said, the firefighting services in my electorate answer twice the number of call-outs of any other local government region in the State, and have done for at least the past three years. Notwithstanding that, the Government wants to close one of the fire stations in my electorate. That is a disgrace. The Government is penny-pinching and spreading staffing costs so thinly that the common, collective and analysed view of New South Wales Fire Brigades is that fire services will not be adequately provided to meet its own standards of fire cover. For the third time I urge the Minister for Police, and Minister for Emergency Services to make a speedy decision to allow the retention of Ingleburn fire station and to provide sufficient funds to keep it open and properly staffed. I also urge the Minister to provide sufficient funds to build the St Andrews fire station and to staff it with its full complement of fire officers.

**Mr RUMBLE** (Illawarra) [1.28]: I draw attention to police numbers at the stations of Dapto and Warilla in my electorate. The figures supplied to me by the Minister in the Question and Answers paper show that from 30 June 1993 to the present the number of police at those stations has been reduced by 25 per cent. That is outrageous so far as the Illawarra area is concerned. I have presented petitions to this Parliament signed by almost 2,500 people asking for increase in police numbers at Warilla. The problems caused by the reduction in manning of Warilla police station have been exacerbated by a matter drawn to my attention only recently. I refer to a serious assault at the Oak Flats swimming pool. In that incident a person was king-hit, sustaining a cut across the eye and severe concussion. These injuries necessitated an overnight stay in hospital. I draw the attention of the Minister to the massive decrease in police numbers in the Illawarra. The people of the Illawarra are very disturbed by this trend and call for police numbers to be increased, not decreased.

**Report adopted.**

**Estimates Committee No. 15 - Energy and Local Government and Co-operatives - Report**

**Mr J. H. MURRAY** (Drummoyne) [1.31]: I wish to correct the record in view of a mischievous statement made by the Minister about a speech I made to a Local Government Association meeting in Leura.

**Mr Tink:** On a point of order: the matter about to be raised by the honourable member has nothing to do with the estimates under consideration. It seems to be a personal explanation about something he said at a local government meeting.

**The CHAIRMAN:** Order! I understand the honourable member for Drummoyne to be referring to remarks he made at a local government conference held earlier this week. As I am unable to relate those remarks to the estimates committee proceedings held last week, I rule him out of order.

**Mr J. H. MURRAY:** The matter I raise has to do with funding of regional cooperative councils that are already in operation and have the capacity to provide services that in some cases are undertaken by local government and in others are provided by the State Government. I refer in particular to the Department of Sport, Recreation and Racing. At the moment, capital assistance grants to local groups through the department and the Minister are categorised by local government and forwarded to the Department of Local Government.

**Mr Tink:** On a point of order: the honourable member is flouting the ruling of the Chair. The matter he is raising relates to an issue raised at the local government conference and aired recently in the media. The honourable member is using these proceedings to raise a matter that has nothing to do with the estimates under consideration.

**Mr J. H. MURRAY:** On the point of order: there is within the estimates a line item dealing with the Department of Local Government, which has jurisdiction over local councils that are agents responsible for these particular funds. I submit that my comments are in order.

**The CHAIRMAN:** Order! I uphold the point of order on the basis that the remarks made by the honourable member so far refer specifically to grants to the Department of Sport, Recreation and Racing.

**Mr J. H. MURRAY:** They in fact relate to regional organisation.

**The CHAIRMAN:** Order! I have ruled on the point of order.

**Mr J. H. MURRAY:** I am not debating the point of order; I am continuing with my speech.

**The CHAIRMAN:** Order! The honourable member will bear in mind that on two occasions I have ruled on the specific matter he raised. I warn him against mentioning the matter again.

**Mr J. H. MURRAY:** Obviously some honourable members are not aware of the matter that I am raising. Regional councils of local government have the capacity to undertake the provision of services that currently are the responsibility of local government. I am saying that money from the local government budget should be allocated for the administration and upgrading of those organisations. That would not mean the closure of any head office. It will do nothing more than bring about improved efficiency in the distribution of money from the State budget. I make the same comment in relation to tourism. At the moment local government is closely allied regionally with tourism. There should be an upgrading of the cooperative regional arrangement, through an organisation such as the Western Sydney Regional Organisation of Councils, so that those organisations may undertake a much more positive role in the distribution of funds. The Minister was quite mischievous and out of order in making his statement, so today I put the record straight. There needs to be a change in many of these arrangements. A Labor Government is the avenue for the upgrading of the value of local government in the community. This proposition received wonderful support when presented to the local government conference in Leura last Tuesday. That is in stark contrast with the attitude shown by local government to the Minister's attendance at the meeting; he received a very frosty reception.

#### **Report adopted.**

#### **Estimates Committee No. 16 - Land and Water Conservation - Report**

**Mr MARTIN** (Port Stephens) [1.36]: I wish to raise the issue of land care, a matter of considerable debate at this time. I am concerned about its politicisation and the Minister's lack of knowledge of what is occurring in his department. I raise this issue as a consequence of a question asked of the Minister concerning the funding of a questionnaire on behalf of the Deputy Leader of the National Party of the Federal Parliament. When asked that question the Minister looked shocked. He responded by saying that he was not aware of the mailing problem referred to and would have to take the question on notice.

This matter was raised in the Federal Parliament. Three or four weeks earlier the question was asked by the Federal member for Calare. Therefore, the Minister should have been aware of it through notice furnished by his department. Either the Minister is covering up a matter of major concern about land care problems in New South Wales or he is not administering his department well enough. Whichever it is, I will get to the bottom of the issue. My feeling is that the Minister's answer at the estimates committee meeting indicates that politics are creeping into the question of land care.

Whether it be the Boorowa LandCare group involving the matter of Karpinski, raised in this House on a number of occasions, the mailing out issue relating to the Orange office of the Department of Conservation and Land Management - an expenditure that could not be explained by the Minister - a matter involving a LandCare group such as the Tenambit wetland group in the Hunter Valley, or a matter involving the electorate of Myall Lakes regarding major problems in coordination of LandCare programs, the stench of politics is becoming apparent. LandCare programs should be driven from the bottom up so that the land of this nation is properly cared for. Their management should not be hampered by politicisation and takeovers by local political branch officials of total catchment management bodies and LandCare organisations.

It is important that these problems be rectified. I put the Government on notice that the Opposition is bitterly disappointed with the response of Minister Souris on a matter that he obviously must have known about. In addition, I wish to raise another aspect related to lands administration. The current drought is costing the grazing industry in this State many millions of dollars. Therefore I ask the Government to look seriously at the line items relating to western lands administration as well as financial relief for local government bodies and western lands leaseholders. We on the Opposition side of the Parliament always will strive to ensure justice and fairness in the system. We will ensure that people are treated fairly, particularly in times of hardship.

Another matter raised in Budget Paper No. 4 relates to the Markwell Pacific Limited site at Boyds Bay in the Tweed River area. In the estimates committees hearing a question was asked by the Hon. Judith Walker about whether there had been an allocation to buy land for the building of a marina on that site. Minister Souris answered, "I am advised that the answer is no". I place on record the work that has been done to ensure protection of that site. The people involved in the fight to preserve the Boyds Bay land must be commended. Recently the land was targeted as the site for a high-rise building of 10 storeys. Objections were received from 2,500 people. I am pleased that the Minister has answered in the way he has. I can only read into his answer that he was advised the answer was no; therefore the answer must be no, there will be no marina by the Boyds Bay Bridge on the Tweed River, and the whole area will be preserved as parkland for future generations.

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**Mr BECKROGE** (Broken Hill) [1.41]: I address my remarks to subprogram 45.2.2, Managing River Flows. I am interested to find out what attempts have been made by the Department of Water Resources to alleviate the situation on the Namoi at the town of Walgett. The department has tried hard to provide water from the Keepit Dam to the township of Walgett but difficulties have arisen. The river flows past various properties, and people who have licences take the water because their licence enables them to pump legally. The Department of Water Resources has tried to prevail upon those people to let the water flow to Walgett. Walgett is still waiting for the water from the Keepit Dam release to reach the town. I am keen for the Department of Water Resources generally to have greater control over the distribution of the resource and to be able to penalise people who disobey the regulations. I am not saying that the people currently taking the water are doing so illegally.

The Department of Water Resources has had problems for a long time over the issue of licences, water rights and river flow management. I am critical of past inaction and lack of concern about water volume that would have prevented the drying up of the Darling River system in this drought. I hope that in future the Department of Water Resources will instigate environmental flows, which are so vitally necessary for keeping the river alive, and curtail development along the rivers by buying up large irrigation licences along the Darling-Barwon system. The management of that system requires that licences be inactivated. I do not advocate that licensees should lose or forfeit their assets but be recompensed paying due regard to just terms compensation. The acquisition of those licences will be a big issue for a future government. I hope the coalition Government will soon be able put in train a means of ameliorating the position.

**Report adopted.**

#### **Estimates Committee No. 17 - Planning and Housing - Report**

**Mr KNOWLES** (Moorebank) [1.45]: Page 8 of Budget Paper No. 4, State Capital Program, reveals that the State will receive under Commonwealth specific purpose capital payments \$963 million, which includes \$307 million in housing grants under the Commonwealth-State Housing Agreement. In addition to that information, the Minister for Housing outlined in his response to a question from the honourable member for Davidson his plans to improve living conditions on large public housing estates with specific reference to plans currently under way in the Campbelltown local government area. I am interested in those plans. I should like to know where and how the funds supplied under the Commonwealth-State Housing Agreement are being spent. In his answer to the honourable member for Davidson, the Minister for Planning and Housing outlined programs

to improve the amenity and sense of community in the broadacre estates of the Campbelltown local government area. He outlined a range of measures including the establishment of estate advisory boards - I serve on the Macquarie Fields estate advisory board - improved tenant participation measures and the subdivision of existing superlots to facilitate a change in the tenure of the estates.

Funding for these measures will apparently be drawn from regional maintenance funds and the housing community assistance program. I am sure the Minister realises there are also funding opportunities for these purposes under Federal programs, including the regional economic development initiatives announced by the Federal Minister for Housing. However, I believe the State Government will miss an opportunity for real policy reform unless it focuses on the sources of funding potentially available to it under the Commonwealth-State Housing Agreement. The CSHA provides funds for a variety of categories of public housing. They include Aboriginal land and housing programs, community housing and the like. Sadly there is no specific category in the CSHA to allocate funds for housing estate renewal programs. During the current round of negotiations on the next CSHA a new funding category should be established to dedicate specific capital funding for housing estate renewal programs.

As part of the Federal building better cities program as well as Defence Housing Authority programs, the Federal Government has established some outstanding models of housing renewal such as Holsworthy in my electorate and the city of Elizabeth in South Australia. These models should form the basis of future work funded by the CSHA. The objectives should be to have all the existing housing estates in New South Wales subjected to renewal and refurbishment programs by the time the next CSHA expires in the year 2000. The large public housing estates of Macquarie Fields and Minto in my electorate are in urgent need of refurbishment and renewal. Macquarie Fields has 1,042 dwellings located on a 115-hectare site. It has a 92.9 per cent public tenant occupancy rate. Minto has 1,276 dwellings on a 91-hectare site with a 63 per cent public tenancy occupancy rate. A high proportion of young people, a high proportion of single families, low household income levels, high unemployment and a high proportion of Aboriginal and Torres Strait Islanders form the typical profile of both estates.

The 1994-95 housing budget makes no provision for the renewal and reshaping of these housing estates despite their age and their urgent need for refurbishment. Both estates were designed on the Radburn model, based on groups of detached houses around cul-de-sacs resulting in the rear entrances of properties becoming the front door, lack of private open space, underuse of common open space, lack of privacy, confusion over access and poor maintenance and appearance. Whilst these housing estates are greatly deficient in the provision of human and welfare services, it has become clear that the physical design of the estates also contributes to many of their problems. There is currently an attempt to address

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these issues by regional offices of the Department of Housing together with myself, the honourable member for Campbelltown and the Federal member for Werriwa as well as senior staff of Campbelltown City Council.

The public housing estate improvement program is a real attempt to improve the lifestyle opportunities and image of public housing tenants in the Campbelltown region. However, these efforts should not be regarded as one-off attempts; they should form the basis of an ongoing strategy to improve housing quality and estate design. The CSHA forms the backbone of public housing funding in the State. Given the Federal Government's re-entry into the important policy areas of urban planning and housing, I believe there is a unique opportunity to expand the range of programs currently catered under the CSHA without diminishing existing programs.

**Report adopted.**

#### **Estimates Committee No. 18 - Public Works and Ports - Report**

**Report adopted.**

#### **Estimates Committee No. 19 - Sport, Recreation and Racing - Report**

**Mr BECKROGE** (Broken Hill) [1.50]: I address my remarks to subprogram 58.1.2, Excellence in Sport, in the budget estimates for the Department of Sport, Recreation and Racing. I note that the program objectives are to encourage excellence in performance by New South Wales competitors in national and international events. Talented youngsters who live in rural areas away from metropolitan centres do not have the opportunities that talented children have in big cities to join in competition. One can jump on a train in suburban Sydney, Newcastle or Wollongong and travel a short distance to a venue to train for competition, at no great expense to families. It has always puzzled me why governments have not been able to come to terms with the fact that many youngsters across New South Wales, who are as talented as those in the city, do not always get the financial support that they should.

I recognise that the State Government runs the talented sportspersons awards and does assist. There should be not a hand-out mentality but greater financial encouragement to enable youngsters to realise their potential. I should like to see a significant increase in the votes for these programs to enable young people to take part in competition and training. There is a particular problem in Broken Hill. I am not saying it can be addressed at the moment. Many talented sportspeople from Broken Hill go to Adelaide and end up representing the State of South Australia, but they would rather carry the waratah than the piping shrike. I urge the Government to address this matter. It is not merely a political stunt. More funding should be provided to support talented country competitors.

#### **Report adopted.**

#### **Estimates Committee No. 20 - Transport and Roads - Report**

**Mr RUMBLE** (Illawarra) [1.52]: I refer to the capital works project, electrification of the railway line from Dapto to Kiama. In the State Capital Program, Budget Paper No. 4, on page 137 the allocation shown for 1994-95 is \$200,000. However, in the booklet given to honourable members detailing each electorate the amount under the same line item is shown as \$100,000. The difference in the amounts allocated for the 12-month period is \$100,000. The \$100,000 would be welcome. However, it is a small amount in a \$30 million project. The whole of the project is supposed to be completed by June 1997. Information released by Treasury last year showed that the project was supposed to be completed by June 1996.

I should like to know how much of the \$30 million has been earmarked by Treasury to finance that project. The Minister for Transport is attempting to use an escape hatch when he says it depends how much the Federal Government puts in. He said he was responsible for the electrification of the line between Coniston and Dapto. However, he failed to admit that 75 per cent of the \$10 million was Federal Government money and that the State Government put in the other 25 per cent. I reiterate: to what extent has the \$30 million that is due to be spent by June 1997 been earmarked? The project is vital because of the unemployment problems in the Illawarra, which the Government has exacerbated since March 1988. People from as far south as Kiama have to travel to Sydney each day to work. Prior to March 1988 the Minister for Transport gave a public commitment that work would start on the Maldon-Dombarton rail link, but no work has commenced.

**Mr KNOWLES** (Moorebank) [1.55]: In the estimates committee hearing relating to transport and roads, the honourable member for Albury asked the Minister a question relating to Budget Paper No. 2, which refers to negotiations that are under way for the private sector to undertake further work such as the eastern extension of the M5 tollway and other associated tollway works. The honourable member for Albury asked about current extension proposals, alignment options, toll proposals, construction costs, funding arrangements and the construction timetable. He asked also what study had been carried out on the M5 extension and what the level of community consultation had been.

In his response the Minister indicated that the cost benefits of the M5 overall have been the highest of any major road project in Australia. He indicated also that the proposal had caused some concern over environmental impact. I should like to make some points about the Minister's response to the honourable member for Albury. In regard to the overall cost benefit of the M5 tollway, the Auditor-General took a different view in his recent report. There are serious questions about whether anyone can establish the true cost benefit



of the M5 tollway in the absence of an analysis of alternative options. The Auditor-  
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General made it clear that the assessment of whether the road was necessary in the first place does not appear to have been seriously challenged.

Similarly, in relation to State Government funding of the project the Auditor-General made it clear that the deferment of key components of the tollway, as nominated in the environmental impact statement, meant a \$20 million saving as well as an enhanced revenue opportunity for the tollway operator as a result of the increased traffic flow through the tollgates through the inability of motorists to leave the tollway because of the deferred construction of key exit ramps. The cost-benefit assessment is also made difficult because, as the Auditor-General said, the arrangements between the Roads and Traffic Authority and Leighton Interlink are unclear in relation to two key items: the period of deferment of exit ramps identified in the EIS, and the question of who will be responsible for financing the construction of the deferred ramps.

Cost-benefit analyses are also difficult to prepare and assess when one factors into the equation the \$50 million subordinated low-interest loan given to the tollway consortium to allow it to construct the western extension of the M5 without tender. Added to that is the agreement of the Roads and Traffic Authority to vary the contractual arrangement in conjunction with the work to permit a 25 per cent increase in the concession period from 24 years to 30 years and a 140 per cent increase in the total loans advanced by the Roads and Traffic Authority from \$35 million to the extraordinary sum of \$85 million. One really has to question the Minister's assertion in the estimates committee hearing that the cost benefit of the M5 overall has been the highest of any major road project in Australia.

Let us assume that the Minister is correct in his assertion that the cost benefit can be quantified and that it is the highest. I have to ask: at what cost? Some of the costs relate to the second point of the Minister's comments in the committee about concerns relating to the environmental impact of the M5 proposal. The University of Western Sydney, on behalf of the National Roads and Motorists Association and the M5 action group, has recently completed a report about the environmental impact of the M5 tollway, with particular reference to noise impact. It is clear from that report that there are significant breaches of allowable noise levels at key locations along the toll route; substantial problems in relation to vehicles, particularly trucks as they accelerate away from the tollgate or, alternatively, use their engine brakes on the approaches to the tollgate at Moorebank; inadequate noise barriers along the toll route at key locations; and a failure by the tollway operator to comply with the terms of its contract in relation to the maintenance of the landscaping and tree planting along the toll route.

These findings have considerable implications when assessing any tenders for the construction of the M5-east project. The Auditor-General has been critical of the assumptions made by the RTA in awarding Leighton Interlink the contract for the Casula to Prestons link without tender. My concern is that Leighton Interlink, with its massive investment and infrastructure advantages, and the RTA, with its financial and legal commitments to Leighton Interlink for the existing stage of the M5, may preclude the fair, reasonable and equal assessment of any other competing tender. The Government has a responsibility to provide all information about legal and financial deals concerning the M5 tollway. Until that is done, the Minister's assertion in the estimates committee can only be regarded as press release rhetoric, lacking in substance, fooling nobody and costing the taxpayers of New South Wales an arm and a leg.

**Mr BECKROGE** (Broken Hill) [2.00]: I refer to the budget allocation for the Department of Transport and to the line item dealing with CountryLink. I am keen to see that CountryLink services are maintained and extended. The people of New South Wales west of Sydney and certainly those in non-metropolitan New South Wales who have the services of CountryLink, should have access to regular passenger transport services. I am concerned about the lack of any provision for the replacement of a rail service between Parkes and Broken Hill. A train called the *Silver City Comet* provided that service and was reputedly the fastest train in the Southern Hemisphere. It travelled 400 miles, making approximately 13 stops in 10 hours. Since that service was removed a CountryLink coach road service has been provided from Dubbo to Broken Hill. Though it provides transport along a different route, the communities along the railway line from Menindee, Ivanhoe, Condobolin

and other smaller places have a desperate need to access a regular train service.

I urge the Government to seriously consider returning the train service not on a Rolls-Royce basis but as a regular service two or three times a week between Orange and Broken Hill. Parkes would not need to be included as it is now serviced by the western line and XPT service. The reinstatement of the *Silver City Comet* will again provide a needy service to these communities. Ivanhoe, which is on the east-west line, is one of the most isolated areas in New South Wales, though it is not as far out as Tibooburra. Ivanhoe is a small community, has no sealed roads and is surrounded by rich pastoral farms that provide wealth for the country. Certainly the residents of Ivanhoe deserve a better transport service, and a train service would allow passengers and small parcels and goods to move in and out of Ivanhoe.

Condobolin residents are not happy with the coach service or its problems with bookings and hours of operation. The other available service is the *Indian Pacific*, with seats allocated by the Government for these different communities, but it runs at the most ungodly hours - it is not a practical option for many people. We should have a service to bring the communities together. The Royal Flying Doctor Service comes to Ivanhoe, takes people to Broken Hill Base Hospital for medical treatment, but when the

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people are discharged from the hospital they have to make their own way back home to Ivanhoe. No public transport is available other than the twice-weekly *Indian Pacific*. The reinstatement of the *Silver City Comet* service would bring the communities together again.

**Mr KNOWLES** (Moorebank) [2.04]: A matter that arose from the transport estimates committee was the failure to allocate sufficient funds for the upgrading of the Heathcote Road in my electorate. The Roads and Traffic Authority has conceded publicly that Heathcote Road is a major problem for motorists and pedestrians, particularly in the sections of my electorate between its intersection with Moorebank Avenue and Deadmans Creek. In the past three years the population has increased in the area immediately surrounding that portion of Heathcote Road by 3,500 people as a result of the creation of the new suburb of Wattle Grove. Between now and the end of 1995 the total population of the Wattle Grove estate is expected to reach 5,000. Despite that growth and despite the accident statistics for Heathcote Road, the RTA simply does not acknowledge that there is a problem with traffic and motorist and pedestrian safety.

In 1993 consultants conducted a road safety audit for the RTA. The conclusion was that there was not a safety problem anywhere along Heathcote Road between Moorebank Avenue and Sutherland. Anyone who has travelled along Heathcote Road - the goat track that it is - would laugh at that conclusion. Nonetheless, that is the head-in-the-sand attitude of the Roads and Traffic Authority. I recently convened a meeting between the Roads and Traffic Authority, local council, the defence force organisations at Holsworthy, local bus companies, Wattle Grove developers, the defence housing authority, the Delfin Group and community representatives. All those organisations tried to convince the RTA that its historic position was wrong and that funds should be allocated immediately to upgrade Heathcote Road between Moorebank Avenue and, particularly, the Holsworthy railway station.

The following things are needed: traffic lights at key intersections, widening the road, sealing the gravel shoulders, ironing out some of the kinks and bends in the road, and establishing proper pedestrian access along and across the road so that children can safely get to their school on the other side and people can attend doctors and shops on the other side of the road. Sadly the RTA refuses to allocate any funds to allow any such work to take place. The RTA's approach to the problem is, "Let's have a study, let's do an analysis, let's build it into the capital works program, and let's see if we can fund it some time down the track but no earlier than five years from now". Many people in my electorate simply are not satisfied with a five-year wait to fix a problem that is many years old. The recent population growth, particularly as a result of the establishment of the Wattle Grove estate and its massive influx of residents, means that an urgent and major problem has now become critical.

As a consequence, the RTA must respond and allocate funds to ensure Heathcote Road is upgraded as a matter of urgency. It is not a matter of throwing peanuts at the problem. It is a matter of allocating substantial funds to allow significant works to be undertaken, otherwise someone will be killed before the solutions are

provided. I urge the Minister for Transport to acknowledge the Heathcote Road problems and allocate sufficient funds to ensure the road can be properly upgraded to meet current community needs and standards and to ensure the safety of the people who live in and around that area.

**Report adopted.**

#### **Estimates Committee No. 21 - Small Business and Regional Development - Report**

**Mr KNOWLES** (Moorebank) [2.08]: I urge the Minister for Small Business, and Minister for Regional Development to join with other organisations at State and Federal Government levels to support a proposal called the Moorebank Business Park, and particularly the major concept within that proposal of establishing the Moorebank training institution. There is an existing proposal to establish an innovative training and education research institution, which forms a key element of the Moorebank Business Park, running from Georges River at Liverpool to the proposed Olympic rifle range at Holsworthy. The Moorebank Business Park is a proposal arising from the economic development strategy for Liverpool prepared by Liverpool City Council. Elements of the project encompass the enhancement of the Georges River corridor and the regeneration of the Liverpool central business district. The project has been developed with extensive consultation and guidance from key industry, training and education groups, and State, Federal and local government representatives.

Recently I attended a briefing of the Federal Minister for Employment, Education and Training, the Hon. Simon Crean, on this proposal. He gave his personal endorsement to the work that had been done to date and urged us to continue with developing the proposal. The plans have received wide support from organisations such as Alcatel TCC, Philips, MM Cables, the New South Wales TAFE, the University of Western Sydney, the Greater Western Sydney Economic Development Board, the Department of Defence, the Federal Department of Housing and Regional Development, and the Department of Planning. The Department of Small Business and Regional Development is missing from that list of supporters, and that is a tragedy. The Minister is focusing on regional economic development initiatives, and is focusing, not inappropriately, on country New South Wales, but is ignoring great opportunities for economic development in urban Sydney.

The Moorebank Business Park proposal and the training institution is linked to the key components of tertiary education facilities, such as the University of Western Sydney and the south-west region of TAFE, with business organisations such as Alcatel, MM Cables, and Commonwealth departments such as the

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Department of Defence. This means that for once there is a combined effort to ensure an integrated system of training and education linked to business opportunities in a region that desperately needs such attention. I urge the Minister for Small Business, and Minister for Regional Development to join with all those organisations and support the Moorebank Business Park and the Moorebank training institution proposal.

**Report adopted.**

**Estimates Committees' reports agreed to.**

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

### **ELECTORAL DISTRICT OF CABRAMATTA**

#### **Return of Writ: Election of Reba Paige Meagher**

**Mr Speaker** informed the House that his writ issued on 19 September 1994, in accordance with section 70 of the Parliamentary Electorates and Elections Act, 1912, for the election of a member to serve in the Legislative Assembly for the electoral district of Cabramatta in the room of John Paul Newman, deceased, had been duly returned to him with a certificate endorsed thereon by the Returning Officer of the election of Reba Paige Meagher, to serve as such member.

## **MEMBER SWORN**

**Ms Meagher** took and subscribed the oath of allegiance and signed the roll.

## **MINISTRY**

**Mr FAHEY:** I wish to inform the House that the Minister for Small Business, and Minister for Regional Development is absent from the House at a ministerial conference and that any questions relating to his portfolio may be addressed to the Deputy Premier.

## **QUESTIONS WITHOUT NOTICE**

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### **HONOURABLE MEMBER FOR BLUE MOUNTAINS**

**Mr CARR:** My question is directed to the Premier. Did he say on Australian Broadcasting Corporation television last night that in dealing with the honourable member for Georges River he applied a standard of conduct appropriate for his team? Why does the Premier not apply that same standard to the honourable member for Blue Mountains? Why does the Premier continue to protect his endorsement?

**Mr FAHEY:** If the Leader of the Opposition were before the courts I would apply the standard that allows him to protest his innocence until guilt is proven at law. That is the simple fact, and I would have thought that was understood by most members of the House. I suspect that honourable members opposite are not interested in what might be correct in our system of law. Let me put it this way: anybody before a court - any member of this House or any member of the public - is obliged not to comment on matters before the court. On the other hand, in relation to matters of behaviour or standards I, as leader of the Liberal Party and as leader of the Government, am obliged to make a judgment. One cannot make a judgment on any person who is before the court; that is a matter for the court. I am obliged to make a judgment in respect of conduct, behaviour or standards in respect of any member of my team.

## **HOME INVASIONS**

**Mrs SKINNER:** My question without notice is directed to the Minister for Police, and Minister for Emergency Services. Is the Minister aware of the incidence of robberies occurring in occupied private homes? What action is the Government taking to combat these offences?

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

**Mr WEST:** I thank the honourable member for North Shore for her question.

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

**Mr WEST:** Honourable members may be aware that last night three men broke into a house at Galston.

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

**Mr WEST:** They terrorised the occupants - a man, his wife and their two daughters. They bashed them, robbed them and then raped the mother. After early morning talks today with the Commissioner of Police I am now in a position to announce that a special task force within the New South Wales Police Service will be established to wipe out this insidious type of crime.

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

**Mr WEST:** Experts inform me that this is very much a copy-cat type of crime. In the past few months there have been some disgusting attacks on people's personal freedom. Last night's attack at Galston and another at Cabramatta in which a 14-year-old boy was stabbed have taken them to a new low. I believe it is unfortunate that the Leader of the Opposition has tried to make political capital out of these types of attacks.

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

**Mr WEST:** Every time one of these crimes has been reported the Leader of the Opposition has been out in the media slamming the Government and making claims about how he would solve the issue.

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

**Mr WEST:** He has told lie after lie.

**Mr SPEAKER:** Order! On both the previous sitting days I warned members about the unacceptable level of interjection in the Chamber. If honourable members ignore my warnings and continue to interject, I will take more stringent action to curb any transgressions. The Minister for Police is the only member with the call.

**Mr WEST:** The Leader of the Opposition has told lie after lie. He has claimed time and time again that he would introduce a 20-year gaol term for home invaders. Time and time again I have told the media that there is already a 20-year gaol term for these crimes.

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

**Mr WEST:** The Leader of the Opposition has talked up home invasions. He has little regard for the victims; he has been interested only in headlines. I am not saying that last night's attack and rape were caused by the Leader of the Opposition. However, I am saying that his grandstanding has not helped the matter.

**Mr SPEAKER:** Order! I call the honourable member for Ashfield to order. I call the Leader of the Opposition to order.

**Mr WEST:** The home invasion task force will be headed by Detective Inspector Tom Sharp. He will also have the backing of the entire Police Service, in exactly the same way that Task Force Air was supported during the Belanglo backpacker murder investigation. This means that Task Force Inglis will have at its disposal all the resources of the State intelligence group for the analysis of information, the joint technical services group for surveillance operations, the State protection group for special operations, as well as other specialised police groups such as the air wing. It also means that the cost of investigation will be borne directly by the central police budget and will not come from funds allocated to patrols.

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

**Mr WEST:** The operation being funded from the central budget will mean that local policing will not be obstructed. The establishment of a statewide task force will enable that group of specialised and experienced

investigators to trap the culprits no matter where in the State they may offend. It will be a powerful, well-planned and well-resourced operation with one focus: to protect people in their homes and bring these cowards to justice. Task Force Inglis will have all the powers and resources of Task Force Air. As well as establishing the task force today, I appeal to every member of the community to assist police in the fight against home invaders. Let me explain to the House how police define home invasions: robberies in which one or more persons enter a home which is occupied, or take an occupant into a home, and use arms or the threat to use arms to commit or attempt to commit a robbery. In effect, what have become known in the media as "home invasions" in fact are a variant of armed robbery, an offence which is adequately prescribed in current legislation. The maximum penalty is 20 years gaol, and I want to see the maximum penalty handed out as a matter of course.

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

**Mr WEST:** People must be safe in their own homes. An analysis of home invasions indicates that all home invasions involve the possession of some form of weapon by the offenders, about 40 per cent of all home invasions involve actual physical violence, less than 10 per cent involve some form of sexual assault, and up to 80 per cent are committed at night.

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

**Mr WEST:** Up to 10 per cent of home invasions result in property or cash in excess of \$5,000 being realised, and while the great majority of the offences occur in the metropolitan area, nonetheless there are a number occurring in country areas. From our studies of these crimes we know that up to 50 per cent of all offenders cannot be described in any detail. Of the remainder, 26 per cent are caucasian and 10 per cent are Asian. The Government has shown time and time again that it is committed to taking all possible steps to stamp out crime in New South Wales. Our achievements in improving the criminal justice system speak for themselves. Of particular concern to the Government and all members in the House have been the crimes occurring in people's homes. I believe all people in this State have the right to feel safe in their homes and therefore I recently asked the Attorney General to review the laws relating to burglary. The sections presently in the Crimes Act 1900 with respect to burglary offences deal with the offence of a simple burglary and the offence of burglary while armed or accompanied by another person.

Presently the burglary laws deal with all of the circumstances which have been a feature of recent burglary offences. The present offences require rationalisation with respect to the available maximum penalties. The Government proposes to rewrite the offences dealing with the crime of burglary so that both the existing and the new aggravating circumstances are taken into account and a greater consistency is introduced with respect to maximum penalties for the basic offence of burglary and that offence in the presence of aggravating circumstances. The Government will legislate for an offence of burglary to carry a maximum term of 14 years imprisonment. Where that offence is committed in the following aggravating circumstances the maximum penalty shall be 20 years.

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

**Mr WEST:** The aggravating circumstances are: being armed with an offensive weapon; being accompanied by another person; using corporal violence on any person, including the deprivation of a person's liberty; and inflicting actual bodily harm. Furthermore, where the offence is committed in the following aggravating circumstances the maximum penalty shall be 25 years: any wounding or infliction of serious injury; or possession of a firearm or prohibited weapon. People who commit a murder during a burglary will of course still be liable to a maximum penalty of life imprisonment. Under this Government life imprisonment means just that - life in gaol.

## HONOURABLE MEMBER FOR BLUE MOUNTAINS

**Dr REFSHAUGE:** My question is directed to the Premier. Is the Premier aware of allegations that the honourable member for Blue Mountains asked an associate to accompany him to the home of a Blue Mountains councillor, where he planned to fire shots over the councillor's home? Is this standard of conduct appropriate for somebody on the Premier's team?

**Mr FAHEY:** As I have indicated on a number of occasions, matters that are for police investigation ought to be given to the police for investigation. That is very clearly where such matters should be placed.

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

**Mr FAHEY:** I would hope that if the Deputy Leader of the Opposition has information that may not be in the possession of the police he will be a little more cooperative in giving that information to the police than the honourable member for Campbelltown was when 130 questions were given to the police which are still to be answered.

## UNIVERSITY OF WESTERN SYDNEY TRANSPORT FACILITIES

**Dr KERNOHAN:** My question without notice is addressed to the Minister for Transport. What action is the Government taking to provide safe and reliable transport for students at the University of Western Sydney?

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

**Mr BAIRD:** I thank the honourable member for Camden for her question and her obvious interest in issues affecting the people of Sydney's west. The question gives me a chance to contrast her interest and activity in this regard with that of honourable members opposite. The Leader of the Opposition was at the University of Western Sydney recently, as was well documented in the *Bankstown-Canterbury Torch*, which has a photograph of the Leader of the Opposition at the front of the hall in front of a lot of empty chairs and a few students placed at the back. The headline states "Carr was 'disappointing'." Well, we all know that.

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

**Mr BAIRD:** Why did they get 21 per cent? Because he was up at Byron Bay, that is why.

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

**Mr BAIRD:** The article states:

... the NSW Labor leader spoke for about half an hour on various issues including regionalisation, crime and the law and order policy, health, transport and education.

Mr Craig Chung, the executive officer of the students' association, found Mr Carr "short on facts and a little disappointing". We all know he is disappointing. Mr Chung also said, "I would have expected him to be a little better prepared". Mr Chung also said, "Some of these students have a fairly deep understanding of these issues and work in those areas". That is how the *Bankstown-Canterbury Torch* reported the visit by the Leader of the Opposition to the University of Western Sydney. I am sure there is no demand for a repeat performance. *Turandot* will have no comparison. Recently, the Chief Secretary and I visited the University of Western Sydney, where we were very warmly received and strong interest was shown -

**Mr Knight:** Organised by the Liberal Party.

**Mr BAIRD:** No, absolutely not. A lot of students were there. All the academics were there and gave us a great response. I announced that the Government will build a new railway station costing \$4.5 million between Kingswood and Werrington. This will be a great asset to the students who use the University of Western Sydney.

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

**Mr BAIRD:** Our reception and the response of the students was overwhelming. There was no write-up in the paper about how disappointing our visit was, as the Chief Secretary would testify.

**Mr Moss:** There was no write-up at all.

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

**Mr BAIRD:** There was a write-up, in fact. We expect that work will begin on the station early next year and it will be operating before mid-1996. In other words this Government is taking real action, but we do not intend to stop there. I am able to announce today that my department has ordered a major study to determine the transport needs for the University of Western Sydney.

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

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**Mr BAIRD:** This new station will cover the Werrington and Kingswood campuses of the university, the Werrington TAFE college and Nepean Hospital. A study team will be asked to identify the strengths and weaknesses of the existing transport network and the transport needs of the people who live, work and study in the Kingswood and Werrington areas.

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

**Mr BAIRD:** The Government will be able to develop a transport strategy which addresses the needs of students, staff and visitors. Some of the issues already identified by the study team include the difficulty some students face in travelling between the university campuses. The Government will attempt to rectify this issue. In other words the Government is looking at the issues that affect the University of Western Sydney and the students who use it - and the numbers are up to 10,500 already and rising.

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

**Mr BAIRD:** The Government is building a new railway station and has identified the transport study. Members of this Government's team will have a great reception on future visits to the university. The headlines referring to the Leader of the Opposition will continue to say, "Carr was disappointing".

#### **HONOURABLE MEMBER FOR BLUE MOUNTAINS**

**Mr WHELAN:** My question without notice is directed to the Premier, and Minister for Economic Development. Are you aware of allegations that the honourable member for Blue Mountains sabotaged a farm that he wanted to purchase by trespassing on the property at night, emptying dams and leaving gates open so that livestock would escape?

**Mr Humpherson:** On a point of order: Mr Speaker -

**Mr SPEAKER:** Order! I call the honourable member for Broken Hill to order. I ask all honourable members to remain silent. As I cannot hear what the honourable member for Davidson is saying, I cannot rule



on the point of order. The member will be heard in silence.

**Mr Humpherson:** There have been many former rulings in this House in relation to providing information in questions, including -

**Mr SPEAKER:** Order! I have already warned honourable members that I wish to hear the question in silence. The behaviour of members today has been particularly disruptive. The Chair has no wish to prevent any member from participating in the proceedings of the House, but it has a responsibility to maintain order. I warn members that the penalty for indulging in deliberately disruptive behaviour may be more severe than a simple call to order.

**Mr Humpherson:** There have been many rulings in this place about providing information in questions. The words "Are you aware" immediately preceding a question are tantamount to giving information. Following that there was substantial information provided by the member in asking his question. Therefore in accordance with many previous rulings I ask you to rule the question out of order.

**Mr Carr:** On the point of order: if one analyses the question and attempts to measure the information, there is no more than a cursory mention in the question to acts that might be described as home invasion, trespassing on a property at night, emptying dams, leaving gates open -

**Mr SPEAKER:** Order! The Leader of the Opposition will come to his point of order, of which I am still unaware.

**Mr Carr:** My contribution to the point of order is that there is no more, sir, than the ordinary, customary, passing reference to items of information in the question. I believe that the question can only be ruled in order for that reason. It would be hard to strip the question of those references and maintain its relevance. The information referred to is specifically -

**Mr SPEAKER:** Order! I may be able to resolve the matter quickly if I could be given a copy of the text of the question. The question is prefaced by the words, "Are you aware of allegations", and then proceeds to give information. Members would be aware that the giving of information in questions is outside the precedents of this Parliament. I draw attention to the ruling of Speaker Kelly in *Parliamentary Debates* 1976-78, page 2420, which states that prefacing questions with the words "are you aware" is tantamount to giving information. I therefore rule the question out of order.

## **DROUGHT RELIEF**

**Mr FRASER:** My question without notice is addressed to the Minister for Agriculture and Fisheries, and Minister for Mines. Can the Minister inform the House if he has any information on the state of water supplies for farmers in drought-affected areas in New South Wales?

**Mr CAUSLEY:** I thank the honourable member for Coffs Harbour for his question concerning an area that is suffering very severely at present from the effects of drought, as are many areas of the State. I made a statement a fortnight ago that I would be doing a survey of rural properties across New South Wales as to the availability of grain, fodder and water, to see what the effects would be if we had no further rain in the next few weeks. This morning I was presented with that report and a survey of 3,150 property owners across the State. The results are rather disturbing. In fact, seven rural lands protection boards across the State will be out of drinking water within two months. We all know that drinking water is an important part of life. There is no doubt that some people are existing from day to day, trying to get potable water for their own needs.

This Government has previously said that it would ensure people received necessary supplies of water for

their own immediate needs. But these properties will have no water for stock, so it is a serious situation and, undoubtedly, will cause us a great deal of pain in the next few weeks. At present the indications are that about 10 per cent or 11 per cent of the stock numbers in New South Wales have been culled. If the rain does not come within the next few weeks we expect another 11 million sheep to be put down. This will have serious repercussions for the future. If we get down to below a quarter of the breeding flocks and herds in New South Wales we will be placed in a serious position in the future. It will probably take eight years to recover those numbers. I do not have to go through the details to establish what effect that will have on Australia's balance of trade and what effect that will have on rural and city communities. In the short term the price of beef should not go up because the price in the saleyards is down as people are trying to off-load their stock. Undoubtedly the cost of other foodstuffs will rise.

The shortage of wheat will affect industry, particularly intensive industry. One of the biggest poultry producers in New South Wales will have to close down within three weeks if we cannot do something about the shortage of wheat in New South Wales. The Federal Government is keen to tell us about how the free market that it has developed will work. But the problem is that there is no such thing as a free market in this instance. The price of wheat has now risen to \$275 a tonne, which means that farmers cannot afford to buy it. We cannot import supplies of grain for quarantine reasons, so we can provide no plateau in the market by importing alternative grains. The price of wheat is rising dramatically; this week it rose by about \$30 a tonne. That is having a serious effect on our industries.

Tomorrow I will be attending an ARMCANZ conference in Adelaide. For the benefit of the honourable member for Port Stephens, ARMCANZ is the Agricultural and Resource Management Council of Australia and New Zealand. At that conference I will raise some concerns with the Federal Minister for Primary Industries and Energy. This morning I heard the honourable member for Port Stephens expressing concern about the drought in New South Wales. The honourable member for Port Stephens should talk to the Federal Minister, Senator Collins, because that is where some of the responsibility lies. He has already been caught out, as he does not know his portfolio, and he has indicated to people that they are eligible -

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

**Mr CAUSLEY:** We must look carefully at the support coming from the Federal Government. Last week the Federal member for Page said that the Federal Government would address this issue on a case-by-case basis. Nothing has happened. In 1992 the Federal Government agreed to put in place taxation incentives in these sorts of instances. Nothing has happened. There is no doubt in my mind that some serious steps have to be taken. The Federal Government has to bite the bullet and acquire the Australian wheat crop. Five million tonnes of wheat from Western Australia is being sold overseas, yet we are talking about importing grain. The Federal Government has to understand that this is a state of emergency. We have to acquire the Australian wheat crop in order to ensure that we can feed the flocks and herds of this nation. If that means that there has to be some subsidisation, so be it.

**Mr SPEAKER:** Order! There is too much audible conversation in the Chamber. I call the honourable member for Newcastle to order.

**Mr CAUSLEY:** The price of wheat has to come down to around \$230 a tonne if these industries are to exist. The honourable member for Port Stephens, who is shaking his head, wants to close down the poultry industry, the pig industry -

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

**Mr CAUSLEY:** The honourable member for Port Stephens blindly supports the Federal Minister for Primary Industries and Energy. The Federal Government has not come to grips with this problem. I would not even bother referring this matter to the Leader of the Opposition because he has been across the mountains only once. He held a press conference at Dubbo and then went to Bourke and got lost. That was the last time he

visited that area. He does not understand the problems being faced by rural industries in New South Wales and nor do members of the Federal Government.

**Mr Knight:** Ten minutes.

**Mr CAUSLEY:** I could continue for a lot longer. It is about time that Opposition members were told what is happening, where their money comes from and where their breakfast cereal comes from. I do not think they have any idea where their cereal comes from.

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

**Mr CAUSLEY:** Some serious decisions must be taken at the ARMCANZ conference. In the short term we have about three weeks in which to make decisions to ensure that we protect the flocks and herds of this nation - a vital factor in every recovery. In the long term we have to establish what incentives should be put in place to ensure that the national drought strategy works. Those incentives have to be spelt out now. There is no good in the Federal Government saying, "We will hold another inquiry". Incentives must be put in place by the end of the parliamentary term next year.

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

**Mr CAUSLEY:** It is reasonable to suggest that they should be put in place by that time. On behalf of New South Wales, I will put that view forward to ensure that there is a reasonable response to a national crisis.

#### **AUTO CYCLE UNION OF NEW SOUTH WALES**

**Mr FACE:** Did the Minister for Sport, Recreation and Racing tell the estimates committee on 20 October that the Government "does not have an exposure so far as the running of the grand prix is concerned"? Is the promoter of the event, the Auto Cycle Union of New South Wales, now facing bankruptcy? Will the Minister categorically rule out any further expenditure of taxpayers' funds on this event?

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

**Mr DOWNY:** I have been waiting for this question for some time.

**Mr SPEAKER:** Order! I call the honourable member for Rockdale to order. I call the honourable member for Granville to order.

**Mr DOWNY:** We all know the attitude of the Opposition members to Eastern Creek and to the Australian Motor Cycle Grand Prix. Except for a couple of members who have some interest in this, the rest of them have no interest in one of this country's best sporting events.

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

**Mr DOWNY:** The honourable member for Charlestown asked me about the Government's exposure to the Australian Motor Cycle Grand Prix. The Auto Cycle Union of New South Wales is contracted by this Government as the manager of that event. Opposition members often get it confused; the Government is the promoter. The Auto Cycle Union has the contract to manage the event. That is the way it is. The Auto Cycle Union has faced financial problems in recent times. I understand that a general meeting of the Auto Cycle Union will be held on 10 November. I state categorically that, as far as the Auto Cycle Union is concerned, the Government will not be offering it any financial assistance as it is a private company. Under the contract that the Government has with that union, the union takes the financial risk. The Australian Motor Cycle Grand Prix

will continue to run successfully. It was a success again this year. Crowd numbers were up by approximately 20 per cent. A great deal of interest is shown in the event. I am positive that next year the event will be even better than it was this year.

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

### **LUNA PARK ROLLER-COASTER**

**Ms ALLAN:** My question without notice is directed to the Premier, and Minister for Economic Development. Did the Chairman of the Luna Park Trust say last year that the Government was "not spending public money on buying big dippers"? Has the Government paid \$6.5 million - on top of the \$25 million already allocated to Luna Park - for a roller-coaster? If so, what is the potential financial risk to taxpayers?

**Mr FAHEY:** The Minister for Land and Water Conservation would have been delighted to receive that question. He was on the radio this morning talking about this very issue. If the honourable member for Blacktown really wanted an answer to her question, she would have addressed it to the Minister for Land and Water Conservation.

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

### **OPPOSITION SPORT POLICY**

**Mr PETCH:** Can the Minister for Sport, Recreation and Racing advise the House of the impact Labor's policy of devolving the Department of Sport, Recreation and Racing to local government would have on sport in New South Wales?

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

**Mr DOWNY:** I thank the honourable member for Gladesville for his question, which raises serious implications for the way in which the Government assists sport in New South Wales. I was amazed, as many people in the sporting community were, to hear the post-speech comments of the honourable member for Drummoyne to journalists at this week's local government conference at Leura. Obviously the clear mountain air of Leura had an effect on his thinking.

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

**Mr DOWNY:** It is clear that the honourable member for Drummoyne has absolutely no idea about sport in this State - nor does his leader. We all know what happened to the honourable member for Drummoyne. He was the shadow spokesperson for the Olympic Games, but he was demoted. He has since forgotten what sport is all about.

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

**Mr DOWNY:** The Government has made a record \$94 million commitment to sport and recreation in New South Wales. The honourable member for Drummoyne is saying, "Let's dismantle the system; let's start all over again."

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

**Mr DOWNY:** I respond to that suggestion with the oft-quoted line used by the great Jack Gibson and other football coaches, "If it ain't broke, don't fix it". I am advised that devolving my department's

sport all over New South Wales.

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

**Mr DOWNY:** Therefore, any meaningful, coordinated and focused contribution New South Wales could have made to the national goal of finishing in the top five at the Sydney 2000 Olympic Games would just evaporate. We would have no chance at all. Under the John Murray scheme - it is called the John Murray scheme because we do not want to offend the honourable member for Barwon - the bureaucratic nightmare that would ensue if specialised services were duplicated would be incredible.

**Mr Langton:** On a point of order: this Minister and other Ministers, today and in other sessions of question time, have continually flouted the ruling that all members be referred to by their electorate name. The Minister is doing this deliberately. I ask that you direct the Minister to address members by the name of their electorates.

**Mr SPEAKER:** Order! It ill behoves any member to cast aspersions on another member, although I doubt there is a member who has not done so during debate in this House. Standing orders clearly provide that members should be referred to by the name of their electorate, as there are no two electorates that bear the same name. I call the honourable member for Burrinjuck to order for the second time.

**Mr DOWNY:** Under the Labor Party scheme a bureaucratic nightmare would ensue with specialised services being duplicated. That would be incredible.

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

**Mr DOWNY:** Labor has lost the plot with respect to sport. New South Wales would become the laughing-stock of the country if we followed the Labor Party proposal. Does the honourable member for Drummoyne really think that a local council -

**Dr Refshauge:** On a point of order: Mr Speaker, I refer you to *Decisions from the Chair*, page 91, which states, "It is not proper for a Minister to so develop his answer to a question in such a way as to debate the matter raised". The Minister for Sport, Recreation and Racing is obviously debating the matter which was raised.

**Mr SPEAKER:** Order! If I accepted the point of order raised by the Deputy Leader of the Opposition, question time would be seriously curtailed in the future. There is no point of order.

**Mr DOWNY:** I repeat: does the honourable member for Drummoyne really think that a local council would have the financial means, or, for that matter, the technical expertise, to assist the career of a Melinda Gainsford or an Elli Overton? My department maintains the New South Wales Academy of Sport, which acts as a repository for a whole range of coaching expertise and facilities. It, in turn, is fed by six regional academies that are privately run but assisted financially and in other ways by my department.

**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order. I call the honourable member for Auburn to order.

**Mr DOWNY:** Last year Coopers and Lybrand conducted an assessment of elite sport development in New South Wales. It identified the creation of a New South Wales institute of sport. Is the honourable member for Drummoyne suggesting that we should not have an institute of sport in New South Wales? By introducing an institute of sport, our champions will not have to uproot themselves from their families and friends and move to Canberra or to any of the other interstate facilities run by the Australian Institute of Sport or other State institutes. The efforts of the athletes will be totally focused on their immediate sporting future, with their educational and post-competition requirements addressed by a facility with close top-level New South Wales business ties.

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

**Mr DOWNY:** Obviously, the news that Sydney is hosting the Olympic Games in six years time may have passed by the honourable member for Drummoyne. Then again, as he is no longer the Opposition spokesperson for the Olympics, he may have closed his ears to that fact. For his information, the Department of Sport, Recreation and Racing is, or will be, responsible for a whole range of facilities, such as the International Athletics Centre and the International Aquatic Centre. He is asking for local government to run these facilities. With all due respect to Auburn Council, and to the honourable member for Auburn, I am not too sure whether that council would have the capacity to run the State Sports Centre, the International Athletics Centre or the International Aquatic Centre. We are talking about facilities that are worth hundreds of millions of dollars; we are talking about facilities that will require a high level of technical expertise to maintain and manage. Let us leave that management to the people who know best and who have a proven record.

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

**Mr DOWNY:** There are 12 sport and recreation centres across New South Wales. Is the honourable member suggesting that local government should run those centres?

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

**Mr DOWNY:** If a local council happens to have one of these million dollar centres within its boundary, presumably under Labor the local council would run it. That is all well and good until we

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realise that my department subsidises these centres very substantially from an operating budget of more than \$12 million to ensure that they are affordable and within the reach of everyone in the community. Labor is no longer committed to a philosophy of providing sport for all.

**Mr SPEAKER:** Order! I call the Chief Secretary to order.

**Mr DOWNY:** The disadvantaged and community groups with special needs would simply fall by the wayside. We must also remember the racing industry, which is the third largest industry in this State. It employs up to 50,000 people on a full-time or part-time basis. Where does it fit into the picture? Last year the honourable member for Charlestown, the shadow minister for sport, was quoted as saying that if Labor got into power it would take away the functions of the stewards and the AJC would no longer have the stewards, who would be employed by the Department of Sport, Recreation and Racing. There would not be such a department under the Labor Party.

**Mr SPEAKER:** Order! I call the Minister for Industrial Relations and Employment to order.

**Mr DOWNY:** The Labor Party has an agenda for racing. It still has a policy of introducing a racing commission. While the honourable member for Charlestown might deny that at times, it is obvious what Labor will do. If Labor gets into power, we will have a racing commission. I know that that is a big no-no in the racing industry. We also have a multiplicity of schemes, such as sports scholarships, talented athletes scheme, grants for sporting facilities, et cetera. The honourable member for Drummoyne wants to devolve all that to local government.

What the honourable member for Drummoyne has probably forgotten is that it was his own party that formed the Department of Sport, Recreation and Racing back in 1976. He is now saying, "Forget all that. Let us go and reinvent the wheel and start all over again". I am interested to hear what the honourable member for Charlestown has to say about all this. He is obviously embarrassed and is squirming over there in his seat. I know for a fact that last night at a shadow cabinet meeting the honourable member for Charlestown tried to overturn this on-the-run policy that was created by the honourable member for Drummoyne. But, guess what

happened? It was not overturned. The Labor Party endorsed the scheme of the honourable member for Drummoyne and it is now part of the Opposition's policy. If by some misfortune the Labor Party is in office next year - but we all know that will not happen -

**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order for the second time. I call the honourable member for Keira to order. I call the honourable member for Smithfield to order for the third time.

**Mr DOWNY:** The honourable member for Drummoyne is probably aware of that well-known sporting commentator, H. G. Nelson. I am sure H. G. Nelson would say to the honourable member for Drummoyne, "Go into a room full of mirrors and have a good look at yourself, sport".

**Mr SPEAKER:** Order! I call the honourable member for The Entrance to order.

**Mr DOWNY:** Honourable members on this side of the House are going to tell the people of New South Wales exactly what the Opposition's policy is. I can tell the honourable member that approximately three million people in New South Wales have some association with sport and they are not going to be very impressed when the members on this side of the Chamber go out into the community and tell them all about the Opposition's policy. It is an anti-sport policy, a policy that will see the disintegration of a \$94 million budget - a record budget for sport in New South Wales. Government members will have great pleasure telling the people of New South Wales exactly what the Opposition's policy is.

#### **HONOURABLE MEMBER FOR GEORGES RIVER SEXUAL HARASSMENT INQUIRY REPORT**

**Mr J. J. AQUILINA:** My question is addressed to the Premier, and Minister for Economic Development. Did the honourable member for Georges River say in this House on Tuesday that Carmel Niland is a "close personal friend of the Premier's"? Why then did the Premier include a term of reference in the Niland inquiry for her to investigate the appropriateness of his own actions?

**Mr FAHEY:** I would simply refer the honourable member to the report, to the chapter that relates to the actions taken by me. Most sensible people, and that does not include the honourable member for Riverstone, will draw a sensible conclusion.

#### **HEALTH WEEK ACTIVITIES**

**Mr BLACKMORE:** Can the Minister for Health inform the House of events included in this year's Health Week? Can he explain the aims of Health Week?

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

**Mr PHILLIPS:** The honourable member's question is timely. I am sure he is very keen to see the activities of his own health service in Maitland during Health Week, which is aimed at improving the knowledge of the community about health issues in this State. In New South Wales this year, Health Week will run from Friday, 28 October, to Sunday, 6 November. The major events include a focus on how to accident-proof one's house in an attempt to reduce household injuries.

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**Mr SPEAKER:** Order! There is far too much audible conversation in the Chamber. If members wish to converse, they should do so outside the Chamber.

**Mr PHILLIPS:** The events include alerting people to the risks associated with driving while taking

prescription drugs; the launch of an information phone line for parents on child issues; hospital open days, to encourage members of the community to visit their local hospitals -

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

**Mr PHILLIPS:** - to see at first-hand the changes that are taking place in the medical industry, and to meet their local health care workers.

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

**Mr PHILLIPS:** There will be a range of nutritional exercises, such as apple giveaways, health tests, seminars on looking after children, and much more.

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

**Mr PHILLIPS:** Honourable members opposite scoff about the changes of direction that are occurring in health. They scoff and they laugh because the Opposition's judgment of the health system is still steeped in the 1950s.

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

*[Interruption]*

**Mr SPEAKER:** Order! I have now an impressive list of 35 members who have been called to order during question time - not a particularly illuminating statistic for the Parliament. I warn all honourable members who have been called to order from one to three times that they are now deemed to be on three calls to order. If any member reoffends, that member will leave the Chamber for the rest of the day.

**Mr PHILLIPS:** Health Week was introduced in 1993. It was a great success and provided information to the community about how health services are changing and about the challenges that confront people in maintaining good health. The aims of Health Week are quite simple -

**Mr SPEAKER:** Order! My stricture applies also to undue conversation in the Chamber.

**Mr PHILLIPS:** The aims of Health Week are quite simple. The aim is to inform people about where they can obtain health services under the Government's new network of hospitals and new network of health services. As honourable members well know, over the past six years this Government has built a new network of health services: 33 major hospital redevelopments at a cost of more than \$2 billion, compared with only five hospitals built in the 12-year term of the previous government. That new network has provided a change in the way in which services are being delivered, and people need to be informed about where to get those services. The network has changed. People need to know what the new services are and where they are located. For example, honourable members know the pressures that Westmead Hospital accident and emergency service has been under for some time. There were no plans under the administration of the previous government to provide expanded health services for the people of the greater west.

A magnificent new accident and emergency centre has been opened at Concord hospital. Unfortunately, it is underutilised. At Nepean Hospital at Penrith there is a brand new accident and emergency service which is also underutilised. People need to know that there is now a greater range of locations at which they can obtain health services and they should change their patterns in order to get health care much closer to home than was possible in the past. That is just one example of how health services are changing. New or refurbished hospitals have sprung up at Wyong, Gosford, Liverpool, Westmead, Randwick, St George, Lismore, Albury, Moruya, and Batemans Bay. The list goes on and on, and it includes, of course, a hospital right next door to



Parliament House - Sydney Hospital. Honourable members will have seen the magnificent new facility being built there. It is vital that people know what services are available at their hospitals and community health centres; and they must know how and when to access them.

There is also a comprehensive range of new services, including community health centres, early childhood centres, breast cancer screening and assessment centres, and ambulance stations. The network comprises a whole range of health services not directly associated with hospitals. There is a simple reason why these services are necessary. In the past, people living in Sydney's greater west, in the southern suburbs of Sydney, on the central coast and in rural New South Wales had to travel extremely long distances for even the most simple of treatments. Now there is a new network coming into place, which will provide improved services closer to home. The previous Labor Government ignored the health needs of the people of the greater west of Sydney and in other areas. It did not even plan for additional services, as I have reiterated many times in this House.

The coalition Government has not ignored the needs of people living in these areas. During the next few months I will have the great pleasure of opening many of the new facilities as they come on line. For example, Nepean Hospital offers many new services, including an expanded emergency department; a linear accelerator that is planned to come on line; a cardiac wing; extra operating theatres, and much more for the

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people of the greater west. I encourage the people of the Nepean region and, indeed, everyone in the State to visit their local hospital on open day, 5 November. There is a second important reason for Health Week. As good as our new network of hospitals and services is, the Government wants to keep people out of hospitals.

The measurement of a good health system is not the maximisation of the number of sick people in the State. It is about keeping people well. To do that, we need to focus on wellness rather than illness. That is the second aim of Health Week. Events such as apple giveaways, health tests, nutrition checks, exercise sheets and seminars are all designed to encourage people to think about how they can take greater responsibility for improving their own health. At the conclusion of Health Week I am confident that the people of New South Wales will better understand where and how to access health services and how they can take a much more active role in keeping well. They will know, as the Deputy Leader of the Opposition knows, that under our health system they have stunning options.

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## HONOURABLE MEMBER FOR BLUE MOUNTAINS

### Personal Explanation

**Mr Morris:** I seek leave to make a personal explanation.

**Leave granted.**

**Mr Morris:** I wish to make a personal explanation into matters reflecting on my character that have been raised in this House in recent days. Yesterday a question was asked by the honourable member for Campbelltown regarding police investigations of certain allegations made against me by a witness. I most strenuously deny the allegations made by that witness. If the honourable member for Campbelltown had made basic inquiries through the proper channels he would have been informed that the police have investigated the allegations and did not find any evidence to substantiate them, or the claim. Further, I understand that I have been cleared by the police of having any connection with the bombing of the Blue Mountains City Council chambers. Mr Carr! Next I want to explain the facts relating to a separate snide attack by the Opposition, when it sought to smear me with allegations relating to an airstrip on a property I formerly owned. It was somehow suggested that I did not have the necessary approvals for that airstrip. As usual, the Opposition failed to check its facts before coming into the House to attack me. In explanation I want to make two things clear to

the House. Firstly, the airstrip was already on the property when it was purchased by my late father many years ago in 1954 or 1955. Any suggestion that the airstrip was built by me is rubbish. Secondly, I no longer own the property; it was sold some time ago. The Opposition is accusing me of breaking the law over an airstrip that I did not build and did not own.

The facts are that before 1969 it was not necessary to lodge a development application in the Lithgow council area for an airstrip. The council had a policy under which it did not require approval for an airstrip that was ancillary to farming use. In this case the council approved construction of a hangar for the owner of an adjacent property who occasionally used the airstrip. The county council indicated to the owner, a Mr Dalglish, that the construction of the airstrip was approved subject to it being used for industrial or commercial purposes. In other words, the council knew about the airstrip, and had no objection to it so long as it was used for rural purposes. Once again the Opposition has failed to check out the facts and has again used the Parliament to make false claims. I want to make it clear that I remain confident of clearing my name in respect to charges the police have laid against me. All I ask is that I be given a fair go by those on the other side of the House.

## **INDEPENDENT COMMISSION AGAINST CORRUPTION**

### **Investigation of Allegations of Corruption Concerning Police and Paedophile Activity**

**Mr SPEAKER:** Order! I report the receipt of a communication, which has been sent to me as the Presiding Officer of this Chamber and which I believe should be brought to the attention of the House. The letter is from the Independent Commission Against Corruption and the Royal Commission into the New South Wales Police Service. It was addressed to the Premier, my fellow Presiding Officer in another place and myself. The letter reads:

Dear Premier and Gentlemen,

We write to inform you of arrangements made between the Independent Commission Against Corruption and the Royal Commission into the NSW Police Service concerning the future investigation of allegations of corruption concerning police and paedophile activity. We are pleased to advise that we have reached agreement as to the most advantageous future course to follow having regard to our overlapping responsibilities.

As you will recall on 10 March 1994 both Houses of Parliament resolved that the ICAC investigate:

- "(a) allegations that some members of the Police Service of New South Wales have by act or omission protected paedophiles from criminal investigation or prosecution, and in particular the adequacy of major investigations undertaken by the police in relation to paedophiles since 1983, however, the Commissioner may investigate any matters he deems necessary and relevant which may have occurred prior to 1983;
- (b) whether the procedures of or the relationships between the Police Service of New South Wales and other public authorities adversely affected police investigations and the prosecution, attempted or failed prosecution of paedophiles; and
- (c) the conduct of public officials related to the above matters."

Then on 16 May 1994 a Royal Commission was established including the following term of reference:

- "(d) the impartiality of the Police Service and other agencies in investigating and/or pursuing prosecutions including, but not limited to, paedophile activity."

On 30 September 1994 the ICAC furnished to Parliament an Interim Report on its reference (which within the ICAC is code named Operation Carbon). Copies were delivered to the Premier and to the Royal Commission. Discussions have since taken place

between the ICAC and the Royal Commission.

To avoid wasteful and detrimental duplication of resources, the ICAC and the Royal Commission consider it appropriate that the ICAC take primary responsibility for inquiring into the existence of any form of corrupt conduct in relation to the criminal investigation of paedophile activity, by the Police Service or public agencies, and into the procedures and relationships between those bodies concerning that subject.

Information relevant to that investigation received by the Royal Commission will be passed on to the ICAC, which in turn will keep the Royal Commission fully informed as to the progress and outcome of its investigation.

The Royal Commission will take into account the information gathered by the ICAC, together with the results of any additional inquiries it makes, so that it can report in relation to the impartiality of the Police Service, and other agencies, in investigating and pursuing prosecutions, and in relation to the remainder of its terms of reference.

It is understood that it is the prerogative of the Parliament as to the ICAC, and the Executive Government as to the Royal Commission, to override these arrangements if they are considered unacceptable. Meanwhile, it is proposed to announce these arrangements publicly so that interested persons will know which of the two bodies has the primary running of the matter. A plan for future operations has already been established within the ICAC and is now in the course of being put into effect.

Yours sincerely,

Kevin Holland QC  
The Hon. Justice J. R. T. Wood  
Acting Commissioner  
Royal Commissioner  
ICAC

20 October 1994

20 October 1994

**Motion, by leave, by Mr Whelan agreed to:**

That so much of the Standing and Sessional Orders be suspended as would allow the consideration forthwith of a motion concerning administrative arrangements shared by the Independent Commission Against Corruption and the Royal Commission into the New South Wales Police Service.

**Motion by Mr Whelan agreed to:**

That this House:

(1) Views with deep and grave concern:

(a) correspondence, dated 20th October, 1995, addressed to the Premier and the Presiding Officers from Royal Commissioner Wood and Acting Commissioner Holland of the Independent Commission Against Corruption concerning administrative arrangements agreed between themselves concerning their respective terms of reference relating to investigations into activities of paedophiles contrary to the express intention of the Parliament.

(b) that the will of both Houses of Parliament has been thwarted.

(2) Expresses its dissatisfaction with the Commissioners' intention to publicly announce their proposal despite Parliament's intention and before the Parliament has expressed further opinion on the matters.

(3) Calls upon the Government to take all necessary steps to ensure that the Royal Commission into the New South Wales Police Service and the Independent Commission Against Corruption comply, in all respects, with the will of the Parliament, as expressed.

(4) Calls upon the Royal Commissioner and the Acting Commissioner to fully explain their actions, motivation and the reason they wish to depart from the expressed will of Parliament.

**Debate adjourned on motion by Mr West.**

## **PETITIONS**

### **Blue Mountains Railway Ticket Vending Machines**

Petition praying for the rejection of the plan to close the ticket offices and to install ticket vending machines at 11 Blue Mountains railway stations, received from **Mr Langton**.

### **Newcastle Rail Services**

Petition praying that the rail line between Civic railway station and Newcastle railway station not be closed, received from **Mr Mills**.

### **Marijuana Prohibition**

Petition praying that legislation be enacted to give effect to the Law Society's recommendations on reform of marijuana prohibition laws relating to the use, possession and cultivation of marijuana for personal use, received from **Mr Mills**.

### **Bass Hill Policing**

Petition praying for an increase in police patrols in the Bass Hill Neighbourhood Watch area, received from **Mr Nagle**.

### **Warilla Police Station**

Petitions praying that more police be allocated to Warilla Police Station, received from **Mr Harrison** and **Mr Rumble**.

### **Part-time TAFE Teachers**

Petition praying that the salaries and conditions of part-time TAFE teachers be improved, received from **Mr Mills**.

### **Springwood High School**

Petition praying that various improvements be made to Springwood High School, received from **Mr Morris**.

### **Forest Protection**

Petition praying for an immediate and permanent moratorium on the logging of all native old growth and wilderness forests, and for legislation to change present forest management practices, received from **Ms Moore**.

### **Shellharbour Public Hospital Children's Ward**

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

### **Bulli, Coledale and Port Kembla District Hospitals**

Petition praying that the present level of services be retained at Coledale, Bulli and Port Kembla district hospitals, received from **Mr Sullivan**.

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*[Notices of Motions]*

**Mr SPEAKER:** Order! Members wishing to converse should do so outside the Chamber. The business of the House is continuing and other members may wish to listen to it in silence.

### **BUSINESS OF THE HOUSE**

#### **Printing of Reports**

##### **Motion by Mr West agreed to:**

That the following reports be printed:

Report of the New South Wales Treasury Corporation, for the year ended 30 June 1994

Report of the Mental Health Review Tribunal for 1993

Report of the Joint Coal Board, for the year ended 30 June 1994

Report of the Totalizator Agency Board of New South Wales, for the year ended 30 June 1994

### **INDEPENDENT COMMISSION AGAINST CORRUPTION (AMENDMENT) BILL**

**Bill read a third time.**

### **REGULATION REVIEW COMMITTEE**

#### **Report**

**Mr CRUICKSHANK** (Murrumbidgee) [3.23]: I bring up and lay upon the table of the House report No. 30 of the Regulation Review Committee entitled, "Report in relation to the Committee's Inquiry into the Clean Waters Act 1970 Regulation (relating to standards for waters and testing procedures) which was published in the Government Gazette of 31 March, 1994 at page 1431 and as to the compliance with the requirements of the Subordinate Legislation Act 1989 in the making of that Regulation" dated October 1994.

**Ordered to be printed.**

### **BUSINESS OF THE HOUSE**

#### **Consideration of Urgent Motion: Suspension of Standing and Sessional Orders**

##### **Motion by Mr Hatton agreed to:**

That so much of the Standing and Sessional Orders be suspended as would allow consideration of the following motion:

(1) That this House censures the member for Georges River for:

(a) His reprehensible conduct; and

(b) In particular, his gross abuse of power and authority in persistently sexually harassing, bullying and victimising his staff.

(2) The speaking times be:

Mover, Premier and Leader of the Opposition	Unlimited
Member named	Unlimited
Any other member	15 minutes
Member named in reply	Unlimited
Mover in reply	Unlimited

(3) The motion have precedence over private members' statements at this sitting.

## **HONOURABLE MEMBER FOR GEORGES RIVER**

### **Censure**

**Mr HATTON** (South Coast) [3.24]: I move:

That this House censures the member for Georges River for:

(a) his reprehensible conduct; and

(b) in particular, his gross abuse of power and authority in persistently sexually harassing, bullying and victimising his staff.

The purpose of this motion is not to become involved in any party political controversy, and it is my wish that controversy is kept out of the debate. I have been a member of this House for 21 years. I have deep respect for the staff who work in this House: for their willingness, their excellent service, their courtesy and their commitment. It is a sad day when such a motion is moved in this House. But it is also an enlightening day when honourable members can show support for the staff in this place; when we can stand up collectively and as individuals and say that such behaviour is totally unacceptable and reprehensible. By our action today we will set the record straight and indicate to the community that the standards of behaviour displayed by the honourable member for Georges River are not acceptable. I hope that this motion is overwhelmingly carried. I know it will be carried with a large, if not total, measure of bipartisan support and thus be a watershed in the recent history of this House.

Incidents and situations of varying magnitude have occurred in this Parliament over the years. Almost all cases, except those exploited for political purposes, have been buried. I am not saying that corrective action was not taken, but it was taken behind the scenes. The victims in this matter have remained powerless. The objective of this motion is not to unnecessarily revisit salacious detail but to apologise for the fact that such terrible action can take place in a parliament building in the 1990s; that it can continue for so long; and that there is an absence of effective protocols and procedures to ensure that effective action is taken immediately to facilitate prompt reporting, investigation and action. In this Parliament we make laws to prevent discrimination, to outlaw sexual harassment, to amend abuse of power, and to safeguard the dignity of individuals in the workplace. That bullying, sexual harassment and victimisation occurred here in a Minister's office is something of which we should be ashamed. Commissioner Carmel Niland stated in her report at page xiv, Recommendations, in reference to chapter 2:

**That** Section 4 (7) of the Anti-Discrimination Act (1977) be amended to include a Member of Parliament.

At page 40 the commissioner stated:

The commissioner finds that the Ministerial Code of Conduct is silent on the standard of conduct which Ministers should follow in relation to their Private Staff.

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I also express admiration for those who showed raw courage, who stood up for their rights and who had to endure an outrageous invasion of privacy, and assaults on their person and dignity. This issue undermines the dignity of this institution and of each one of us. In this debate I will separate the fact from the process, although I know that it is proper to argue that they are inextricably linked. I have experienced isolation in past years in Parliament, and so when I saw the honourable member for Georges River sitting in the Chamber one day I went over and spoke with him. He spoke of the alleged bias, the outrageous comments of commissioner Carmel Niland, and the denial of civil liberties and natural justice. I walked away from that conversation deeply disturbed.

The Minister spoke in this House of those things and I actually said to him, "Well said". Then into the late hours of that night I read the report. I am angry; I am outraged, and I have been duded. Seldom have I been so angry. I told the member for Georges River today, "You have duded me". This man is a liar, a bully and a lecher. This man speaks of natural justice. In regard to these allegations those people who want to stand up for the process could well say, "Well, there was a denial of natural justice" - and I shall touch on that later. But is anyone in this House going to tell me that not one single incident that is detailed did not happen? Is anyone going to tell me that they would be happy for an acquaintance, daughter, son, wife or friend to be subjected to this sort of behaviour? I wish to compliment the Premier; this is not an attack on the Premier. He had a difficult job to do and it is all very well for us to comment after the event. He has shown his mettle, as have his colleagues. I hope that the Opposition, in a non-partisan way, will join with us in expressing our outrage. I quote from page 201, chapter nine of the report, referring to allegations of unlawful behaviour:

**Ms R**

When I travelled with him in his car, I always sat in the front seat so that I did not have to sit next to him. When I was alone in his office with him, I kept my distance by sitting opposite him across the desk or across the room. When the Minister was at Parliament House at night, I organised my work so that I did not have to stay back. I never offered to go on duty to mind the phones at Parliament House.

Page 213 of the report states:

**Ms G**

I arranged with Kerry Seymour-Smith and the Diary Secretary that I was only to be scheduled in his diary for signing files before lunch. I found it less stressful to be scheduled to see him before lunch, say around 10.30 a.m.; it was too stressful worrying about what his behaviour would be like in his office after he had had a few drinks at lunch time or in the afternoon, and Mrs P adopted the strategy of warning me if she thought the Minister was in what she described as a sleazy mood.

These people are powerless. Chapter 9, page 203, states:

**Ms R**

At this point in time, I regard my career in the media industry as being ended. I have worked for nearly seven years in that industry and I have loved it. Now I am in a situation where I cannot even speak to fellow journalists who I have regarded as friends without being hassled for a story or for other inside information about the Minister's resignation. I anticipate that I will be facing the situation for quite some time, even after the Inquiry has been finalised.

The former Minister speaks of natural justice. Is this natural justice? The reference to the effect on interviews and fears of victimisation appears on page 11 as follows:

They had considered prior to Mr Griffiths' resignation lodging formal complaints with the Anti-Discrimination Board. However, operating in accordance with the principles of natural justice and its investigative procedures, the Board would send their allegations to Mr Griffiths and would, by that process, reveal their names. Once their names were revealed, they feared retaliation or victimisation from Mr Griffiths. Specifically, their fears were that Mr Griffiths had a real or perceived powerful network of friends with contacts in the Police and the prison service, who would "pay back" an identified complainant at a later time.

Let me interrupt the quote and add to that. I know a member of Parliament - and I shall not name which House that person is a member of - who would not say certain things at a parliamentary committee of inquiry as a member of Parliament because that member feared that police power could be used to set him up. I am talking about a member of Parliament. These persons are employees in the Parliament, and a police minister is an exceedingly powerful figure, and one to be feared. The quote continues:

Two of the complainants feared physical retribution or personal violence. Other complainants feared that if their names were revealed they would no longer be able to procure work, others feared that their career prospects would be blocked in the public service, and others feared the loss of future career prospects in the Liberal Party.

I now quote from Ms R as follows:

**Ms R**

I was frightened that if I were to complain to anyone in authority about his excessive demands and inappropriate behaviour he would have me sacked or sent back to the police media unit. I also believe the minister could act vindictively because I have heard him say things like, "Never wound an enemy; kill an enemy" I was scared of him because I believe he had a vengeful streak.

And so it goes on. This man exploited loyalty; he exploited fear; he bullied and harassed the weak. People who work in any office of a member of Parliament are expected to be loyal. We all know that the working relationship depends on loyalty. Nowhere is the ability to keep confidences more important than in the office of the Premier, the Leader of the Opposition or a Minister. Often, but not always, these people are party people; so there is a party loyalty, a wider loyalty. These people are chosen personally, they are hired and fired personally, they work long hours in a demanding job. Their careers are judged on their loyalty and on their performance.

The Minister has enormous power over people's lives because their future depends on their job and their assessment for future employment. This enormous power used wisely and fairly, based on the exercise of sound leadership principles, is one that cultivates mutual respect and cooperation, in an

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atmosphere of dignity where it encourages self-respect. This applies not only to ministerial staff but to staff of the Leader of the Opposition. These people are vulnerable, especially if they are temporary employees. Page 266 of the report states:

The profile of the complainant(s) have similar characteristics. The complainant is typically young, single, attractive and in a clerical or administrative support role rather than a position of authority. Seven of the nine complainants were non tenured public servants on short term contracts. Complainants Ms P and Ms R also noted financial vulnerability.

It is not good enough for this coward, this bully, this hypocrite who wanted to command total loyalty, to demand absolute subjection. It is a disgrace! Never in the toughest battles in this Parliament - even under extreme provocation when Wran, for example, called me the whited sepulchre from the south coast because I was getting too close to the bone - have I used such terms, and I make no apology for that. Staff were made to feel degraded and dirty. They suffered stress and anguish, and some suffered physical symptoms from that pressure.



I think this man conned me because I felt very sorry for him. He told me of the isolation and I felt the isolation. However, he has hidden behind the weakness in the process, behind the lies. I do not believe that this man told his Premier what was happening. That is vital in this whole debate. It is all very well to say that the Premier ought to be censured on this or that. I certainly would not support that because I have enough confidence in the Premier that if it happened in any government office he would act, and act promptly and responsibly, with firmness. I believe that the Leader of the Opposition, for whom I also have great respect despite all our battles, would act decisively and do something about it. I do not believe the honourable member for Georges River told his leader the truth.

He not only exploited the loyalty of his staff; he exploited the loyalty of his Premier, his ministerial colleagues and all those backbenchers in the coalition on whom he relied, not only for loyalty but for support and, to a large extent, promotion. The process is weak and I am concerned about the unsworn evidence; the ability for the person concerned to face the accusers; the accuser not being subjected to cross-examination; the alleged biased comments of the commissioner; and the fact that there was no chance to see the draft report prior to its release and therefore no chance of rebuttal of matters in that report. I do not underplay these matters; they are serious; they cannot and must not be ignored.

Let us address the process but let us not be blinded by the process. Let us look at the report in its entirety. I ask again: can anybody who looks at the report in its entirety believe that there is nothing in it? If it only happened once to a staff member in this place that would be good enough for me. I have a friend of many years standing on the staff of Parliament House and I know what she went through some years ago when a former high official of a political party harassed her. She was powerless. I feel very strongly about the issue. The honourable member for Georges River used the weaknesses in the process in a speech which was cleverly crafted and which impressed me - until I read the report. Another thing that impressed me, having regard to my 21 years as a member of the House, was that the speech was devoid of emotion.

If John Hatton had been accused of this sort of behaviour and my wife and family had been sitting in the gallery and I felt that I had been wronged and I was thanking them for their loyalty, I could not but break down. I saw the emotion of the honourable member for Barwon when he lost his dear friend Parkie. I have seen a lot of emotion in this place over the years. There is something cold and calculating in this man, the former Minister, something that is frightening. I say that from the heart. Twenty-eight women were interviewed; nine came forward. Did they all lie about dozens of incidents? Did they all make them up? Were all the numbers of statements wrong? And where was the chief of staff, Mr Bruce Kelly, and Mrs Seymour-Smith when the staff needed them? There was no effective support, no effective action, no report to the Premier. There were months of anguish, anxiety, stress and suffering. Pages 106 and 107 of the report deal with the role of Mr Kelly and Mrs Seymour-Smith. The commissioner said:

Some of those concerns were raised with the Minister by Mr Kelly and at least one other member of staff. These concerns were about imprudent use of alcohol belittling and intimidating behaviour of staff, unreasonable work demands and hugging and kissing of staff in public.

This is what astounds me. This is 1994. One would think we were back in the 1700s and 1800s and the former Minister was the lord of the manor. He felt it was his right to cuddle people, to invade their personal space, to turn them around and kiss them on the lips. He admits to this sort of cuddling behaviour. What are we talking about here? He admits to having too many drinks. There are people in this place who have too many drinks. But put that together in the dangerous circumstance with the locked door of a ministerial office and we have big problems which cannot be ignored. The quote goes on:

The Commissioner is satisfied that Mrs Seymour-Smith first received the concerns of Ms P in January 1993 and failed to act on them in that there was no appropriate action taken by her to stop the behaviour of Mr Griffiths. She used no formal channels to advise Mr Griffiths of Ms P's concerns. Later Ms G and Ms H raised concerns about sexual behaviour with Mrs Seymour-Smith and she did not take any action to inform them of their rights or to raise their concerns with the Minister.

Mr Kelly first found out about the women's concerns in January or February 1993.

We are talking about 18 months ago. The report continues:

He did not take their concerns seriously in that he did not act on them. The Commissioner accepts that the women's concerns lacked specificity and that he did not understand the exact sexual nature of their complaints.

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This was 18 months ago and nothing had happened since then. One of the most terrifying aspects of the case is the response that the staff received: learn to cope; get used to it; think of your career. Page 97 of the report, under the heading "Processes Available for Complaint Handling", states:

The female staff interviewed were adamant that Mr Bruce Kelly knew of their concerns about the alleged sexual harassment as early as January or February, 1993, and had taken no action on them.

Three women said that they believed Mr Kelly was aware of the reasons why women would not work alone with the Minister late at night in Parliament House, and that he participated in changing the roster to meet the women's wishes. Ms H said:

"We talked about having to make sure that the Minister was not alone with any women because he used to - at Parliament House, he would always have been drinking at night, whereas in the Office he wasn't as bad . . . and you just couldn't have a female alone with him. But at Parliament House I talked with Bruce . . . we used to stand out on the balcony and devise damage controls. "What are we going to do. How are we going to stop him?" Bruce would say, "I've seen people try" . . . I mean, there is no doubt that Bruce knew about it, and I can see the difficulty of trying to change the Minister • • • I'd talk to Bruce regularly. He'd say, "Just one of those things" . . . "Nothing you can do about it" . . . "Just don't be alone with him and do not . . ."

Ms G also said:

I told Bruce that the Minister was in one of his "touchy moods" again. He said to me something like, "You'll have to get used to putting up with that sort of behaviour through your working career".

What the hell do we pay chiefs of staff for in this place? What sort of loyalty do the people who work on that staff have from their chiefs of staff? What sort of avenues and protocols do we have? Let us put aside everything else and say that things are exaggerated. What about this? On page 78 the report states:

. . . it is the Commissioner's view that there are independent indicators of organisational dysfunction, the prime indicator being the annual staff turnover rate of 74% and a gross turnover rate of 143%.

As members of Parliament we must ask: where are the triggers of concern? Does not anybody in the pay office realise what is happening if there is such a turnover of staff? Who else knows about it? Is there a code of secrecy in this place? Are there no triggers at all? It is a difficult problem. There is a tension between loyalty, trust, confidentiality, privacy and embarrassment. On the other side there is a tension with asserting one's rights to dignity, respect and appreciation. In the middle is the person who wants to exploit the situation - to bully, to take unfair advantage. He uses that tension and abuses it. It is a sensitive situation. He abuses his power. There has to be process in the House to deal with it. What can we do as a Parliament to ensure that it does not happen again? On 14 September, in response to an invitation from the commissioner, Carmel Niland, I wrote the following letter:

I apologise for the delay in responding to your letter of 8 August 1994 and enclose some suggestions about how an employee complaint process regarding Ministerial conduct might operate.

Firstly, it is important that all employees are apprised of their rights and the procedures for complaint upon assuming an appointment in a Minister's office.

A practical model for lodging a complaint might operate in the following manner:

1/ An employee should report the complaint to the Chief Executive Officer (CEO) of the Minister's office. The employee is apprised in writing of their rights and available avenues of complaint with specific reference to the complaint.

That puts an immediate obligation on the CEO to respond in writing. The letter continues:

2/ The CEO is required to immediately notify the Premier that a complaint has been lodged and detail the complaint. The employee should be given a copy of this notification.

So the Premier would know and would be in a less vulnerable position. The letter continues:

3/ CEO advises Minister of complaint [in writing].

4/ Independent Mediator is appointed to handle the process.

5/ Mediator should then conduct interviews and gather further documentation from the employee (and perhaps other office staff, although confidentiality should be respected).

6/ This process should be limited to 2 weeks.

Maybe that is too long; I do not know. The letter continues:

7/ If the employee is still dissatisfied at the end of that period, that person becomes a Protected Person under the Protected Disclosures legislation.

In other words, protected by the whistleblowers Act. The letter continued:

The primary requirement is for independent assessment and swift resolution of any complaint, while preserving the rights of both the complainant and the Minister.

I believe that it would be appropriate for the Ministerial Code of Conduct to be expanded to include a standard of behaviour for Ministers. Such a process should also include some educational material for Ministers about appropriate standards of behaviour.

I do not want that misread. I am not telling people how to behave but how to avoid having a vexatious complainant, a person who as an employee abuses his or her position because that person is unhappy and wants to take it out on the Minister. The idea of this is to establish a structure whereby serious matters are reported directly to the top - to the Premier or to the Leader of the Opposition. If either of those officers are involved, then the report is directly to the Presiding Officers of the Parliament. It has to be that the buck stops at the highest level; it is most important that the reporting reaches the highest level, more so in this place than in any other structure because the political survival of the Government, of the Leader of the Opposition, of the Minister, of the shadow minister, and of the member, depends on having these safeguards and having an effective line of communication.

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The situation will look after itself. If that reporting structure works and a very senior person in the power structure takes no action, that person deserves to be censured and perhaps the subject of a vote of no confidence if the situation is serious, as in the case of a rape or criminal offence. They are then laying their jobs on the line. Honourable members in political parties are the field troops. When explosions of this type occur they are the ones who are sacrificed. We talk about trust and loyalty; the behaviour of someone in a political party reflects on everybody else in the party, particularly on the leadership of that party. That puts other people in a potentially vulnerable position electorally. That applies to me. I have had an enormous number of supporters over the years and a loyal staff. My standard of behaviour will obviously reflect on them and their standard of

behaviour will reflect on me. It is a two-way process.

In the interests of staff, political parties, members generally and in the interests of maintaining the dignity of this Parliament protocols should be urgently developed. We need to sieve out the vexatious, malicious and frivolous complaints and those that may be driven by personal or selfish motives of gain, revenge, political spite or intent. Those types of complaint must be sieved out from the genuine and the serious. I suggest that these protocols should not be developed in isolation by members of Parliament. They should be developed in consultation with the involvement of the staff who work in this place. We should show our faith in them. They can have nominees to receive suggestions and should be given an equal status in this matter so that they can discuss the protocols. Who better knows the vulnerability? Who better knows the special conditions than the person in the workplace? That is extremely important.

A code of conduct will not prevent abuse and I have never believed that it would. Although it is only one of a raft of devices, it is an important one. I ask those who have not read the report to read it in detail; to look at the overwhelming evidence; to feel the concern and be concerned about the gross inadequacies of the process. I ask honourable members to consider redressing the weaknesses in the process, for the dignity of the individual in the Parliament, of leadership by example. I ask them to support this motion. I challenge the honourable member for Georges River to call a division on this question. If he does that, I hope he sits on his own. I believe he deserves to do so.

This will send a powerful message of support to the parliamentary staff, support to the thousands of powerless people in the workplaces in our State. This will empower them; they will feel that at the highest level of government in this State there are people who care and who are shocked and worried about events. It will send a message to the cowardly, to the bullies and to those who feel that they can hide behind locked doors, abuse power, abuse trust and exploit loyalty, threaten, harass and degrade human dignity in the workplace.

**Mr GRIFFITHS** (Georges River) [3.55]: On a previous occasion I spoke on this issue at great length. I do not believe there is anything I wish to add to that. Under the prevailing circumstances it would be inappropriate for me to comment further. Thank you.

**Mr CARR** (Maroubra - Leader of the Opposition) [3.56]: I indicate at the outset that it is the intention of the Opposition to move an amendment to the motion. The amendment will be to add the words, "Further, that this House condemns the Premier for his double standards concerning the members for Blue Mountains and Georges River". The position of the Opposition is to support the censure of the honourable member for Georges River but to seek the addition of those words. What is set out in the Niland report is an intolerable pattern of behaviour. The accounts of the women detailed at length in that report, the staff of the former Minister, sickened me as they would anyone with respect for the feelings of others. There are hundreds of pages -

**Mr SPEAKER:** Order! I interrupt the Leader of the Opposition. On my reading, the House, on 13 October, deliberated on a motion that expressed the same sentiment as that sought in the proposed amendment of the Leader of the Opposition. Though the Leader of the Opposition has indicated that it is his intention to move the amendment, he has not yet done so. Until such time as he moves or seeks to move the amendment, he should confine his comments to the leave of the motion before the House. When he formally moves the amendment and, therefore, seeks to speak to it, I will rule whether it is in order. At this time I advise the Leader of the Opposition of my concerns about the text of the amendment.

**Mr CARR:** I certainly will be moving the amendment. It is my view that it is in order. Hundreds of pages given over to the women's account of events in the former Minister's office provide a chilling depiction of the fear, humiliation and intimidation to which these women were subjected. The rages, propositions, drunkenness and unwanted embraces all amount to degradation of women who simply wanted to do their jobs, wanted to develop their careers and wanted financial security and independence. There are numerous examples in this report of the former Minister's abuse of power and office. That is what sexual harassment is all about: the exploitation of the power enjoyed by some to the disadvantage of those who have no power.

It is stretching credulity to argue that all these accounts are lies and are not to be believed, which is what the honourable member for Georges River is fundamentally arguing. When one is elected a member of Parliament and perhaps appointed as a Minister one carries the trust of one's electors. One carries the public's expectation that one will attend to duties in an appropriate manner. It is clear from the Niland report that the honourable member for Georges River not only abrogated his responsibilities and high office but abused the trust placed in him by his young employees and by the people of New South Wales. The honourable member for Georges River, in his

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response to the report on Tuesday, criticised the processes and procedures associated with the report. I have to give expression to my concern that the substance of the indictment of the honourable member could well be weakened and indeed jeopardised by the amateurism of the Premier's handling of the matter.

At the very start the Premier made an error in appointing someone who was a self-confessed personal friend to conduct this inquiry. The relevance of this is that the indictment of the member could well be weakened by the way the Premier established this inquiry, avoiding what the *Sydney Morning Herald* described at the time of the controversy as a proper inquiry. On 27 July the *Sydney Morning Herald* stated in its editorial, "Not the right Griffiths inquiry". As a result of the Premier setting up the wrong kind of inquiry, we had the response on Tuesday of the honourable member for Georges River arguing that the investigation, among other things, of the Premier's involvement in this affair, was unfair to him.

The Premier is required to justify a situation where he appoints a personal friend to conduct an inquiry into the behaviour of the honourable member for Georges River, and one of the terms of reference of the inquiry is the response of the Premier. Is the Government seeking to help the honourable member for Georges River, to give him an opportunity to claw back? This matter is analogous to the Government's handling of the Pickard matter. Terminating the appointment was the appropriate response and it should have been done sooner, but doing it in a slapdash and amateurish fashion enabled Pickard to claim compensation from the taxpayers of this State.

**Mr Fahey:** On a point of order: in view of the gravity of the subject matter before the Chair I have been patient with the remarks being made by the Leader of the Opposition. Mr Speaker, you have already said that, if it is the wish of the Leader of the Opposition to move an amendment which incorporates my handling of any matter relating to this inquiry, it is your view that such an amendment would be out of order. You indicated clearly to the Leader of the Opposition that he should speak to the motion before the House. That motion, which relates to the honourable member for Georges River, is seeking, despite the warning from the honourable member for South Coast, to gain political advantage out of this situation. Mr Speaker, I ask you to draw the Leader of the Opposition back to the motion before the House. You have already given him a warning in that regard.

**Mr CARR:** On the point of order: Mr Speaker, if you were to accept the Premier's point of order you would be ruling out of this debate any discussion of the procedures and processes involved in the Niland report. That would place the House in an absurd position. We have before us a motion that condemns the honourable member for Georges River on the basis of the report that was presented to the Parliament on Tuesday. Not to discuss the context of the report and the procedures involved in it would be an absurd limitation on this debate.

**Mr O'Doherty:** On the point of order: the Leader of the Opposition is condemned from his own mouth. He is seeking to widen not only the motion and the ambit of the inquiry but other matters involving other Government members. I ask you to uphold the Premier's point of order.

**Mr SPEAKER:** Order! The motion moved by the honourable member for South Coast is quite explicit. It seeks to censure the honourable member for Georges River for his conduct. The honourable member for South Coast, when addressing the motion as the mover of the motion, stated explicitly that the text of the motion was extrapolated from the contents of the report. It is acceptable for members to make reference to the background of the report, but the motion would have to be cast in much wider terms for that reference to be

more than a passing reference. Debate on the motion moved by the honourable member for South Coast should be confined principally to the conduct of the honourable member for Georges River. I warn the Leader of the Opposition that, if he continues to make more than passing reference to other matters, he faces the considerable risk of being told that he is speaking beyond the leave of the motion.

**Mr CARR:** The Premier has bungled this, as he bungled the Pickard matter. He cannot do anything without bungling it. Last June the Premier was interviewed by the *Daily Telegraph Mirror* on his two years in office.

**Mr SPEAKER:** Order! I have just given the Leader of the Opposition a clear indication of what I consider to be the scope of the motion before the House. The Leader of the Opposition is deliberately flouting my ruling. I direct him to come back to the leave of the motion.

**Mr CARR:** The Premier was asked to nominate his greatest achievement.

**Mr SPEAKER:** Order! The Leader of the Opposition will return to the leave of the motion or he will resume his seat.

**Mr CARR:** I move:

That the motion be amended by the addition of the following words:

"Further, that this House condemns the Premier for his double standards concerning the Members for Blue Mountains and Georges River."

**Mr West:** On a point of order: the standing orders of this Parliament state that a motion or an amendment in the same terms as a substantive motion that has already been decided in the affirmative or in the negative during the same session cannot be considered. Clearly, the amendment that has just been moved by the Leader of the Opposition has the same text and is of the nature of the motion moved in this House on Thursday, 13 October. We considered a motion of censure against the Leader of the Opposition, which was amended to censure the Premier. That motion and amendment were negatived. I therefore submit that, clearly, this amendment is in the same terms as a motion that has already been debated by this Chamber.

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**Mr CARR:** On the point of order: my amendment is specifically about double standards concerning the treatment of two members. The motion considered on 13 October was as follows:

That this House censures the Premier for his consistent failure to apply ethical standards to members of his government including, inter alia -

The motion then nominated half a dozen or more people. Mr Speaker, it cannot be argued that that motion is the same as the motion that has been moved today. My amendment is specifically about double standards - the application of different standards by the Premier.

**Mr SPEAKER:** Order! I think I have the substance of the contribution of the Leader of the Opposition.

**Mr Whelan:** On the point of order: one can only agree with the Leader of the Opposition. Maybe the simpletons opposite cannot read. The amendment relates to ethical standards, not to double standards. Ethical standards would have to include questions of probity and integrity. This amendment does not relate to ethics; it relates not to the honourable member for Georges River but to the Premier. The Leader of the House said that the amendment is similar to a previous motion moved in this House, but it is an amendment to a motion that has been moved today.

**Mr West:** Further to the point of order: both the Leader of the Opposition and the honourable member for Ashfield have failed to tell the House that the previous debate was not just about ethical standards; it was also about inconsistent application. How many times and in how many different ways can we say double standards, or inconsistent application? It is all about the same context. Though the honourable member for Ashfield has indicated that it was an amendment, the rulings of this House apply not just to substantive motions, but also to amendments brought forward.

**Mr CARR:** Further to the point of order: what the Minister for Police, and Minister for Emergency Services just said is quite inaccurate. The amendment debated on 13 October did not use the expression "inconsistent standards", as was asserted by the Minister. There was a reference to ethical standards and it applied to more than half a dozen members. To argue that because we debated that as an amendment on 13 October we now cannot put forward an amendment about double standards condemning the Premier concerning two members, is an absolute travesty.

**Mr SPEAKER:** Order! Earlier I stated my concern about the text of the amendment of the Leader of the Opposition. On 13 October the Leader of the Opposition moved an amendment to a similar motion before the House and that motion has been referred to in the point of order. That motion was decided - whether it was agreed to or negated is not relevant. The House made a decision on the question. Any matter on which the House has already made a decision cannot be debated in the same session of Parliament. I have compared the text of the amendment of 13 October with the text of the amendment moved today. I believe that this amendment, though narrow in scope, was contained within the broader scope of the amendment dealt with on 13 October. Precedent with regard to debate on the same questions is clear. I therefore rule the amendment out of order.

**Mr Whelan:** I seek the leave of the House to suspend sessional and standing orders to dissent from the Speaker's ruling.

**Leave not granted.**

**Mr CARR:** I move to suspend sessional and standing orders to enable debate on a dissent from your ruling.

**Mr SPEAKER:** Order! Leave has not been granted.

**Mr CARR:** This is an absurd limitation.

**Mr SPEAKER:** Order! The Leader of the Opposition will resume his seat. Does the Leader of the Opposition wish to continue to address the issue before the House -

**Mr CARR:** Oh, yes, I do. The honourable member for Georges River stands condemned. We must spend a little time looking at why he stands condemned. It is interesting to refer to the terms of reference of the inquiry. The Premier included among the terms an examination of his own behaviour. That was in there - an examination of his own behaviour. The Premier wanted his own behaviour in this affair tested. Who did he go to to carry out the report that will, among other things, canvass this? He went to someone who confesses to be a personal friend.

**Mr SPEAKER:** Order! I have already given the Leader of the Opposition abundant advice on the leave of the question. The Leader of the Opposition sought to move an amendment, which I ruled out of order. He is continuing to refer to material he anticipated using had his amendment been in order. He will stay within the leave of the question or he will resume his seat.

**Mr CARR:** The conclusions of the report are interesting on numerous scores. For example, they highlight the complete failure of protective mechanisms within this Government when it comes to the position of female staff. The conclusions are unavoidable. I refer to the summary of findings on page 5 of the report.

They relay that Mr Kelly knew of staff concerns as early as January 1993. While he acted on some complaints about inappropriate behaviour, he did not take seriously the complaints of the female staff until they were placed in writing on 3 June 1994.

The report also concluded that at no time prior to the resignation of the Minister did the women indicate an intention to lodge formal complaints under any complaints system or under the Anti-Discrimination Act. The relevant government officers

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involved in this matter from 15 June to 28 June protected the rights of the female staff to their privacy and informed them of their rights to pursue legal action under the Anti-Discrimination Act and provided them with appropriate advice and support. The office manager, who brought the complaints to the attention of Mr Kelly, was the first and only manager in Mr Griffiths office to act in accord with government policy.

**Mr O'Doherty:** On a point of order: The Leader of the Opposition has been speaking for two minutes since your last very clear indication that he should speak within the leave of this motion.

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

**Mr O'Doherty:** During that entire time, he has not once canvassed the matter before the House - which is a censure on the honourable member for Georges River. He has been speaking specifically about government policy. Mr Speaker, in light of your earlier statements, I ask you to direct the Leader of the Opposition to resume his seat.

**Mr SPEAKER:** Order! In an earlier ruling I referred to what was referred to by the honourable member for South Coast, who certainly canvassed the appropriateness or otherwise of mechanisms within government agencies to address these matters. On this occasion the Leader of the Opposition is completely within his rights to refer to such matters.

**Mr CARR:** What a little genius. He is a little fighter. Do honourable members know what the nickname of the honourable member for Ku-ring-gai is in Liberal Party circles? They call him "Spoons", because he knocks off the silverware at fundraising functions.

**Ms Machin:** On a point of order: I find both the statements of the Leader of the Opposition - his supposedly amusing though derogatory statement and his specific statement - grossly offensive. If a member of this House wishes to attack another member in this Chamber, there is a form to do that, and that is by way of moving a substantive motion. If the Leader of the Opposition wants to make that sort of low remark, he should do it by the proper forms of this House.

**Mr SPEAKER:** Order! There is no point of order. It is true that a member who wishes to attack another member must do so by way of substantive motion. However, traditionally, remarks in passing do not fall in the category of those that would require the member who used them to move a substantive motion. If the honourable member for Ku-ring-gai finds the remarks offensive - or if any member finds such remarks attributed to them offensive - he may seek their withdrawal.

*[Interruption]*

**Mr SPEAKER:** Order! I call the honourable member for Smithfield to order. I call the honourable member for Wakehurst to order. Debate of such a sensitive nature can be conducted properly only if members exercise decorum and a measure of discipline. The honourable member for South Coast asked that members give due consideration to the gravity and seriousness of the subject matter of the motion and that debate be conducted accordingly. Though there is no compulsion on members to follow the course suggested by the honourable member for South Coast, I seek the cooperation of all honourable members to allow the debate to proceed with decorum.



**Mr O'Doherty:** I find the remarks of the Leader of the Opposition offensive and I ask you to direct him to withdraw them.

**Mr SPEAKER:** Order! I direct the Leader of the Opposition to withdraw the remarks he made.

**Mr CARR:** I withdraw the comment that the honourable member's nickname is Spoons, for the reason I suggested. It is interesting that the Minister for Consumer Affairs should attempt to take a point of order. She is one of the female members of this Government who stayed absolutely silent during these long months of abuse of female staff, absolutely silent. On this side of the House, reading this report, one cannot believe for one moment that they were not told of what amounts to a pattern of behaviour. They stayed absolutely silent. The chief of staff of the Minister knew about this behaviour in January 1993. Is it suggested that that information did not leak out through the Government; that it was not relayed to other ministerial staff and that the female Ministers in the Government did not know about it; did not hear about it? I find that impossible to believe. I do not think anyone reading this document would find that believable.

Let me say this about the Minister for Consumer Affairs: she has already started to make her arrangements post-March. She is moving to a new career. She is going into fortune-telling in Port Macquarie. She has had a shingle prepared, "Fortunes Told. Madame Blavatsky of Port Macquarie. (Also lawns mowed)". They are all making their post-career arrangements. Over there it looks like the last days of the fall of Saigon in 1975. They are all scrambling to get out. Let us review the chronology of this case, and measure their performance; measure their response. The case of the member for Georges River, the case of the greatest of the family values politicians represented opposite; their colleague, their trusted colleague; the man the Premier defended as late as a couple of months ago when he said, "There is no reason to have his preselection withdrawn". The Premier said, "I have always found him a good and honest member".

What a disgrace! Having heard the stories, having had them confirmed, the Premier saw no reason to withdraw his endorsement. On 24 June the Premier was informed of the allegations against the member. He met the member for Georges River on 26 June and again on 27 June. On that same day, the then Minister for Police resigned. The Premier refused to detail the allegations made against his  
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former Minister. Honourable members will recall the cryptic press conferences and interviews given by the Premier. He refused to nominate the reason. He knew the reason; he had been briefed on it; he had had an interview with the former Minister.

*[Interruption]*

Oh, the Minister for Consumer Affairs is getting restless again - and guilty. I believe the honourable member was told by her staff about these allegations, and like every other Minister she refused to bring them to the attention of the Premier - or, if she did, he failed to act. Why do complaints not trigger action? Why is it that people like the Minister do not defend the women who are being exploited under these circumstances?

**Mr Tink:** What did you know about Tony Aquilina and when did you act?

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

**Mr CARR:** I have answered that. I have answered it at length, documented it and presented the documents. That is more than your boss has done. The allegations in the report, the chronology in it condemns them all, all colleagues of the former Minister, and especially the female members of the Government, who, knowing what was going on, opted to do nothing.

**Mr Thompson:** A conspiracy of silence.

**Mr CARR:** Absolutely, a total conspiracy of silence. The Opposition called for a full inquiry into this matter. What was the response of this alert and dynamic crowd? No full inquiry. It was going to be -

**Mr SPEAKER:** Order! I have directed the Leader of the Opposition on numerous occasions that though it is peripheral to the motion, he may refer to the way in which the report came into being, but he should not traverse areas that might have involved other people in the process of bringing the report to the Parliament. The motion is about the member for Georges River and his conduct, and the basis for the information of that conduct is contained in the report. The Leader of the Opposition said that he would confine his remarks to the content of the report, and I indicated that that was well within the leave of the motion. However, he has continued to refer to matters that are outside the leave of the motion. If he persists, I will have no option but to direct him to resume his seat. I give him this last warning.

**Mr CARR:** On page 128 of the Niland report, the Premier's senior media adviser, Martin DeBelle, confirms that everyone in the Government knew there were problems in the former Minister's office. I am quoting what the report says on page 128. I presume that is not out of order?

**Mr SPEAKER:** No.

**Mr CARR:** The report says it. The report canvasses the history of the event - the report canvasses it. It is all there. The chronology is in the report. I am quoting from page 128 of the report. The Premier's media adviser spells it out. They all knew it. According to the report, DeBelle said, "Everyone knew". This is a quote from the report. I presume I am allowed to say that.

**Mr Tink:** On a point of order: the Leader of the Opposition in tediously repeating himself. He is in breach of the standing order relating to tedious repetition.

*[Interruption]*

**Mr SPEAKER:** Order! The honourable member for Blacktown well knows, because I have drawn it to the attention of members on many occasions, that to interject while the Speaker is on his feet is a grave abuse of the authority of the Chair. I have no wish, unless I am pushed to a point beyond which I cannot tolerate it, to remove any member from the debate and, therefore, the opportunity to make an individual determination on this motion. The debate must be conducted in an orderly and proper fashion, and that includes observing the basic rule that when the Speaker is on his feet, all members resume their seats and remain silent. I am not prepared to uphold the point of order taken by the honourable member for Eastwood. Since my final warning to him, the Leader of the Opposition has confined his remarks to the report. So long as he continues to do so he is within the leave of the motion. I appeal to the Leader of the Opposition to abide by the rulings. The Chair does not determine -

*[Interruption]*

**Mr SPEAKER:** Order! I place the honourable member for Wakehurst on three calls to order and indicate that, as a Temporary Chairman of Committees, he should know better than to do what he just did.

**Mr Hazzard:** I am sorry, Mr Speaker.

**Mr SPEAKER:** Order! The Chair does not determine the text of motions that are put before the Chamber. It is the responsibility of the Chair to uphold the integrity of the debate in the Chamber. That is what I am seeking to do. I ask the Leader of the Opposition, in the spirit of proper parliamentary debating, to observe the correct rules of debate.

**Mr CARR:** According to the report, DeBelle said everyone knew of the high staff turnover in the Minister's office. That includes the Minister for Consumer Affairs, who is now very uncomfortable and is leaving the Chamber.

**Ms Machin:** I was not in the Cabinet, dummy!

**Mr CARR:** Debelle did not say, "Everyone in Cabinet". He said, "Everyone knows".

**Dr Kernohan:** I did not know.

**Mr CARR:** Debelle did not take account of the honourable member for Camden, because she is going on 25 March. Debelle said, "Everyone knows what was going on". That is quoted in the report from the Premier's media adviser. He is in charge of the

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Premier's media unit - he must be a good witness, he must be right about things like this. On page 245 of the report, the evidence of Ms P. referred to the day of the opening of Parliament. She says she went to Kerry Seymour-Smith, the then chief of staff, who told Ms P. she would definitely say something to the former Minister. Ms P. said, "She was sympathetic but somewhat embarrassed by my seemingly continual complaints . . ." There you are; there you have it! A staff member is making constant complaints about this and is being regarded by the chief of staff as an irritant. And Government members are saying they did not know; they are saying they are completely innocent! They say they all live in quarantined environments and these matters were not brought to their attention. The evidence of Ms P. continued:

Kerry told me that day or the next that she told the former Minister of my concerns about his behaviour and that he told me he didn't remember anything of his behaviour toward me on the afternoon of the Opening. When Kerry told me this, she also stated I was getting a \$5,000 pay rise.

Who in Government approved the pay rise, and on what basis? On what basis was it decided that the pay rise was necessary to cover a problem, to buy silence? And Government members argue that no-one knew! Debelle says that everyone knew. The chronology continues. According to the report, it was not until 25 July, three weeks after the matter broke, that the Premier announced the Niland inquiry. As the House is aware, the report was tabled on Tuesday, a day after the Premier wrote to the President of the Liberal Party seeking disendorsement of the honourable member for Georges River. If this behaviour is supposed to send a message about how public and private organisations should deal with sexual harassment in the workplace, it is a very muddled message.

What public sector organisation could take this Government's handling of this matter, as described in the report, and say it is a model for how a private sector or a public sector organisation ought to inure their workplaces against sexual harassment? What sort of model does the Government provide for the expeditious and sympathetic processing of complaints from female staff? Who in the private or public sector could take the information, the account, and the chronology in this document as a guide to how these matters ought to be handled? As a result of this report, we must resolve to ensure that the public sector is adequately educated in relation to these matters. Quentin Bryce, the Federal Sex Discrimination Commissioner from 1988 to 1993, is quoted in today's edition of the *Australian* as saying in relation to this report:

The present furore in NSW appears certain, however, to lead to the institution of better training for those at senior levels of public life on the elimination of sexual harassment and, importantly, provide better processes to make the voicing of complaints easier.

She also said:

In 1994, it seems that only the most ignorant of observers fail to understand the vulnerability of those who genuinely fear the loss of their jobs in such circumstances. Many women feel paralysed and powerless - hesitant to make "too much of a fuss" for fear of retribution.

The report refers as well to a 143 per cent gross staff turnover between June last year and July this year in the former Minister's office - a spectacular turnover! Why were alarm bells not ringing anywhere? And Government members are telling me that no-one in Government was aware of what was going on, including the female Ministers, particularly a woman described misleadingly as the Minister for the Status of Women in this Government. It was only when the sleuths from the *Daily Telegraph Mirror* got on to the story and made an

inquiry of the Premier's office that something was done. In other words, New South Wales has a government that could ignore a turnover of 143 per cent in the Minister's staff. How could that occur anywhere in the public service without some alarm bell ringing? I understand that at this moment the Premier is behind the Speaker's chair like a little boy lost. The Minister for the Status of Women is nowhere to be seen. On page 185 the report quotes Ms M. as saying:

Sometimes the Minister made statements to visitors such as "Come and meet my lovely assistant" and other statements to indicate he was proud of the girls in the office.

The former Minister said that to visitors. And Government members claim they were not aware of what was going on! A staff turnover of 143 per cent in this context and they claim they were not aware of what was going on! The report continues quoting Ms M.:

He sometimes behaved in a very friendly manner and kissed me on the cheek in front of other people. The Minister was very generous with salary rises. One day I was sitting at my desk and he called me into his office. When I went in he came up to me and gave me a kiss and said, "Here's an extra \$2,000", which I of course appreciated.

And Government members claim that the former Minister's office was quarantined and no-one else in the Government knew what was going on. Does anyone believe that? Expressions of concern about sexual harassment appear to have been raised with the chief of staff, Mrs Seymour-Smith, as early as January and February 1993. They were raised formally with Mr Kelly on 3 June 1994 and with the former Minister on 19 June 1994. The women complainants alleged to the inquiry that the former Minister did some or all of the following: used sexual innuendo, touched their breasts, kissed them on the lips, kissed them with open mouth and tongue, and so on. And Government members argue that word of this did not spread around the Government. They argue that with this going on, no-one in the Government had a hint of it. That is rubbish! If this report establishes anything, it establishes the complete ineffectiveness, the complete failure of a Minister described misleadingly as the Minister for the Status of Women. What a quisling she has been proved to be! One of the shortest sections of the report appears under the heading "Action taken". What an embarrassment for the Minister for the Status of Women! At page 268 the report states:

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The following complainants indicate that they brought their concerns to the attention of Mr Kelly:

- Ms G in February 1993
- Ms D in May 1994
- Ms P in February 1993
- 5 complainants on 15 June 1994.

It does not appear that Mr Kelly understood the seriousness of the women's concerns or understood that he was supposed to take any action.

In other words, there is no evidence of any education at public service staff level within this Government to alert people to the dangers of sexual harassment. I notice that the genius who produced the result in Parramatta - the honourable member for Eastwood - is being consulted! He was the campaign director in charge of postal voting in Parramatta; another genius of the Young Liberals.

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

**Mr CARR:** The Niland report at page 95 -

**Mr SPEAKER:** Order! I call the Minister for Multicultural and Ethnic Affairs to order. I indicated earlier that this debate should be conducted with reasonable decorum. For those members who perhaps were not in the Chamber on that occasion I shall repeat what I said. With motions of such sensitivity and emotion, it is important that debate be conducted in a decorous fashion. I warn all members - particularly those on the Government benches in this instance - that outbursts of behaviour such as I have just seen will not be tolerated.

**Mr CARR:** The Minister boasts that he is the stand-alone Minister for ethnic affairs. They were all standing alone during this affair; no-one was prepared to intervene or do anything in this matter. But the stand-alone Minister was not the only one standing alone; no-one was coming to the aid of the women. At page 95 of the Niland report, for example -

**Mr SPEAKER:** Order! I do not know how many times I have to issue warnings to members. I am endeavouring at the moment to resolve a matter, in the interests of all parties, that has been drawn to my attention by the Opposition about a possible amendment. Because my attention is momentarily diverted does not give members the right to carry on like small children and to disrupt the debate very soon after I warned members about their behaviour. This debate may proceed for some time. I assure members that although traditionally the Chair has no feelings - it merely has the objective of keeping order - the time is approaching when the Chair's tolerance will be overtested. I ask for the cooperation of all members to allow the business of the House, which includes my consultation with my Clerk, to continue without the barrage of interjection that I have just witnessed.

**Mr CARR:** At page 95 the Government is further indicted. Ms Niland remarked:

Previously, when senior bureaucrats were "permanent heads", the argument in favour of their tenure was so that they could present their Minister with unpalatable advice . . .

The proliferation of the proportionately largest senior executive service in any Australian public service means that that unpalatable advice is no longer being served up. This report and the behaviour of this Minister shows the unfortunate consequences when a government moves away from a traditional Westminster-style public service. There is no source of independent advice and no source of helpful and valuable commentary on the behaviour of an errant Minister. Ms Niland went on to say:

The Commissioner is of the view that the predicament for the CEO in the circumstances of these complaints is too delicate and difficult to expect him or her to be able to negotiate with the Minister without irreparably damaging their relationship with the Minister. Therefore, it reinforces the strength of the recommendation made elsewhere that there be joint employers of Ministerial Staff, the Minister and the Premier. This recommendation would then allow either the Director General of the Premiers Department or the Chief of Staff of the Premiers Office to negotiate with the Minister.

I was delighted to read that recommendation, because it confirms one important aspect of the Opposition's public administration policy; that recommendation is already included in the policy of the alternative government. At page 100 of the report Commissioner Niland makes this observation -

**Mr Hartcher:** On a point of order: I hesitate to interrupt the eloquence of the Leader of the Opposition, but the motion before the House deals with censure of the honourable member for Georges River for, among other things, his reprehensible conduct. This is not a motion to take note of a report. The Leader of the Opposition may make passing reference to the report to justify speaking to the censure motion, but he is not entitled to make a general analysis of the report, which he has been doing for the last four minutes and is about to continue doing. I ask that his attention be drawn to the motion before the House and that his contribution be relevant to the motion.

**Mr SPEAKER:** Order! I have indicated that the debate should be predicated on the report. I indicated that the member for South Coast dealt with the mechanisms that were revealed in the report and the inadequacies of current procedures. I have indicated to the Leader of the Opposition that provided he stays within that ambit, he is within the leave of the motion. I do not uphold the point of order.

**Mr CARR:** At Liberal Party meetings the members are in the habit of calling the roll. Instead of yelling out, "present" when members hear their name, they are used to yelling out, "not guilty". The Liberal Party now has a third wing - the remand wing. I advise the Minister for the Environment that I will be making extensive references to the report. He has attempted to restrict my capacity to cover material in this debate and he will have to put up with those extensive references, which might continue for some time as they are strictly within the ruling laid down by Mr Speaker. So, fasten your seat belts, you are in for a bumpy ride. At page 100 the report states:

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... the Commissioner formed the view that Mr Kelly knew of the women's concerns about the Minister's behaviour, but he did not take their concerns seriously; that he excused the Minister's behaviour in some instances because the Minister was affected by alcohol and at other times he discounted and down-played his behaviour of hugging and kissing and touching to the Minister being "overly familiar with his staff".

After years of effort to achieve equal opportunity and years of education on sensitive matters within this Government, we have the chief of staff of a Minister for Police saying that this behaviour of the Minister, which is detailed in the report, was just a matter of the Minister being overaffectionate. One conclusion can be drawn: the people responsible within this Government - Ministers, including the Minister comically referred to as the Minister for the Status of Women, and so many others - did not take their responsibility seriously. Commissioner Niland continued:

The only thing he could do was warn the Minister that the Minister's behaviour, as perceived by others, may create for him a public scandal. The predicament of Mr Kelly is in some way similar to that of a CEO in relation to the Minister. The unequal power relationship of a subordinate telling his employer that his personal behaviour is unacceptable, possibly unlawful or even illegal is the same as one senior manager described it as "writing your resignation letter". That is not to excuse the lack of action on Mr Kelly's part but rather to assess its extraordinary difficulty.

Is the Government seriously arguing that Mr Kelly did not raise this matter formally or informally in a way that would alert members of the Government? Is it seriously suggesting that the Minister's behaviour was not discussed at any level within the Government? The Opposition finds that very hard to believe. In today's *Australian* Beatrice Faust, the commentator on female rights, said:

The workplace is not a pleasanter place for women - it is only more hazardous for men. If sexual harassment and rape and domestic violence could be prevented, there would be no more victims ... I suspect an unexamined conflict exists between equal rights feminists and victim feminists.

These points can be regarded as arcane and of little consolation to the women who were systematically abused in this Minister's office. Their abuse was condoned or ignored by an insolent shock-worn government; a government feeling the strain of seven long years in office. Seven very long years! The presumption of innocence with regard to charges to be tried after the election is not an issue. The issue here is how a government responds to a continuing scandal. The story of that response is a disgrace. The Government wants the guilt isolated to the member for Georges River. The truth is that Government members, through their silence, through their inaction, are all guilty. They failed to act in a mature and forthright fashion, and they stand condemned.

**Mr FAHEY** (Southern Highlands - Premier, and Minister for Economic Development) [4.51]: The motion before the Chair is concise, it is serious, it relates to the behaviour and conduct of a member of this House and the conduct of the victims in that former Minister's office. It emanates from a report that was commissioned by the Government. The report was put together by a person experienced in matters of victimisation and intimidation. Many people have said to me in respect of the commissioner that there is no person in Australia who would be better qualified to inquire into the matter or more sensitive to the problem that was faced when certain aspects of the resignation of the former Minister came to light.

It ought to be clear to all fair-minded people that the early stages of this inquiry were based upon the fact that five members of the former Minister's staff were on stress leave. As is clearly defined and stated in the report, that matter came to the attention of my office by virtue of a phone call from a journalist. I had intended to sit and listen to debate on this most serious motion. Given the serious and sensitive nature of the matter I expected to hear the Leader of the Opposition deliver a sensible and statesman-like response to this motion. But my patience ran out, and I did not want to dignify the manner in which the Leader of the Opposition addressed this serious motion by remaining in the House.

The Leader of the Opposition spent his entire time speaking in this debate seeking to throw the blame on members of the Government, including myself, in terms of our knowledge and our failure to act. This motion is about the member for Georges River. This has been a most difficult week in the Parliament for all members. I acknowledge that when honourable members read this report in the quiet of their rooms here in Parliament House they would have experienced feelings of disgust about the various incidents referred to. I do not think I need canvass them at this stage. I could quote a number of passages from the report as examples. I commend the honourable member for South Coast for the way he put this matter before the House; he simply illustrated his concern by referring to particular passages in the report that were relevant to his feelings about the matter.

Questions about innocence and guilt occupied the minds of members of the Opposition during question time this week. I make this clear distinction: it comes down to the right to make decisions or judgments in respect of innocence or guilt, but that is a matter for other authorities, and that is appropriate. The matter was put in the hands of those authorities by me. Every member of this House and the community have a right to make judgments about alleged behaviour. As the Leader of the Government, I have a responsibility and an obligation to make that judgment, and I should have thought that at this stage of the week, most would understand clearly the judgment I made and the steps that I took.

Before seeking to canvass the fairness or otherwise of the report and before making a judgment on the process that seems to have occupied the minds of many honourable members - and rightfully so because they have a right to question process - we must understand the nature of the complaint. Few  
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honourable members have any knowledge of the manner in which such complaints should be dealt with. How old is the Anti-Discrimination Act? For that matter, how good is the Anti-Discrimination Act? Where is the precedent and the law that enables one to identify a particular state of mind. In this instance a particular category of women were involved: they were young, single and attractive women. What was their state of mind? That is what has kept me awake at night since I first received the report last Saturday night.

When I read the report I pictured women crying out, screaming in the darkness, disturbed, with nowhere to go, nowhere to turn, not knowing where life was taking them and putting up with the misery each day at work. I refer to such lines as, "I went home. I felt dirty. I showered. I cried". These women should have been treated with dignity and respect. They turned to someone in the office, but they remained loyal to the Government and to the former Minister and acknowledged that the former Minister had some good qualities. He does have good qualities, and I will refer to them. Their complaints fell on deaf ears for the duration of this behaviour. I sought to be fair when I read the report of the 37 complaints of sexual harassment. However, I thought that even if not all references were true, there must be some truth in some of them. Thirty-seven complaints! One cannot ignore that fact and suggest that the office was conducted with dignity and respect. One cannot walk away from such conduct over that long period without making a judgment. And I certainly had no doubts about what my judgment had to be. Regardless of judicial process, I am not going to say that a basis of fact does not exist. I do not know how any person who stops playing politics and takes the time to study the matter could do otherwise.

This unsavoury, unsatisfactory incident is another sad chapter in the history of this Parliament and public administration in this State. I as an individual, I as a father, I as someone who has responsibility as a leader of a parliamentary team, will act as decisively and promptly as the circumstances suggest I must, always. I will not seek to play cheap politics as the Leader of the Opposition did on this occasion. I am so disappointed to have

to say that in this debate. I always try to give credit where it is due. I listened from outside the bar of the House because I would not dignify the manner in which the Leader of the Opposition has conducted himself by being present in the Chamber. He talked about the manner in which women should be treated in the workplace and about respect. He continually laughs.

One day when he left the Chamber, referring to the then Deputy-Speaker, the honourable member for Port Macquarie, he said, "The silly bitch did not let me get the lines out I wanted to get out. She pulled me up too soon". He tried to laugh that off then and he tries to laugh it off now. He has not apologised. I have no faith in his seriousness on this subject. No matter what decade, in time gone by or in 10 years time, we must ensure that dignity and respect are honoured in our dealings with others. Every one of us would recognise that there is such a thing as a mood. We do not always have the day we want and we have pressure. No amount of pressure can excuse 37 findings of sexual assault. The trauma and drama that has occurred sadly will continue for some time yet for what I can only describe as the victims. And they are victims. I shall come back to the word "victims".

We should examine process. These women saw any further steps that they took as exposing them to punishment. The commissioner makes the plea in the report, "I ask all people to respect the confidence and the privacy of the young women, the victims". It was not easy for them to come forward and bare their souls. They felt dirty. They had to wash. In their relationships with their fiancés, their boyfriends and even their mothers they were not able to speak about what had occurred because they felt inadequate. They felt some form of guilt. They should not have; but they did. They had to be guaranteed confidentiality to come forward. If we were ever to get the facts about the series of instances as depicted in the report, privacy and sensitivity had to be guaranteed.

The process does not allow us to judge innocence or guilt according to law, and we should not. The law should decide such matters, and let us not interfere with that. However, I believe we would never have found out what occurred in the former Minister's office over a long period, that litany of fault and complaints, had we not proceeded with the form of inquiry that occurred. That matter was given very serious consideration by my Cabinet colleagues. We were not going to get the truth from anyone other than through a process that allowed people to state facts in the manner in which they have been stated. Some of us may try to discount the facts, but the facts are there. Earlier this week I stated that the Government must take seriously the recommendations in respect of the administration and operations of ministerial offices. They ought not be any different from the operation of any office in the public sector or the private sector. There has to be a contact point that someone can go to. There can never again be the situation in which someone is crying out with nowhere to turn.

I can assure honourable members that much has been done since the matter first came to my attention, and therefore to the Government's attention. In my own office documents have been handed to individuals, contact points in the Premier's office have been established and officers have been specified for each member of staff. An induction course such as that undertaken by my office will be undertaken by all people employed in ministerial offices in future. The course will give an understanding of what the job is about, the terms of the job and where people can go if they have a complaint. That process must be there, because it was found to be wanting in this case. I believe it was an isolated incident. There is a process in place in each ministerial office - there always was - and there is dignity and respect in those offices. But there was a failing in this case which has been catastrophic to the lives of many individuals.

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That even extends past the lives of the nine women who have made the complaints of sexual harassment which are so well documented. The Leader of the Opposition said that Government members knew about the situation and did nothing. He sought interjections to reply to because he had nothing of substance to say. He relied upon the words of Martin DeBelle from my office, the initial contact with some knowledge of the matter. As I said, Mr DeBelle received a phone call late one afternoon at a time when I was in Canberra. It was in the form of, "Are you aware of or is the Premier aware of five women from the office of the Minister for Police and Emergency Services being on stress leave?" Mr DeBelle questioned the then chief of staff of the former



Minister. The Leader of the Opposition said, "They knew, they knew, they knew". He should not play that game. The turnover of press officers - which is the substance of the question asked by Mr DeBelle of Mr Kelly - was supposed to indicate that there was knowledge. The turnover of staff can be used in any way one wishes. Many of us knew of a particular problem with the turnover of staff of a member of the Labor Party who, because of tragic circumstances, is no longer with us. We all had the dignity and commonsense to keep the matter in proportion and to give the benefit of the doubt.

The difficulties in the former Minister's office have ended up being not only on the shoulders of the nine women; other lives have been shattered for all time. Those other lives include that of the honourable member for Georges River. The jury that ultimately judges us all in public office is the community. People are judging and will judge this harshly. Punishment, if that is the right term, has been extended not just to the honourable member for Georges River by the public jury but to his family, which includes his wife. That is why I want to take just a few minutes to say that we have to balance the outrage and disgust that we feel against some of the achievements of the honourable member for Georges River.

As Minister for Police he had an extremely difficult portfolio at an extremely difficult time. It would be remiss of me if I did not acknowledge that the communications that had broken down were mended through new legislation which this Parliament approved, the establishment of the ministry to ensure that we get a clear distinction between operational matters and policy matters, and that there were proper lines of communication. Last summer I shared many days with the former Minister in his emergency services capacity inspecting the bushfires that ravaged this State. I recall the efforts he made on that occasion to support the brave volunteers of the rescue organisations, the bush fire brigades, the volunteer rescue associations and others. The volunteer organisations benefited greatly from the advocacy of the honourable member for Georges River in bringing forward funds, by fighting hard where necessary to gain priority for them. The organisations are now better equipped to fight fires this summer and the summers beyond. He showed leadership during the period of the bushfires and ought to be acknowledged for it.

There are many other matters for which he deserves credit. He certainly will be given credit by the Police Service members as they look at the system that is now in place. The improvements that have occurred are the results of his efforts. Time and again in my contact with members of his electorate I heard praise heaped upon him and credit given to him. That praise was richly deserved by him as an advocate for his electorate and for the needs and concerns of the people of Georges River. I say that because it is true. But that does not ultimately detract from the conclusion that all members must draw from the motion. The motion is to censure the member for Georges River in respect of conduct which simply is a disgrace; conduct which has wreaked havoc on the lives of young women, which I and all honourable members hope they can put behind them one day and get on with their lives.

The resources of government, the resources of the agencies, the counselling and whatever other effort that can be made sensibly as needed will continue to be available for the young women. Their future is something we should all be thinking about when we debate this matter. It is easy to say the words; one can spout pious platitudes about the rights of women. But the important issue in this instance is that we have learned a lesson from a course of behaviour that will ensure that we do not need that lesson ever again. On behalf of the Government I say that lesson has been heeded. The Government will not allow any set of circumstances to occur, wherever it is humanly possible to avoid them, that ever leads us to have a debate of this nature again in respect of any office, not only a Minister's office, to ensure that there is equality in every true sense of the word.

Those in authority should not abuse that authority; those who have a responsibility should carry out that responsibility; and those who go to the workplace on any given day should be able to be comfortable with the knowledge that there will be no exploitation, that they will be treated in the manner which is appropriate for any person in a society that we regard as being fair, a society that cares. The Government supports this motion for the reasons I have indicated. I sincerely hope that we never have to debate a motion of this nature again. I will do all in my power to see that there is never a reason for it.

**Mrs LO PO'** (Penrith) [5.14]: I join in this debate because it seems to me that this is every parent's

nightmare. Every one of us who has a daughter dreads the thought that she will work for a toucher, a feeler, a groper. It seems to me that this is what has happened. I agree with the Premier that it has destroyed the lives of a lot of young women. This type of thing has occurred in the past and probably will occur in the future. This is an abuse of trust by an employer to his employees. We are all employers, and employers have a specific position in the community and with their employees. They should not ever abuse that trust. It is a two-way thing: if you are to have trust in an office from the employee to the employer, you must have trust from the employer to the employee. Members will be

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aware of the worst abuse of power games. It has been well documented by women for many years - and I see women present in the House - that from time immemorial women have been molested and abused by men who abuse their power.

This is a classic textbook case of someone who abused power and powered down on powerless people. The former Minister, the now member for Georges River, is a classic textbook case of somebody who used his power improperly. In the power game that men play in their offices, men power vertically. They power on anybody they perceive as weaker than they are. This is why these particular women were powered on. They were not women who had a lot of experience. The Niland report specified that they were young, attractive and single women. That is why this member of Parliament powered on those women. It was a gutless act, an act of cowardice. As I said yesterday, this man is an officer but certainly not a gentleman. We are supposed to be impressed by his prowess in the military field but I regard this as an act of absolute cowardice.

In years to come the Terry Griffiths case will be recalled as a classic textbook case of many things: the psychology of what happens between the powered-on and the powerful, and the way that people who are the perpetrators then blame the victims. In the former Minister's recent speech he did nothing but blame the victims for what he had done. That is absolutely appalling. Since time immemorial offenders have blamed the victims. This happens in domestic violence: the husbands who batter their wives, blame their wives. In child sexual assault matters the men who power down and sexually abuse their children blame the children for somehow inviting sexual advances. This instance is the same category: a former Minister blaming his victims because he abused them and sexually harassed them.

He said he treated his staff like a family. It was a weird sort of family because he did not treat them equally. He treated the single, young, attractive ones in this family manner and the people who were male or older, or had more power, he treated totally differently. If that is the former Minister's view of family treatment he has a real problem. This former Minister has confused power with physical attraction. It is a classic track for men going through this stage and age. They see their power as a physical attraction and think that somehow young women are attracted to them. Time and again in the Niland report it is stated that young women were rebuffing this man's advances and still he powered on them. The Niland report states:

That at a Christmas Party in 1992, 2 weeks before Christmas, Mr Griffiths sexually harassed Ms G in that he twice touched her on the breast during a game of water polo in the Griffiths family pool.

It continues:

That during the Parliamentary session in 1993, and in his office, Mr Griffiths sexually harassed Ms G in that he came up behind her and he placed his hands on her left and right breasts and pushed himself up against her back while she adjusted a VCR, at his direction.

What a low act. This man absolutely abused this young woman. No wonder the women left; no wonder they felt threatened. Any family with a young woman who was treated like that would demand that the young woman leave this person's employ. The Niland report states:

Miss D alleges that Mr Griffiths sexually harassed her in that he asked her inappropriate questions or made inappropriate remarks to her that had sexual overtones. He asked who she was going out with, which she understood to mean in the context who she was having a sexual relationship with. She replied, "Never you mind, Minister".

On another occasion, when viewing a television program about sex and prostitution, the Minister commented, "I do not get enough of that at home. I need a bit more of that". This is a colleague of honourable members opposite. Why are they not all ashamed? Why was this swept under the carpet? Why did people not speak up about this? People knew about this. These things do not happen without people knowing. Word gets around. Instead of dobbing in the Minister or offering the young women support, these people were silent. As the honourable member for Rockdale said, this is an absolute conspiracy of silence. The Niland report states:

Ms S alleges that on Friday October 22, 1993, Mr Griffiths sexually harassed her at a staff communication hour held in the Minister's office. She had been working for the Minister for 4 days and watched him kissing female members of staff goodbye. She alleges that she recollects thinking, "I hope he doesn't kiss me, I just met the man", but when he came to kiss her, she turned her head so he would kiss her cheek, but Mr Griffiths' face followed hers around so that he could kiss her on the mouth.

The report then states:

Ms B alleges that on one occasion Mr Griffiths sexually harassed her in his office behind a locked door as she was leaving. He came close to her and put his arms around her tightly in a "bear-hug" he then kissed her hard on the mouth for a few seconds. She smelt alcohol on the Minister's breath. After he released her she noticed that he had make-up on the front of his shirt. She pointed this out to him, because he had a press conference that afternoon. He said, something like, "I'll have to clean it off".

In this case the Minister used the old drunk's defence - it was not his fault. In this case the drunk's defence is not good enough. This man has blatantly abused his power over women; he has sexually harassed them and he has used as an excuse the fact that, because he had had a few drinks, it was not his fault. The report continues:

Ms P alleges that Mr Griffiths sexually harassed her at a Christmas party held at his home in December 1992 between 7.00 or 8.00 p.m. when she was leaving, Mr Griffiths who was inebriated, she alleges, tried to kiss her on the mouth quite hard. She pushed him away, got into her car, locked the door and drove away.

I hope that woman never came back. The honourable member for Georges River does not deserve to have staff working for him. The report then states:

Ms P further alleges that she told Mrs Seymour-Smith about the incident and that she assured her that she would raise it with the former Minister. She stated that she had told Mr Griffiths of Ms P's concerns and that he said that he didn't remember his behaviour toward her on the afternoon of the opening.

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The Premier has just said that this is the man who had the pulse of the State in his hands and he should be given praise for orchestrating the fighting of the bushfires. The honourable member for Georges River, who had this tremendous portfolio, cannot remember what he did to Ms P. He must think we are all silly. The report states:

Ms Seymour-Smith also told her that she was getting a \$5,000.00 pay rise. Ms P alleges that she felt compromised by the pay rise because she thought the former Minister was attempting to dissuade her from talking further about his behaviour. This allegation appears to be an allegation of unlawful behaviour in that it alleges victimisation within the terms of . . . the Anti Discrimination Act.

The Government says that it knew nothing about a Minister who was powering on people. Let me tell honourable members about power games. All the people in this Chamber should listen to how power games work. Men power vertically on anybody who is perceived as a weaker person. When there is sexual abuse in families the weakest people in families are children and the weakest of the children are the female children. This is a classic case of the former Minister playing power games. The greatest betrayal is that women in this Government actually knew about this. Women have betrayed women. We all know that there is an old mates' club where the men would have said, "Old Terry is a bit of a rascal". But in this instance women knew about it and covered it up. That was the final act of betrayal for these young women.

If nothing else comes out of this whole affair we should establish a set of guidelines so that young women working in offices in the public service, or in the ministry, are protected from people like the former Minister. I wish to say something more about power games. Men power down vertically and women horizontally. Women protect people who are weaker than they are. Women actually power on other women. When they do that they are called bitches by men. Women play a far more honourable game than men, but men tend to label them. When young women find themselves in a position such as this there is only one way to deal with it. They have to say loudly to the perpetrator, "Get your hands off me". Men are such cowards that, if they think people know about it, they do not do it again.

I say to all the young women who might find themselves in this situation: be overt about it. Call these people out. Tell others what they are doing and make a fuss about it. These young women who need jobs and who are frightened of people in power give people such as this support and greater power by remaining silent. If young women are put in such a compromising position they should make a fuss, yell about it and carry on so that the offenders are put in their places immediately. It is interesting to note that, when I started talking about power games, it cleared the room of men. They vanished before my very eyes when I talked about how men power on women and how young women should handle a situation such as this. Suddenly, the audience of men evaporated. If the Government is ever confronted with this problem again it could solve the problem by putting bromide in Ministers' drinking water. That would keep them totally under control.

**Mr WHELAN** (Ashfield) [5.26]: Regrettably, this important debate concerns the personal conduct of a member of Parliament. The word "reprehensible" springs to mind. The Niland report is an indictment of the Minister for Health and a few other Ministers as well. This is the profile of a Minister of the Crown who is a lecher. He is a dipsomaniac, a power maniac and a sex maniac. Niland, in her report, paints the picture. Late at night, after several hours of heavy drinking, the former Minister for Police starts to get amorous - lecherous is a better word - and he very drunkenly lurches. Two-gun Terry, a drink in one hand and his genitalia in the other. Outside is cowering a terrified young woman. He bellows at her to come into his office and to lock the door behind her. He then clumsily, menacingly and drunkenly goes the grope. The young woman flees in terror into the night. The former Minister for Police was out of his head, out of control and out of order. He should be out of here.

His behaviour has been long standing. From speaking to Government members I have discovered that he has always been like this. He should never have been pre-selected by the Liberal Party in the first place. He brings the Liberal Party in this Parliament into disrepute. On Tuesday I listened to his self-righteous whining and his coward's castle mendacious defence when he slandered and traduced the reputations of Commissioner Niland and his victims. There is an old saying that a dog always returns to its vomit. In this case the reverse is true - the vomit has returned to the dog. He terrorised the typing pool and repeatedly lied to Commissioner Niland. On Tuesday he spent nearly an hour lying to this House. He finds politics abhorrent, like we find him abhorrent. He conspired with senior members of his staff to employ single, young, attractive and vulnerable women, not as staff but as prey and playthings. His staff are as guilty as he is as he desperately tries, with their complicity, to hide his criminal behaviour. But they have been promoted.

Niland indicates a recurring pattern throughout the whole of this report. All were female - more than 20 in 20 months of his ministership - all were young, all were attractive, all were junior staff and all were vulnerable. That suggests - no, it constitutes - a deliberate and cold-blooded pattern of lechery. The staff was hand-picked for those very attributes; he saw them as potential playthings to satisfy his reprehensible desires and appetites. He bullied them; he belittled them; he tried to violate them. If that did not work, he banished them - thus the very high staff turnover, over 143 per cent, in his office. The sexual harassment went on for more than two years. Who knew? Obviously Terry knew. Bruce Kelly, his chief of staff, also knew. I refer to page v of the report, which outlines a summary of findings. Ms Niland stated:

**THAT** there was one action taken in the office in relation to these concerns which changed the Parliamentary roster in the middle of 1993 to accommodate the women's wishes not to work alone with the Minister in Parliament at night.

Did other Ministers not realise that there was a change in ministerial night habits? Were not questions asked by the leaders of the Liberal Party and the National Party as to why this occurred? What excuse was proffered? Ms Carmel Niland also stated:

**THAT** Mr Kelly knew of staff concerns as early as January 1993 and while he acted on some complaints about inappropriate behaviour, he did not take seriously the complaints of the female staff until they were placed in writing on June 3, 1994.

Mr Kelly had that information from January 1993 to June 1994 - 15 months - as did Kerry Seymour Smith. They did nothing about it. Many of the distressed women went to Seymour Smith, but she did nothing. Her inaction provided a cover-up. Neither Kelly nor Seymour Smith did their jobs properly. They let the outrage continue on a daily basis. This is a direct contravention of their statement of duties as senior office managers. Kelly said to one terrified, fearful young woman about to enter the Minister's den - he was sure and certain that the Minister was going to make a lunge at her - "Put it this way, Ms S, you're a clever girl and you should be able to sidestep a sticky situation".

How would honourable members feel if that happened to one of their daughters? This happened to someone's daughter. That lecher was able to get away with such behaviour since January 1993 because of inaction by someone on his staff. It was a sticky situation. The Minister's office was like a spider's web. He was ever ready to pounce on defenceless victims, especially if they were young, attractive and vulnerable. There was no help for the victims from the chief of staff; there was no support for the victims from the chief of staff; and there was no sympathy for the victims from the chief of staff. One needs to ask, therefore: what happened to Seymour Smith and Kelly? Have they been reprimanded? No. Have they been promoted? Yes. Another outrage! There was no help for the victims.

Let us think about these victims. They were assailed in this House when the Minister exercised a right granted to members of this Parliament. He intimidated them; he traduced their reputation; and he endeavoured to smear them. He indicated that if they provided evidence to the Director of Public Prosecutions he would publicly reveal their names, details and private information. These victims are already terrified: they have changed their names, their houses and their phone numbers. They have taken cuts in income, and many believe that their careers have been ruined. They are all suffering ill health, induced by the monstrous actions of the honourable member for Georges River.

No support is forthcoming from this Government. It is desperately trying to off-load this dead cat - the honourable member for Georges River - who is ripening daily. The problem is entrenched in the present Cabinet. During debate in relation to legal aid for the victims, the Minister for the Environment said, "They are not victims because no allegations have been made; none whatever". We all know that they are victims and that they are suffering, as are their families, friends and loved ones. They have to go cap in glove to get legal aid. Will the Government provide them with legal representation so that they can give evidence - without intimidation, threat or revelation by a Minister who can use the privileges of this Parliament to denounce them? Is the Government going to give these women legal assistance? I hope so. I am sure that the Labor Party would give these women legal assistance - and it will pursue the issue with them.

These women should have proper and adequate representation, just like the honourable member for Georges River did. He got \$100,000 from the taxpayers' purse to defend himself in relation to his wilful misconduct. He got that money because the Government regards his sexual harassment as part of his official duties; they are the guidelines upon which Ministers are granted legal assistance. One can only draw the conclusion that the Government regards sexual misbehaviour by Ministers as official government conduct. He got \$100,000. Guess what we got? We hardly got a word. He denounced everyone but himself. He shot the messenger. There was also an erroneous point of law - the Minister said that he was not going to sue the Premier because he would not do that to his party. An Act of this Parliament provides an alternative: he could sue the State of New South Wales. His legal advisers were wrong.

The honourable member for Georges River came in here and did not answer any of the questions. He ran

away from all of the allegations raised by his victims, who are suffering a gross indignity. The Government owes an obligation to these women, who have had to change their names and their lives, who have been grossly inconvenienced and suffered great harm. Only after a great deal of pressure were these women granted psychiatric help and counselling. This issue was referred to last week during an estimates committee. We were told that over \$6,000 of the State's money was used to counsel these poor young women to come to grips with the horror that they will carry with them for the rest of their lives.

It is a very depressing state of affairs when one has to talk about this. The Government keeps referring to a Labor member who was full of corruption and crookedness - Rex Jackson. I despise people who take advantage of their position of power and are involved in direct sexual molestation of their staff. This went on for years and years. The Government has tried to wipe its hands of it. Jacko was a crook - and so is this man. The honourable member for Georges River was full of excuses. He said that he fondled women because of a war wound and he said that he ranted and raved because he was tone deaf. What is his excuse for being such a despicable human being?

**Ms ALLAN (Blacktown)** [5.39]: I support the motion moved by the honourable member for South Coast. I shall make a few comments in relation to the report of the independent inquiry which has been the

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catalyst for the motion. The report raises a whole series of issues, which I shall work my way through. The overwhelming issue is the substance of the allegations that have been made. Those allegations have been referred to in this Chamber, and ever since the report began to come to light last weekend. The allegations about the former Minister for Police are damning. There is no doubt in my mind that, if I were an employee of the former Minister and my employer - that is, the Minister - was attempting to stick his tongue down my throat, or kissing me in an overly affectionate embrace, or touching my backside, or touching my outer thighs or my inner thighs, or pressing himself against me in a hotel room late at night when we were away in the country apparently on ministerial business, or if we were sitting in the back seat of a car, and the Minister was groping my knee and making various suggestions to me, I would not think otherwise than that this Minister was making sexually improper suggestions and that his whole conduct was harassing of me.

As has already been said, there was not just one complainant or two complainants making these allegations; there was a series of employees from the former Minister's staff making numerous complaints over a period of at least 18 months. Even if it had been only one complainant making these sorts of allegations, then of course the matter would have been equally serious. It is not just a case of the former Minister being censured because his performance as Minister affected a number of his employees; it could have been the same if only one woman had made such a complaint. What is obviously of concern, therefore, is the nature of the complaints and what that says about the former Minister's character and behaviour. I think it is also significant, as I have said before, that these incidents took place over a period of some time. That is something that has already been alluded to in the Chamber this afternoon.

A lot has been made of the fact that people within the former Minister's office knew about this behaviour for a long time. According to some sources, many people on the staff of other Ministers were also aware of the turnover within the Minister's staff, and perhaps knew of the reasons for that turnover. Because of the nature of the allegations, the report raises huge issues about the role of the Minister as the alleged perpetrator of this behaviour. That is the reason and the purpose behind the motion this afternoon. The report has absolutely shattered the reputation of the former Minister as an effective Minister; it has shattered his reputation as an effective employer; and it has shattered his reputation as an effective politician and responsible member of this Chamber.

According to the findings of the inquiry, he appeared to take advantage of his position and he attempted to abuse the power that he had over a number of his former staff, by making sexually improper suggestions and pursuing sexually improper conduct. The report raises other issues, and highlights the roles of others in this matter. An area of particular concern to me is the role of the senior staff, as outlined in the report, particularly the former chief of staff to the Minister. I listened to the former Minister for Police defend himself in the Chamber several days ago, when he made the point - and I think it is also documented in the report - that in fact

he was not aware that there were these accusations of harassment against him until, finally, the former chief of staff brought them to him, 18 months after they had begun to be reported to the chief of staff, and at least six weeks after the former chief of staff had had ultimatums finally presented to him.

I think it is appalling that that officer went on recreation leave or some type of leave and had all these accusations in his briefcase as he walked out the door. That does not mean that the former Minister should be let off lightly, but it raises serious concerns about the role of people responsible for supervising single, attractive, female staff - not only, perhaps, within a ministerial office but within offices, factories and other workplaces throughout the community. If this report does anything at all, it certainly documents as unsavoury - as I think the Premier has already described it - the process of complaint and thwarted complaint that had gone on in this particular workplace for some time. That reflects very badly on the former chief of staff.

The report also reflects on the role of the Minister's own supervisor - in this case the Premier. Previous speakers in this debate have already highlighted that issue. I do not believe the supervisors of this particular Minister can be exempted from responsibility for what happened, at this particular historic moment in time. Our workplaces do not stand on their own. In many instances they are part of a bureaucracy and politicians are not exempt from the full responsibility which I believe should be applied to every public and private sector bureaucracy. The report raises issues about the complaints mechanism, not the lack of mechanisms - the mechanisms for dealing with these sorts of complaints are quite carefully documented in the report and have been in operation in this State for many years - but the fact that those mechanisms were not utilised by the people who were experiencing the alleged harassment.

Both Carmel Niland in her report and, earlier this week, Chris Puplick, the President of the Anti-Discrimination Board, have highlighted in their comments the fact that, yes, complaint mechanisms have existed in this State for some time but why was it the case that they were not used? Why did the victims not use them? Why did the supervisors of those victims not use them? Why is it that the Anti-Discrimination Board was not involved in a formal way at any point during the time that these complaints were being made? The other big issue in relation to the report is its methodology. Honourable members are all aware of what the former Minister for Police has had to say about the allegations. His defence hinges on the methodology of this report. I must express a certain sympathy for a number of issues he has raised - both in the Chamber and in other ways since the report became public. There is no doubt in

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my mind that it would have been a far better report and a far better inquiry if sworn statements had been taken from the complainants. I can fully understand that the former Chairman of the Anti-Discrimination Board, Carmel Niland, has had a lot of experience in negotiating and conciliating these types of complaints.

I am also appreciative of the fact that the people who have suffered from harassment may not particularly want to be involved in formal legal appearances, but the history of sexual harassment and complaints in this State and other States, and perhaps internationally, has increasingly legalised the process, despite the initial concern that we have to take into account, as almost a primary concern, the sensitivity of the victims involved. I think it would have been a better report if there had been sworn statements. I hesitate to suggest an oath because, of course, if the material was presented on oath, I would not have liked to have seen an extraordinary amount of cross-examination take place during the inquiry. But I also think that as the inquiry continued, and as it emerged that the material was going to be of the nature that would constitute political dynamite - which it has - that we should have been moving towards a more legal process.

That would have meant that we could have avoided a situation where the former Minister for Police was able to get up in this House earlier this week and so eloquently present his attack on the process of the report. He spent a significant amount of time simply attacking the author of the report and the process. The weaknesses in the methodology behind this report have allowed him to remain unaware that he is at fault and has been at fault. He was able to say in this Chamber, "I am no womaniser. I am mortified that my behaviour was interpreted as sexual". I took notes as he was speaking - they are not from *Hansard* but I recorded them reasonably accurately, I believe - and he was prepared to admit that he was a hard taskmaster, but he still has not come to the knowledge that most of his behaviour towards his staff was of a very threatening and certainly

unwelcome sexual nature, even if only a small portion of what is alleged in this report is actually true.

I want to leave the report for a moment to comment on the Premier's contribution to this debate. In some way he introduced an analogy between the former Minister and the former member for Cabramatta, who, as everyone is aware, had a huge staff turnover. Honourable members from both sides of the Chamber accept that the former member for Cabramatta was, like the former Minister, a hard taskmaster. However, it has never been alleged that one of the reasons for the high turnover of staff in the office of the former member for Cabramatta was sexual misconduct on his part. I assure the House that I have followed that issue carefully. Sympathy is now being evoked as a result of this inquiry. Earlier this week Terry Griffiths evoked considerable sympathy from many people in this Parliament. The victims must evoke sympathy. The Premier and other speakers have indicated that as they have quoted from the report.

These circumstances are unique in that one of the most senior Government officials is being accused of sexual misconduct. The honourable member for Penrith has said - and the honourable member for Bligh will probably refer to this as well - that sexual harassment is not unique. It has probably been experienced by women generally. There have been many situations similar to the present situation. We must feel sympathy for the victims. In this case we feel a certain sympathy for the alleged perpetrator. It is obvious that his political life, despite his optimism that the people of the electorate of Georges River will probably support him next March, is over. His ministerial career is certainly over. Because I was elected to this Parliament on the same day as the former Minister, I know that he was not only an intelligent person but a very ambitious person.

One aspect of the Premier's contribution that concerned me greatly was an apparent attempt to justify what has happened on the basis of asking what we really know about sexual harassment, how we deal with it, and what we really know about the Anti-Discrimination Act, which is too recent for us to be able to understand it or use it effectively. To my knowledge the Anti-Discrimination Act was enacted in this State in 1977. It is almost 20 years since the principle of fighting discrimination was entrenched in this State. The legislation has been amended significantly since then to pick up on a number of matters that might not have been part of the original Act. I am not sure where the Premier, the Deputy Premier, Terry Griffiths and other Ministers have been hiding for the past 20 years.

The issues raised in this report are familiar to me, they were familiar to me in the 1970s, and they have been familiar to many women in our community for many years. We have been trying to put mechanisms in place to avoid situations such as this for some time. As I said in the Chamber yesterday in debate on a motion seeking to condemn the Minister for the Status of Women, I am appalled that as politically mature people we have not been able to enact mechanisms to ensure that situations such as the present do not continue to occur over a period of 18 months in a ministerial office. Sexual harassment is completely unacceptable behaviour. For that reason I support the censure motion. I would like to think that the Government will create a framework so that what has happened can never happen again.

**Ms MOORE** (Bligh) [5.54]: I support this important motion. I support censuring the honourable member for Georges River for his reprehensible conduct, particularly his gross abuse of power and authority and persistent sexual harassment, bullying and victimisation of his staff. I repeat what I said yesterday: this debate is about the powerful versus the powerless. The Minister was in a powerful position as a member of this Parliament and he abused that position. He defended himself eloquently on Tuesday in what the honourable member for South Coast described as his so cleverly crafted defence. However, he was defending the indefensible.

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The Griffiths situation highlights how difficult it is for women in 1994 to obtain justice and fight for the basic right to have a safe and friendly workplace. For a number of years I have supported a rally undertaken by women each year. It is called Reclaim the Night. The rally will take place in Sydney and all major cities around Australia on Friday night. Women will take to the streets to reclaim the night so that they are able to walk the streets knowing that they will not be sexually or physically assaulted. These women are also



concerned about reclaiming their homes so that they will not be abused by men in the places in which they live. And here we are in this Parliament in 1994 discussing female staff reclaiming a parliamentary office as a safe workplace. That is indeed an indictment of the honourable member for Georges River.

I censure the honourable member for Georges River for his lack of remorse for the pain and stress that he caused to his staff, the nine young females who were dependent on him for their employment. These women suffered terrible indignities and invasion of their private space by the Minister of Police, who should have been setting standards, and respecting and upholding laws that require employers to provide a safe work environment. In his eloquent defence on Tuesday the honourable member for Georges River claimed that he had been misrepresented and that he had suffered gross injustices. I censure him for his admissions that he called his female staff "princess", "munchkin" and "gorgeous". I censure him for admitting that at Christmas time he hugged and kissed members of his staff, and for his admission that he turned the head of a staff member, kissed her on the mouth and used his tongue.

I censure him for admitting that he locked his door frequently so that he would not be interrupted and that he kissed a member of staff behind the locked door. I censure him for hugging and kissing Ms R and stating that this was done to show his private and public appreciation and support of her, and to raise her self-esteem. He does not deny doing so. I censure him for his admission that he needed to rearrange his testicles because of a painful condition in his right testicle. He had a ministerial bathroom to which he could have retired at any time he needed to rearrange his genitalia. Those women must have found themselves in a terrible situation - the threat, the fear and the gross invasion of their space. I know on the three occasions when men have exposed themselves to me that I felt intense anger because I had been forced to tolerate behaviour that I did not want imposed upon me. One has to suffer such an experience to realise what one's personal response will be. I want to refer briefly to the process. This matter first hit the media in late June. Because I was a woman in a hung Parliament, and because the Independents held the balance of power, I started receiving phone calls and requests for interviews immediately. At the end of June I received a letter from the Leader of the Opposition. He said that he would support the proposal for an inquiry. In a letter to him dated 1 July I wrote:

I am very concerned that the sudden resignation of a minister of the Crown has been followed by newspaper reports of serious allegations of sexual harassment.

I am appalled that five women felt compelled to put their careers on the line because of the alleged behaviour of the minister.

I agree that it is important that the details surrounding the resignation are made public. I would prefer that a formal complaint is lodged by the women or a thorough disclosure is made by the Government, but failing this an inquiry may be appropriate.

I am aware of the statement made by the Acting Premier on behalf of the women which expressed their desire to preserve their privacy. I have sympathy for the distress they have suffered and continue to suffer. My office was contacted today by a friend of the women to tell me that they did not want to be involved in an inquiry.

I was told that the women did not want to have the matter investigated, that they had not laid a complaint, that they wanted their privacy, and that they had been through enough hell. But from my knowledge of the situation - gained from detailed descriptions that appeared in articles in the *Sydney Morning Herald* - the matter certainly could not be ignored. I found myself in one of those difficult predicaments that I have often found myself in the Fiftieth Parliament. I received a telephone call from the Premier's office on 22 July. He proposed that I meet him at 1.30 p.m. on 25 July in his office in the State Office Block. That meeting was also attended by the honourable member for Manly. After that meeting the Premier announced that he would establish an inquiry and that he would ask Carmel Niland to head that inquiry.

Carmel Niland's name has been bandied around this House over the last two days. I have known Carmel Niland for more than 20 years. She was formerly the President of the Anti-Discrimination Board, she set up the Women's Co-ordination Unit and she was the first woman Counsellor for Equal Opportunity. I have known Barbara Wertheim for about 14 years. She was a Commissioner for Equal Opportunity in Victoria and she administered the anti-discrimination laws of the State and the Commonwealth. I can think of no better women

to carry out such a difficult and sensitive task.

The inquiry became a commission and the reporting date was delayed, because of the action - or inaction - of the honourable member for Georges River. The report was tabled in this House and the Premier announced that it would be forwarded to the Director of Public Prosecutions and to the Independent Commission Against Corruption, and the equal opportunity tribunal would be asked to investigate payment of compensation to those staff members. We now have this important debate on the behaviour of a Minister towards his staff - behaviour that every member of the House must feel humiliated and embarrassed by. But we have to deal with it. Whilst the inquiry process has been criticised, in light of the Niland report the Premier could not have acted differently. He could not have done anything other than totally reject the honourable member for Georges River as a member of his party or team. I certainly reject suggestions that have been made in this House that Carmel Niland has behaved unprofessionally in relation to the Premier. Though I have known Carmel Niland for a very long time, I have not had a discussion with her since the report was brought down. An article in the *Sydney Morning Herald* of

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26 October stated that Ms Niland was irritated by and dismissive of suggestions that she was a close friend of the Premier and his wife, Colleen. The article reported Ms Niland as having said:

I am an acquaintance of John Fahey. I have a friendship with his wife, Colleen, which grew out of an overseas trip when both our husbands [she is married to an industrial relations expert, Mr John Niland] were involved in industrial relations business.

It is outrageous for honourable members to suggest Carmel Niland had a wrong motive. She has the highest integrity, is incredibly experienced and beyond doubt the most appropriate person to carry out such a sensitive and important task. This motion was necessary, but it is interesting that it had to be moved by an Independent member. It sends a strong message to the women of New South Wales that we, as members of the Parliament, condemn, reject and deplore the former Minister's behaviour. Last night during the debate on the Independent Commission Against Corruption (Amendment) Bill it was agreed that an ethics committee would be established to determine a code of conduct for members of Parliament and Ministers. That is more than appropriate at this time. What must the people of New South Wales think about the Parliament when they read and hear about the terrible behaviour of some of our members. It is important that the recommendations in the Niland Report are implemented and that commitment is made to the process.

The commissioner did not have the power to compel those witnesses to give evidence, yet 28 of 31 staff came forward. My understanding is that pressure was not put on those women, notwithstanding what the honourable member for Georges River said on Tuesday. Written transcripts were prepared after interviews and were given to the witnesses to check to ensure they were true records. The staff wanted the Minister's behaviour to change; they wanted to be able to do a day's work, earn their living and at the same time maintain their self-respect and work satisfaction. I understand also that it was questionable whether the women were able to go to the Anti-Discrimination Board.

The women responded, through a spokesperson, in the following terms to the speech of the honourable member for Georges River: "We were all interviewed separately and all our stories were so alike we couldn't have made them up". When I read that response I thought it summed up the situation. Those women have suffered appalling stress; they have suffered emotionally, physically, and economically. It is an indictment of the honourable member for Georges River. Most of the women have been forced to leave their homes and stay with relatives and friends because they are constantly being hounded by the media. Some of them have had to change their telephone numbers. At the end of the day I hope those women are given some peace and recompense. The processes of inquiry must be changed in accordance with the recommendations of the Niland report; we must establish the ethics committee; we must have a code of conduct for members of Parliament; and this must never happen again in any Australian parliament, especially the New South Wales Parliament.

**Mr HATTON** (South Coast) [6.07], in reply: There is little to be said. The honourable member for Georges River has chosen not to speak to this motion; I have never seen such a thing in my time as a member of Parliament. Honourable members will make up their own minds about that. I congratulate the Premier for

receiving this motion with dignity, suitable gravity and concern. I restate my extreme disappointment that the Leader of the Opposition could not resist displaying yet again his acting skills to this House in his cheap attempt to dilute the force of this motion, its importance and its significance, by political point scoring. A wise and sensitive leader knows the appropriate time to point score in this House. Certain times demand that honourable members acknowledge the importance and gravity of motions before the House - matters involving natural disaster, personal tragedy or serious issues that touch people's lives. This issue touches the lives of each and every member of this Parliament. The Leader of the Opposition showed lack of judgment, and the electorate will judge him harshly because of that. If he wanted to point score, he should have done so by way of separate motion.

I will support the Speaker if the Opposition seeks to move dissent against the Speaker's ruling. There was serious contribution to this debate about the lack of protocol, non-threatening avenues of complaint and prompt action. But there was no leadership from the Leader of the Opposition in this regard. He gave us no plan of action; he made no mention of a code of conduct. In fact, with regard to the Independent Commission Against Corruption (Amendment) Bill, the Labor Party specifically voted against a mechanism to enable this Government to establish a code of conduct. I hope that Reverend the Hon. F. J. Nile and the Hon. Elaine Nile in the upper House, with their strong moral views, and the Democrats, whose motto is "Keep the bastards honest", would see this as an opportunity - especially in this climate of serious indiscretion by a Minister - to support the mechanisms that have been put forward by the Government to set up a code of conduct and to bring members of Parliament within the aegis of the Independent Commission Against Corruption.

The Leader of the Opposition has to realise that staff in this Parliament would have listened intently to this debate. They would have expected a response similar to that given by the Premier. Had he done so, he would have gained their respect tonight. They would not be expecting - and neither would they be respecting - the response to this debate given by the Leader of the Opposition, and that is sad. In the wider community the general public would have expected that the Leader of the Opposition would have responded with due gravity and concern, and would have shown leadership by putting forward what he believed were protocols to safeguard all people who are powerless in the workplace. He will be judged harshly in the community at large because of his response today and his lack of judgment. I am sure that women in the wider electorate will not be impressed.

**Motion agreed to.**

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

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**WATER BOARD (CORPORATISATION) BILL**

**Second Reading**

**Debate resumed from 22 September.**

**Ms ALLAN** (Blacktown) [7.30]: I lead for the Opposition in support of the Water Board (Corporatisation) Bill. The debate on this momentous move for the Water Board gives us an opportunity to reflect on the history of the board, its development as an organisation to serve the water, sewerage and drainage needs of Sydney, and the dedicated staff who work for the board. Students of history could not go past an excellent book by Margo Beasley entitled *The Sweat of Their Brows - 100 years of the Sydney Water Board 1888 to 1988*. The book gives a fascinating behind-the-scenes look at the operations of the board and its development. But more importantly, it gives a colourful and penetrating portrayal of the employees who were responsible for the construction of the Water Board infrastructure which we all take for granted today. The book is notable for its excellent use of the board's outstanding photographic collection. Indeed, the opening pages of the book contain a very heart-felt tribute to the board staff from Mr Peter Hughes, former assistant general manager of the board:

When I first came to the Board in 1970 I was looking at the old photographs and I was struck by just how very labour-intensive the Board's work was. The history of the board is really about ordinary men doing extraordinary things, generation after generation of workers performing prodigious work with no recognition or kudos. They are anonymous people but the photographs suddenly give you an insight into the way they lived and worked. I always thought that if a book was to be written about the history of the board it should rightfully be called 'The Sweat of their Brows' in recognition of these people who gave their all, some of them even their lives, to the building of these structures.

That is a fairly good summary of what the debate should be about this evening. Over the last few months I have been very concerned about the impact of the board's new retrenchment policy on its valued employees, and the evidence is that it is having tragic consequences. A disturbing Water Board document has revealed the tragic toll on staff of the board's job cuts and reorganisation. An internal Water Board letter details the tragic circumstances surrounding the attempted suicide of a board employee who was to take a redundancy package. The rush to corporatise the Water Board has resulted in the rights of workers to basic occupational health and safety at work being abandoned. The letter detailed the human crisis occurring in the Water Board.

The Opposition believes that the Government must impose a moratorium on job losses at the board to stop a repetition of this devastating incident. It is significant when we are considering the Water Board (Corporatisation) Bill that there has been no commitment yet from the Government about a moratorium on job losses. The push to corporatise and then privatise the Water Board means dedicated staff have been thrown on the scrap heap only to be replaced by private contractors and consultants. Water Board workers are being forced out of work after spending most of their working lives providing service to the board. In fact, the board's Illawarra regional occupational health adviser wrote to the Managing Director of the Water Board, Mr Paul Broad, on 26 May this year to advise him of the following:

Your people are suffering. There are feelings of confusion, fear, of being devalued, when many have given 20 or 30 years employment to the Board. These are real people suffering and then there is a multiplied effect on their families.

The letter goes on to detail people leaving the board without any recognition or appreciation of their service and the organisation being generally demoralised. The Government is proceeding with the Water Board (Corporatisation) Bill but it is also proceeding with its massive job loss program from the Water Board. The board has recently moved to contract out all maintenance and electrical services currently provided by board employees. Rather than dwell on these issues, I would like tonight to reflect on the good work done by board staff, the role of the Water Board in providing a full range of water, sewerage and drainage services to the city, and to consider its evolving role as an efficient operation which should have equal regard for its environmental and commercial responsibilities.

Labor believes urgent steps are required to protect the water quality of New South Wales. Water is fundamental to human life and the natural environment. The water cycle supports the State's key industries and it generates thousands of jobs and recreational opportunities in both urban and rural centres. Water infrastructure represents a massive proportion of the State's economic and social investment, with assets totalling almost \$20 billion - around one-sixth of the State's assets. The Water Board alone represents \$14 billion of this figure. As one of the world's driest nations, Australia faces unique water conservation challenges. Australians cannot sustain the profligate use of 10 trillion litres of water each year, nearly 500 litres per person per day - water restrictions in Sydney notwithstanding. Water can no longer be regarded as an infinite resource.

Water authorities must become efficient operations so savings can be made to reduce cross-subsidies between business and households and to protect the environment. Despite the importance of the water industry, the Fahey Government has been dismantling these resources - damaging environmental protection, water resource management and jobs. This failure has meant savage increases in taxes and charges, placing a burden on the families in western Sydney and also on small business. Companies in Sydney, the Illawarra and the Blue Mountains continue to pay the highest business water charges in the world. Over the past five years Labor has demonstrated deep-seated problems in the Sydney Water Board and within the administration of our water

resources. The Government Pricing Tribunal confirmed last year massive waste and  
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mismanagement by the Water Board. Under the Liberal Government spending on consultants and contractors has increased to \$80 million, nearly double the previous level. Operating costs per property have risen by a staggering 23 per cent in real terms. The Government Pricing Tribunal was also critical of the Water Board's claim about its productivity savings. I quote from the tribunal's report in 1993:

It appears these productivity savings have been overstated and are potentially misleading, given the one off nature of some of the expenditure items . . .

The New South Wales Auditor-General has also been critical of the financial operations of the Water Board and has found liquidity problems as a result of the Premier's special dividend raids. The Premier's \$200 million dividend raids approximate the \$80 special environmental levy payments by ratepayers for two years. The money could have cleaned up waterways or replaced ageing Water Board infrastructure. I hope this legislative process results in the new corporation providing more efficient and effective supply services, an ongoing environmental focus and a better working environment for the board's staff. There are five interrelated documents to establish the Sydney Water Corporation. They are: the bill; the regulations; the statement of corporate intent, that is, the agreement with the Government shareholders that sets the customer and environmental and commercial targets; the operating licence, that is, the document which sets the performance standards; and, finally, the memorandum of understanding.

The Sydney Water Corporation Limited would restrict its activities to acting as an operator of the water, sewerage, drainage and waste water systems. The Sydney Water Corporation would be regulated by a variety of Government agencies such as the Environment Protection Authority, the Government Pricing Tribunal, Treasury, the Department of Water Resources, the Department of Health and other public authorities. The Sydney Water Corporation would have five Ministers, four voting and one non-voting, acting as shareholders on behalf of the people of the State. The non-voting Minister retains portfolio responsibility. The Sydney Water Corporation would be subject to corporations law, the Consumer Claims Tribunal and the Trade Practices Act, and would remain subject to the Auditor-General, the New South Wales Ombudsman, the Public Accounts Committee, the Independent Commission Against Corruption, freedom of information, anti-discrimination legislation, and annual reports legislation.

For the record, Labor has had a longstanding policy in support of corporatisation of the Sydney Water Board. In a speech to the Electricity Supply Professional Officers Association my parliamentary leader, the Leader of the Opposition, made it clear that the Sydney Water Board would be corporatised under a Labor government but using a model substantially different to the Government's approach. In summary, Labor's approach to corporatisation would be achieved by amending the State Owned Corporations Act to, first, establish statutory corporations, not public companies; second, maintain ministerial accountability; third, maintain employee representation; fourth, maintain EEO principles; fifth, establish freedom of information annual reporting provisions with some exceptions for commercially sensitive functions; sixth, require auditing by the Auditor-General; seventh, establish transparent community service obligation payment principles; eighth, require payment of dividends and income tax equivalents, where appropriate; and, ninth, require competition in an appropriate regulatory environment, including Treasury, the Government Pricing Tribunal, the EPA and Federal competition laws.

Many of these proposed amendments to the State Corporations Act were foreshadowed by the ALP members of the Joint Select Committee upon the Sydney Water Board which met for several months earlier this year. Whilst my parliamentary leader's comments were made in the context of all government trading enterprises, it is worth noting the specific concerns of the Labor members of the Joint Select Committee upon the Sydney Water Board which are found in that report. Labor members of the Water Board inquiry found a number of things: they found that whatever model is used to corporatise the Sydney Water Board there is a prerequisite need for the Government to be satisfied that a strong and well-resourced regulatory framework such as the EPA, Treasury, the Government Pricing Tribunal, et cetera, is in place.

Labor members of the committee also found that the Environment Protection Authority is hopelessly inadequate to meet its task of acting as the principal environmental regulator over a corporatised Water Board. Labor members of the joint parliamentary select committee on the Water Board are not alone in being aware of the hopeless inadequacy of the Environment Protection Authority to perform that regulatory function. In particular the Fahey Government failed to introduce the promised EPA stage two legislation which, of course, was intended, according to the current Minister for the Environment, to overhaul all of the State's anti-pollution statutes, which are up to 30 years old. Its failure to do so seriously compromises the ability of the EPA to regulate the Water Board, the State's biggest polluter by volume and licence fee.

I should add to my concerns the Opposition's lack of confidence in the ability of the Minister for the Environment to be able to monitor or regulate his colleague, the Hon. Robert Webster in another place, who has responsibility for the Water Board. It is obvious that the current Minister for the Environment is not equipped to regulate any of his colleagues, let alone Robert Webster. The Labor members of the joint select committee also found that Treasury has failed to establish a clear dividend-capital investment and asset management policy. We also found that the Government Pricing Tribunal, while possessing the legislative ability, fails to adequately address social and equity issues in determining pricing and community service obligation structures. Finally, we found that if corporatised the Water Board would still

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maintain monopoly characteristics. Assumptions of increased efficiency in performance by exposing the Water Board to competition are dubious.

In summary, the Labor members of the joint select committee were more concerned about the capacity of the regulators to perform their role than they were about the ability of the Sydney Water Board to perform as a corporatised entity. Historically the Sydney Water Board has acted in a self-regulatory fashion due to the inability of the regulators to do their job properly. If corporatisation proceeds there will be considerable gaps in the regulatory and operating framework. As noted in the joint select committee report, the Sydney Water Board has considerable resources, technical expertise and history. It is a monopoly. It would be dangerous to simply corporatise the board, placing upon it a stronger financial and commercial imperative than currently exists, without its regulators being equally as strong and equipped to protect the public interest. It is appropriate to look at various concepts in the legislation and put on the public record the Opposition's view on each of them. The term "corporatisation" is commonly used to describe the conversion of a public sector agency into a body which has many of the features of a company that has been formed by the process of registration under the corporations law. However there are as many forms of corporatisation as there are arrangements for the conduct of private sector corporations.

Some of the features of an incorporated entity are: the capacity to sue and be sued in its own name; limited liability, though not all corporations enjoy limited liability; the capacity to own property and incur debts in its own name; continued existence beyond the life of individual members; and devolution of responsibility for the conduct of operations by members to a board of directors who are appointed by members in a general meeting in the manner prescribed by the memorandum and articles of association. However, these are only common features. There are also common differences, many reflecting the fact that there are various forms of corporation and different ways in which corporate-government arrangements are established. For example: incorporation in some form confers limited liability on members; other forms or no liability companies do not; some corporations are formed as public companies; others are formed as proprietary companies or exempt proprietary companies. Public companies which borrow funds from the public are classified as borrowing corporations. The articles of association of many corporations provide that there should be one vote per share. Other corporations have different voting rights for different classes of share.

Different classes of company have different rights and responsibilities. In particular, different classes of company have different obligations to be accountable to shareholders, government agencies and the public. For example, exempt proprietary companies, which appoint auditors, are not required to place any financial information on the public record. This means that the Government's assertion that a corporatised Sydney Water Board would be more accountable, because it is a corporation, clearly reflects a misunderstanding of the operations of the corporations law. Similar misunderstandings are evident in the Government's claims that

directors of a corporatised Sydney Water Board would be personally liable if they did not exercise their duties with reasonable care and diligence, and that they could be subject to fines and imprisonment if actions are brought against them by the Australian Securities Commission.

Such statements reflect a series of confusions. The statements confuse civil litigation from parties who have suffered economic loss, and prosecutions of those who have committed offences against the corporations law. The statements also reflect confusion over the role of the Australian Securities Commission. The commission only administers the corporations law and leaves enforcements to the Director of Public Prosecutions. One is left with the impression that the authors of the Government's policy are very keen on corporatisation but really do not understand the full implications of what they are talking about. Certainly the Government's claim that corporatisation of the Sydney Water Board will lead to greater accountability deserves close and careful examination.

Just as there are different forms of corporations, so the Government could have chosen different formal structures for the corporatisation of the board. Further, whatever structure was adopted, there are a variety of ways that the Government could assign responsibilities; for example, to the corporatised board either by making the board responsible for its own dividend policies or directing that dividend policies would be imposed by Government, allowing the board to determine its own priorities for investment or for establishing that key priorities can be determined by government. In relation to Ministers' dealings with a corporatised board, for example, which Ministers will have votes, which Ministers will hire and fire directors and which Ministers will be responsible for answering questions about the board in Parliament? In fact, the Government's proposals for the corporatisation of the Sydney Water Board do not address many of these features. However, one thing is clear: the proposed form of corporatisation will reduce the accountability of the Sydney Water Board to the Parliament and to the public. The revised arrangement, if approved by the Parliament, would insulate Ministers from being formally responsible for the activities of one of the State's major publicly owned enterprises. This is unacceptable.

It is pretty obvious from the body language of even the Minister for Land and Water Conservation, who is in the Chamber, that he finds it insufferable to be in the Chamber discussing this major bill. It will be so much easier for him to wriggle out of responsibility when this model of corporatisation is eventually in place. The reasons for the great concern about these potential outcomes are numerous. Water is basic to life. Waste water and drainage services

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are vitally important to public health. The Sydney Water Board operates a natural monopoly in which the community has made a massive investment. The Sydney Water Board is highly profitable. An independent study has shown that, if the board prepared its accounts on the same basis as private sector firms, it would be reporting profits, that is, before interest and taxes, of around 1½ times those reported by listed industrial companies.

The Sydney Water Board needs to invest much of its earnings in the maintenance of existing infrastructure and in the construction of new and upgraded infrastructure. The manner in which the board manages its waste water and drainage services has a profound effect on the environment. Of course, it must be remembered though that corporatisation is only the first step in the Government's broader plan for the Water Board. There is no doubt that the corporatisation legislation before the House this evening is intended to bring the Sydney Water Board one step closer to privatisation. After running down this State's water authorities the Fahey Government has moved to support privatisation plans for the Hunter Water Corporation and the Sydney Water Board to prop up the State's finances. Honourable members will recall the assurances that were given to us in this House by the then Minister responsible for the Water Board, Mr Schipp, about the Hunter water corporatisation legislation and how corporatisation would not be used as a vehicle to push the Government's privatisation agenda.

Yet only months after the legislation was passed the former Premier released the Government's Facing the World document which, among other things, hawked the Hunter Water Corporation as a candidate for future privatisation. We all knew that this was the Government's agenda right from the beginning. We knew that, by removing the Minister from all responsibility for the corporation, by making the corporation and the Minister

immune to questioning of its operations by members of Parliament, and by establishing it as a public company, the public would be cut from the decision-making processes and that the corporation was halfway towards becoming a private concern. It is for that reason that a number of my Hunter colleagues are keen to participate in the debate on the corporatisation of the Sydney Water Board. Once again, on 15 November 1989 the former Premier introduced legislation to corporatise the State Bank. This is what he said at the time:

However, as I have already stated publicly, and to the bank, the State Bank will not be privatised during my Government's first term.

But is it not curious that, at the same time as we are debating the Water Board corporatisation legislation, this Parliament also has before it the Government's legislation to sell off the State Bank - another breathtaking act of hypocrisy, this time by the current Premier. I have just outlined two examples of Government duplicity. It promised not to privatise but it has begun to move towards doing just that. Just think what will happen to the Sydney Water Board, given that the current Minister for Planning told the *Sydney Morning Herald* on 15 January last year - one of his most memorable quotations:

The Sydney Water Board is a candidate for privatisation.

The Labor Party rejects this approach. These monopolies are too important to risk in private hands. On 18 June 1993 the Government announced the first privatisation of the New South Wales irrigation scheme, at Gumly on the Murrumbidgee River near Wagga Wagga. Labor is resolutely opposed to the privatisation of water authorities because it is socially undesirable and economically indefensible. At last I have said something that the Minister for Land and Water Conservation actually understands. I do not think, from my interpretation of his second reading speech, that he really knew what he was talking about. Even at the beginning of debate this evening he had great difficulty finding the bill that we are discussing. The Industry Commission has argued that the supply of water "is a natural monopoly and there are no effective substitutes . . . A change of ownership does not obviate the need for extensive government involvement".

Water is a natural monopoly because there is no substitute product. There can be no rival water service, no building of competing reservoirs or the laying of alternative pipes. Unforeseen consequences from water privatisation in the United Kingdom have been disastrous. Despite price-capping rules to prevent abuse of monopoly power, consumers could not object to significant increases in water if they were the result of capital expansions. The British experience has shown that regulation of private sector monopolies is not cheap or effective in ensuring quality services. Environmental improvements were disabled by privatisation, and market control from consumers and capital markets over private water authorities was never achieved. With public ownership there is political control to balance monopoly power.

But let us not just believe the Minister for Planning. Sly and Weigall, internationally regarded in the field of corporate business advice, has produced an excellent book entitled *Corporatisation and Privatisation in Australia*. Pages 95 and 96 of that book list the authorities for which the State Government has developed a program of privatisation. Surprise, surprise! Third last on the list is the Sydney Water Board. Let us not forget about the \$1 million that the current Premier has spent preparing reports on how to privatise the Sydney Water Board. This House has passed a resolution demanding that the Premier publicly table these documents, but he continues to flout the will of this Parliament. The reason is that these reports go into a detailed analysis of how the Water Board can hive off its operations, region by region, to the private sector and how, as a private entity, the board can start doing shonky things like tax minimisation.

The evidence is there for all to see. We have the history of deception and dishonesty. Now the Government intends to hold the line until after the election, when privatisation will again be its buzz word. "Accountability" is a much abused word. The Fahey Government's suggestion that a corporatised

Sydney Water Board would be more accountable is a prime example of terminology abuse. In broad terms, accountability is a relationship that subsists between two or more parties, whereby one is answerable to another for the way he or she has carried out specified activities. It is possible to identify a variety of types of



accountability relationships. The simplest form involves arrangements whereby one person is required to demonstrate, through periodic reports, that money has been spent in a manner consistent with prior authorisations. One example of this form of accountability is the way that trustees are required to provide financial reports to beneficiaries of a trust. A slightly more complex form involves requirements that financial statements be subject to audit.

Another obvious example is the traditional requirement for governments to present a set of public accounts annually to Parliament after they have been audited. Other relationships involve more complex arrangements for financial reporting. For example, listed public companies are required to provide audited accounts to shareholders and to the Australian Securities Commission. They are also required to present half-yearly reports as well as additional disclosures about transactions or events which may affect market assessments of the value of listed securities. Contemporary expectations about the operations of the public sector have led to even more complex accountability relationships, whereby the performance of government agencies may be subject to more searching review than is common for private sector corporations. For example, in many jurisdictions an auditor-general not only reports on financial statements or on whether expenditure or other activities have been undertaken in a manner authorised by relevant legislation; he or she is also empowered to undertake reviews of the economy and the efficiency and effectiveness with which public sector agencies have pursued Government policies.

Coupled with these different forms of accountability relationships are differences in the ways in which individuals are answerable to others if their performance has been found wanting. For example, a Minister who is found to have misled Parliament may be expected to resign; a manager who has been found to have performed poorly may have his employment terminated; a trustee who has been found to have used trust funds for his own benefit may face criminal charges and possibly a period of imprisonment. One frequently encounters claims that certain changes will improve or strengthen accountability. Such changes may affect the nature of the relationship between the parties to an accountability relationship, or they may affect the manner in which that relationship is conducted.

Changes are regarded as improvements in accountability if they involve more demanding reporting requirements, greater openness or more extensive scrutiny. For example, it would generally be considered that improvements in accountability could arise from changes which lead to fuller, more informative or more accessible financial disclosures; which lead to more frequent financial disclosure; which require that information be made available in a more timely fashion; which identify which parties are responsible to render an account to stakeholders or their representatives, and which clearly specify the nature of that responsibility.

Improvements could also arise from changes which afford opportunities for stakeholders to question members of boards at public meetings; which ensure that access to certain types of documentary information is available to interest groups or the public at large; which require fuller disclosure about aspects of the physical, operational performance of an entity; which require fuller financial disclosure about transactions involving directors or senior executives; and which require that the performance of directors or chief executives be subjected to performance audits - audits which assess the economy, efficiency and effectiveness with which agencies have conducted their activities in pursuit of the policies established by government. Conversely, changes which lead to less extensive financial disclosure, a lessening of formal responsibility for certain activities, lesser standards of audit, or less public scrutiny, will generally be regarded as reducing or weakening accountability.

The principle underlying traditional parliamentary accountability is that a Minister - and, through him or her, the Government - is answerable to Parliament for the conduct and performance of the agencies in his or her portfolio. Correspondingly, the boards of statutory authorities or the chief executives of departments or other agencies are answerable to the Minister. In the accountability relationship between Minister and Parliament, the Minister is answerable for the way in which the agencies within his or her portfolio have carried out their tasks. In other words, Ministers have been held to account for both financial and operational performance.

However, the framework within which water distribution agencies operate gives rise to a range of

additional accountability relationships. For instance, water distributed by the Sydney Water Board must meet health standards and, accordingly, the board is accountable to other government agencies and their Ministers for its performance. As an employer, the board should also be accountable to other government agencies and their Ministers for maintaining equal opportunity standards and in preserving or promoting the status of women. As the operator of a natural monopoly, the board is also required to subject its proposed pricing arrangements to review by the New South Wales Pricing Tribunal. The tribunal's brief currently requires it to review prices in the context of the Government's requirements for dividends.

Effluent from the board's sewers and stormwater drains is a major contributor to environmental pollution and also may produce health risks in waterways and beaches. The board is, or should be, accountable to other government agencies for the way it has performed with regard to producing environmental pollution. The list of accountabilities could be extended. However, the operations of the Sydney Water Board give rise to some fundamental

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accountability relationships. They concern, first, financial performance; second, performance in providing high quality services and continuity of supply to its customers; third, performance in handling effluent so as to minimise damage to the environment; and, fourth, performance in maintaining and upgrading infrastructure.

This infrastructure has been acquired with funds provided by past and present generations of taxpayers, ratepayers and industry. Unless that infrastructure is adequately maintained, the Sydney Water Board will be passing on financial burdens to the next generation. Unless there is adequate investment in new infrastructure, the board will be unable to secure supplies of high quality water to its customers and to ensure that the quality of its treatment of effluent and waste water is upgraded so as to reduce environmental pollution and degradation. Two points arise from this listing of key accountabilities. First, the Fahey Government's proposals for corporatisation of the Sydney Water Board mainly emphasise only one of these accountabilities - the profitability of day-to-day operations of the board. The proposals do not establish clear performance targets for the board in delivering services to the community. The proposals would not give a corporatised board full control over the level of investment in new infrastructure. So far as pollution of waterways is concerned, the proposals do not establish any clear lines of accountability. This is a worrying aspect since, to date, the standard of accountability of government agencies in this area has been poor.

The new arrangements seek to insulate Ministers and the Government from being held accountable for the level of investment undertaken by a corporatised water board and for the environmental impact of the board's activities. In practice, this may prove ineffectual as parliamentarians can still question the board's performance. The formal arrangements proposed by the Government would diminish ministerial accountability to Parliament. Ministers could deflect questions by asserting that they are not accountable for the board's operations and only participate as a shareholder in the election of directors.

Second, because accountability for its performance in minimising environmental damage is one of the key issues arising from the Sydney Water Board's operations, the legislation is deficient in that one cannot assess the board's current accountability arrangements, currently involving the Minister for the Environment and the Environment Protection Authority. The Greiner and Fahey governments have already weakened the accountability relationships between the Sydney and Hunter water boards on the one hand, and the Parliament and the community on the other hand.

Once the Sydney Water Board was responsible for managing its finances, planning and building infrastructure, and for the conduct of its activities in providing services to the community and other operations, it was accepted that Ministers were accountable to the community for the overall conduct of the board. Currently, the Sydney Water Board's finances are subject to demands for dividends from the Government. Its pricing policies are subject to review by the New South Wales Pricing Tribunal. One of the criterion that must be taken into account is the Government's requirement for dividends.

When it comes to accountability concerning environmental pollution, responsibility now falls between two schools. The establishment of the Environment Protection Authority may have been described as a forward

step in seeking to minimise environmental damage. I note at this stage that some members are behaving rudely in this Chamber - they are chatting rather loudly. Perhaps they should go outside. In practice it has not worked, partly because the EPA has not operated as an effective regulator. So far as the operations of the Water Board are concerned, a major flaw has been the way the Government has ensured that neither the EPA nor the Water Board have been made responsible for reducing environmental pollution through the board's sewers and drains. Key features of current arrangements follow. The EPA issues a series of licences which require the Sydney Water Board to operate its main sewerage outfalls within certain tolerances. However, the EPA does not actively monitor the quality of discharge of effluent from those outfalls or impose sanctions when discharges from those outfalls breach the licence arrangement.

In turn, the Sydney Water Board is empowered to license individual industries to discharge waste into the board's sewers. The Sydney Water Board does not publicise who is licensed to pollute and how much they pay for the privilege. Nor does it disclose which licences have not conformed to licence conditions, what sanctions have been imposed on licensees for breaches of licence conditions, and the scale of those breaches. What has been the total mass of discharges of heavy metal sulphates or other pollutants within particular periods? Likewise, the EPA does not provide an account of the outcome of its licensing program on the level of environmental pollution through the board's sewerage and stormwater outfalls. It does not disclose what sanctions it has imposed for breaches of licence conditions or the nature of those breaches.

To date, the Environment Protection Authority has not bothered to licence stormwater drains and outfalls. They have been left in the too-hard basket as the Government considers whether stormwater drains and outfalls should be the responsibility of the Sydney Water Board or local councils. Property development can increase stormwater run-off in developed areas, overloading existing infrastructure and possibly creating flooding in adjacent areas; and local government is unable to force municipalities responsible for increased run-off to contribute to the cost of alleviating the problems. The solution lies in total catchment management rather than assigning responsibility to local government, but the role of the Sydney Water Board in facilitating arrangements for total catchment management has yet to be adequately addressed.

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These arrangements are characterised by a diffusion of responsibility, a lack of openness and limitations on the capacity of stakeholders - members of the community - to subject the activities of either the Sydney Water Board or the Environment Protection Authority to effective scrutiny. In particular, these arrangements ensure that the Sydney Water Board, the EPA, and the Ministers responsible for those agencies, are not formally and directly responsible for the conduct of programs which are supposedly designed to minimise the environmental impact of sewage and stormwater outfalls. The fact is that the Government, by dividing responsibility between the board and the EPA, has made neither adequately accountable for environmental damage. Mr Acting-Speaker, I ask you to draw members from both the Government and the Opposition sides of the House to order, because I am having difficulty hearing myself.

**Mr ACTING-SPEAKER (Mr Rixon):** Order! Other members are not having any trouble hearing the honourable member. I suggest that she continue with her contribution to the debate.

**Ms ALLAN:** I am sorry, but I am having trouble hearing. I do not know whether it is the microphone.

**Mr ACTING-SPEAKER:** Order! I will maintain control of the House. The honourable member should either continue with her speech or sit down.

**Ms ALLAN:** In fact, I am leading for the Opposition in the debate and I will not be finished for some considerable time. I am sorry if honourable members are finding it rather dull, but I have the right to be heard when I am making a speech.

**Mr ACTING-SPEAKER:** Order! Members are not obliged to pay close attention to the member with the call, but of course they should not interrupt. As they are not interrupting I suggest that she continue with her

speech.

**Ms ALLAN:** Mr Acting Speaker, I am finding it difficult to hear what I am saying through the microphone. That is the point I am making. I do not care whether honourable members are listening. That is why I am asking for some assistance. I thought that was your role.

**Mr ACTING-SPEAKER:** Order! If the member listens, she will realise that there is not a sound in the Chamber at the moment.

**Ms ALLAN:** Thank you, and I hope that continues. While the Government claims to be making progress towards cleaning up New South Wales waterways, it has never produced the data that would enable others to make an informed assessment of its performance. The latest exercise in public relations has been the announcement that the Government will licence all sewage overflow points in the board's area of operations. Licensing will not, in itself, achieve anything; what is needed is an effective plan for dealing with these outfalls, and effective action. Without a plan and effective action, licensing merely legitimises more pollution.

It is emphasised that the licensing arrangements will only relate to sewage outfall and not stormwater outfalls. The Government has avoided addressing the problem of stormwater, and corporatisation of the Sydney Water Board would formally remove from it any responsibility for stormwater drains and the quality of stormwater discharges. Another indication of the extent to which this legislation has been hastily cobbled together in a sham attempt to hoodwink the public about the form of the new corporation, is the chorus of criticism of the bill which has come from not only the conservation movement but also consumer groups and other public advocates. On 21 September the Australian Conservation Foundation, the Australian Consumers Association, the New South Wales Council of Social Service, the Total Environment Centre and the Public Interest Advocacy Centre, after viewing the Government's draft legislation, issued a press release which called on the New South Wales Government to create an ecologically responsible and socially responsible water board, as opposed to the current narrow commercial scheme to corporatise the board. The press release continued:

The bill does not remove the conflict of interest between poacher and gamekeeper when it comes to the public resources of water and catchment land. It creates a facade of protecting water quality, consumer rights, social goals and the environment as it has unenforceable agreements; refers to plans that are not even written and does not empower the ordinary person against what will be a monopoly water supplier with a powerful commercial intent.

The Australian Conservation Foundation and the Total Environment Centre went further and ended with a warning:

. . . that a major community and Parliamentary campaign will be launched in response to Mr Webster's sale document for his revised scheme to corporatise the Water Board.

The Minister's press release admits that all the supporting instruments are not legally enforceable, most importantly the memoranda of understanding with the EPA, Department of Water Resources and the Department of Health.

There is no indication that the Licence Regulator will be an independent Parliamentary Officer as called for by environment, consumer and social welfare groups.

Accordingly, there is no certainty that the environmental plan will be effectively tied into a strong, enforceable accountability loop.

Caution was also expressed by the Public Interest Advocacy Centre about the concept of competition and its application to a natural monopoly, such as the Water Board. The Public Interest Advocacy Centre supports explicit statements of the rights of customers and means of redress. It supports provisions that require the corporation to trade consistent with the principles of ecologically sustainable development and the precautionary principle, to supply safe drinking water to its domestic customers, and to promote public health; and to allow any person the right to sue the corporation for a breach of the operating licence, the customer contract, or the

Act generally.

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I know that it is of great concern to the voluntary conservation movement that the bill places in doubt the future of sensitive Water Board catchment lands, which have for years protected our pristine water quality. It is the Opposition's policy to protect these catchment lands in public ownership. I understand that the conservation movement will seek, via amendments by the honourable member for Manly, to vest this land at no cost to the Minister administering the National Parks and Wildlife Act, under section 145A of that Act, and that there will be joint management with the Sydney Water Corporation, with a management plan to be produced within 18 months.

The Opposition strongly supports the retention of these catchment lands in public ownership, and will act to ensure they are not developed but are managed sensitively by the Water Board and the parks service. The Government has claimed that its proposals for corporatisation of the Sydney Water Board will produce better performance, better customer services, and increased accountability. They are the achievements that have been outlined in the executive summary to the bill. The claims are not backed by a clear statement of the criteria against which performance of customer service will be judged; they are not supported by any detail, beyond occasional allusions to the alleged improvements secured through the Government's management of the Hunter Water Board, now the Hunter Water Corporation.

The Government also claims that the changes will lead to increased accountability. However, the effect of these proposals will be the reverse. The main proposals which are supposed to produce an increase in accountability are: creation of the Sydney Water Corporation Limited with shares to be held by five Ministers; the shareholders of the Sydney Water Corporation will appoint a board of directors who will be accountable for achieving specific commercial, environmental and customer service objectives; and statements of corporate intent will commit the corporation to performance. These statements will be tabled in the Parliament, to ensure that they are open to public scrutiny. They will enshrine environmental outcomes on a par with commercial outcomes.

The other proposals that are supposed to produce this increase in accountability are: the introduction of the regulatory framework that clearly divides responsibilities between operators and regulators; the license regulator will be a new, independent advisory committee and it will monitor Sydney Water's performance and compliance. The establishment of customer contracts will also ensure accountability. Supposedly, the customer contracts will give customers the right to receive small rebates if supply is interrupted for extended periods. Despite the rhetoric about improved performance, these proposals seem likely to create confusion about the locus of responsibility and accountability for different aspects of the performance of a major public utility. The claim has been made that the Government proposals will provide for strengthened ministerial responsibility. The fact is the proposals will actually weaken ministerial responsibility.

The portfolio Minister will be one of five Ministers responsible for election of directors to a corporatised water board. According to material distributed by the Government, the portfolio Minister will not even be a voting shareholder of the corporatised board. The portfolio Minister will hold the operating licence, but will not also be a voting shareholder with rights to direct the corporatised water board. There will be two voting, shareholding Ministers in addition to the licence-holding portfolio Minister, and two other non-voting Ministers. In other words, the portfolio Minister will have no responsibility to direct the board, and will have no votes at meetings of shareholders. Furthermore, out of five shareholders, only two Ministers will have votes - a recipe for deadlock. The portfolio Minister cannot only disclaim any responsibility for decisions made by the board; he or she can even disclaim responsibility for appointments to the board.

The board will be accountable only to general meetings of shareholders, that is, the five Ministers. The arrangements proposed by the Government replace accountability to Parliament with a lesser form: accountability behind closed doors to Executive Government. The bill does not even contain provision for the minutes of those annual meetings to be tabled in Parliament. Three main sets of responsibilities are to be

considered in relation to the activities of water boards: planning, operating and regulating. The Government's model of corporatisation only refers to two responsibilities: operating and regulating. The issue of who will be responsible for overall planning has not been addressed in the documents outlining the corporatisation proposals. The fact is that although the Government may claim that the corporatised board will be responsible for planning, it is not proposing to delegate powers to the board to enable it to plan effectively.

That is partly because the Government will continue to maintain the right to demand dividends from the corporatised board. If the board wishes to undertake much-needed investment in new infrastructure, it will not be able to resist the demands for special dividends or, indeed, to make calls on the shareholders. It is not suggested that total delegation of responsibility for planning is at all appropriate. It is government's responsibility to set the overall strategic direction for the activities of water boards and, indeed, of other agencies. For example, it would be unrealistic of the Water Board to give top priority to infrastructure provision in new subdivisions if the Government proposed to foster urban consolidation, a policy requiring greater emphasis being given to the upgrading of existing infrastructure in older residential areas. Likewise, government plans for reducing the environmental impact of effluent discharges may properly override simple commercial considerations of a profit-seeking corporation.

The point to be noted is that the Government's proposals leave responsibility for planning very ambiguous. Indeed, this lack of clarity is also reflected in the present activities of the Environment

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Protection Authority. Despite being described as a regulatory agency, the EPA has not operated as an effective watchdog. Instead of working as an independent and effective regulator, the EPA has emphasised planning, educational activities and, it seems, public relations. The idea of distinguishing operating and regulatory functions has merit. Plainly the EPA has been a failure as a regulator. It has in fact delegated responsibility for the maintenance of environmental standards in the treatment and disposal of waste water to the board while doing virtually nothing about the discharge of untreated stormwater run-offs. At the same time it has used the artifice of the issue of licences to convey the illusion that the EPA is itself regulating the board.

However, the Government's proposals confuse the issue further by introducing a new regulatory agency: the so-called licensed regulator with functions overlapping those of the EPA. This lack of clarity of responsibility for regulatory functions will further weaken the accountability of the board for waterway pollution. Although the Government claims that this new system will introduce rigorous external monitoring, the arrangement is neither rigorous nor external to the ministerial portfolio responsible for a corporatised Water Board. The licence regulator will be an independent advisory committee which is to be appointed by, and will report to, the portfolio Minister. The description of the licence regulator as an advisory committee is in itself inconsistent with the notion of rigour. The committee will only advise and will not have the power to impose sanctions on the corporatised Sydney Water Board if it breaches licence conditions.

The Government's explanations of the role of this committee do not explain what criteria it will use in monitoring the performance and compliance of the Sydney Water Board. The Government has not explained what penalties will be imposed if Sydney Water transgresses. The proposals will further reduce the already minimal authority of the EPA and will substitute a more diffuse system for regulating environmental protection. It is difficult to escape the conclusion that the main role of the advisory committee-licence regulator will be to create an illusion of regulatory activity, not to actually regulate. The Government's proposals make much of the claim that by corporatising the Sydney Water Board it is removing it from the protection and privileges of being a public authority. Yet in practical terms this change will be of little significance. The only illustration provided by the Government is that if Sydney Water fails to provide a water or waste water service because of a fault in the system for an extended period, say six hours or more, customers will automatically get a 10 per cent rebate on the quarterly service availability charge.

For residential customers that would be \$8.40, a trivial reimbursement. In many cases customers may have difficulty demonstrating their eligibility for the refund and will not bother to pursue claims because of the time and expense involved. More fundamental is the fact that as a corporatised body Sydney Water Board will not be responsible for stormwater. Persons whose houses are flooded by stormwater will not be able to pursue

any compensation claims whatsoever. The corporatisation of the Sydney Water Board will place it under a less demanding regime of accountability than presently exists. As a statutory authority, the Sydney Water Board is required to conform to the reporting requirements of the New South Wales Annual Reports (Statutory Bodies) Act. These requirements are even more demanding than the requirements imposed on listed companies in terms of the Corporations Law.

Matters which the Sydney Water Board is presently required to report in terms of the Annual Reports (Statutory Bodies) Act and its regulations include detailed budgets for the year reported on; an outline budget for the next year; and particulars of material adjustment to detailed budget for the year reported on. It is also expected to report on operations: charter; aims and objectives; management and structure, which includes qualifications of board members, frequency of meetings and members' attendance at meetings, an organisational chart indicating functional responsibilities, details of significant committees established or abolished; a summary review of operations; management and activities; the nature and range of activities; the measures and indicators of performance; internal and external performance reviews; benefits from management and strategy reviews; management improvement plans and achievements; major works in progress, cost to date, estimated dates of completion and cost overruns; and reasons for significant delays, et cetera, to major works or programs.

The Sydney Water Board, of course, is also presently required to report on research and development, human resources, consultants, equal employment opportunity, consumer response, and risk management and insurance activities. The State Owned Corporations Act does not require these matters to be reported to Parliament or the community, nor does it require corporatised entities to disclose significantly more information, with the possible exception of disclosures about the total benefits received or receivable by directors and senior executives. Accordingly, it is plain that corporatisation of the Sydney Water Board will, among other things, lead to less extensive reporting on financial goals and performance; it will remove requirements for reporting on the sums paid to consultants; it will remove requirements for reporting on management activities, including performance indicators; and it will remove requirements for reporting on personnel policies and equal employment opportunity.

These changes in reporting arrangements will involve significant reductions in accountability. It has been claimed by the Government that a corporatised Water Board will be subject to freedom of information legislation. However, the Government has avoided saying that FOI requests can be rejected on the ground that disclosure would jeopardise commercial interests. It is likely that this excuse for non-disclosure would

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be frequently invoked by a corporatised Sydney Water Board. The essence of the Government's proposals is to insulate Ministers from accountability to Parliament and the community. If the bill is passed the portfolio Minister will be able to deflect questions about board performance by claiming that the board of directors is the responsible entity. Similarly, the Minister for the Environment will be able to claim that the entity with primary responsibility for monitoring the environmental impact of Sydney Water's operations is the licence regulator, an advisory committee appointed by, and reporting to, the portfolio Minister. Overall, the Government can shift responsibility or blame for policy decisions that have an adverse effect on Sydney's water and sewerage services to the board.

The effect will be that policies will be hidden from public scrutiny. The Sydney Water Corporation will be shielded from revealing or explaining those decisions through the simple expedient of claiming that board papers and decisions are commercial in confidence. At the same time the proposed arrangements envisage the continuation of a lack of a clear-cut set of responsibilities and accountabilities of the EPA to Parliament and the community about environmental pollution. The EPA will continue to be an agency with a confused mission: part planner, part educator and part - pathetically part at times - regulator. The foregoing description has dwelt on the flaws in the overall design of accountability arrangements proposed by the Government for a corporatised Sydney Water Board and a diminished Environment Protection Authority. In addition to these design flaws, the proposals outlined by the Government also include a host of instances which reflect a lack of attention to detail and a lack of appreciation for relevant accountability issues.

Without dwelling on these in detail it is noted that the Government's documents refer to the now repealed Companies Code, but Australia has had a Commonwealth Corporations Law since 1991. The Government documents state that the corporatised board will be required to prepare financial reports consistent with those required by the Companies Code, though the Government has not made it clear which reporting regime is contemplated. The Government's documents state that the corporatised Water Board will be responsible to the Australian Securities Commission, but the commission merely administers the Corporations Law and associated regulations. The documents also refer to requirements for the board to report in a manner consistent with private sector corporations, giving the illusion of a requirement to publish fund statements. That requirement was replaced with a requirement to publish statements of cash flows in 1992.

The documents do not provide details of the proposed customer contracts and what they will cover. They provide no explanation of the mechanisms whereby customers can seek redress for breaches of those service contracts when the board does not volunteer rebates on the next quarterly bill. The documents make no reference to when the board will accept responsibility for damages to private property arising from such incidents as flooding from stormwater after blockages, or whether responsibility for such incidents is to be passed to local councils. The documents claim that the corporatised Sydney Water Board will be subject to key public sector accountabilities, whereas the Auditor-General is prevented from examining Cabinet documents relating either to the board in its present form or to the corporatised board. The Government has denied the Auditor-General the opportunity to undertake performance audits of the Sydney Water Board, and that exclusion is to continue.

Earlier I noted that the operations of the Sydney Water Board gave rise to several fundamental accountability relationships, namely financial performance, performance in providing high quality services and continuity of supply to customers, performance in handling effluent to minimise damage to the environment, and performance in maintaining an upgraded infrastructure. A better model of corporatisation would address each of these key accountabilities. It would address financial performance. The board is a capital-intensive natural monopoly which is already highly profitable. It is important for the board to be accountable for its financial performance, but financial performance is only one aspect of the board's activities which deserves attention.

The Government's proposals reflect a narrow concern for financial performance, with its plan to make the Sydney Water Board subject to the reporting requirements of the Corporations Law rather than the existing requirements of the Annual Reports (Statutory Bodies) Act and regulations. Such a change would enable the board to reduce the information it has to report about financial performance, but at the same time it will eliminate requirements for the board to report on a wide range of aspects and operational performance. A better model of corporatisation would retain and refine the existing reporting requirements already established for public sector agencies. There should be greater openness about the affairs of government agencies.

In the past the Fahey Government has directed the Sydney Water Board to hold all its board meetings in private. A corporatised Sydney Water Board would hold secret annual meetings, with only five shareholders invited. A better model of corporatisation would ensure that the board would be more open and accountable by requiring it to hold annual meetings in public so that customers and interest groups have the opportunity to discuss matters of concern with those responsible for the conduct and direction of the agency. A better model of corporatisation would also seek to enhance the effectiveness of arrangements for the governance of the Sydney Water Board so as to improve the organisation's overall performance - financial performance, service delivery, performance in handling waste water, and performance in managing and upgrading infrastructure.

Effective corporate governance is not achieved simply by appointing part-time businessmen as directors and imposing a style of management which promotes fear of retrenchment. Effective governance requires the adoption of a range of strategies which permeate the organisation and foster a culture of pride and high-quality performance. The existing reporting requirements for statutory bodies include requirements for the Sydney Water Board to be accountable for its activities and to publish performance indicators. The Government's



proposals will eliminate the obligations. In practice, requirements for reports on operation and performance have worked as well as they might have done. Public sector managers have been inclined to emphasise achievements and downplay or conceal information about areas of poor performance.

A better model of corporatisation would place far greater emphasis on operational performance. Performance agreements with the portfolio Minister would establish not only financial performance targets but targets for the provision of high-quality service to customers. The Sydney Water Board would be required to publish performance indicators, both in annual reports and in other reports to customers so as to foster an environment whereby management and staff of the Sydney Water Board are committed to seek continuous improvements in the performance of the organisation. A better model of corporatisation would recognise the need for greater accountability for environmental pollution. The existing regime whereby the Sydney Water Board issues licences for industrial and business users to dump effluent in the sewers places the board in a mixed role of both operator of waste water systems and part regulator of the process.

The present arrangements place the board in the difficult position of being expected to maintain secrecy about the extent of polluting activities in order to protect the Government from criticism. Greater accountability can be introduced, as the Government suggests, by separating the roles of operator and regulator. However, the Government wants to confuse the matter by having two regulators with overlapping functions - a licensed regulator appointed by the Water Board's portfolio Minister and another regulator, the Environment Protection Authority, appointed by another Minister. A better model of corporatisation would involve clear lines of responsibility, greater openness and public disclosure.

The EPA should be the only regulator. It should be responsible for issuing licences to industry to pollute through the board's sewers and it should be required to make details of those licences publicly available, but not only through expensive and time-consuming requests in terms of freedom of information legislation. In other words, the EPA should be more accountable to the community. There is merit in maintaining some board involvement in the monitoring of pollution. However, if there is to be effective accountability for regulating polluting activities, the board itself must be responsible and accountable for its activities. It should be required to report on its performance in treating waste water and in reducing discharges of environmentally hazardous substances through both sewerage and waste water outfalls.

One cannot assess the performance of the Sydney Water Board in maintaining and upgrading infrastructure without first having information about the present physical infrastructure. Currently that information is not published by the Sydney Water Board, if indeed it is available. A better model of corporatisation would regard capital-intensive public utilities to provide clear reports on the state of infrastructure and estimates of the cost of fixing any elements in need of major repair, refurbishment or replacement. If the Sydney Water Board is to be fully accountable to its stakeholders it should also report regularly on the major options facing it to upgrade that infrastructure if it is to meet high standards of waste water treatment during the next decade and beyond.

Likewise, a better model of corporatisation would require the board to disclose to Parliament the full details of contractual arrangements between the Sydney Water Board and private firms to build, own and operate water treatment plants. The board has been secretive about these arrangements and under the Government's proposal for corporatisation can be expected to be even more secretive, arguing that such arrangements are "commercial in confidence". A better model of corporatisation would require abandonment of the Government's approach to corporatisation and its replacement with stronger arrangements for accountability.

One of the Opposition's central criticisms of the legislation is that it comes at a time when all of the so-called regulators - the Environment Protection Authority, the Department of Health, the Government Pricing Tribunal, Treasury and others - appear not to be in a state to properly fulfil their watchdog roles over the new corporation. The reasons are many. It comes down to a lack of will on the part of the regulators to do their jobs, the failure of the Government to equip the regulators with an adequate legislative armoury to defend high financial environmental standards and because the institutional framework governing water management is in chaos.

Territorial disputes between water authorities hamper effective resource management. These disputes are caused by the failure of the Government to clearly delineate the roles of regulators, managers and operators. This allows departments to shirk responsibility for resource allocation decisions. The water authorities assume both the gamekeeper and poacher roles, making it virtually impossible to have decisions made about water without the intrusion of vested interests. These turf wars are contributing to the environmental mismanagement of the Hawkesbury-Nepean river system and tidal and non-tidal rivers.

The EPA is not setting standards, monitoring water quality or classifying waterways, with water-use decisions based on narrow, political considerations and a lack of coordination. The division of

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responsibility for tidal and non-tidal waters, which is split between the Department of Water Resources and the Public Works Department, has also diminished effective management. Country town water supply and sewerage is presently with public works and not water resources. Effective management is further complicated by this State having over 50 Acts of Parliament covering matters concerning water. These include environmental legislation, legislation on dams and irrigation, and legislation on the relevant water boards.

Some months ago the Government issued a white paper on water management. The paper proposed wide-ranging changes to the way water is managed in this State. It included proposals to establish a catchment assessment commission as a small independent body that would have responsibility for classifying the State's waterways and to set subsequent standards for those waterways as a result of the public classification process. The commission will make recommendations to government on water quality objectives, including water allocation arrangements for each catchment in New South Wales, reporting directly to the Premier and Cabinet.

According to the Government's white paper the commission's charter will be, "to advise the Government on options for water quality objectives and water uses for particular catchment, having regard to costs and benefits of achieving a range of water quality objectives, existing water allocation arrangements, and the views of the community and key stakeholders on desired uses for catchment". The commission will operate like a commission of inquiry allowing for significant community input into the setting of water quality standards. It will advertise its terms of reference, hold inquiries and take evidence in public, and publish its findings and recommendations. The commission will rely on input from the agriculture sector, industry and other water user groups - for example, fishing and recreational - and also from community-based catchment management committees that have developed considerable local knowledge and expertise.

The commission will also consider advice from expert bodies such as the Pricing Tribunal and relevant government departments. The outcome of the commission's inquiry into a particular catchment will be options for recommendations to government on water quality objectives, which would establish the desired uses and values of water catchment, uses of water including environment allocations, taking into account equity considerations and the existing rights of current water users. Final determinations on the commission's recommendations will be made by Cabinet. The white paper also proposes to establish an Office of Water to establish water policy. According to the white paper, under the new system there is a need for a steward or trustee that has responsibility for overseeing the water resource. A body is required to take charge in the event of any crises or failures of normal processes and to fill any gaps or instances where responsibility for specific issues is unclear.

An Office of Water will be established to act as such a steward. It will report to the Minister for Land and Water Conservation and will be located in the Department of Conservation and Land Management on a similar model to the newly established Forest Policy Unit in that department. The office will have broad advisory policy coordination and oversighting functions in the water resources area and will assume responsibility for residual problems or issues not foreseen during the preparation of catchment management plans or other normal processes. Specific powers will not be required by the office as it will rely on the existing powers of agencies, for example, the powers of the EPA, to direct and report on performance targets of public authorities.

The office will also provide a secretariat to the council of chief executive officers. Despite the promised

reforms of the institutional arrangement, there has been no action. The proposed catchment assessment commission will only take power away from the EPA, further weakening its role as the regulator. The commission has no legislative powers and despite the release of the white paper in May, the commission still has not commenced a single public inquiry into the assessment of a single catchment area. Similarly, the Office of Water is invisible and has not developed a single policy initiative. It seems that the white paper has done more to delay effective management than to improve water management.

The Department of Water Resources continues on its merry way of issuing water draw-off licences that permit water extractions but do not guarantee continued environmental flows of river systems. There is then the Environment Protection Authority. The Fahey Government has failed to introduce key anti-pollution laws, which were promised more than two years ago. These laws are essential to give the Environment Protection Authority teeth. Most of the anti-pollution statutes of the EPA are now between 20 and 35 years out of date. The failure to upgrade those statutes has the consequence of putting the clean-up of the Hawkesbury-Nepean river system on the backburner. The Government's failure to move on this issue has meant that 300 farms, tips and other sources of illegal pollution will continue to pollute the river because they are unlicensed.

The proposed Protection of the Environment Operations Bill would be the most significant legislation affecting the powers of the EPA. On 25 February the Minister for the Environment, Mr Hartcher, claimed the legislation is now being developed by Parliamentary Counsel following Cabinet approval. For the past two years the Government has been dragging its feet. When I asked the Minister about this matter in the estimates committee on 21 October, he explained away the matter by saying:

The stage two legislation to which the honourable member refers is an amalgamation and consolidation of various Acts such as the Cleanwaters Act, the Clean Air Act, the Pollution Control Act and two others - five in all. The Government has been involved in consolidating and

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updating the legislation for some period. It is an enormously complex task, involving as it does aspects which affect the life of every person in the State. It will go right across all portfolios. There is not a single agency or a single aspect of life in this State which will not be affected by the proposed legislation. Accordingly, it has been in a very careful deliberative stage. It is important that if we have such legislation we make sure we get it right. We would like to develop an appropriate exposure draft bill which could be put in the public arena and made available for a period of public consultation.

All honourable members would be conscious of the impact this will have on people's lives in the overall economic development of this State and it is important to have a period of careful public consultation. The Minister for the Environment went on to say:

I am advised that there are so many officers involved right across the EPA in the development and drafting of the legislation that something like \$500,000 is the estimated cost of finalising it. That has not been expended yet. Some of it has been expended and more will be expended. There has not been any delay. The Parliamentary Counsel has been consulted throughout the process. He has a very heavy workload. He is conscious of the fact that this is enormously complex legislation -

He almost said, "The dog ate my homework" -

In our lifetime in the Parliament I do not think we will see a more complex piece of legislation than this. Accordingly it needs to be developed and worked through very carefully.

Certainly as Minister for the Environment he will not see that very complex piece of legislation in his political lifetime. This very public facade of the task being too difficult, even for him, is belied by the leaks that are pouring out of the Environment Protection Authority and from even the ministerial office. Even the Minister's own press secretary is running about giving journalists background information about how the legislation cannot be brought forward because of the ballistic tendencies of the rebels in the National Party - those same rebels who crossed the floor of the House to oppose the Government's own legislation to establish the Environment Protection Authority in the first place. The EPA itself is in no doubt that it is the Minister's will for work on the stage two legislation to be abandoned or at least put off until the next election.

There is no doubt that the Minister for the Environment is afraid to introduce this legislation. He is afraid of all the National Party boys on the other side of the Chamber. We know that he is afraid - all his body language at question time gives it away. What about his receding forehead? He is a very frightened man. The Minister knows that the introduction of the stage two legislation will spark yet another National Party revolt. I hope that the honourable member for Monaro does not leave the State at Christmas time. Last year as I cooked the Christmas turkey I was listening to the Premier and the Minister for the Environment announce their wilderness package. The next day -

**Mr Cochran:** I bet you set your turkey on fire.

**Ms ALLAN:** No, the turkey was a wonderful success. In fact, the turkey was a greater success than the promised wilderness legislation. This Christmas we might have the Premier and the Minister for the Environment creep out just before Santa Claus comes down the chimney and announce stage two of the Environment Protection Authority legislation. Then we would again have the honourable member for Monaro coming out, wielding his stockwhip, to spark the further National Party revolt. The honourable member for Monaro would get together with his colleagues from Bega, Burrinjuck and perhaps even the north coast to ensure that the EPA does not come forward as an effective organisation before 25 March 1995.

While the Minister for the Environment sits on the front bench, terrified of bringing forward that legislation, all of the unregulated effluent from piggeries, abattoirs, cattle feedlots and old tip sites in National Party electorates all over New South Wales will continue to pour into the river system. The Government is powerless to act because the National Party will not let it act. In addition, a new licensing system for sewage treatment plants pumping sewage into sensitive rivers has been stalled. The current licensing system is completely inadequate, as the Minister for Land and Water Conservation, who is at the table, knows. Rather than licence sewage treatment plants on an individual basis, the total amount of pollution into the river system should be taken into account.

Powers to prosecute polluters are also flawed, with the EPA not securing a single \$1 million fine against a polluter in three years, and successful prosecutions are 50 per cent down on last year's figures. The regulatory framework for water management is inadequate. As the British privatisation experience has shown, to corporatise or privatise until the regulatory framework is in place is a recipe for environmental disaster and sky-rocketing water bills for residents. I should like to read honourable members a quotation from the United Kingdom's *Observer* newspaper of 2 January:

A furious row has erupted over broken government promises to clean up Britain's polluted rivers and bathing beaches.

Lord Crickhowell, chairman of the National Rivers Authority -

**Mr Cochran:** Lord who?

**Ms ALLAN:** He is a mate of Camilla and Charles, actually. I saw his photo in the *Woman's Day* last week. The article continues -

has joined a growing outcry over ministerial plans to scrap or delay promised environmental improvements in an effort to keep down rising water bills.

The former Cabinet Minister -

He was sacked, of course, over a sex scandal in the current British Government -

has attacked the plans, revealed in Whitehall correspondence leaked to *The Observer*. In a letter to Environment Minister Tim Yeo, Lord Crickhowell describes the Government's commitment to establish clean-up targets for Britain's 'cornerstone of the 1989 Water Act', designed to provide environmental safeguards following water privatisation."

In other words, the United Kingdom process has failed miserably because the United Kingdom did not get its regulatory processes organised before it ploughed ahead with privatisation. The United Kingdom privatised first and later imposed the regulatory framework. In fact, the United Kingdom is still trying to catch up with the regulatory framework. It has started to get the economic regulator organised, and that is trying to work effectively to achieve its target, but the environmental regulation is hopeless. Be it corporatisation or privatisation, there is no difference to the principle that if authorities are to be given a hard-nosed commercial focus the regulatory framework needs to be firmly in place. The result in Britain was that Ministers were urged to allow privatised water companies not to spend money on meeting environmental pollution reduction targets, other than in exceptional cases, until after the year 2000.

In the same edition of the *Observer* an article entitled "Whitehall Muddies the Waters - Rivers left to die as politicians backtrack" reveals an interesting parallel to the so-called commitment of the New South Wales coalition Government to the \$7 billion, 20-year clean waterways program. The *Observer* article states that in 1983 Michael Heseltine, then the British Environment Secretary, launched a high profile £4 billion campaign to resuscitate the near lifeless estuary of the Mersey basin over 25 years. Ten years on, the flagship clean-up program is in jeopardy because of Ministers' determination to dishonour a decade of political promises, in order to avoid unpopular increases in water bills. The article states:

... leaked Whitehall correspondence passed to *The Observer* confirms the Mersey basin is one of many pollution black spots where clean up efforts are likely to be postponed to the next century -

I wish to emphasise the next part -

to keep down the costs for the privatised water companies.

In Britain privatised water companies are some of the most successful and affluent companies in the economy, particularly in terms of landholdings. The cart before the horse approach to corporatisation, or in the United Kingdom approach to privatisation, giving water companies a greater focus on narrow core responsibilities and the inability to put rigorous regulation in place beforehand, have resulted in the total abandonment of programs to clean up the environment. I turn to the amendments that the Opposition intends to move at the Committee stage. The Opposition's central amendment is aimed at tackling the most significant flaw in the bill, the failure to ensure proper regulation of the new Water Corporation.

There is no doubt that this bill is a Water Board bill. It is not a bill put together with a whole of government approach in mind; it was drafted by the Water Board for the Water Board. There is no greater confirmation of that than the fact that the Government in all of its discussions on the bill with the Independent members and the conservation movement has deliberately excluded the Minister for the Environment. He has played no part. Either the Minister for the Environment is not interested, he does not care or he has been locked out behind the closed doors. Why would that be? I suggest that the reason is that rigorous environmental legislation has been abandoned, along with the stage two legislation.

The Labor Party amendments to the bill provide a powerful safeguard to preserve the community interest and the board's environmental and financial responsibility. I shall be looking for the support of the honourable member for Monaro on this amendment in particular. The Labor Party amendment will bring the Minister for the Environment back into the process. It will mean that the new corporatisation legislation cannot commence until the Government has passed the Environment Protection Authority stage two legislation, otherwise known as the Protection of the Environment Operations Bill. As I have said earlier, the major concern is not about the ability of the Water Board to act as a corporatised entity but is more about the ability of the toothless regulators such as the EPA to perform their so-called watchdog roles.

The Labor Party approach has a number of advantages. It guarantees that the Water Board will be

corporatised only when the Environment Protection Authority has the legislative capacity to properly regulate the State's biggest polluter by volume and licence fee, the Water Board. Most of the anti-pollution statutes of the Environment Protection Authority are between 20 and 30 years out of date. In addition, the Government is already at least two years behind schedule in introducing the stage two legislation intended to overhaul that legislation. Judging from the comments made by the Minister for the Environment at the estimates committee meeting last week, he is not even aware that he is two years behind. He still thinks that he is on track.

I think the Minister might miss the 25 March election unless we alert him to what is going on. The Opposition's approach has other advantages. The staged commencement of the legislation - and that is the crux of the Opposition's amendment - allows the public to further debate and comment on the legislation to ensure that community interest is preserved. Of course, it also allows Labor to enforce its corporatisation model in Government as a result of the staged commencement of the legislation. It is in line with the recommendations of the Joint Select Committee upon the Sydney Water Board.

The Opposition will also move a further amendment in Committee to allow an employee elected representative to serve on the board of directors. That decision is based on Labor's longstanding commitment to corporatisation of the Water Board and to micro-economic reform generally. However, the Opposition should not be responsible for undertaking the enormous and detailed task of attempting to fix the Government's inept model. To do so would require a complete overhaul of the legislation. We attempted this approach several years ago when the Hunter corporation legislation was

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before the Parliament. The Opposition took the principal position; we had a raft of amendments; and the Independents chose not to support those amendments. The result now is that any one wishing to ask a question of the Hunter Water Corporation will not receive an answer. The Government gives you the flick. For instance, last October my colleague the honourable member for Charlestown asked a straightforward question about the administration of the Hunter corporation and the Government's response was devastating. The Government responded in the question paper as follows:

Hunter water is now a state-owned corporation fully accountable and responsible for determination of operational matters such as this. All matters concerning its operations should therefore be referred to the corporation.

That sounds like one of the tapes one hears when standing on the railway platform about no smoking. We will be able to have a small prearranged tape which can be plugged in the question paper and as we come forward with our questions on the Sydney Water Board, the tape will say, "Sydney Water is now a State-owned corporation fully accountable and responsible for determination of operational matters", blah, blah, blah. The *Sydney Morning Herald* says, "... in other words, Macquarie Street jargon for 'go and ask the monkey, we are just the organ grinder'". I issue this warning to all honourable members of the House, though they hate being told: do not be conned by promises of better things to come. Do not believe it. Beware of all those people bearing gifts, and beware of senior people in the Sydney Water Board when they start bearing gifts.

The Government has offered some fairly cosmetic changes to the legislation, changes that are untested and untried. From what I read in today's *Sydney Morning Herald*, those changes may have been sufficiently seductive to persuade the so-called spokespeople in the conservation movement in this State - many of whom are being directly funded at the moment through the largesse of the Sydney Water Board - to be persuaded that it is appropriate that the legislation pass at the present time. However, none of the amendments that the Government has apparently conceded addresses the issue of environment protection in any substantive way. In fact, those associated with the conservation movement, and in some cases playing a direct role at the Sydney Water Board - for example Judy Messer who is a member of the board - should hang their heads in shame that they may be allowing this legislation to proceed.

None of the amendments in any comprehensive way, even remotely, tackles the central issue of the failure to have the proper regulatory framework in place. Members of Parliament must decide whether they wish to write off the Water Board and allow it to pollute the oceans and streams of this State unfettered or to actually proceed along the track that the Opposition will put forward to ensure that the model cannot become operational

until after the stage two Environment Protection Authority legislation is brought forward.

I hope that honourable members will not be bought off by the crumbs currently being offered by the Government. Since I have been a member of this Chamber I have noticed that the Sydney Water Board and the former the Hunter Water Board are directly relevant and important to the lives of so many of my constituents. I can appreciate some of the contempt expressed by people in rural New South Wales towards this debate. Honourable members who have any association with the board through their electorates would be aware of the daily concerns expressed. Some of the concerns are more direct. Many honourable members have employees who have worked for the Water Board or who are very alarmed at the prospect of the jobs being lost as a result of this legislation or as a result of yet another agenda, such as privatisation, that the Government might have.

Most people on a day-to-day basis encounter the board. They expect good service and equitable treatment. If we do not get the approach to corporatisation and this bill correct, we will have a situation where we have failed those hundreds of thousands of residents in New South Wales whose livelihood depends on the way we proceed. The Opposition is not only concerned about the agenda of those who are running the Sydney Water Board but the citizens of New South Wales currently, and perhaps even more significantly, future generations who must be considered when making decisions on the future operation of the Water Board.

The Sydney Water Board has a proud history, it being an organisation that is now over a hundred years old. For the large part it has been conscientious in its efforts to deliver responsibly to the people of New South Wales. This is probably the most important bill the Parliament will discuss this session and it should be given comprehensive scrutiny. The legislation may not matter to the bushies who are not in the area of the Water Board, but if they do not care about it, they should get out of the direct decision-making processes. This is a matter of huge concern for the majority of people in New South Wales. I have taken the opportunity at some length to outline a number of options. I do that because I am signalling to Sydney Water, as it will become known if this legislation is passed, that Labor in government - and it is pretty obvious that is where we are going to be after 25 March - will definitely be overhauling the model that is currently being proposed by the managers within the board.

The Labor model of corporatisation of the Water Board is significantly different from that of the State Government, and that is why in the last couple of hours I have sought to demonstrate that. The Opposition will be informing senior officers of the Sydney Water Board - the Paul Broads, the David Merchants and others of this world who are no doubt out and about around the traps as we speak - that the Government will have to be careful over the next few months in its endeavours to get the Sydney Water model going. There will be dramatic change to the model after Labor is elected to government because it is committed to the Sydney Water Board. No matter

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how much honourable members opposite squirm, the Opposition is committed to ensuring ongoing environmental protection in this State. I know that is right at the bottom of the National Party agenda, historically, currently and no doubt in the future. The Opposition is committed to commercial and environmental accountability of those in control of what the Opposition considers to be one of the State's most precious resources.

*[Interruption]*

I had not finished, Mr Acting-Speaker.

**Mr ACTING-SPEAKER (Mr Hazzard):** Order! The honourable member for Blacktown has concluded her speech. She has left the lectern.

**Mr D. L. PAGE (Ballina) [9.10]:** In the last hour and 42 minutes we have heard nothing short of a dishonest diatribe. Yesterday the shadow minister issued a two-page press release that summarised where the Labor Party is coming from. She would have done her side a lot more good tonight if she had repeated what was in the press release, because it was a lot more succinct. The Labor Party is saying that it supports

corporatisation, but does so only with certain amendments. The Labor Party is saying that it does not support corporatisation primarily because the Environment Protection Authority is not there for enforcement purposes. In every year that the Leader of the Opposition was Minister for the Environment and Planning the amount of money that was allocated to the State Pollution Control Commission - Labor's environmental defender - went down, not up.

In the last year that the Leader of the Opposition was the Minister for the Environment and Planning he allocated \$11.5 million for running the SPCC. Today this Government has an EPA with a budget of \$74 million, six times the amount that was allocated by Labor. When Labor and Bob Carr were in office, 246 people were working for the environmental defender, today there are 650 people, yet the Opposition is telling this Government that it cannot support corporatisation because the Government does not have an environmental defender. The truth is that the Opposition supports corporatisation, but it does not want to support corporatisation right now because it does not like the idea of this corporation being truly at arms-length from government. In the past, under the statutory authority models of the Labor Party, it has been able to empty out the hollow logs and bring money back to the Government. It was able to put up the price of water. It was able to allow people to use water in an inefficient way. Because it was a government monopoly the Labor Party was able to put up the price and rake up the money and bring it back for political purposes.

The Labor Party is saying that it hopes it wins government in March next year - we all know that that will not be the case - but in seeking to do so and to be seen as supportive of the concept of corporatisation, it is in fact supporting a Clayton's model. This is the Labor Party's Clayton's model of corporatisation, the corporatisation you have when you are not having a corporatisation. The Labor Party is also saying that there is a lack of accountability. Think about that for a moment. On the second page of its press release yesterday the Labor Party said, and the honourable member for Blacktown repeated it in her speech tonight, "In summary, Labor's approach to corporatisation will be achieved by amending the State Owned Corporations Act to establish statutory corporations and not public companies".

The Labor Party wants a model that is the same model as the Victorian bank and the South Australian bank. If people really want to see why that model does not work, I suggest they read the report of the royal commission into the South Australian bank. That shows precisely what is wrong with the levels of accountability in that model, despite what the Labor Party is saying. It is saying that it will not have a private company model, subject to the Corporations Law and therefore accountable in that regard and which, because it is a State-owned company with Ministers of the Crown shareholders, is also subject to the normal public authorities such as the Auditor-General and the ICAC. Despite the fact that there is accountability through the Corporations Law and through the public accountability mechanisms, the Labor Party is trying to tell the Government that there is no accountability.

This legislation provides for the separation of the Water Board as an operator and the EPA and other bodies as regulators. In other words, we separate the two. They ought to be separated. The Labor Party is paying lip service to the corporatisation principle. It does not want it to go through now because it would like to maintain a close relationship, for party-political purposes, with one of the State's largest enterprises. If Labor gets its way, environmental degradation would be addressed haphazardly when it suited its electoral purposes. Under this legislation, corporatisation will be better for the customers, it will be better for all the people in New South Wales, it will be a model for future generations. This legislation, with amendments, is probably the most important piece of legislation that has passed this session, perhaps even the fiftieth Parliament. This legislation will be a model for water corporations throughout Australia in respect of the use, the flow and the control of water. It will deliver cheaper and more efficient water and waste water to the customers, provided for by customer contracts contained in the legislation, in a way that is environmental friendly.

The honourable member for Blacktown said in her second reading speech, as she did yesterday in the press release, that Labor would do certain things. She said that Labor would establish freedom of information annual reporting. I advise the honourable member for Blacktown that that is already in the bill. She said that auditing will be conducted by the Auditor-General. That is already in the bill. She said that Labor will establish transparency CSO payment principles. That is already in the bill. She said that Labor will require payments of



dividends and income

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tax equivalents where appropriate. That is already in the bill. She said that this bill is about privatisation. It is not. It cannot be about privatisation. She has not read the bill.

Clause 5 of the bill relates to the prohibition on sale and disposal of shares. Shares in the corporation cannot be sold or otherwise disposed of except to eligible Ministers. In other words, the shareholders are all Ministers and they can dispose of their shares only to other Ministers. How can the Water Board possibly be privatised? I wonder whether the honourable member has read the bill. She then said that Labor will require competition in an appropriate regulatory environment. That has to be the most laughable proposition of all, because it is a total contradiction of the statutory corporation model proposed earlier in the same press release in which she talked about corporations. Under the company model, under Company Law, shareholders can only draw dividends from profits. They cannot draw dividends from the depreciation reserves. A statutory corporation is able to draw on depreciation reserves. Until recently that could be done by increasing the price in a monopoly situation, but that cannot be done now because of the Government Pricing Tribunal. The hollow log mentality that was there is still there. It still can be used under the statutory corporation model but cannot be used under this new model. The Labor Party can only draw from the profits, it cannot draw from any other source.

**Mr Knowles:** Who sets the tax policy?

**Mr D. L. PAGE:** The Government sets the dividend policy and sets the objectives upfront for the corporation.

**Mr Knowles:** Who is the shareholder? The Treasurer?

**Mr D. L. PAGE:** The shareholders are five Ministers, as the honourable member knows. If the company, as it will be under this model, is required only to meet the dividend requirements of the shareholders, in this case the Government, and is not going to be constantly raided whenever the Government needs some money for political purposes, the company will be able to invest in the infrastructure that it needs in order to protect the environment. Protecting the environment is a capital-intensive business. This corporation model is important for the environment, so that governments cannot do what they have done in the past and raid the till. The legislation provides for separation of regulatory and operating roles. The proposed amendments, which attach equal status to the environmental and commercial objectives of the corporation, are the result of a long period of consultation with representatives of green, consumer and welfare groups, together with Independent members of Parliament, who contributed significantly to the refinement of the amendments that the Minister will later move. These improvements will include, first, the right balance of corporate objectives of the Sydney Water Board. Environmental and commercial objectives will be on a par.

Second, the Minister will report to the Parliament about Sydney Water's performance, against its operating licence. Third, the operator and regulator functions will be separated, particularly with regard to use, flow and control of water. Fourth, statutory provision will allow the licence regulator to oversee the annual audit of Sydney Water's performance against its operating licence. Fifth, the operating licence itself has improved, with added requirements. Sixth, there will be statutory provision for the memorandum of understanding between the Environment Protection Authority, the Department of Water Resources and the Department of Health. The memorandum of understanding will ensure cooperative relationships between the regulating agencies and Sydney Water, and improved shared information in the future. Last, the improvements include ensuring that a very high standard of protection and management of catchment lands will continue under corporatisation.

Why is the Sydney Water Board being corporatised? The current structure of the Water Board inhibits the organisation's performance, is a barrier to competition and makes for conflict of interest. Corporatisation will remove the barriers that prevent the board from being fully accountable and responsible for the services it delivers to customers. At present there is no legal backing to compel the Water Board to be accountable for an agreed level of service to its customers. Corporatisation will allow the board to operate at arms-length from the

political process and provide the business with the authority to take responsibility for decisions which affect customers. This will allow the business to undertake long-term and least-cost planning. While still being 100 per cent owned by the Government, Sydney Water will operate and face scrutiny for its performance, like other public companies.

A new legal structure will be established that will allow Sydney Water to operate as would any other public company in the private sector, accountable to but free from day-to-day directions from its shareholders. This will allow the business to focus on its core responsibilities of providing services to its customers and to improve performance against clear targets. The triple accountability of corporatisation, to the Government, the Parliament and the customers, will ensure best possible outcomes for the environment and economic efficiency. Corporatisation is not a new concept; it is supported by the Opposition's Federal colleagues and by most forward-thinking governments. The Hilmer report embraced the principle. The Government is supporting corporatisation because poor performance by government trading enterprises has significant implications for the international competitiveness of Australian industry. It costs jobs and is a drain on taxpayers' resources, limiting our expenditure options.

About 95 per cent of the New South Wales economy is in the manufacturing and service sectors, and half our exports are made up of manufactured goods and services. The future prosperity of New South Wales lies in being able to compete on world

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markets. To keep New South Wales competitive, the GTEs, which are providing essential inputs like water to key business sectors such as manufacturing and service industries, must be competitive. This bill is part of guaranteeing that competitiveness. I could talk at length about the significant recent improvements achieved by the Sydney Water Board, but they were outlined in the Minister's second reading speech.

**Mr KNOWLES** (Moorebank) [9.25]: Any discussions about the reform of government trading enterprises such as the Sydney Water Board should be considered in the context of a broader national microeconomic reform agenda. That agenda is fashioned by the compelling need to internationalise the Australian economy to enhance our role as an open and competitive trading nation. To achieve and maintain that objective requires the process of reform to be never ending. All levels of government - Federal, State and local - must take on an ethos of continuous reform. In reality, there is no alternative if we are to achieve higher standards of service, efficiency and productivity as a nation. International competition demands continuous reform at a rate faster than competitor nations. Australia and all its governing bodies, including the New South Wales Government, cannot afford to lower their expectations of microeconomic policy outcomes.

Governments need to keep alive all options for microreform, including those which appear to challenge the conventional wisdom of Australian politics. Labor governments, both Federal and State, can be properly regarded as leaders in microreform despite the fact that many of those reforms would be regarded as outside Labor's traditional role and policy framework. In many ways, Labor has achieved results where conservative governments have only dared to dream. Major policy reforms for financial deregulation, tariff reductions, labour market flexibility, lower taxes especially for business, and competition policies have been the hallmark of Federal Labor. In New South Wales prior to 1988 Labor was responsible for the creation of our first GTEs, substantial regulatory reform and industry policy which maintained this State's competitive edge throughout the years of the recession.

Consequently, the processes of reform and competition are not new to New South Wales Labor. The concept of competition and its promotion throughout government trading enterprises across the nation has been one of the cornerstones of Australia's emergence as an internationally competitive country. The Industry Commission has estimated that government-supplied inputs account for 16 per cent of all immediate inputs used by Australian industry, equivalent to 6 per cent of total industry costs. In simple terms, this means that unless government and business enterprises operate within a competitive environment there is little chance of any real long-term improvement in our ability to compete internationally.

In his recently published book, *Flying the Kite*, former Federal industry Minister John Button lamented the

lack of a competitive and internationally focused business environment. Based on his observations of international best practice, he was critical of the myopic, even inward-looking views of most public policy makers, more comfortable with preserving the status quo and disregarding the signs of a complacent country - high consumption, low savings, high debt and low competitiveness. Like the Industrial Commission, Button regarded the reform of government trading enterprises as fundamental to the restructuring of our national economy. Though he took a derisory view of most State governments, he did concede that substantial microreform could be achieved by ensuring that monopoly service providers like the Sydney Water Board operated within a competitive environment.

The need for New South Wales to participate in the national microeconomic reform agenda, in fact to take a leading role in the reform process, should receive the bipartisan support of this Parliament. In the context of those remarks it is apparent that I do not oppose and do not object to the concept of corporatising the Sydney Water Board. Nonetheless, having had the opportunity to look fairly closely at the current and historic operations of the board and its regulators, I have grave concerns about the advisability of corporatising the board when at present the board's regulators are so hopelessly inadequate and ill-equipped to meet the enormous tasks that confront them. Similarly, the Government, in the broader policy sense has been unwilling to give regulators the resources and mandate to effectively perform on behalf of the people of New South Wales. The joint select committee inquiry into the Sydney Water Board gave considerable attention to whether the Water Board should or should not be corporatised. In the Labor Party's annexure to that report I wrote:

The fundamental question that must be addressed prior to any consideration of corporatisation of the Sydney Water Board under any model should be how competent are the regulators and how capable are they of regulating the Sydney Water Board in its role as an operator of the system.

The inquiry into the Water Board did not really produce much consensus on anything. On almost every issue the views of committee members were so divergent that much of the final report was made up of dissenting views, comments and recommendations. However, the one thing that almost everyone agreed on, including the Sydney Water Board, was the need for clear, consistent, transparent rules and regulations to manage the water cycle and, of course, the Water Board. The custodians of the rule books - the regulators such as the Environment Protection Authority, Treasury, the Government Pricing Tribunal, the Department of Planning, the Department of Health and the Department of Water Resources - must be in a position to match the considerable resources and technical expertise and history of the Sydney Water Board. Frankly, I believe that if that was done properly the corporate structure of the Water Board would become largely irrelevant.

At present the regulators associated with the industry are simply not competent to perform their respective tasks. They must be because the market-based notions - the consumer demands and pressure

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for quality are adequate controls over the corporatised Sydney Water Board - do not bear up well to close scrutiny. If international experience is any yardstick, it is clear that weak or poorly structured regulatory bodies armed with weak, inefficient or outdated regulations simply allow system operators such as the Water Board to dominate. Before the Water Board is corporatised I believe it is incumbent on the Government to demonstrate that the regulatory environment, the structures, the rules and the resources required to administer the system are sound and in place. The Water Board is a monopoly provider with considerable resources, technical expertise and history. It would be dangerous simply to corporatise the board, placing upon it an even stronger financial and commercial imperative than currently exists, without its regulators being equally strong and equipped to protect the public interest.

Tim Moore, David Harley and Bob Wilson made it clear to the Water Board inquiry that historically the Water Board's regulators, in particular the Environment Protection Authority, were hopelessly underresourced to act as the Water Board's environmental watchdog. In their book and submission to the inquiry *Doing the Vision Thing* Harley, Wilson and Moore provided numerous examples of their forcing the pace of regulatory reform, providing more stringent environmental controls, setting performance standards and, most importantly, encouraging the EPA to adopt a more active role in setting and managing the standards required to ensure a high quality water system.

In recent times Harley and Wilson circulated a paper which contained 37 questions about the Government's model for the corporatisation of the Sydney Water Board. Like me, they remain concerned about the capacity of the regulators. Yet, despite the best efforts of the Government and the Water Board officials, many of the questions Harley and Wilson asked remain unanswered, essentially because the Government is focusing on the Water Board in isolation rather than seeing the corporatisation of the Water Board in the context of its place in the whole of government and broader community, social, environmental and economic objectives. I have no doubt that the Water Board, as a discrete entity, is capable of being corporatised. However, as public policy makers we should not be looking at the board in isolation. I take Victoria as an example.

The Kennett Government has recently corporatised Melbourne Water. It decided to split Melbourne Water into a number of regions. In theory, the regional split drives the competitive process and achieves in notional terms the productivity and efficiency objectives inherent in competition theory. I place on record my concern about the way in which that process has been undertaken. I believe that in time the regionalisation of Melbourne Water will create a whole range of new problems, particularly in relation to infrastructure and supply conflicts at regional boundaries. But we have to concede that Jeff Kennett at least recognised the need to establish a strong and coordinated regulatory framework before Melbourne Water was broken up. In Victoria, even Jeff Kennett understood the simple proposition that you cannot give a monopoly operator, such as the Sydney Water Board, a free hand. In Victoria the Kennett Government legislated to establish an Office of Regulator-General. The Victorian Minister for Natural Resources, Mr Coleman, made it clear in his second reading speech that the Office of Regulator-General was a vital part of the Government's microeconomic reform program.

The Office of the Regulator-General was vital to bring the Victorian economy to the forefront of efficiency and competitiveness. He described how the Kennett Government reforms in electricity, gas and water were well advanced and, allegedly, delivering crucial services in the most cost-effective manner possible. He also made it clear that the restructuring and corporatising of these important utilities, including Melbourne Water, must be accompanied "by an affected regulatory framework that ensures that market participants work and trade in a competitive manner". He went on to say that the Office of the Regulator-General "will promote and safeguard competition arising from the new industry arrangements. In the case of remaining natural monopolies like water supply authorities, it will ensure the simulation of competitive market conduct and prevent the use of monopoly power."

The Victorian Government regards its Office of Regulator-General as being necessary to ensure that the competitive benefits of industry restructuring are passed on to household, commercial and industrial consumers. The Victorian model is not only concerned with economic regulation; it also has responsibility for enforcing licence conditions, preventing misuse of market power and maintaining best-practice objectives and standards. The Office of the Regulator-General is an independent body; it is not subject to the direction or control of any Minister in respect of any determination, report or inquiry. Though I am not entirely happy with the Victorian model, it is light years ahead of this Government's proposition inherent in the Water Board (Corporatisation) Bill.

To start with, consider the Environment Protection Authority. My considered view of the New South Wales EPA can be summarised in one word - hopeless. It can be summarised in two words - absolutely hopeless. From the evidence received in the Water Board inquiry it is patently obvious that the EPA is administratively moribund, hopelessly underresourced, lacks effective legislation and is overseen by a weak and ineffectual board with a part-time chairman and - the cherry on top - the worst Minister for the Environment this State has ever seen, yet we are asked to cross our fingers and hope that this rabble will act as an effective watchdog over the Sydney Water Board. Pigs might fly! From the evidence obtained at the inquiry the sad and sorry truth about the EPA is that it lacks leadership. According to the Director-General of the EPA, Dr Neil Shepherd, the EPA seems to take a great deal of

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pride in management style, which could best be described as leading from behind. Dr Shepherd's evidence suggests that the EPA has been structured to focus on trivia, not on environmental outcomes. [*Extension of*

*time agreed to.]*

The cultural environment of the EPA is simply wrong. The authority needs to change from being a reactive organisation and must adapt its approach to demand improvement rather than to encourage and coax. How can anyone have faith that the EPA will fill its intended role as the principal environmental regulator for a corporatised Sydney Water Board when it has thus far failed to vigorously defend its brief? I note the almost total absence of prosecutions under its legislation. This is particularly important when we realise that the Sydney Water Board is Sydney's biggest single polluter and has been single-handedly responsible for turning the Hawkesbury-Nepean river system, to use the words of the former General Manager of the Water Board, Bob Wilson, into an open sewer.

Where are the EPA board and the Minister? At least under Tim Moore there was a person of courage and vision who was willing to take on the bureaucracies and drive the process of reform. All that has gone now. All we are left with is a shell of an organisation and a Minister who is an apologist. He is stuck with the task of promoting a hopelessly inadequate Government policy. The other problem with the EPA is that it clearly lacks the legislative teeth to properly regulate the board. For more than two years we have been promised what is commonly known as the EPA stage two legislation. In February 1993 the Governor, in opening the third session of the fiftieth Parliament, flagged the stage two legislation when he said:

The integration of environmental and economic considerations will be pursued by the EPA in the further development of legislation. The Government is committed to wide consultation on the final form of this legislation.

But nothing happened. So on 1 March 1994 this tired old Government wheeled out the Governor again to make the same announcement. He said then:

The Government will proceed with protection of the environment legislation which will aim to consolidate and streamline the five core pieces of environmental legislation -

He went on to name them. If that commitment was not enough, we had the EPA and the Minister making statements. For example, in the 1992-93 Environment Protection Authority annual report, at page 16, under the heading "EPA Policy Development Priorities and Legislative Requirements" we read that the EPA's priorities are to review the core legislation it administers and prepare an exposure draft operations bill and to consolidate, rationalise and streamline the legislation to incorporate new concepts such as integrated pollution control, waste minimisation, technology and certain economic mechanisms.

The stage two legislation was mentioned again in the 1993 State of the Environment report. That report states that in order to achieve effective and workable environmental control in New South Wales the stage two legislation is essential - their words, not mine. That report adds to the objectives outlined in the 1992-93 annual report. They say that there is an urgent need to revise outdated provisions that hamper environmental improvement. The outdated provisions that the Environment Protection Authority refers to are the current legislative controls that would be applied to monitor the environmental performance of a corporatised Sydney Water Board. They include: a 25-year-old Pollution Control Act, a 25-year-old Clean Waters Act, a 20-year-old Noise Control Act, a 25-year-old Waste Disposal Act and a 34-year-old Clean Air Act.

How can anyone in his or her right mind expect the people of New South Wales to accept legislation that is more than a quarter of a century old, to effectively govern the environmental performance of the Sydney Water Board? This tired and lazy Government has been promising second stage environmental legislation for more than three years. The current Minister for the Environment - tough guy that he is - has made some statements on this as well. The Minister said in the 1993 winter edition of his newsletter *Environment Today*:

Legislation which will further strengthen New South Wales Environment Laws is expected to be available for extensive public consultation in the near future . . . The Government's move to reform the State's antiquated environmental legislation was established as a two staged legislative process because of the enormity of the task.

The EPA has already conducted a review of the legislation, based on the submissions made on the EPA Discussion Paper and Information Paper and from the submissions on Stage I Protection of the Environment Administration Bill -

that was back in the winter of 1993. The Minister went on to say -

Stage two of the protection of the environmental legislation will benefit the preservation of the environment, while balancing opportunities for economic development and efficient industry operation.

Where is the legislation? Where is the critical second stage legislation as part of the process that is necessary to give this State proper environmental protection? After all the promises, after all the time, after all the press releases, where is the stage two legislation? When somebody writes the history of this debate and the Government's attempts to corporatise the Sydney Water Board he or she will realise that it is not so much about the Sydney Water Board - that is not really the problem - it is about the lack of proper regulatory controls and framework and the hopelessly inadequate regulations that will see this bill fail in its implementation and operation.

Throughout the world governments of all political philosophies are transforming themselves to recognise the value of competition policies as a key component of industry reform. The great majority of them are developing structures which will predominantly establish themselves as regulators while the historic operational aspects of government are conducted by government business enterprises, the private sector or some corporate amalgam of both.

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The proposals to corporatise the Sydney Water Board are not new; there should not be any surprises. However, what is surprising about this bill, about this particular model, is the failure of the Government to recognise the processes which see the creation of a strong coordinated and transparent regulatory framework before corporatisation occurs.

I focused on the EPA as one example of the inadequacies of the current regulatory framework. If I had more time available to me, I could give similar commentary on the Government Pricing Tribunal and the New South Wales Treasury. In both cases it would appear that there is a greater emphasis on short-term economic returns than there is on the long-term management of the Water Board's assets and achieving an equitable pricing policy. The GPT is a good model and it should be encouraged. There is a need for the GPT to pay greater attention to achieving a proper balance between the social, environmental and economic needs of all those associated with the water pricing equation. Similarly, the New South Wales Treasury needs to consider its role in the regulatory context of managing the board.

There is an inherent conflict of interest when one organisation's assessments determine dividend policy, tax equivalence policy and asset management strategies. In their evidence to the inquiry Treasury officials, almost subconsciously in my view, demonstrated their egocentric view of the world, making it clear that it was Treasury and not the Water Board that determined key financial policies. That was the way it always was and so far as they were concerned that is the way it is always going to be. Before the Water Board is corporatised policy mechanisms must be put in place to demonstrate to the community that there are no conflicts of interest, that consultation programs to determine capital needs, CSO policies and other financial, social and environmental considerations are fair and reasonable and, above all else, that such considerations are transparent and open to full public scrutiny. The compelling evidence of the Water Board chairman, David Harley, about the way in which Treasury officials extracted special dividends compels me to conclude that unless the Water Board has those principles it simply will not be able to operate equitably. [*Time expired.*]

**Mr HUMPHERSON** (Davidson) [9.45]: About two hours ago, along with many other members, I listened with some interest to the contribution of the honourable member for Blacktown. Not for the first time she did not disappoint us. It was a sad, pathetic contribution from someone who has no grip of what the issues involve. I feel sorry for anyone who had to sit through the entire 1½ hours of that meandering contribution. It would be humorous if it were not so sad. The honourable member for Blacktown claimed that the Government has a secret agenda to privatise the Water Board. When that honourable member last year visited the United

Kingdom and inspected some of the privatised water boards there she said, "This is the way we should be going in Australia". She is the strongest advocate of not only corporatisation but privatisation of water in Australia. She claims that the Government has a secret agenda to privatise the Water Board, when nothing could be further from the truth. There is no suggestion by any member on this side of the House that the Water Board be privatised - and she knows it. She is the only member advocating such action.

The honourable member for Blacktown launched into a tirade against the Government about changes in water pricing and cost-based pricing, a policy that has been welcomed by every sensible commentator. The honourable member for Blacktown has been criticised by a number of people, including the well-known environmentalist Sue Salmon, who basically said that the honourable member for Blacktown and the Leader of the Opposition are completely out of touch with the requirement to conserve water and to ensure that the charges for water reflect the costs of supplying it to consumers.

In the early part of her address the honourable member referred to the good work done by the staff of the Sydney Water Board. Neither I nor any member on this side of the House would refute that. Many members of the Water Board staff have done good work over many years. However, it must be pointed out that the Water Board, certainly in times past, has been one of the most inefficient government agencies. Until recently, the Water Board had 150 different internal businesses providing a service in the most inefficient manner. Those businesses included car leasing, catering, photographic services and many others. The cost of providing those services to the Water Board through the day labour staff was 30 per cent to 50 per cent higher than the cost of engaging specialists from the private sector. There was no more compelling argument for utilising the private sector and consultants. The honourable member for Blacktown condones inefficiency, in particular within the Water Board, and she has the temerity to criticise a system of pricing on the basis of cost.

The Joint Select Committee upon the Sydney Water Board, which tabled its report earlier this year after 12 months of deliberation, covered a number of areas. I will refer briefly to some of them. That committee reached a number of conclusions, some of which were faulty, largely due to the contribution, or lack of it, by members of the Australian Labor Party. Members of the Australian Labor Party made a fairly lacklustre contribution to that committee. Often they did not turn up to committee hearings. Often only one of their number was in attendance. Their contribution was minimal. That committee in its report failed to recognise the achievements of this Government and failed to acknowledge that as a result of the initiatives taken by the Greiner Government and, more latterly, the Fahey Government the ocean, the beaches and the river systems around Sydney are cleaner than they have ever been.

In fact, despite the criticisms of the honourable member for Blacktown, in one weak moment on 2GB she acknowledged that the clean waterways program has been successful. It has been successful in giving

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Sydney cleaner waterways and beaches. The committee's report was factually inaccurate. One of the committee's terms of reference was to look at corporatisation, and one of the entities referred to with regard to corporatisation was the Hunter Water Corporation. The majority report, which was supported only by the Labor Party and by the honourable member for Manly, concluded that there were problems with the Hunter Water Corporation and the corporatisation of that body. The committee, in making that conclusion, failed to acknowledge the many contributions and the positive achievements that resulted from the corporatisation of that body.

The fact that that body operates in a transparent fashion, the fact that there is public scrutiny of what it does, and the fact that it has the highest consumer confidence of any utility service provider in New South Wales demonstrate that corporatisation can achieve significant benefits for consumers and, ultimately, for this State. Since this Government came to office in 1988 its guiding principle has been that the people of this State deserve a past that they can be proud of, a present that they can enjoy, and a future that they can look forward to. The Government is continuing to deliver in those areas.

Under this Government there have been improvements in environmental protection. I have referred to some of those improvements, and they will be further strengthened following corporatisation of the Sydney

Water Board. Members of the Opposition would do well to recognise that, to acknowledge that and to learn from the many mistakes Labor made over many years. As the honourable member for Ballina said earlier, the Leader of the Opposition, who was the former Minister for Planning and Environment in this State, had the poorest record of any environment Minister. His environment budget was reduced, his achievements were minimal and he did nothing in his time as Minister to improve the quality of air or water in New South Wales and Sydney.

I remind the Opposition of the problems surrounding the provision of the northern sewer - a sewer that connects Blacktown to Manly and carries sewage and waste from more than one million people. Back in the early 1980s the Leader of the Opposition was responsible for failing to act upon recommendations of a report on this issue. He did nothing. Nothing happened until this Government came to office in 1988, when it implemented the clean waterways program and a number of other initiatives, which have seen the upgrading and replacement not only of that system but of sewer overflows, all sewer lines, and sewage treatment facilities both in the river system and in the ocean.

One of the most significant initiatives of this Government, contrary to what has been said this evening, was the establishment of the Environment Protection Authority. When the Opposition was around, prior to 1988, the old State Pollution Control Commission was little more than a watchdog with very few teeth. Its powers were constantly eroded because of the budget cutbacks of the present Leader of the Opposition. This Government established the EPA, resourced it to the tune of 650 staff this year alone, and gave it real power as this State's environmental regulator.

The clean waterways program - a 20-year program established in 1989, the first year that the coalition was in government - was established in response to community concerns over Sydney's waterway pollution. This is another key initiative. As has happened all too often, it has been necessary for this Government to clean up the mistakes of the previous Labor Government. Some of the achievements under this program have been the decision to cease the ocean disposal of sludge, ahead of schedule, and the fact that Sydney's beaches now meet New South Wales Department of Health guidelines for visual quality and faecal coliforms over 90 per cent of the time - something that would not have happened had the coalition not won government in 1988.

The Water Board operates completely within EPA licence conditions in its coastal sewage treatment plants, something which would never have happened under Labor. It operates 99 per cent within EPA licence conditions in its Hawkesbury-Nepean sewage treatment plants. Defects in about 85 per cent of properties that allowed stormwater inflow to enter sewers from house service connections have been fixed. Water quality in the Hawkesbury-Nepean has improved despite significant urban growth in that catchment. An additional 300 wet tonnes of pollutants a day have been captured from industry in the last five years. Seventy per cent of Water Board sludge has been recycled into biosolids. These are all significant achievements in relation to the environment. Not one of those achievements would have occurred if it were not for a change of government in 1988.

The results of these achievements are cleaner waterways - which the people of Sydney and those members opposite who care to acknowledge it can see are significant. But some of the greatest achievements may well be intangible ones. With regard to demand management initiatives, Sydney Water will aim to reduce the water demand in Sydney on a per capita basis by at least 25 per cent over the next seven years and at least 35 per cent by the year 2011. It will aim to couple this with a reduction in water loss from its own system of at most 15 per cent by the year 2000. Sydney Water Board will analyse the potential market for the sale of recycled water, including sewer mining, to the year 2000, as part of the first audit of its operating licence. It will also give priority to demand side management as the basis for the future provision of water and sewerage services.

Again, the Sydney Water Corporation's progress in achieving these targets will be subject to an independent audit of the licence. Even members of the Opposition would concede that there are sufficient controls and regulations in this bill to ensure that the new Sydney Water Corporation meets its environmental obligations over and above the achievements to date, not the least of which is the will of the corporation to do so. Corporatisation of the



Sydney Water Board will enshrine many environmental protection measures within the operating licence. This will give it a sanction and a clarity which were lacking under the previous Labor Government. I support the bill.

**Mr McMANUS (Bulli)** [9.58]: It is amazing how ambition rules stringently in this place. The boy wonder from Davidson, who has been in this House for five minutes, is an instant expert on everything. Unlike the honourable member for Davidson, I am not a five-minute wonder who walks into the House to make some sort of crazy claim about his colleagues. I happen to be a former Water Board employee, a former inspector whose job it was to inspect trade waste and to ensure water conservation. I am the one person in this House who knows exactly what this Government has done to the Water Board since 1988. It is supported by Bob Wilson; by the Government appointee David Harley, and by former Minister Moore. The current Minister for the Environment is absolutely decrepit and weak.

Honourable members have just been subjected to a diatribe from the honourable member for Davidson about consumer confidence in the Water Board. Why does the Government not speak of the complaints the Water Board is receiving about the dirty water that is flowing through its pipes emanating from the primary treatment works at Bellambi? The honourable member has the gall to suggest that the Government has done something wonderful for the Water Board. He mentioned five supposed Liberal Party initiatives - they were, in fact, initiatives of the previous Labor Government. The Labor Party took the action to ensure that work was taken to clean up the environment. His statements about the environment pollution authority are unbelievable. The honourable member for Davidson is in total disagreement with the former Minister.

An article published in the *Sydney Morning Herald* on 4 December 1993 referred to the EPA - how underfunded it is and how powerless it is to take action, especially against companies in the Port Kembla region that have polluted the environment in the past and continue to pollute the environment. All that comes from the EPA is report after report referring to actions it could take, may take, should take, but does not take. So much for the Government's great environmental defender! And the Government has the hide to boast about it. The *Sydney Morning Herald* article, when referring to pollution prosecutions in New South Wales in the previous year, reported:

The number of illegal polluters prosecuted by the NSW Environment Protection Authority has dropped by more than half in the past year . . .

The money raised by successful prosecutions has also fallen dramatically from \$585,910 in 1991-92 to just \$273,424 this year, a drop of nearly 60 per cent.

Is that a clear indication of a strong, virile and active EPA? It is a sign of a weak, gutless, moronic group of people who are poorly regulated and need a shake-up at the highest levels. I make no apology for saying that. The article continued:

Of the total fines raised by the EPA last year, more than half the prosecutions resulted in fines of less than \$2,000 and 26 of the total of 57 were against individuals for motor vehicle offences.

The Water Board is too gutless to take charge of its own resources; it is making sure that any prosecutions on behalf of the Government do not take place. It is a protector of the Government, not the environment. Had the Government introduced stage two legislation to give the authority more power, it may have been a different story. The Government is protecting itself. The Labor Party is not opposed to corporatisation. Labor governments, at both the Federal and State level, agree with the corporatisation of certain businesses. But in this instance we are talking about the Sydney Water Board; not an outlet that sells lollies or beer. The Water Board provides water, which is necessary for our survival.

**Mr Rumble:** Water is life.

**Mr McMANUS:** Yes, water is life. It cannot be flogged off to the highest bidder just because some government decides that it has to make a quid out of it. This bill is the first step towards privatisation. The Government should look more closely at what happened in Britain almost 20 years ago. The people of Britain were conned. The situation there is disastrous; it is unbelievable. I am not surprised that the Minister for the Environment is leaving the table. He is so gutless, he backed down to the National Party over wilderness issues. He cannot control the members of the minority party of the coalition. He is a gutless wonder, and he always will be. I refer again to the British privatisation. What is being contemplated in this State actually took place in Britain 20 years ago. I refer honourable members to a book entitled *Coming Clean: The Politics of Water and the Environment* written by David Kinnersley, an expert in this field. The book states:

The basic statistics of the water companies since privatisation are not pleasant: disconnections because customers cannot pay their bills are up 50 per cent, charges up 65 per cent, profits up 125 per cent, chairmen's pay up by 130 per cent.

The following passage is very important:

Also up are river pollution and the water companies' contributions to Tory party funds.

Water mains are full of rust and unhealthy water. The Minister for the Environment is making fun of the disastrous services that are being provided to the people of New South Wales. He is not able to do anything about it. I am one of five members from the Illawarra region who have been inundated with complaints from women about the dirty water in which they have to wash nappies. They receive excess water bills because of the extra washing and rewashing they are required to do. The Government is not prepared to compensate those people for the excess charges. The only assistance they are given is a bottle of chemicals that burns holes in their already dirty clothes.

The Government must be more sensible and rational in the provision of water. The Government has an obligation to provide water as cheaply as

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possible to all the consumers of water in this State. But that will not happen under this proposal of corporatisation and pseudo-privatisation. I congratulate the Government, however, on attempting, by way of filtration, to ensure that the dirty water is cleaned to some degree. The Water Board conceded last week, through the Minister and its managing director, Mr Broad, that a major problem exists with regard to communication with its consumers regarding complaints about dirty water. We cannot spend \$150 million on two treatment plants at Kembla Grange and Woronora Dam if we do not have ongoing funding to ensure that the old mains - some of which were put in place in 1948 and which are rusted and completely useless - are replaced with plastic mains. One cannot take clean water, pour it into a dirty bucket and expect people to pay for a service that they are not receiving.

**Mr ACTING-SPEAKER (Mr Rixon):** Order! Honourable members should conduct their conversations outside the Chamber.

**Mr Hartcher:** That means we would have to listen to him, though.

**Mr McMANUS:** It is obvious that I have upset the Minister for the Environment, because he does not interject unless he is upset.

**Mr Souris:** There are two of us here now.

**Mr McMANUS:** No, you are insignificant also. Let me turn to other problems in my electorate that are of concern to me. Once again I will refer to sewerage. I touched on the fact that there have been some concerns about the Bellambi treatment works and the inability of the Government to provide adequate funding for a secondary treatment plant or a tertiary treatment plant. [*Extension of time agreed to.*]

I turn now to concerns about sewerage in the northern suburbs of my electorate. Last year the Minister of

the day in another place made it clear that he was keen to sewer areas in the northern suburbs, such as Stanwell Park, where Minister Pickering lives. There was an indication that funding would be provided under the backlog sewerage program. It is obvious that part of the plan for this corporatisation is to drag in money, simply because the Government can no longer provide what it has promised to the people of the region. In a press release dated 9 May the Minister for Planning, and Minister for Housing indicated that areas that could expect to be connected to the sewer under the new program, that is the backlog sewerage program, included Stanwell Park, Coalcliff, and Otford - all of which areas are in the heart of my electorate. But within weeks those promises were denied and funding was not made available, under the pretext that there was no necessity for it because no money was available.

I had to investigate complaints of water in Telecom fixtures at Stanwell Tops only a couple of months ago. I was fearful. I managed to get a chemical which reacts to urine in water. I took some of the water out of one of the Telecom pits in the Stanwell Tops region. After adding the appropriate amount of chemical to that water, I noted a very sharp increase in discolouration, a clear indication that there was a strong sewage content in the Telecom pits. It is obvious that there is a major problem in the Stanwell Tops and Helensburgh regions, so far as sewage is concerned, but very little action on the part of the Government, in the interests of the health and wellbeing of my constituents.

It has reached the stage at which Telecom workers have indicated that, unless some action is taken by the Government, they will refuse to repair and replace any faulty telephone works in that region. This is an indictment of a government that continues to say that its record in respect of Water Board matters is good. Here is a complete rebuttal of that case. It is incumbent on the Government to understand that if it goes to a corporatisation system, as it plans to do, there will be a further reduction in service because of a company mentality based on raking in the dollars for profit purposes, as opposed to the provision of services.

I spent 14 years with the Water Board as a waste water inspector. I agree that, in those days, efficiencies had to be implemented - as they were implemented in a number of other government departments - and gradually, over time, efficiencies were achieved. Since the Liberal Party came to office in New South Wales it has gone too far in the other direction. The Government has cut services and cut the number of staff to the bone - it has basically sacked people. Sadly, whereas once I was very proud to serve the people of New South Wales as an inspector, doing my job to the best of my ability in respect of a service I believed the Water Board was providing to the people of New South Wales, the Water Board has now gone from an effective service industry to nothing more than an advertising agency for the New South Wales Government.

Water is life in this State, and the fact that the Government is using it as a prop to make money is certainly a sad indictment of this Government. It concerns me that if we continue down this track - especially with the Environment Protection Authority as weak as it is - the things that will be affected first will be the quality of water in New South Wales, quickly followed by a decline in the environment around those water supply services. It is incumbent on the Government to understand that, in supporting corporatisation, we have our own plan, our own model, and will implement that whenever possible. This bill is clearly an indication of how ruthless the Government is, that it has no intention of continuing to allow such things as community representation or employee representation on boards. I find that rather strange. Even hospital boards these days have employee representatives, and yet there is not that same encouragement on the part of the Government so far as the Water Board is concerned. One has to ask why there is such a reluctance on the part of the Government to allow this to happen. The Opposition will be moving amendments to ensure that the board

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has a basic responsibility to retain an employee representative. That will ensure union representation, as well as representation from the work force.

The Opposition will also move an amendment to ensure that the board has a basic responsibility to maintain its assets, which will provide ongoing employment for the board's employees - an important feature of the board's role in cleaning up the waterways. A lot has been said today about Government initiatives and I reiterate once again that, having been a former employee of the board and having been a member of this House

for 7½ years, I have been able to judge quite well what has happened. As I said, the Water Board has been relegated to the position of an advertising agency. Its role has been diminished.

Once upon a time, we had such things as participation by employees in the provision of services for pensioners, by way of an employee simply fixing a tap washer at a cost of 10 cents. We are now in the position at which, if that same employee were to visit an elderly person and find a leaking tap, a notice would be served on the elderly person to ensure that a plumber visited the premises - at a service fee of approximately \$35 - to determine whether a replacement washer was needed. That is a pretty disgraceful indictment of the Government, which should be providing water as a service to the people. It now not only provides filthy, dirty water, but provides an inadequate service such as that at Bellambi primary treatment works. The board cannot even provide a 10 cent, 10 minute job by one of its inspectors or send an employee with a pair of Stillsons to replace a little old lady's tap washer. It is a disgraceful situation.

**Mr RICHARDSON** (The Hills) [10.18]: Before addressing the substance of the bill, I should like to comment on some of the remarks made by the honourable member for Blacktown in her lengthy and dull contribution. At one stage I noted that she said to the occupant of the chair that she could not hear herself speaking. The problem was that she had probably fallen asleep in the middle of her contribution. She claimed that if flooding was caused by stormwater, customers would lose their legal rights to sue the board. The true situation is, of course, exactly the opposite. As a statutory corporation owned by the Crown, the Water Board would have to do nothing, but as a corporation its legal liability would be increased. It would be subject to the full weight of the law and could not hide behind the protection of the Crown or claim that the flooding was an act of God. The honourable member for Blacktown got that totally wrong.

The honourable member for Blacktown also claimed that the new water corporation would not be subject to the Annual Reports (Statutory Bodies) Act. If she had read the bill and the Minister's second reading speech, which she clearly has not done, she would have discovered that the Government agrees with the honourable member for South Coast when he says that all of the relevant sections of the Annual Reports (Statutory Bodies) Act will apply. That provision is contained in schedule 4 to the bill. I assume that the honourable member for Blacktown will be moving amendments in the Committee stage to both the clause and the schedule relating to the matter to which I have referred. Most of the contribution of the honourable member for Blacktown was a diatribe about the Environment Protection Authority - not the environment pollution authority, as the honourable member for Bulli described it - and its alleged deficiencies.

I repeat what the honourable member for Ballina has said: the Government is now spending more than six times as much as the Leader of the Opposition did when he was Minister for Planning and Environment, and is employing some 650 people, compared with 246 when he was the Minister. We now have a whole new Act and a much tougher framework. The whole system is now working much more effectively to protect the environment. Corporatisation as proposed by the bill is embraced by all governments of Australia as a means for improved efficiency and accountability of public sector businesses. Bearing in mind the comments of the honourable member for Moorebank regarding the need for public sector efficiency and for improving our international competitiveness, I am surprised that he has not embraced the bill wholeheartedly.

The honourable member for Moorebank complained that Treasury had an egocentric view of the world. Under the proposed model, however, the Water Corporation will be set at arms-length from the Government. The practice of stealing dividends from the Water Board, or raiding hollow logs as happened under the Labor Party, will cease. Dividend payments will be agreed by negotiation between the voting shareholders and the corporation's board of directors before the trading year, as part of the statement of corporate intent, with a final recommendation based on the results at the end of the year. The only dividends to be payable will come from profits. The hollow logs will no longer be raided. I would have thought that the honourable member for Moorebank would applaud that.

The corporatisation of the Sydney Water Board is another milestone in building a better economy, not only for New South Wales but for Australia. The question today is not whether to corporatise the Water Board, but how. The Government proposes corporatising the Water Board under a tried and tested framework, the State

Owned Corporations Act, that removes public authority privileges and applies the competitive forces of the private sector. The Government's model, known as the company model, will create a corporation under the State Owned Corporations Act. That Act embodies the five key principles of corporatisation: clear objectives, managerial control, performance monitoring, rewards and sanctions, and greater competition.

It is a model capable of unlocking corporatisation's full potential, bringing with it improved commercial performance, responsible

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environmental management and, most of all, better services for customers and the community at large. The Government's model will ensure as far as possible that competitive differences between government and private enterprises are eliminated or neutralised. In short, it will create a level playing field that brings with it new emphasis on competition and accountability. That is in direct conflict with the comments made by the honourable member for Blacktown. Most importantly, this model changes the relationship between the Government and the Water Board so that the corporation is free to operate at arms length from the political process according to clear performance objectives.

The model proposed by the Opposition and outlined in its press release yesterday falls far short of this. Known as the statutory authority model, it means less accountability, both ministerially and to the Parliament, retention of political interference, continued protection of the Crown and diminished rights for customers. In her contribution the honourable member for Blacktown complained that the Minister would not be a shareholder. It is clear that she does not understand what corporatisation is all about. She has not read the bill and simply has no idea of what reform of government trading enterprises means for this State. Labor's model is not only inadequate; it is fundamentally flawed. It places the Minister in the position of being able to override commercial decisions and interfere with the running of the organisation according to political whims.

That means Ministers can exercise their own discretion for the benefit of, or detriment of, the corporation or for matters of political expediency. One example of that is a new development at Parklea, which is located in the electorate of the honourable member for Blacktown. To prop up its vote in that electorate, a government might decide to subsidise Water Board charges. That will not be possible under the new model. All community service obligations will have to be totally transparent. Another example of action the Government is already taking is the cutting of the residential subsidy by \$60 million in 1993-94 and by a further \$95 million this year. Once again, that is what making government trading enterprises competitive is all about. It is what the provision of a break for business so that business can be competitive is all about. Again I would have thought that would be welcomed by the honourable member for Moorebank.

The concept of so-called ministerial accountability is at odds with the recommendations in the Hilmer report that recognise competitive neutrality, free from political intervention, as the foundation of effective and responsible corporatisation. The Hilmer recommendations have been endorsed by the Council of Australian Governments and are strongly supported by the Federal Labor Government. One can only question the Opposition's motives in seeking to cling to a vastly inferior model of incorporation that perpetuates a pattern that has been proved to encourage poor decision making and shelter performance.

Let me look more closely at how the Government proposes to responsibly liberate the Water Board from its current structure, which is a barrier to competition and makes for conflicts of interest. The State Owned Corporations Act provides for the Government to appoint the corporation's board of directors, and it is the directors who will appoint and direct the chief executive officer. These directors will be personally accountable for the performance of the corporation and subject to fines, and even imprisonment, if they do not exercise their duties with care and diligence. The corporation will be a company subject to the corporations law. Financial performance will be measured in the same way as other corporations. Rules and criteria for performance will be clearly spelled out. Under the company model financial accountability is scrutinised not only by the Auditor-General, but also by the Australian Securities Commission. The Consumer Claims Tribunal will also scrutinise the performance of the Water Board. It will be subject to the provisions of the Trade Practices Act. The Ombudsman will be able to investigate complaints. The Public Accounts Committee will monitor what is happening in the Water Board. The Independent Commission Against Corruption and the Freedom of

Information Act will apply.

I note that the honourable member for Blacktown said in her press release yesterday that the bill should incorporate the Freedom of Information Act. I assure her that it is already there, as she would have known if she had read it. The Environment Protection Authority will grant the operating licence. That will be the principal asset of the new Water Corporation when it is established. The discretionary power of Ministers will be limited. Moreover, the Minister who administers the operating licence, which sets the criteria for performance, will not be permitted to be a voting shareholder. That seems to be a sticking point with the honourable member for Blacktown. She seems to think that is absolutely terrible. We believe that this sets the Water Board at arms length from the Government, and that is entirely appropriate. If the honourable member for Blacktown understood what corporatisation was all about -

**Mr O'Doherty:** No political interference.

**Mr RICHARDSON:** It is about no political interference, as the honourable member for Ku-ring-gai reminds me. If the honourable member for Blacktown understood what the process of corporatisation is all about, she would embrace the process wholeheartedly. The bill also makes the licence-holding Minister accountable for reporting to Parliament about Sydney Water Board's performance against its operating licence. The corporation will also be required to report on 14 different matters to Parliament, including presenting half-yearly and annual reports, a statement of corporate intent, details of dividend payments and copies of any ministerial directions. This approach is consistent with the Hilmer report.

It sets up a transparent process - something that the environment movement and the Government Pricing Tribunal have made great play of. If conflicts

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of interest arise they are resolved in an orderly way through the Parliament rather than being hidden behind the scenes through exercise of power by a Minister. Transparency in community service obligations, development charges and trade waste charges were all endorsed by the Government Pricing Tribunal and will all be embraced by the bill. By contrast, the Opposition would prefer to keep things in the closet. In line with its policy of encouraging ministerial intervention, the Opposition proposes that the Minister should appoint both the board of directors and the chief executive officer. The Opposition's model also retains the shield of the Crown, which is extended to the directors, exempting them from personal liability. The honourable member for Blacktown would not really understand what that means in relation to public company directors, but under the State Owned Corporations Act the board of directors of the new Sydney Water Corporation will be subject to the full force of the board.

A statutory corporation, as proposed by the Opposition, can also evade many of the laws applying to companies, taking away the commercial framework that underwrites an improvement in performance. Apart from annual reporting, there is no requirement for directions from the Minister or information to be tabled in Parliament. That undermines the whole rationale for corporatisation and diminishes accountability for the performance of the organisation. Let us not forget what all this means for the man in the street. Poor performance by government trading enterprises has significant implications for the international competitiveness of Australian industry; it costs jobs and it is a drain on taxpayers' resources, limiting our expenditure options.

Under the Government's model, customers get a better deal. This bill proposes a first for the water industry in Australia - a money-back guarantee if the corporation fails to maintain continuity of its services as indicated in its customer contract. This means Sydney Water will not be able to hide behind the protection of government and will have a direct relationship with customers, backed by a commitment to put its money where its mouth is. This innovation will become a reality only with corporatisation under the Government's company model. The Opposition has mischievously chosen to claim that this Government sees corporatisation as a means for privatisation. I state categorically that this bill does not provide for the privatisation of the Water Board. In fact, as I said before, clause 5 specifically prohibits shares in the corporation being sold or otherwise disposed of except to eligible Ministers.

The State Owned Corporations Act ensures privatisation cannot occur without a completely separate Act of Parliament. It is a sign of how confident the Government is of its corporatisation model that the bill has been released for early scrutiny so that issues of this nature can be clarified. I take this opportunity to thank the Independent members for their valuable contributions, which I understand will be ongoing. It will no doubt comfort the Leader of the Opposition to know that the bill has been amended to make it absolutely clear that it cannot and will not privatise the Water Board. I refer again to clause 5. The model the Opposition is advocating is executive government centring accountability on perhaps getting an answer to a question in Parliament. Its model is in line with such notable errors of accountability as the State Bank of South Australia, the State Bank of Victoria or, for that matter, the Civil Aviation Authority, in which the operator and regulator are mixed together.

This Government's model clearly separates the operator and regulator, thus ensuring public accountability. It establishes an open process so that the actions of Ministers and government are well defined and open to scrutiny. Corporatisation of the Water Board must be done responsibly and according to the best possible model. This Government has developed a comprehensive and integrated policy and legal framework for corporatisation - one which has been applied, refined and shown to work. It is a model that will transform the Water Board for the benefit of all. The clear legislative package under the State Owned Corporations Act will make the organisation more efficient and accountable to the Government and to its customers. The honourable member for Manly was quoted in the *Sydney Morning Herald* on 9 September as saying, "We want a corporation that values environmental and consumer outcomes on a par, at the very least, with commercial outcomes". I assure him that in my view environmental and consumer outcomes will be placed ahead of commercial outcomes under the corporatisation bill, which I commend to the House.

**Mr RUMBLE** (Illawarra) [10.33]: The Opposition supports the Water Board (Corporatisation) Bill, subject to certain conditions. It will move amendments to the effect that the bill will not come into effect until the promised Environment Protection Authority stage two legislation, which is intended to overhaul all of the State's anti-pollution statutes, which are up to 30 years out of date. The Opposition will also move an amendment to ensure that the proposed new corporatised body will maintain its assets, so there will be ongoing employment opportunities for its employees. The third amendment will be that an employee representative will be on the board to represent the interests of employees - that is, the minuscule number that are left after the Government has shovelled thousands of its employees out the door.

I will now detail some matters relating to the operations of the Water Board in the Illawarra region. All members of Parliament in the Illawarra region in the past couple of years have received a multitude of complaints about the operation of the Water Board, specifically relating to dirty water. These complaints are received on an ongoing basis. The Water Board, under this Government, said that all would be right once the water treatment plant was established. However, it did not even get that right in the initial stages. The Water Board's preferred site for the treatment plant was at Farmborough Heights, in the middle of a residential area. The Water Board knew that the residents were hostile, that they did not want

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the water treatment plant in that area because it would affect the lifestyle of residents, with trucks going backwards and forwards both at the construction and operational stages.

The Water Board, under this Government, gave me an undertaking that a public meeting would be called about this water treatment plant, but towards the end it tried to renege. It was only after I went public and was in contact with members of the Wollongong City Council that the Water Board backed down and held a public meeting. At that meeting the Water Board was able to ascertain the strength of feelings against it over the water treatment plant. It went back to the drawing board and has come up with another option at Kembla Grange, which seems to be a suitable site. I am informed that there has been no opposition to that site. If the Water Board had done its homework properly in the first place the community would not have been put to a disadvantage by people worrying unnecessarily.

The problems are not confined to the water treatment plant; there are also problems with rusting pipes. The Water Board must come clean with these problems. The rusting pipes contribute to be the Water Board's

continuing problems and complaints about dirty water in the Illawarra region. Even though the Water Board has been urged by the Wollongong City Council, it has failed to develop land in the West Dapto area to attract light industry to the Illawarra region. Land is almost built out in the Unanderra industrial estate. There is an urgent need to attract high-tech industries and light industries to the Illawarra region to decrease unemployment problems. Part of those problems result from the Government's broken promises since March 1988, when it closed the Tallawarra Power Station and the Huntley Colliery, abandoned work on the Maldon-Dombarton line, and broke a number of other promises. The Government's industrial relations record with the Water Board is abysmal. In the Illawarra region 600 jobs have been lost. A chaplaincy report was released after an attempted suicide of an Illawarra Water Board employee on 19 May and a successful suicide of a female employee on 29 July. The report states:

Morale is probably at its lowest point in at least the three years that I have been chaplain in [the] Illawarra Region.

In other words, in relation to industrial relations this Government shows no sensitivity. The Government wants to kick people out the door. Employees of the Water Board in the Wollongong region who had more than 20 years service took early retirement redundancy packages because they were pushed into demeaning restructured jobs, admittedly earning money but not doing any work. The Water Board was one of the great engineering organisations at the forefront of many technology changes. The employees said that the redundancies started and the Water Board earmarked job cuts of at least 40 per cent. The employees were told to be more efficient and more effective, but when they met these needs for particular jobs the work was given to outside contractors. There was continual psychological pressure to take redundancies as the employees were starved for work. Three years ago the water renewal program was \$12 million; this year it is \$55,000. That is another reason that there are problems with rusting pipes, which is one contributing factor to the dirty water problems in the Illawarra region.

According to the leaked report, the health of employees had already been affected by stress, suicide, attempted suicide, stroke, car accidents and untold sickness. From an industrial relations point of view, this is an example of how the Government has operated the Water Board to date. On a statewide basis the number of employees on the books at about the time that this Government came to office was approximately 9,600; it is now down to about 6,600. Approximately one-third of the employees have been kicked out by the Government. In his second reading speech the Minister said:

The protection and privileges of being a public authority will be removed.

Up till now who has had protection and who has had privileges? The employees certainly have not and the customers certainly have not, because they have not received any compensation for the problems with their dirty clothing.

**Mr O'Doherty:** But they will get it. That is what this bill is about.

**Mr RUMBLE:** Nothing has been done up to date. It is just a promise. The Government has a long history of broken promises - 200 broken promises since it came to office - and it is still renegeing on them. The Government is renegeing on the \$1.5 billion promises made during the Parramatta by-election. The Minister for the Environment mentioned Stalingrad in an earlier debate this week. Parramatta represented the battle of Stalingrad for the Government, like it did for the Nazis. The Nazis never recovered from that battle, and this Government will not survive the election on 25 March 1995. The Minister for the Environment is becoming paranoid in wanting a witchhunt on ministerial staff - those quislings and defeatists. I hope he tracks them down. No-one has received privilege or protection from the Water Board to date - certainly not its employees or customers.

The Minister also referred to the Curran report. That report was a waste of thousands of taxpayers' dollars - it told us nothing. All it did was to examine reports already on the public record and make recommendations that threw thousands of people out of work. The Minister also referred to the charge of 65¢ per kilolitre of water, which replaced the environmental levy. The environmental levy was introduced for a limited period of



time and was to be removed. We now have a permanent environmental levy which represents another broken promise of this Government. The Minister said:

Customers get real rights as well as improved levels of service which are spelt out in the customer contract. Customers can claim compensation for damages and their money back when services are not delivered.

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Talk is cheap: customers in the Illawarra region have received nothing for their dirty and spoiled clothing. The Water Board says, "That is just bad luck. You will have to wait until 1996 when the water treatment plant comes in." It will be another broken promise. Why should we believe what the Government says this time? The Opposition is also concerned that, like many of this Government's other propositions, this could be the softening up for the secret agenda of privatisation of the Water Board. On 18 June 1993 at the National Party's annual conference in Wagga Wagga the Minister for Land and Water Conservation, and Deputy Leader of the National Party, George Souris, announced the first privatisation of an irrigation scheme in New South Wales. [*Extension of time agreed to.*]

At that time the Minister for Land and Water Conservation, who introduced this bill, proudly announced the privatisation of that irrigation scheme. That is why the Opposition is suspicious about the motives of the Government and its Water Board models. The Government promises there will be no privatisation, but it has broken more than 200 promises in the past. The Opposition's model would establish a statutory corporation and maintain ministerial accountability. Many Government members have said that they want the Minister at arms-length from the Water Board. In other words, Government members want to abrogate their responsibilities for the Water Board.

The Opposition will maintain employee representation and equal employee opportunity principles, establish freedom of information and reporting provisions, with some exceptions for commercially sensitive functions, provide for auditing by the Auditor-General, establish transparent community service obligation payment principles, require payment of dividends and income tax equivalents when appropriate, and require competition in an appropriate regulatory environment that includes Treasury, the Government Pricing Tribunal, the Environment Protection Authority and Federal competition laws. The EPA is hopelessly inadequate to meet the task of acting as the principal environment regulator of a corporatised Water Board. The Opposition will not support the proposition the Government puts forward until the Government has its house in order with the EPA, because the Water Board is the biggest polluter in the State. Under the present illustrious Minister the EPA has not passed stage two legislation. The Opposition will not support the corporatisation of the Water Board until stage two of the EPA legislation has been implemented.

**Mr O'DOHERTY** (Ku-ring-gai) [10.50]: In the two years I have been a member of this House, this is the first time I have had the pleasure of hearing the honourable member for Illawarra speak, and I enjoyed his contribution. However, it suffered from some of the problems that other contributions from Opposition members suffered in this debate. I suspect there will be a further 20 Opposition members to contribute to the debate, and to save time I should like to sum up the five things that we will hear from every one of them. They will incorporate most, if not all, of these five points. The first we will hear from Opposition members is personal abuse: personal denigration of the previous speaker, the Minister at the table and all other Government members in the Chamber.

**Mr Rumble:** I did not abuse anybody.

**Mr O'DOHERTY:** The honourable member for Illawarra did not, and that is one of the reasons I enjoyed his contribution. Certainly he did not abuse anybody and I thought he made a terrific contribution to the debate. The same cannot be said for his colleague the honourable member for Blacktown. I shall long remember her major contribution to the debate, which was to accuse the honourable member for Monaro of having a receding hairline. I thought that was a very good contribution from the honourable member for Blacktown to society's debate on this major structural change to water, and I thank her for it. The second thing

Opposition members will do is puff themselves up and criticise the alleged evils of corporatisation. They will bring out the veiled threat of privatisation, the big "P" word. The honourable member for Illawarra certainly did that. He did not, though, do something every other Opposition speaker in the debate has done, and quote exactly the same article from exactly the same British newspaper about the problems suffered in Great Britain.

The bill specifically provides that privatisation does not take place. The State Owned Corporations Act also provides that if privatisation of any government corporation is to take place, a separate Act of Parliament is required. It will not happen, it is not envisaged by this legislation, the bill is not the thin edge of the wedge, that is not what the Government is on about, so let us all save time by not having any more contributions from Opposition speakers who fall into trap number two. The third strategy of Opposition speakers is to claim that they have a mandate on understanding the Water Board. After all, the honourable member for Bulli used to work for the Water Board. He said that he was the only member of the House qualified to speak about this issue. I point out to the honourable member for Bulli that we are all consumers, we all have an interest in the proper running of New South Wales and we all have a mandate to make sure that we do the best by our constituents. That is the basis on which we all speak. I discount completely what the honourable member for Bulli said about that.

If Opposition members say that because of Labor Party links with the union movement - and I think of the tributes Labor Party members have paid to the workers over the years, the sweat on their brows and so on - the Opposition has the mandate on being able to run the Water Board, what sort of body was the Water Board in 1988? In 1988 the environmental standards were shot to pieces, there were none. The Water Board was an engineering body. Environmentalism was not a key goal of the Water Board. Environmentalism has been a key goal of the Water Board since 1989, and it will continue to be a key goal under this legislation. I ask honourable

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members to think about the accountability of the Water Board. There was no accountability. Honourable members should think about the price of water. The price of water continued to increase.

What about the waste and mismanagement of the Water Board under the stewardship of the Australian Labor Party? If Labor Party members claim to have a mandate on being able to understand and run the Water Board, that is their legacy and they can be judged by that - and the people made their judgment in 1988. The fourth characteristic of Opposition speeches tonight has been that about halfway through the speeches fall apart and Opposition members resort to personal complaints about the Water Board. All Opposition members have mentioned dirty nappies. They have all said that when their constituents wash their babies' nappies, the nappies come out with brown stains.

**Mr Harrison:** And you do not care about that.

**Mr O'DOHERTY:** That is a serious concern. It might surprise the honourable member for Kiama to learn that, as the father of two children under the age of three, I care a great deal about that issue. The point that has been missed by every Opposition speaker in this debate is that the bill specifically provides customers with better protection than ever before against the exact complaints Opposition members are raising. I shall come to some of those protections in a moment. The bill provides the protection that customers are asking for, and Opposition members should support the measure. The fifth characteristic of speeches made by Opposition members is that somewhere close to the end of their speeches all Labor Party members reveal that they actually support the idea, even though they have spent 15 minutes criticising the bill and talking about problems with the "P" word. Opposition members say that they have a few minor amendments, but not one of them has explained how Opposition amendments will deal with any of the problems Opposition members have raised. Not one of them has explained why the Opposition's amendments are important. They say that they will support the bill, apart from a couple of minor amendments -

**Mr Harrison:** That's what Oppositions are about.

**Mr O'DOHERTY:** - just so that they can pretend they are an Opposition. For the benefit of the

honourable member for Kiama, I tell him that it is not what Oppositions are about. Opposition members do not know what they are about, and that is their problem. In a policy sense, they have nowhere to go. Opposition members should listen to another lecture about micro-economic reform from the honourable member for Moorebank, who made a very good contribution to the debate. The honourable member is quite right: Australia is marching ahead in the micro-economic reform agenda, but he is wrong in that it is not Labor governments that are setting the micro-economic reform agenda. The honourable member for Moorebank mentioned Labor State governments. I ask him to say which State governments he was referring to.

**Mr Harrison:** Queensland.

**Mr O'DOHERTY:** That is one Labor State Government. How much micro-economic reform is happening in Queensland? Could the honourable member tell me about the micro-economic reform that happened in South Australia with the State Bank? What about the micro-economic reform that happened in Victoria? The people judged that Government as well. I should like Opposition members to tell me about the micro-economic reform happening at the Federal level. The Australian Labor Party Federal Government has pinched its ideas from the New South Wales Government and from the Federal Opposition. The Australian Labor Party, the Opposition, has nowhere to go. It is bankrupt in the policy sense. Opposition members actually like the idea behind this legislation, and they support it.

Let us not hear any more nonsense. I have summarised the contributions of the next 20 Opposition speakers in five clear, concise points for the people to read in the *Hansard* record, so let us have nothing more from the other side and take the issue to the vote. Before I conclude my contribution, I should like to speak about some of the customer benefits of the corporatisation processes we are about to go through. This will be a major reform for the people of New South Wales. Reform is what this Government is about. The Government is about sensible reform that will benefit all of the people of New South Wales, and particularly the customers of Sydney Water, as it will be known. Wide research has been undertaken amongst customers of the Sydney Water Board. As evidenced by the research and through the focus groups from which the Water Board has received advice in recent times, talking to customers about the corporatisation process, customers themselves say that this is the reform that they want.

I wish to speak now a little about the research. The focus groups confirmed that customers welcome the move to corporatise the Water Board. In particular, customers like the following aspects. Customers like the establishment of commercial management relationships between the Government and the board of directors. People understand companies. They do not understand the kind of executive government, hidden control that the Labor Party represents, but they do understand companies. Customers work for companies, manage companies and know what companies are about. They know that company law and consumer law give them protection against companies and establish their relationship with companies, and they like that.

Customers like the removal of inappropriate political interference from the business of the corporation. It was inappropriate political interference in the corporation's affairs that led to the mess inherited by the present Government in 1988. Customers like the maintenance of relevant public sector accountabilities, provided, as we were reminded by the honourable member for The Hills, by the Independent Commission Against Corruption,

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freedom of information laws, the Ombudsman and the Auditor-General. The fourth thing customers like, as was revealed by the research groups, is the strengthening of other accountabilities through the application of the company laws and the Trade Practices Act. As I have said, people understand companies. They know their protections under the law against companies, they understand their rights in relation to companies and they like the company model.

What does corporatisation mean? Not only does it mean picking up the competitive forces from the private sector, it also means increasing accountability and applying that to a 100 per cent government-owned organisation that operates as an effective business. The number one priority of the effective business will be the provision of safe and reliable quality service to customers. That is what customers want. There will be no

room to go off on tangents that have nothing to do with the corporation's core business. That will be a luxury that was experienced under the former Labor Government, perhaps, that Sydney Water will not be able to afford and will not be in the business of doing. Political interference will be a thing of a dim dark past, the past of Labor governments. The performance of Sydney Water will be measured against specific targets for customer service, commercial practice and environmental protection. That will be done through the tabling in Parliament of the statement of corporate intent. The corporation must report on those targets on a six-monthly basis, that being another part of the accountability process.

The draft statement of corporate intent includes the following: first, to achieve a continuously improved satisfaction rate with the quality of services and overall performance; second, to meet the health-related aspects of the National Health and Medical Research Council guidelines of 1980, and to meet those straight away; third, to meet the health-related aspects of the NHMRC guidelines according to an agreed timetable with the New South Wales Department of Health; fourth, to meet environmental requirements for the provision of effective wastewater and stormwater drainage services; fifth, to provide reliable water and sewerage services, and where those services have been interrupted, to apply a system of rebates as outlined in the customer contract, and I will come to that in a moment; sixth, to be accountable to customers through a customer complaints and redress system and to properly deal with claims for compensation if services cause damage or disruption with regard to dirty water, including stained nappies, low water pressure, sewerage surcharges or other impacts of the operations of the Water Board.

There is the protection that members of the Labor Party have been asking for. That is in the bill and that is why the bill is supported by the Opposition. However, I fail to understand why Opposition members argue against it, apart from wasting time. The final matter is to establish and support customer councils and other forums to enable community involvement in issues relating to the board's activities. The licence defines the terms, conditions and the operational standards that govern water sewerage and stormwater and drainage services. What other accountability is there? I shall refer to the customer contract. This is an important part of what consumers are seeking from the Water Board under its company structure. Consumers are seeking a customer contract, which is a new era of customer focus legally enforceable through this bill. How many members opposite would deny consumers of the Sydney Water Corporation Limited their legally enforceable consumer rights provided under this bill? The honourable member for Keira may seek to deny them their rights. [*Extension of time agreed to.*]

The customer contract is like any other commercial contract - enforceable and so on. The first part of the contract details with greater clarity than ever before customer rights to the supply of water, sewerage and stormwater and drainage services; to information and assistance; to adequate prior notice of interruption of supply of maintenance and repairs; and to assistance, redress, compensation and so on. The second part of the contract outlines Sydney Water's rights in relation to the interruption of supply, when it can refuse supply, charges for meters, accounts and so on. It is like any other contract that a consumer, or perhaps a tenant, might have with a landlord. Both sides understand their rights and obligations. That is a first and it is provided for in the bill. This is what the consumers want under this model.

It is a first in Australia that there is a money-back guarantee. Every time a customer is without water and/or sewerage service for longer than one hour due to a fault in the system, that customer will have a refund automatically, which will equal a 10 per cent rebate on the quarterly service availability charge. That is about \$8.40 each time there is an interruption. The honourable member for Blacktown seemed to think it was only \$8.40 a quarter, but it is every time an interruption occurs. Perhaps she should read the bill again and she might understand it better. Customers will also be entitled to claim compensation for any physical damage caused to their property. That is another step forward. As honourable members, we have probably all dealt with water corporations or other State-owned corporations or instrumentalities and probably have been given the run around.

**Mr Harrison:** Dealing with a bunch of bureaucrats.

**Mr O'DOHERTY:** Dealing with a bunch of bureaucrats, as the honourable member for Kiama has said.

**Mr Harrison:** That is what you are suggesting we do.

**Mr O'DOHERTY:** The Government is suggesting the opposite to that. The Government agrees that dealing with a bunch of bureaucrats is not in the interests of consumers and that is why the bunch of bureaucrats is being turned into a group of company directors who are personally liable and the

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Water Board is to be a corporation that is subject to all the consumer and company laws that provide that bureaucrats come out of the closet and suddenly become managers accountable to the people. That is the difference between the vision of the Government and the vision of the Opposition - the Opposition does not have anything; it is bankrupt in the policy sense.

For the benefit of honourable members opposite I reiterate that the rights of consumers will be protected by the following things: Corporations Law, the Consumer Claims Tribunal, the Trade Practices Act, the Auditor-General, the Ombudsman, the Independent Commission Against Corruption, the anti-discrimination legislation, the Annual Reports Act, the Public Accounts Committee, freedom of information, the Government Pricing Tribunal, the Australian Securities Commission, not to mention the specific contracts and agreements outlined specifically for consumers of the Sydney Water Corporation Limited. There is no contest. The Opposition is not even going to disagree; it agrees that the Water Board should be corporatised, so what is all the fuss about? If it is about politics alone, we should close the debate and do something for the good of the people rather than standing around talking about it.

I challenge honourable members opposite to let the bill go through, get it operational straight away. Consumers and peak environmental groups are saying, "What are they doing over there stuffing around on that side of the Chamber?". Let us get on with it because this is an important reform for the people of New South Wales and it is time that the Opposition stopped playing and allowed this bill to pass through the House. I support the bill.

**Mr SULLIVAN (Wollongong) [11.08]:** I speak to the Water Board (Corporatisation) Bill. First we need to look at the object of the bill, which is to establish Sydney Water Corporation Limited as a State-owned corporation, within the context of the State Owned Corporations Act 1989, in relation to the supply of water, the provision of sewerage and stormwater drainage systems and the disposal of waste water in its area of operations. The bill provides for the transfer of assets, rights and liabilities of the Water Board to the corporation and for the dissolution of the Water Board. It also contains detailed provisions regarding the functions of the corporation. A key feature is the scheme of operating licences which will be issued to the corporation to enable it to exercise its functions and which will regulate the exercise of its functions. That is a detailed description and a major change. In that respect we should consider the State Owned Corporations Act 1989. Under the principal objectives of State-owned corporations, part 3(8) states:

(8) The principal objective of every State owned corporation is to be a successful business and, to this end:

(a) to operate at least as efficiently as any comparable businesses; and

(b) to maximise the net worth of the State's investment in the corporation; and

(c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate these when able to do so.

That is a qualified social responsibility commitment - when able to do so. This bill primarily is being directed at the establishment of a corporation which may selectively decide what it will and what it will not honour in terms of social responsibility. The operation of the State Owned Corporations Act is the mechanism by which government entities are corporatised. The basic provisions of the Act can be summarised as follows: it empowers the relevant Minister to form companies in accordance with criteria for memoranda and articles of association set out in the legislation to take over particular activities undertaken by the Minister's department or

a State authority within his portfolio.

The Act also sets as the principle objective for State-owned corporations the requirement to be a successful business, and that is very important. Successful businesses are primarily measured on a one-criterion value system; that is, if it makes a profit, it is good; if it does not make a profit, it is bad; if it makes a small profit, it is not as good as if it makes a large profit. How it actually makes that profit is left up to that body to determine. A third aspect is that it requires the corporation to prepare regularly, update and measure performance against a corporate plan. One of the things that strikes me about the 1980s and the 1990s, and I guess it really began in the 1970s, is the way in which we seem to have created a whole range of activity such as writing plans and reports one after the other. It does not really matter what happens on the ground, so long as one has a report neatly written, so long as the corporate plan is there and so long as it looks good. To a certain extent that is the be-all and the end-all of the activity.

Another basic provision of the Act is that it empowers the Minister to direct that the corporation undertake non-commercial activities, but only on the basis that it is reimbursed the cost. That is crucial when one thinks of an organisation like the Sydney Water Board, because it is being treated as if it were one entity when, in fact, it is three distinct entities. It is an organisation that operates to serve the Sydney metropolitan area. It is an entity that serves a subregion, the Illawarra, which has distinct features and distinct problems that differ from the Sydney metropolitan area. It also services the Blue Mountains, which region has distinct features and distinct problems very different from the Illawarra and from the Sydney metropolitan area. If a corporation is, as the Act provides, to be reimbursed the cost so that everything is patently clear when it is not acting commercially, I wonder whether pressure will be brought to bear on the Water Board to ignore the subregions serviced by the Sydney Water Corporation.

Another provision of the Act is that it removes all State immunities and State guarantees and subjects the corporation to taxation, including a charge equivalent to the income tax the corporation would pay to the Federal Government if it were not for

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special arrangements negotiated by the State. Finally, it provides the corporation's board of directors with some, but not complete, flexibility to acquire and dispose of assets. I will return to that issue later. Under the terms of the Act the Government's role as shareholder is specified in the statement of corporate intent, while the Government's relationship with the corporatised entity is set out in the operating licence. Both these instruments constitute the formal means by which the corporation interacts with the Government. From my reading, it sterilises the involvement of the Government as much as possible.

If we look at the Hunter Water Corporation to see how it functions, it needs to be said that it has made achievements, which is to its credit. If one were to look at its achievements, one could say that it has achieved greater accountability for land-use decisions, it has achieved greater openness by management, it has achieved greater rationalisation of middle- and senior-management numbers, it has achieved a corporate gain of downsizing the work force, it has achieved greater public auditing of service and environmental performance, it has achieved additional accountability for developer charges, it has achieved partial constraints on dividend payments, and it has achieved the application of user-pays to the public sector. I will come back to user-pays later, because in some circumstances it can be the user being held to ransom.

However, I have identified a number of problems in the Hunter Water Corporation. The corporation has clearly demonstrated that it is unwilling to invest in the extension of sewerage systems to new areas that are not economically viable. In other words, if you live in an area that will cost a squillion to sewer, you will have to put up with pans. The dunny-cart man will be a feature of your life forever more. Demand management has mainly relied on the use of user-pays, which is a relatively blunt instrument and one that can produce dysfunctional consequences. The corporation has committed itself and its customers to a single technology of pipes and water-based sewerage. There is no evidence that I have been able to detect that the Hunter Water Corporation is considering alternative technologies. The scope of audit of environmental performance and services is done on a very narrow basis.

Let us look at the particular problems as they affect the Sydney-Illawarra-Blue Mountains Water Corporation. The corporation will be profit driven. Many areas in the Illawarra are not sewered. They are small but difficult and very costly to service. Given this emphasis on profitability, I suspect that under this legislation those areas will not be sewered. If we look at what has happened in the Blue Mountains, I doubt that the \$70 million major pipeline built to close down the sometimes derelict, often malfunctioning, small sewerage treatment works located along the ridge serving the small communities would have been built under a user-pays system. I doubt that the residents could afford to pay that charge to establish that sort of system, which was really needed to address and provide a long-term solution to the problems being faced in that area. I quote from an article in the *Sydney Morning Herald* of 21 April that stated:

Plans to connect 25 suburbs on Sydney's outskirts to the city's Sewerage system have been given low priority because the works would not be profitable for the Water Board, internal board documents have revealed.

We are not just talking about some areas in the Illawarra and the Blue Mountains, we are also talking about suburbs of Sydney. I always remember teaching with a colleague who was living at Sefton when it was unsewered. His comment was that when he went to visit family members who lived at Bondi they always claimed that they could smell him coming because he did not have sewerage; the pan system was still being used. I think that implied social stratification is very much something that we should avoid. A standard level of service should be provided, no matter where you live in the Sydney metropolitan area or in the Sydney Water Board area, but that will not be guaranteed under this legislation. I should also like to quote from an article that appeared in the *Wollongong Advertiser* on 21 September that stated:

The profit and user-pays orientation of a corporatised Water Board would also mean areas urgently requiring services would simply not get them, Cr Christian said.

[*Extension of time agreed to.*]

"It is clear that the Water Board can't justify local investment such as sewerage Stanwell Park because they won't recoup the cost with consumer charges," she said.

Consequently, Wollongong City Council is now formulating a local government plan that will place a moratorium on dual occupancies and high density residential development such as flats in northern suburbs, she said.

That article appeared not too long ago. Here we have one Government policy, that is, closer settlement, closer residential development, being stymied by another Government decision, which is largely ideologically driven. I would suggest that we would find there are limits in terms of responsibility when free of Government direction. I would also suggest that social responsibility and the issues of public health and environmental protection will not be addressed. I quote from an article in the *Sydney Morning Herald* of 3 September 1994 which stated:

Corporatisation is about changing the relationship between the Government and the public authority, so that the authority operates more like an ordinary company in the private sector.

The authority is freed from day-to-day directions from its minister, so it can operate at arm's length from the political process.

The political process is what people vote for when they want to see society or their community changed or developed. These measures deny people the right to say how they want their community to operate, what services should be provided, and in what form. The article continued:

For a start, the authority has to be given clear objectives and these objectives are translated into specific performance targets. In the case of the Water Board, the objectives cover not only commercial performance, but also customer service, public health and environmental protection.

Nothing is said specifically about environmental protection for owned land that is crucial for the preservation of certain areas of the State such as the Blue Mountains and the Illawarra escarpment. I turn again to the *Advertiser* of 21 September and to reported comments by Wollongong council officers and councillors. The article stated :

Wollongong City Council is seeking assurances the Water Board Corporatisation Bill being debated in State Parliament: will not affect current Water Board protected catchments in areas west and north-west of the city which feed into Avon, Cordeaux and Cataract Dams; that the sale and use of any Board properties will adhere to the Environmental Planning and Assessment Act; and water catchment areas will be maintained according to environmental significance rather than their significance for commercial water supplies.

The draft legislation removes the Water Board's public company protection and privileges and makes it subject to the Trade Practices Act so it will function according to its key objectives - "operating as efficiently as any comparable business and maximising the network of the State's investment", the draft bill states.

This will involve "a trade-off at the margins of catchments" where catchment areas could be sold, as opposed to maintaining their pristine condition, and extra treatment works put in place, Water Board policy consultant Mr Garry Sturgess has said.

The Illawarra has 1200 Water Board-surplus hectares, or 21 per cent of the region's forests, which contain rare and endangered fauna and flora including those endemic to the area.

"I can't agree with the plan to sell the margins and use treatment stations to fix-up water quality - instead of fixing the front end, they're going to fix the back-end when the damage is done, it's madness", Wollongong Cr Kerie Christian said.

"Moreover, water catchment areas function as nature reserves, providing buffers to keep the bulk of national parks from eroding".

I suspect there will be regional neglect. In the Illawarra there is a shortage of industrial land. The cost of developing it if user-pays is adopted is so high that the land, if it were developed, would have to be sold at approximately double the price of land in western and south-western Sydney. Industrial land in western and south-western Sydney, developed under a non-user pays accounting approach, is denying the Illawarra any economic development. Any government would have to hang its head in shame for deliberately denying economic development in an area of the State that has very high unemployment, and where economic development particularly in the small business sector is virtually at a standstill. What is purported to be in the best interests of the community is really nothing short of madness. That has been seen in particular at west Dapto.

Jobs will be stripped from the Water Board in the Illawarra and will be relocated to the city. The Water Board will be downsized, but the downsizing will be disproportionate in outlying areas. That approach, in an area with high unemployment, is socially irresponsible. I do not believe profit concentration is the only way of getting greater efficiency. The bill, ideologically driven and fixated on profits as it is, leaves much to be desired. It will not work. In years to come this measure will be regretted as a major defect or blunder of the mid 1990s. Labor is much more concerned with end delivery rather than structure, which is obsessing the Government. The Water Board has to have a corporatised structure and has to be in a particular format. The Government is not looking at outcomes but simply at the mechanism by which the system will operate. That approach is a fundamental weakness. The Labor Party will be moving two amendments to the bill. Other Opposition members have referred to those amendments. I have no doubt there will be a major rewrite of the legislation in the period after 25 March.

**Mr HARRISON** (Kiama) [11.28]: I have not heard anything in any contribution by those on the Government side of the House that would convince me to support the idea of corporatisation, much less corporatisation as outlined by Government speakers today. I usually have great respect for the Minister for Sport, Recreation and Racing, who presented the bill to the House. He has a great ability to deal with his portfolio. However, I felt somewhat sorry for him as a result of the speech that he delivered in support of the bill. I am quite sure he did not write it himself and that it was written by some other person. I do not think the Minister could have read it carefully before delivering his speech, because if he had he would not have



proceeded to deliver it in the form it was given to us. The speech was full of contradictions, absurdities and, with due respect, straight-out lies. The Minister spoke, at page 1 of his speech, about the protection and privileges of a public authority being removed. On page 11 of his speech the Minister mentioned that corporatisation must be freed from day-to-day direction by a Minister and should be able to operate at arms-length from political process, with clear performance objectives.

At page 13 of the speech the Minister talked about corporatisation eliminating the protection and privileges of a public authority that enjoys the protection of the Crown. The Minister in his speech contradicted himself by saying, in the second last paragraph on page 18, that ministerial accountability will be strengthened. How can he have it both ways? The Minister talks about corporatisation being at arms-length and without ministerial involvement, but he claims it is going to be strengthened. How can it be in any other way? The directors will all be political appointees of the Government. The shareholders will be five Government Ministers, admittedly one a non-voting Minister but holding portfolio responsibility.

Do we think that the Ministers are not going to talk to each other and act as a group when they are all members of the Government? Do we think that these appointees - the sort of appointees that are consistently put into the Illawarra Area Health Service and so on - when the Ministers say, "Jump" will not ask, "How high?" Do we really think that there will be no ministerial involvement or Government involvement? It is not really a question of removing the influence of the Minister; it is a question of protecting the Minister

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from any sort of pressure to do anything about the Water Board. I know that a very interesting conversation is going on across the Chamber but I wish I did not have to listen to it because it is a little off-putting. I would respectfully request -

**Mr DEPUTY-SPEAKER:** Order! If Government members wish to converse, they should do so outside the Chamber.

**Mr HARRISON:** The Minister stated in his second reading speech:

We have left behind the years when the Water Board could grow fat and inefficient while the average households overused, at little cost to them, what is a scarce natural resource.

If this is not a precursor to bigger and better rises in the cost of water, I do not know what is. People who have faithfully paid their water rates and the environmental levy - it was stolen and hived off through a Government ploy, a special dividend imposed on the board - are now being accused of overusing water which was available at little cost to them. It is not at little cost to them now because in March this year the Water Board increased rates by about 300 per cent in some cases. Admittedly, the environmental levy was removed. That was not applicable to pensioners anyhow. When that rise came into effect pensioners started to pay 65¢ a kilolitre from the first litre of water they used, whereas up to that time they were paying, I think, 21¢ a kilolitre for the first 600 litres based on daily averages. So it cannot be said that there has been other than an incredible grab by the board this year.

The Minister's reference to overuse of a precious resource was obviously a precursor to further increases in water rates. Clause 10 refers to the best price for customers. It is obvious that the Government and the Minister are not interested in the best price for customers; they are interested in the best price for the board and gouging as much as they can out of the board's users. The Minister holds out carrots to people - an automatic 10 per cent rebate on the quarterly service charge for residential customers in the event of a fault in the system occurring. But how will anybody obtain this benefit from the board if it declines to pay it? I can just imagine the response to one unit of human being walking into the office of the Sydney Water Corporation and demanding a refund of \$8.40 or \$16.80. Would people go to a solicitor and take the corporation to court to obtain the money? There is no explanation in the Minister's speech about how this will be enforced. It is a case of: trust me; it will happen. I do not believe it will happen. There have been too many broken promises by the Government for us to give much credibility to anything it promises. The remarks of the Minister in regard to the board's successful waste policy leave him more vulnerable than anything that has been said in the

whole debate. He said:

Just last month the Water Board's successful trade waste policy was recognised by winning the national keep Australia beautiful vision of Australia award for excellence in environmental management. The quality of trade waste discharged to the sewers has dramatically improved and will be reduced to domestic strength by July 1996, by agreement.

I relate this to a campaign that has been under way in the Illawarra region to get the Water Board to agree to cooperate with Kiama Golf Club in the use of treated effluent instead of potable water for the watering of greens and fairways. Over the last 14 months I have participated in discussions with the Water Board. Until approximately a month ago the attitude of the board was, "Yes, it is a great idea. The conversion to the usage of sewage effluent should be made. However, the club will have to pay the same price for the effluent as it currently pays for fresh water - 65¢ a kilolitre". When the matter became public knowledge it took one telephone call from the *Illawarra Mercury* to get the board to reduce the charge to 19¢ a kilolitre, conditional on the club raising a loan of \$280,000 to install a pipeline. If the club were to devote the \$40,000 a year on average it is currently paying for fresh water to principal and interest payment on a loan of \$280,000, it would take 10 to 12 years to discharge the loan.

The board is very hard line on the issue. Its attitude is that it would rather continue to dump nutrient-rich sewage effluent into the ocean than let the club have it for free or even a lower cost than under the present proposal. I wrote to the Premier on the matter proposing, first, that he provide a grant to meet the cost of installing the pipeline or, if the club were able to raise the \$280,000 to install the pipeline, that the effluent be provided free at least until such time as the loan was discharged. The Premier replied dismissing the proposal. His attitude, unfortunately, was like that of the Minister in another place: the Government would prefer continuing to dump the effluent into the ocean to letting the club gain a more satisfactory arrangement than that offered. [*Extension of time agreed to.*]

If the Government is prepared to write into the corporation's responsibilities the money-back guarantee of \$8.40, why has it not yet done so? As previous speakers have said, Illawarra citizens are continuously complaining about the incidence of dirty water and the fact that baby clothes are being destroyed. Does the board show any sympathy, or make any offer to reimburse the cost of dry cleaning? No, it cannot do that now; that provision was taken from the board by the Government in 1988. The carrot that is offered is this miserable proposal we are asked to support tonight. The Minister in his second reading speech gave an assurance that corporatisation does not mean privatisation. Does the Minister seriously suggest that honourable members should believe him? Already the waste water treatment plant being constructed at Kembla Grange has been privatised. Private interests will build the water treatment plant and will profit from it when it becomes operational. Everything this Government has done points towards a desire to offload everything.

I well remember a promise made by former Premier, Nick Greiner, that the State Bank and the GIO were two organisations that would never be

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privatised by a Greiner Government. Those promises have disappeared into history, as former Premier Greiner has disappeared. Recently I heard him say in a television interview that he could not see any reason why the Government should own anything. He was smirking to himself, secure in the knowledge that he is on so many boards and receiving so much money that he is laughing all the way to the bank. I would not be surprised if Nick Greiner bobs up as one of the appointees to the new board.

**Mr Knowles:** It is almost nepotism.

**Mr HARRISON:** Indeed, it is almost nepotism. Nick Greiner has profited from the contacts he made during the time he was in this Parliament. Perhaps he is one of the forces behind corporatisation of the Water Board. Perhaps he will turn up as a member of the board when it is appointed. Perhaps he will be one of the people involved in the eventual privatisation, should this Government succeed in staying in office. Over the period of this Government \$80 million has been spent by the Water Board on consultants. The special dividend of \$80 has been applied to all consumers, except pensioners, by way of an environmental levy. Altogether

\$280 million has been hived off in special dividends. People paid their levy in good faith - although they did not like the fact they were forking out \$20 every three months - with the expectation that it would be used to clean up the environment. But the levy was hived off and frittered away on projects such as Eastern Creek and on engaging consultants. The Minister referred to how the environment would be protected. The report states that corporatisation will be required to meet the environmental regulations and objectives set by the Government. Big deal! I quote from the report:

The EPA will continue to set licence conditions for the corporation's operations. The corporation will continue to be subject to the Environmental Offences and Penalties Act.

Nobody takes that seriously because these things are happening already and there is no reason that they cannot continue to happen. The board's environmental record requires some scrutiny. In the past I had the experience of calling out the State Pollution Control Commission to inspect sewage regurgitating from the system into the ocean off Barrack Point where the sewage treatment plant is located. On one occasion a slick of human excreta 200 metres in length was observed. The environmental officers described that slick in a report as a "slight stain". A 200 metre long slick of human excreta was considered to be a slight stain! How can we rely on people with that sort of attitude to police the actions of a corporatised water organisation?

In the interests of voters and water users, amendments will be moved relating to the involvement of the Minister for the Environment. Until such time as adequate regulations are put in place this bill has no credibility, and I certainly oppose it. I refer now to the ongoing saga of Gerringong, Geroa and Jamberoo, three townships in my local area which do not have sewerage services. The Minister crept into town recently and announced a \$17 million allocation for the Gerringong-Geroa project but was unable to answer questions about where the system would start and finish. His promise was not matched by any contribution in the budget this year. His promise did not eventuate; it fizzled out.

The budget allocated only \$400,000 for this project, together with a matching \$400,000 from Water Board funds. This too will be frittered away in consultants' fees and not as much as a scratch on the ground will be made in Gerringong, Geroa or Jamberoo. This is a disgrace! It is quite obvious these areas will not be sewered; to do so would not be profitable. The possibility of providing sewerage facilities for these towns will diminish greatly when the profit-orientated Sydney Water Corporation is set up. The commercial imperative that is mentioned so often will be the motivating influence. I hope that I am proved to be wrong, but all the indications are that the frustrations of the past seven years will continue.

**Debate adjourned on motion by Mr Price.**

## **BILL RETURNED**

The following bill was returned from the Legislative Council without amendment:

Royal Commission (Police Service) Bill

## **FORESTRY (ENVIRONMENTAL AND FAUNA IMPACT ASSESSMENT) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr SOURIS** (Upper Hunter - Minister for Land and Water Conservation) [11.47]: I move:

That this bill be now read a second time.

This bill is one element of the Government's strategy to reintroduce some stability into an industry that has been plagued with uncertainty of supply for a number of years. The other element is reform of the present marketing arrangements for Crown timber. Cabinet is currently considering proposals to introduce a greater certainty of supply to industry and to ensure that the State receives the full market price for timber drawn from State forests. The bill will remove much of the uncertainty from environmental assessment of forest operations without diluting the requirement for careful assessment that is necessary to ensure that natural values are protected.

It will coordinate and streamline the present statutory environmental and fauna impact assessment process. The community can be confident that the standards of forest management and environmental assessment in New South Wales are the highest in Australia. This bill is an earnest and modest attempt to achieve reason and balance in place of the administrative tangle that has been created by uncoordinated law-making. We see today an industry that is being slowly strangled by uncertainty about access to resources and about its future. We should be clear about the alternative to its continued existence. The alternative can be summed up in one

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word - imports. If we do not wish to harvest our own forests, we can buy timber from other nations' forests, usually forests managed with less rigour and on a less sustainable basis than our own State forests.

Australia is already a large net importer of forest products, including sawn timber, and we should be working to ensure that this deficit is reduced. I want to outline the parlous situation in which our forest managers and the State's forest products industries now find themselves. Over the last few years the interpretation and implementation of environmental impact assessment and fauna licensing requirements has, despite the best efforts of the agencies involved, made assessment and approval processes for forestry operations lengthy, repetitive, onerous and uncertain. Increasingly rigorous interpretation of EIS legislation and new endangered fauna legislation has led to duplication and uncertainty in the decision making process for logging operations.

Whilst strict controls are essential to safeguard environmental values, the present climate of uncertainty has stifled investment and is eroding the competitive position of the industry in New South Wales. In no other State do the forest management agencies or forest industries have to live with such uncertainty caused, in part, by an uncoordinated and unworkable combination of environmental legislation. It would be considered intolerable if any other industry had to operate within the legislative and bureaucratic minefield inhabited by our forest managers and forest industries. At the heart of the legal problems is the requirement for State Forests to satisfy two completely separate and uncoordinated environmental processes, administered by different agencies.

There are no agreed methodologies or standards for preparing fauna impact statements. The complexity of the assessment task leaves the process open to endless legal challenges on technical grounds. We currently have the perfect recipe for uncertainty: overlapping jurisdictions, requirements subject to change or changing interpretation, and laws unsuited to ongoing forest management. The objects of this bill are to coordinate environmental impact assessment and fauna impact assessment and licensing, and to promote certainty for the continuation of forestry operations after assessments are made.

The bill affects the operation of provisions of part 5 of the Environmental Planning and Assessment Act and the provisions relating to fauna of the National Parks and Wildlife Act. The bill requires the Director-General of National Parks and Wildlife to issue guidelines for undertaking fauna impact statements, or FISs, and protects from legal challenge FISs prepared in accordance with the director-general's directions. The bill provides a badly needed linkage between ministerial approvals of environmental impact statements, or EISs, and fauna licence conditions.

The Director-General of National Parks and Wildlife, when issuing fauna licences, will be required to take into account the conditions attaching to ministerial approvals of EISs. The bill sets time limits for the service's director-general to consider fauna licence applications, and it restricts appeals under the National Parks and Wildlife Act against licences issued by the director-general. The bill also requires the Minister for Planning, when considering an EIS, to take account of submissions from the Director-General of National Parks and Wildlife.

As long as forestry operations are carried out in accordance with the conditions attached to a ministerial approval, legal challenges to that approval will be restricted to a limited period. The bill prevents protection or stop-work orders under the National Parks and Wildlife Act or the Heritage Act being issued against forestry operations where ministerial approvals have already been issued. The bill does not affect or apply to Aboriginal relics or places. The bill allows FIS methodologies to be defined for set periods by regulation, and it limits appeals against EIS approvals to three months from approval.

After an EIS is completed, the Minister for Planning may approve logging in areas suitable for long-term timber production for an indefinite period. The protection of these areas against environmental litigation can be reviewed later if, for example, an endangered species not previously known to occur in the area is discovered. The streamlining of this process will provide greater certainty and reduce delays without compromising the primary purpose of the assessment process of protecting the environment.

I will now deal with the bill in detail. Clause 4 states that the proposed Act applies to forestry operations carried out by State Forests or its licensees on State forests and Crown timber lands. Clause 6 defines "forestry operations" to include logging, forest product operations, hazard reduction burning and silvicultural operations. It excludes the clearing of natural vegetation for agriculture or to establish a plantation. Clause 7 requires the Director-General of National Parks and Wildlife to issue guidelines setting out the methodology to be adopted in preparing fauna impact statements for forestry operations.

Under the law as it now stands there is no set standard or methodology that tells State Forests just what is an adequate fauna impact statement. The clause allows the Director-General of National Parks and Wildlife to update these guidelines from time to time, but not with retrospective effect on licences already issued. This provision means that the goalposts will be fixed and our forest managers will be able to see them. Clause 8 protects an FIS from legal challenge to its methodology if it was prepared in accordance with the guidelines issued by the National Parks director-general. In other words, if the director-general sets the guidelines and State Forests complies with them, those guidelines cannot be challenged in court.

Clause 9 provides that part 3 of the proposed Act applies to forestry operations approved by the Minister for Planning if the EIS contains an FIS component or is accompanied by an FIS. Clause 10

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requires the Director-General of National Parks and Wildlife, in dealing with an application for a fauna licence for approved forestry operations, to have regard to the fact that the operations have been approved by the Minister for Planning and to consider all aspects of the EIS including social and economic impacts. This coordination of the two authorities involved in the forestry approval process is at the heart of this bill. It requires the left hand to inquire what the right hand is doing.

The National Parks and Wildlife Service and the Department of Planning will have their tasks linked, and work together to ensure that forestry operations proceed in an orderly manner consistent with environmental protection. This clause requires the director-general to recognise that environmental impacts include social and economic impacts on rural communities and regional economies. It is a reminder that planning decisions must strike a balance between human needs and environmental protection. This principle is at the heart of every workable piece of environmental legislation, and it is the foundation of this bill.

Clause 11 ensures that the term of a fauna licence for approved forestry operations is the same as the term of the approval of the EIS given by the Minister for Planning. This means that the parallel approval processes, having shared and coordinated information with each other, proceed in the same time frame. The term of the FIS issued by the National Parks and Wildlife Service is the same as the term of the EIS approved by the Minister for Planning. That is eminently sensible and absolutely reasonable.

Clause 12 imposes a 40-day time limit for the director-general to consider an application for a fauna licence for forestry operations approved by the Minister for Planning. If no decision is made, then the licence is deemed to be granted subject to the conditions given by the Minister for Planning in his approval of the EIS.

This clause does not apply to an application for a fauna licence unless it is made with sufficient time for public exhibition under section 92B (5) of the National Parks and Wildlife Act.

Clause 13 imposes restrictions on appeals against the issue of fauna licences for approved forestry operations. It means that an appeal will not be allowed against the director-general's approval of a licence under section 92B(5) of the National Parks and Wildlife Act if the conditions it sets are similar to those for the approval of the Minister for Planning. Clause 14 restricts the circumstances under which a licence for approved forestry operations can be cancelled or varied. For this to occur there must be significant new information or circumstances that indicate, for example, a significant adverse effect on the regional survival of a fauna species.

Clause 15 limits legal challenges to the validity of a fauna licence for approved forestry operations to three months after the issue of the licence. Clause 16 requires the Minister for Planning to take into account submissions from the Director-General of National Parks and Wildlife when dealing with an application for approval of forestry operations under the Environmental Planning and Assessment Act. This proposed section will ensure that the Minister is alerted to the concerns of the National Parks and Wildlife Service, and will assist the Minister to attach appropriate conditions to the approval.

Clause 17 limits legal challenges to the Minister's approval to three months after the decision is made. That limitation on legal challenges extends to any alleged contravention by State Forests of part 5 of the Environmental Planning and Assessment Act before that approval was given. Clause 18 ensures that State Forests is not required to comply with any continuing environmental assessment under part 5 of the Environmental Planning and Assessment Act once the approval of the Minister for Planning is obtained, as long as State Forests complies with the conditions of that approval. This is designed to prevent the revolving door syndrome where approvals are continually revisited and retested by litigants who are dissatisfied with the Minister's approval.

Clause 19 ensures that a ministerial planning approval may authorise the carrying out of forestry operations over a particular period specified in the approval or over a period of indefinite duration described in the approval. For example, the approval may authorise forestry operations until a particular event happens or until a particular change of circumstances. Different approvals may be specified for different areas.

Clause 20 prevents interim protection orders or stop-work orders under the National Parks and Wildlife Act being issued to stop forestry operations if those operations have been approved by the Minister for Planning - providing State Forests has complied with the conditions set by the Minister and with any fauna licence. Clause 21 prevents similar action under the Heritage Act. Clause 22 ensures that the proposed Act will not affect orders protecting Aboriginal sites or relics.

Clause 23 declares that the proposed Act binds the Crown. Clause 24 allows the making of regulations. Clause 25 contains transitional arrangements. There is always a need to review the performance of a new law in practice. The operation of the Endangered Fauna (Interim Protection) Act has been cumbersome and impractical. In combination with the Environmental Planning and Assessment Act, it has created a legal and bureaucratic nightmare. The Environmental Planning and Assessment Act has always been better suited to regulating single, discrete developments than long-term, continuous activities such as forest management. I am not suggesting that the architects of the Endangered Fauna Act set out to create a bureaucratic nightmare, to bring all forestry operations to a gradual state of paralysis through a death of a thousand assessments.

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

**Mr SOURIS:** But this has been the effect of the law in practice.

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

**Mr SOURIS:** The Government is determined to restore some rationality to the way in which we regulate the harvesting of our forest resources. No other sector of New South Wales industry must endure such uncertainty of process and access to its basic resource. In no other State does the forest management agency have to live with such an uncertain process and uncertain outcomes. This bill is about untangling a process needlessly ensnared in the red tape of uncoordinated legislation. For the first time this bill links the Acts that regulate logging approvals and brings the consent authorities together.

The bill does away with the revolving door and the moving goalposts. It prevents the environmental impact statement and fauna impact statement process being hobbled by lack of clear and agreed requirements. Forest managers will no longer endure an assessment process that can be compared with playing darts blindfolded - with a moving board. In the political debate about our forests we often see the deliberate confusion of land use and land management issues. If we do not want logging in certain forests, the honest approach is to change the land use to declare them as national parks. The dishonest approach is to legislatively ensnare forestry operations so that they are so slow, so uncertain and so expensive that industry will wither and die. Let us be honest about our forests, and not waste public money hamstringing State Forests and the industry. If we do not want logging in certain areas then let us change the land use. That is the honest approach. The reason that some political interests would prefer the death of a thousand cuts is that it allows them to blame State Forests for the loss of jobs and the social dislocation that results.

This bill is designed to return some hope to one of our most important decentralised industries, to engender a confidence that will encourage investment in value-added processing. This is essential if we are to encourage regional development. The Government has learned from long experience not to expect too much from the Opposition on the subject of forestry. On this occasion we suggest to them that they give this reasonable and rational measure careful consideration. How can they reasonably reject a measure that introduces into environmental assessment of forest operations a sorely needed element of coordination, rationality and balance? I commend the bill to the House.

**Debate adjourned on motion by Mr Martin.**

## **ELECTRICITY TRANSMISSION AUTHORITY BILL**

**Bill received and read a first time.**

## **STOCK DISEASES (AMENDMENT) BILL**

**Bill received and read a first time.**

## **BUSINESS OF THE HOUSE**

### **Days and Hours of Sitting**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.05 a.m.], by leave: Pursuant to notice to amend the motion of which I have given notice I move:

That unless otherwise ordered,

(1) The House shall meet during the budget sittings as follows -

Tuesday	15 November 1994	2.15 p.m. - 11.00 p.m.
Wednesday	16 November 1994	9.00 a.m. - 7.00 p.m.
Thursday	17 November 1994	9.00 a.m. - 7.00 p.m.

Tuesday	22 November 1994	2.15 p.m. - 11.00 p.m.
Wednesday	23 November 1994	9.00 a.m. - 7.00 p.m.
Thursday	24 November 1994	9.00 a.m. - 7.00 p.m.

(2) A Minister may, by leave, move at any time that the House continue to sit beyond the time specified for the adjournment.

(3) The House shall continue to sit beyond 11.00 p.m. on Tuesdays and 7.00 p.m. on other days in order to conclude consideration of any motion then before the House dealing with confidence/no confidence or censure of a Minister or Member.

This amendment is required because it no longer coincides with the provisions in the notice of motion foreshadowed by me. The amendment is a result of negotiations between the Government, the Opposition and the non-aligned Independents. We have achieved a compromise. These changes reflect a modern approach to the sitting hours. The changes for Tuesdays are not significant. They will enable party meetings to take place on Tuesday mornings.

I will move further motions to ensure that the hours recommended in this motion are successful. For example, quorums or divisions cannot be called during private members' statements. This motion does not provide for the dates nominated as the reserve week. There has been a tradition for many decades that the Government decides on the sitting period and provides for a reserve week, or weeks, as required. Whilst there was provision for a reserve week in my draft program, I am not yet in a position to indicate whether that reserve week will be necessary. That will depend on the way in which proceedings are conducted during the next two sitting weeks. I believe that the prerogative of the Government ought to be maintained. I believe the motion should be considered seriously by the House.

**Mr WHELAN** (Ashfield) [12.09 a.m.]: I move:

That the proposed Sessional Order on Days and Hours of Sitting be amended to add the following days:

Tuesday	29 November 1994	2.15 p.m. - 11.00 p.m.
Wednesday	30 November 1994	9.00 a.m. - 7.00 p.m.
Thursday	1 December 1994	9.00 a.m. - 7.00 p.m.

The amendment adds extra days, but maintains the times proposed by the Government. Consultation has taken place. This is the most effective compromise possible in relation to the proposed trial of days and hours of sitting. It is a trial - and a trial it will be. Effectively, honourable members will be required to be here during those periods. I draw the attention of

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honourable members to the proposed amendment that at 5.50 p.m. on each sitting day the business of the House shall be interrupted for the noting of private members' statements, and that no member will be entitled to call a quorum or a division after the commencement of private members' statements at 5.50 p.m. That will enable honourable members to go about their business in a more orderly fashion.

The amendment that I have moved in relation to the additional sitting days - namely, Tuesday 29 November, Wednesday 30 November and Thursday 1 December - really picks up what the Government has already outlined in the draft dates for the budget session under the heading "Reserve weeks". Tonight is a fitting example of the difficulties of Parliament having to deal with various pieces of legislation. If the Water Board legislation presents a difficulty, will not the State Bank legislation also pose a major difficulty for the Parliament? Coupled with that is the large number of private members' bills on the business paper, with only two days on which they can be introduced. For those reasons and a few others I suggest that the Government give serious consideration to my amendment.

**Mr HATTON** (South Coast) [12.12 a.m.]: I will not support the Opposition, because I believe that the Government should have the right to run the House. I signal, as I have done privately, that the House has a considerable amount of business to deal with. I can understand the Government's frustration. It has lost a lot



of time through urgency motions and a whole range of other matters - for which I acknowledge I am partly responsible. I am quite sure we will need that reserve week, and possibly even an additional week. However, traditionally the Government nominates a reserve week in case it proves necessary. I have indicated privately, and I now say publicly, that if there is a lot of business that the House needs to get through, I would certainly be in favour of sitting in February. The private members' mornings have worked extremely well. A number of world records were set this morning and I urge the Leader of the House to challenge his Cabinet colleagues and see if he can get five second reading speeches through in half an hour. That will speed things up.

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.13 a.m.], in reply: If I were to believe the honourable member for Ashfield I would probably slit my wrists and cut my throat and say that we should sit every day between now and Christmas, just to deal with all the business. I understand the concerns that have been expressed by honourable members and I undertake to give as much advance notice as possible of any extra weeks that it proves necessary for the House to sit, so that honourable members can adjust their diaries. I believe I will be able to give notice significantly in advance, as I have done on many occasions in the past. I will certainly endeavour to do that in the future. The Government rejects the amendments moved by the honourable member for Ashfield.

**Question - That the amendment be agreed to - put.**

**The House divided.**

**Ayes, 41**

Ms Allan	Mr Martin
Mr Amery	Ms Meagher
Mr Anderson	Mr Mills
Mr A. S. Aquilina	Mr Moss
Mr J. J. Aquilina	Mr J. H. Murray
Mr Bowman	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Gaudry	Mr E. T. Page
Mr Gibson	Dr Refshauge
Mrs Grusovin	Mr Rogan
Mr Harrison	Mr Rumble
Ms Harrison	Mr Scully
Mr Iemma	Mr Shedden
Mr Irwin	Mr Sullivan
Mr Knowles	Mr Thompson
Mr Langton	Mr Whelan
Mrs Lo Po'	Mr Yeadon
Mr McBride	<i>Tellers,</i>
Mr McManus	Mr Beckroge
Mr Markham	Mr Davoren

**Noes, 42**

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

Mr Cruickshank	Mr Rixon
Mr Debnam	Mr Schipp
Mr Downy	Mrs Skinner
Mr Fraser	Mr Small
Mr Hartcher	Mr Smith
Mr Hatton	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr Turner
Dr Kernohan	Mr West
Mr Kinross	Mr Windsor
Mr Longley	Mr Zammit
Dr Macdonald	
Mr Merton	<i>Tellers,</i>
Ms Moore	Mr Jeffery
Mr Morris	Mr Kerr

### **Pairs**

Mr Carr	Mr Causley
Mr Doyle	Mr Chappell
Mr Face	Mr Fahey
Mr Hunter	Mr Glachan
Mr Knight	Mr Griffiths
Mr Price	Ms Machin

**Question so resolved in the negative.**

**Amendment negatived.**

**Motion agreed to.**

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### **Routine of Business**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.28 a.m.], by leave:  
Pursuant to notice to amend the motion of which I have given notice I move:

That for the current session, unless otherwise ordered, Standing Order 74 is amended to read:

#### **ROUTINE OF BUSINESS**

74.(1) The House shall conduct its business in the following routine:

#### **Tuesdays**

1. At 2.15 p.m. (Speaker takes Chair)
2. Ministerial Statements
3. Notices of Motions
4. Papers (if the first sitting day of the week)
5. Petitions
6. Placing or Disposal of Business
7. Formal Business
8. Committee Reports - tabling

9. Questions
10. Ministerial Statements
11. Motions for Urgent Consideration
12. Matters of Public Importance
13. Business of the House
14. Government Business

Sitting days other than the last sitting day of the week

1. At 9.00 a.m. (Speaker takes Chair)
2. Government Business
3. At 2.15 p.m. (Speaker resumes Chair)
4. Ministerial Statements
5. Notices of Motions
6. Papers (if the first sitting day of each week)
7. Petitions
8. Placing or Disposal of Business (including the re-ordering of General Business Orders of the Day (for Bills) and General Business Notices of Motions)
9. Formal Business
10. Committee Reports - tabling
11. Questions
12. Ministerial Statements
13. Motions for Urgent Consideration
14. Matters of Public Importance
15. Business of the House
16. Government Business

Last sitting day of the week

1. General Business Notices of Motions for Bills (concluding not later than 9.30 a.m.)
2. General Business Orders of the Day for Bills (concluding not later than 11.30 a.m.)
3. General Business Notices of Motions or Orders of the Day (not being for Bills) concluding at 1.00 p.m.  
Any item of business not concluded shall be set down as an Order of the Day for tomorrow with precedence of other General Business (not for Bills).
4. 1.00 p.m. to 2.00 p.m. consideration of Committee Reports presented (Speaker leaves Chair)
5. At 2.15 p.m. (Speaker resumes Chair)
6. Ministerial Statements
7. Notices of Motions
8. Petitions
9. Placing or Disposal of Business
10. Formal Business
11. Committee Reports - tabling
12. Questions
13. Ministerial Statements
14. Motions for Urgent Consideration
15. Matters of Public Importance
16. Business of the House
17. Government Business

The motion is complementary to the motion just carried. On Tuesdays the House will sit at 2.15 p.m. Instead of question time beginning at 2.15 p.m. and then routine of business being dealt with, the House will deal first with notices of motions and normal procedural matters. The House will then take questions, ministerial statements, motions for urgent consideration and matters of public importance. This routine was discussed and negotiated by the Standing Orders and Procedure Committee. The new routine will facilitate the flow of urgent

matters that need to be considered by Parliament, and the motion is the result of negotiations that have taken place tonight. The new routine of business also provides that on Tuesdays there will be a normal dinner break and that on Wednesdays and Thursdays there will be a normal luncheon break from 1.00 p.m. to 2.15 p.m. The rising of the House at 7.00 p.m. will, of course, signal the end of business. I propose to move two amendments to the sessional orders to provide for additional changes. I will, in negotiation with the Clerks, agree to circulate to all members of Parliament during the recess a notice which will detail changes not only to sitting times but to the whole program.

**Mr WHELAN** (Ashfield) [12.31 a.m.]: As I indicated earlier, this trial will last only two weeks of the parliamentary session. I hope the Leader of the House will notify all members of the changes in sitting times. The only thing missing from the preamble before matters for urgent consideration, which follow ministerial statements and questions, is *Gone With the Wind*. It will be important to make sure question time does not start at 2.45 p.m. if there is a long list of anticipated problems. That would cause more problems. However, it has to be acknowledged that this trial will last for two weeks, and on a trial basis the Opposition agrees with it.

**Motion agreed to.**

### **Private Members' Statements**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.33 a.m.], by leave: Pursuant to notice to amend the motion of which I have given notice I move:

That, for the current session, unless otherwise ordered, Standing Order 122B(1) be amended to read:

- (1) At 5.15 p.m. on Tuesdays and at 5.50 p.m. on any other sitting day the business before the House shall be interrupted for the noting of Private Members' Statements.

The amendment will provide for private members' statements to be taken, as they are now, on a Tuesday; but under the new timing arrangements they will be noted at 5.50 p.m. on any other sitting day and will obviously conclude no later than 7.00 p.m., as provided for in the earlier motion carried by this House.

**Motion agreed to.**

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### **Prohibition on Divisions and Quorum Calls**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.34 a.m.], by leave: I move:

That, for the current session, unless otherwise ordered:

Members shall not be permitted to call a division on any question or call attention to the want of a quorum during the currency of Private Members' Statements or before 9.30 a.m. on any sitting day.

The motion is a result of discussions that have taken place in the Standing Orders and Procedure Committee and other committees that have been involved in negotiations on this matter, whereby it was agreed that in moving to a trial adoption of the new sitting hours certain amendments need to be made. It will be difficult for some members to meet the 9.00 a.m. deadline because of traffic problems. Whilst I have sometimes been cynical of some of my colleagues on both sides of the House who live in Sydney and travel to meet their work commitments in the city, it has become obvious that on occasions they are detained because of traffic problems.

If people are in normal employment their jobs are not on the line if they are late, but if a member of Parliament is detained in traffic a vote can be on the line. Therefore, I believe this motion will provide a

concession for members in the event of their being delayed in traffic. All political parties believe we need to attract more women into Parliament. This motion would provide this opportunity for women who live in the metropolitan area to drop children off at child-care facilities and still be able to meet commitments in Parliament. The same situation would apply at the end of a sitting day.

**Mr WHELAN** (Ashfield) [12.36 a.m.]: The Opposition acknowledges the consultative process that has taken place and agrees that the new procedures and sitting times are worth a trial. Will the Minister indicate the remainder of the procedure for tonight?

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [12.36 a.m.], in reply: I thank the honourable member for Ashfield for his contribution. This is clearly the last amendment on the changes to the business program that need to go through the House tonight for the remaining week or weeks of this session. At the conclusion of the decision on this motion there will be a second reading of two bills by the Treasurer, one bill by the Minister for Consumer Affairs, and one bill returned from the Legislative Council, following which the House will adjourn.

**Motion agreed to.**

## **FINANCIAL AGREEMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr COLLINS** (Willoughby - Treasurer, and Minister for the Arts) [12.38 a.m.]: I move:

That this bill be now read a second time.

The signing of the new financial agreement between the Commonwealth, States and Territories by the Prime Minister, the Premiers, and the Chief Ministers at the meeting of the Council of Australian Governments on 25 February 1994 was a significant step forward in the continuing evolution of the Commonwealth's financial relationship with the States and Territories. The purpose of the bill before the House is to obtain Parliament's approval of the new financial agreement. The document is aimed at formalising and streamlining the existing intergovernmental arrangements with respect to public sector borrowings and the role and operations of the Loan Council. It embodies a number of key elements as agreed by the Loan Council at the meeting in June 1992.

The new agreement removes the Commonwealth's explicit power to borrow on behalf of the States as provided for in the previous agreement. Since 1987-88, the Commonwealth has undertaken no new borrowings on behalf of the States. Over recent years the States have themselves conducted their own borrowings through the respective central borrowing authorities. The relevant authority in this State is the New South Wales Treasury Corporation. The Loan Council decided in 1990 that the States would progressively take over responsibility for the debt previously raised on their behalf by the Commonwealth. These arrangements place full responsibility on the States for financing and managing their own debt, thus subjecting their fiscal and debt management strategies to greater community and financial market scrutiny.

The new agreement also abolishes the previous restriction on States borrowing by the issue of securities in their own names in domestic and overseas markets. This recognises the fact that these days the States' borrowings through their central borrowing authorities are regarded by the financial markets effectively as sovereign issues in any case and rated accordingly. In addition, the new agreement removes the requirement for future Commonwealth and State borrowings to be approved under the provisions of the agreement. This reflects the reality that, for many years, only the Commonwealth's annual borrowing program has been formally approved within the ambit of the agreement. This is because only the Commonwealth undertakes budget sector

borrowings directly rather than through a central borrowing authority.

From 1993-94, Commonwealth, State and Territory borrowings have been subject to Loan Council monitoring under the new deficit-based arrangements which include the reporting of so-called memorandum items such as infrastructure financing and major operating leases. The new arrangements were agreed by Loan Council at its meetings in December 1992 and July 1993. The new Loan Council monitoring arrangements superseded the former global borrowing approach. They reflect the common interest of the Commonwealth and States in ensuring that the overall public sector borrowing in Australia is consistent with sound macro-economic policy and the borrowings of each government are underpinned by a sustainable fiscal strategy.

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The emphasis in the new arrangements is on credible budgetary processes whilst facilitating a high level of public understanding of government financing as well as increased financial market scrutiny. The new agreement provides for the continued existence of the Loan Council with broadly specified roles and powers. The council, in the future, will be a coordinating body with the responsibility of reviewing the financial strategies of the various jurisdictions and using persuasion to change those strategies, where necessary. The agreement also sets out certain obligations in respect of past financial agreement borrowings and provides for formal membership of Loan Council for the Australian Capital Territory and the Northern Territory.

A new fund, the debt retirement reserve trust account, will be established to provide a more efficient debt-redemption framework. In future the redemption of Commonwealth securities previously issued on behalf of the States and the Northern Territory will be administered through the trust account. The debt retirement reserve trust account will replace the previous arrangements for debt repayments through the National Debt Sinking Fund for the States and through the Northern Territory Debt Sinking Fund for the Northern Territory. The Financial Agreement Act 1944 of New South Wales had a standing appropriation provision which allowed the Consolidated Fund to be appropriated to the extent necessary for the purpose of carrying out the financial agreement. The appropriations were to cover the payment of interest and the repayment of borrowings. A similar provision has been included in this bill.

The new financial agreement will not impose any costs on the Government which are more than what would otherwise be incurred under the existing arrangements with respect to public sector borrowings in New South Wales. Under section 105A(4) of the Commonwealth Constitution, the parties to the financial agreement are empowered to vary or rescind it. The original agreement signed in 1927 has been varied on seven occasions, most recently in 1976. On this occasion, it has been decided by all Governments that the agreement, as varied, be rescinded and be replaced by the new agreement signed on 25 February.

To become effective the agreement requires the passage of complementary legislation in the Commonwealth and all State and Territory parliaments. So far, complementary legislation has been passed by five jurisdictions. The remaining jurisdictions are seeking to have the necessary legislation enacted before the end of the 1994 calendar year. The new agreement has already been agreed by heads of government. Of course, any amendments made to the agreement by one or more of the parliaments would also need to be incorporated in the complementary legislation before it could become effective. I commend the bill to the House.

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

## **STATE REVENUE LEGISLATION (FURTHER AMENDMENT) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr COLLINS** (Willoughby - Treasurer, and Minister for the Arts) [12.45 a.m.]: I move:

That this bill be now read a second time.

The bill implements the matters announced in the 1994-95 State budget as well as a number of minor amendments relating to stamp duty, financial institutions duty, debits tax, payroll tax, land tax and some minor matters in the nature of statute law amendments. First, in relation to stamp duty, the bill introduces an exemption from stamp duty in respect of the transfer of family farms. This measure was announced in the 1994-95 State budget and will take effect from 14 September 1994. The exemption will allow the older generation of farmers to retire and provide the opportunity for the younger generation of farmers to bring new ideas, enthusiasm and greater production to the rural sector. This increased production will have a flow-on benefit to the State of New South Wales.

In order to encourage foreign investment into New South Wales the bill provides for an exemption from financial institutions duty, debits tax and loan security duty in respect of regional headquarters that are set up in New South Wales as from 1 July 1995. The bill also provides for an exemption from hiring arrangement duty for persons approved to pay duty by return in respect of the first \$6,000 of income per month in lieu of a threshold of \$6,000 under which no duty was payable. Under the current provisions of the Stamp Duties Act an exemption is provided for persons wishing to transfer their principal place of residence from a company to a natural person. The bill provides for a proportionate exemption where the property is used partially for purposes other than a principal place of residence.

The farm household support scheme provides financial assistance for farmers. The bill provides for an exemption from FID in respect of payments to farmers' bank accounts pursuant to this scheme. The bill strengthens the definition of bill facility for the purposes of assessing loan security duty whilst maintaining government policy on this issue. In order to simplify the current system of taxing broker transactions, extensive consultation has taken place with brokers and the Australian Stock Exchange. As a result, it has been agreed that a marketable securities duty of 0.0025 per cent be placed on brokers' principal trading and market making transactions instead of FID. The bill amends the principal Act to reflect this change, as well as specifying which types of brokers' receipts are liable to FID in order to provide greater clarification of the legislation.

The bill amends the principal Act to ensure that where options are used to buy marketable securities, that duty is charged on the premium or the exercise

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price, whichever the greater. This ensures equity among taxpayers regardless of the type of option entered into. The bill extends the current exemption from stamp duty for home loan refinancing until 31 December 1994. The bill provides for concessions from stamp duty in respect of superannuation documents where superannuation funds are obliged to transfer assets as a result of the introduction of the Superannuation Industry (Supervision) Act. Under the provisions of the bill, bank accounts of the Newcastle Chamber of Fruit and Vegetables Industry Co-operative Limited will be exempt from FID where such accounts receive money from the sale of produce at the markets and where those funds are passed on to the growers or sellers of the produce. The bill also provides an exemption from stamp duty in respect of transactions in connection with the incorporation of organisations that are obligatory pursuant to the Industrial Relations Act 1991.

In relation to payroll tax, the bill provides for a two-stage increase in the threshold from \$500,000 to \$550,000 with effect from 1 January 1995, and to \$600,000 from 1 January 1996. This measure will completely exempt a further 1,000 New South Wales small businesses from payroll tax while at the same time lowering the level of payroll tax paid by all non-exempt employers. The current land tax exemption for boarding houses providing low-cost accommodation will be extended to all forms of low-cost accommodation subject to approved guidelines being met. The current guidelines relating to boarding houses will continue largely unchanged. New guidelines will be formulated relating to other forms of low-cost accommodation, although similar tariff limits to those specified in the boarding house guidelines will apply. The concession will, however, be limited to the inner city area, where there is currently a relative shortage of low-cost accommodation.

The bill also provides a concession for non-residential strata units, which are currently taxed unfavourably compared with residential strata units. The amendment will allow owners of non-residential strata units to claim the threshold in the same way as owners of residential strata units. Finally, the bill makes a number of minor amendments in the nature of statute law amendments. I table detailed explanations of the bill for the information of honourable members. I commend the bill.

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

## **CONSUMER CREDIT (NEW SOUTH WALES) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Ms MACHIN** (Port Macquarie - Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport) [12.52 a.m.]: I move:

That this bill be now read a second time.

The bill before the House adopts the consumer credit code as a law of New South Wales. That code was passed by the Queensland Parliament in September this year as the first historic step towards achieving uniform consumer credit laws in Australia. Honourable members would be aware that this uniform legislation has been in the process of development for the past seven years. It was recognised when the Credit Act 1984 took effect that that law was already outdated and the process would have to be repeated. That knowledge has influenced in a major way the direction of the legislation before the House. It taught us that legislation must be flexible enough to accommodate major changes in government policy, in this case deregulation of the finance sector and also the demands of the marketplace for products that suit the present and future needs of the consumer.

I am confident that this legislation will meet the needs of the credit consumer for the foreseeable future and will be effective in redressing the imbalance of power between the borrower and lender. The market will work more efficiently than it now does, and all consumers will benefit. Honourable members would be aware that the current Credit Act 1984 regulates less than 20 per cent of the consumer credit market. In this State it applies only to credit under \$20,000 and to certain farming machinery and commercial vehicles. Not all types of loan nor all credit providers are regulated. It does not cover housing finance. The majority of consumer credit purchasers in this State are therefore without protection. This bill seeks to protect the consumer without undue interference with the proper and beneficial workings of the market. Where it is considered that competition will not address a problem, that is directly regulated. This will become evident as I explain the content of the bill to the House.

The bill is based on truth-in-lending principles. It aims to give the credit purchaser accurate and relevant information on which to make an informed choice of products, and to inform potential debtors or guarantors of their rights and obligations under the contract. I am sure that honourable members would be aware that the most common complaint about financial institutions is that they did not give essential information before the contract was entered into. The Consumer Credit (New South Wales) Bill will certainly ensure that in future debtors and guarantors will be properly informed. I would like now to draw attention to the bill's provisions. I mentioned in my opening remarks that the bill forms part of a legislative scheme which is to be uniform in all States and Territories. The scheme is based on the uniform credit laws agreement 1993 signed by Ministers of all jurisdictions.

The agreement requires that Queensland enact a uniform consumer credit code, and that the other States and Territories apply the code as the law of that State or Territory, or pass alternative consistent legislation. It is intended therefore that New South Wales adopt the consumer credit code passed by the Queensland



Parliament as a law of this State. The

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code is appended to the New South Wales adopting bill at the end of clause 13. Clause 4 of the bill applies the code as a law of New South Wales and names it the Consumer Credit (New South Wales) Code. Clause 5 applies the regulations under the Queensland code as regulations under the New South Wales code. The regulations are also uniform under the terms of the agreement. Clause 6 defines some expressions in the code as they apply to New South Wales.

Clause 7 provides for the exercise of jurisdiction under the code to be by the Commercial Tribunal, if regulations so prescribe, or in other cases a court of appropriate monetary jurisdiction. Regulations conferring jurisdiction on the tribunal will be made at a later date. Clause 8 specifies that the Commissioner of Consumer Affairs should exercise the functions of the government consumer agency under the code. Clause 9 authorises the making of savings and transitional regulation for New South Wales. Clause 10 states that the Act binds the Crown. Clause 11 allows a maximum interest rate to be prescribed. It is in the adopting Act because it is discretionary and not intended to be a uniform provision. New South Wales intends to prescribe the maximum interest rate currently in force so that there will be no change to the system in place.

Clause 12 declares that the explanatory notes do not form part of the Act. Clause 13 requires the Act to be reviewed after five years. That is the entirety of the New South Wales adopting bill, and I will now turn to the code itself. Honourable members will note that the code will commence as provided under the Queensland Act. It is intended that the code will come into effect no sooner than 1 September 1995, in order that institutions can be well prepared with systems changes and documentation. Extensive education of staff will also be necessary to ensure that the requirements of the code are met. Clause 3 locates interpretation of the code in schedules 1 and 2. Clause 4 defines credit as the deferral of debt or the incurring of a deferred debt and defines amount of credit as the debt actually deferred. Clause 5 defines credit contract as a contract under which credit is provided. Clause 6 establishes the scope of the legislation.

The code will apply if a debtor is a natural person or a strata corporation and the credit is to be provided wholly or predominantly for personal, domestic or household purposes. While the focus of the legislation is consumer credit, these provisions recognise the multipurpose nature of some loan products. If some of the credit is used for business purposes, so long as it is less than half of the proposed advance of credit, it will not prevent the application of the legislation to that product. If Ministers had insisted that the legislation apply only to credit that is wholly for personal, domestic or household use, that would have inhibited product development and forced consumers to take out separate loans, with the attendant increase in cost. Clause 6(1)(c) provides that credit is to be regulated only if a charge is to be made for its provision and it is provided as part of a business. The New South Wales jurisdiction will apply if the debtor is ordinarily resident in New South Wales or if there is more than one debtor if the credit is first provided in New South Wales.

Clause 7 sets out circumstances in which the code will not apply, the first being where the contract is for 62 days or less, and credit without prior agreement, such as an overdrawn account; the second being if the contract has both debit and credit facilities, that part of the contract relating to the debit facility; and the third being bills of exchange. While it is accepted that these may be used for consumer credit purposes, it is doubtful whether they are in fact deferred debt and it was decided to exclude them. Certain aspects of such facilities are in fact regulated by the Commonwealth. The fourth circumstance is insurance premiums by instalments. These are considered not to be a credit contract intended to be regulated by the code, even though they may fit the definition of credit, because the contract is, in effect, terminated by the debtor discontinuing the instalments and there is not outstanding debt.

Fifth, pawnbrokers are also considered to be generally outside the scope of the Act and are subject to their own legislation. However, the unjust contracts provisions of the code will apply. Sixth, trustees of estates that give loans to beneficiaries are similarly exempt except for unjust contract provisions. Seventh, employee loans are exempt from the code except for hardship and unjust contract provisions, provisions relating to enforcement procedures and expenses, related sale contracts, and the miscellaneous provisions. Where the employer is a credit provider, the exemptions apply only if the terms of the contract are more favourable to the debtor than

debtors who are not employees. These are all the exemptions. However the code has a power to make regulations to exclude other types of credit should this be considered necessary.

Clause 8 applies the code to mortgages that secure credit contracts or guarantees which are themselves covered by the code. If a mortgage also secures contracts or guarantees that are not caught by the code, the code will apply only to the extent that it secures obligations under the regulated contract or guarantee. Clause 9 applies that same principle to guarantees in relation to obligations under the credit contract. Clause 10 applies the code to a hire purchase agreement as if it were a credit contract and specifies how the code's terminology and provisions are to be applied in relation to the contractual terms.

Clause 11 specifies the presumptions for the application of the code and provides that the code will be presumed to apply unless, before the debtor enters into the credit contract, he or she declares that the credit applied for is to be used wholly or predominantly for business or investment purposes. I should stress that this test is applied only at the time the contract is entered into, and if the use of the credit changes subsequently, that does not affect the application of the code. There is, in addition, a

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disincentive for a credit provider to try to avoid the requirements of the code by obtaining a false declaration. The code provides that the declaration is ineffective if the credit provider knew or had reason to believe that the credit was to be used wholly or predominantly for personal, domestic or household use. The regulations will prescribe a form of words for the declaration.

I now turn to the pivotal part of the legislation - negotiating and making credit contracts. This is where the "truth-in-lending" concept has most relevance - before the contract is entered into. Clause 12 provides, firstly, that the contract document should be in writing, however clause 13 implicitly acknowledges that technological developments may, at some future time, overtake the written contract. It is not intended to deal with such a prospect until contract law has addressed the issues, but the power is there in the code to modify the rules should this become necessary.

Clause 14 addresses the timing for the giving of information. It also requires that the information which is to be given is that which will be in the contract document, as well as a statutory notice describing the rights and obligations of the debtor and credit provider under the code. This means that all that a potential debtor needs to know about his or her financial contractual and statutory obligations will be given before the contract is entered into, or before the debtor makes an offer to enter into the contract. In addition, certain financial information will be required to be given in a tabular format so that the prospective debtor can see at a glance the cost of the credit being negotiated. This requirement has replaced the requirement for a comparison rate, however the code allows credit providers to supply a comparison rate if they wish. If they do, it will be calculated according to the method required by the regulations. For convenience, and mindful of keeping costs to a minimum this pre-contractual statement may become the contract document if the credit provider wishes to do so.

The matters which must be contained in the contract document are set out in clause 15. I will not detail all the information which is to be given to the prospective debtor since that is clearly set out in the code, but honourable members will note that the information which must be given is all the costs that are ascertainable at the time the contract is entered into. The code does not limit what can be charged but ensures that the prospective debtor is fully conversant with the arrangements. For instance, under clause 15(c) the requirements in relation to interest rates are disclosure of the annual percentage rate or rates under the contract; if there is more than one rate, how each rate applies; if the annual percentage rate is determined by reference to a reference rate then the name of the rate or a description of it must be given and the debtor must be told the margins which apply in his or her particular case, as well as where and when the reference rate is published.

Credit fees and charges must be similarly disclosed under 15(g), and if the amount is not known at the time, the method of calculation must be disclosed. This would apply for instance to a termination fee on a fixed sum contract. There must also be disclosure of the fact that the contract reserves the right to introduce a fee or change an existing fee or charge. Debtors must be told how they would be informed of such a change. Other important disclosures relate to default rates, enforcement expenses and commissions, as well as insurance

financed by the contract, and whether there is a mortgage or guarantee securing the contract. The disclosures are, I believe, comprehensive and will allow comparisons to be made between lenders so as to get the best deal possible. This is a primary objective of the code and will, I believe, result in credit providers being far more responsive to the needs of consumers so that in future, products offered will give real value.

Returning to the code, I note that the powers of clause 16 will not be invoked as it is not considered necessary to prescribe the term or expression of the contract document. Clause 17 protects the debtor from alterations being made to the contract after it is signed. Clause 18 provides that the debtor must be given a copy of any contract documentation signed by the debtor. Clause 19 allows a debtor to withdraw from a contract if no credit has been obtained. There is a maximum penalty of \$10,000 for a contravention of the requirements in clauses 12 to 19. I will turn now to the more specific requirements with respect to the debtor's monetary obligations as detailed in divisions 2 and 3 of part 2.

Clauses 21 and 22 prohibit the credit provider from imposing a monetary obligation on the debtor, entering into a contract or requiring or accepting payment that is not consistent with the code. Clause 23 requires that the amount of credit be paid in full to the debtor without deducting interest charges except, as permitted by regulations, where the first payment is made in advance and part of this is interest charges. I should explain that this is sometimes done where payments to a particular credit provider all fall due on one date, and a contract which is negotiated in between those dates is subject then to a partial payment. This in fact is deducted from the principal so that the debtor is not financially disadvantaged. Clause 24 makes rules for early repayments and allows credit providers to exercise an option not to credit such payments early if the contract contains that option. These arrangements are frequently seen in relation to loans which have a fixed term with a low interest rate for the first few months or year of a home loan and appear to be of much benefit to the debtor, so that Ministers would not want to jeopardise the continued existence of such products.

Clause 25 defines terms in relation to the calculation of interest, and clause 26 limits the amount of interest which can be charged under a contract to an amount arrived at by applying the daily percentage rate to the unpaid daily balances. Under clause 27, a credit provider is prohibited from requiring payment

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of an interest charge before it is due. These requirements are very significant, and in fact one would be forgiven for assuming that this is what actually happens now. Unfortunately, this is not always the case, but the code will ensure that interest-charging practices in the future are fair and equitable. Another gain for consumers of credit is seen in clause 28. The code requires that default interest can only be charged on the amount in default, whereas currently the default rate is generally applied to the whole amount outstanding.

Division 4 also contains two very important clauses. Honourable members would have noted that the code does not specify what fees or charges can be charged; it merely requires that the fact of and, where ascertainable, the amount of, particular fees and charges are disclosed to the potential debtor. Consumer Affairs Ministers were persuaded that competition would keep fees and charges to a minimum. Should this not be the case, or should a particular fee or charge be resistant to competitive forces, Ministers have the power under clause 29 to prohibit particular fees or charges or classes of fees or charges. Credit providers should be aware that while Ministers are prepared to give the market the opportunity to control prices, they have the power and the will to act if it is clear that credit consumers are being cheated.

Clause 30 reflects the code's response to an unacceptable practice. It has been noted that credit providers have in some instances inflated a fee or charge due to a third party that is passed on by the credit provider, thereby retaining for themselves that amount in excess of the actual amount payable to the third party. This is considered to be a totally unacceptable practice, and it is prohibited by the provisions of this clause. Division 5 deals with statements of account. It provides for the frequency of statements and also the information to be given in the statement. Continuing credit contracts with card access will have a statement period not longer than 40 days; other continuing credit contracts will have statement periods that are negotiable but must be between 40 days and three months. In any other case the statement period will be six months, except for fixed rate contracts, where a statement need not be given.

The information required to be given will ensure that details of all transactions will be clearly shown. There is provision also for copies of statements to be requested and a requirement that these be supplied within 14 days, if the information requested relates to a period one year or less before the request is given, and 30 days otherwise. The code details procedures for disputes over account items and prohibits enforcement on those items until at least 30 days have elapsed from the time the credit provider gives the debtor an explanation of the account item. The court or tribunal may determine a dispute if the credit provider and debtor cannot agree on the item.

Clause 37 of part 2 clarifies that a change to an existing credit contract, or the deferral or waiver of an amount under an existing contract, does not invoke part 2 in relation to that contract, provided that those changes are made in accordance with the code or the contract. The next part of the code, part 3, gives protection to securities taken under regulated credit contracts. It relates first to mortgages. Clause 38 requires a mortgage to be in writing, but this can be contained in the credit contract. However, in the case of goods mortgages where the credit provider already has the goods lawfully in its possession before the credit contract is entered into, the mortgage need not be written. This does not of course apply to the supplier of goods which are the subject of the credit contract. If the mortgage document is not part of the credit contract, the mortgagor must be given a copy of it within 14 days after it is made.

Clauses 40 to 42 ensure that credit providers can only claim as security that property which is specifically documented as securing the credit contract in question. Clause 40 provides that a mortgage will be void if the property is not identified. Clause 41 declares void a mortgage over property not yet acquired by the mortgagor, with certain qualifications - for instance, if the goods are to be acquired with the credit under the contract, and clause 42 prevents a credit provider from taking security goods acquired under a continuing credit contract, unless they specifically secure the contract. Clause 43 allows a mortgage to secure more than one credit contract, provided this is agreed in writing by the mortgagor after having been given a copy of the credit contract.

Because of the hour I am not going to read the detail of this legislation onto the record, much as I would like to. As the honourable member for Mount Druitt will agree, it is a lengthy and important piece of legislation, which has been worked on for seven or eight years by Ministers all around the country. It is a landmark piece of legislation in achieving national uniformity on credit laws for consumer credit in Australia. In finishing, I would like to say that I believe this code represents the very committed efforts of all stakeholders to provide a fair and workable legislative solution to the very complex problems which exist in the financial marketplace. Inevitably, some interests will not be satisfied but Governments are satisfied that the best possible compromise has been reached which will have positive returns for consumers, credit providers and the market. That involved a lot of negotiation over many years and much compromise, but generally with the goodwill of all the parties concerned.

Finally, I must pay tribute to the officers of the Department of Consumer Affairs, who have turned what many thought was an impossible task into a reality. In all my meetings with industry and consumer groups about this legislation since I have been the Minister, there has been a consistent message from these groups. They have great respect for the skills and expertise of Margaret Raffan and Susan Dixon from the policy branch, and John Holloway, Director and Commissioner for Consumer Affairs. I should also mention people like Dick Viney in Victoria, who has also played a major role in the negotiations. One thing is clear: without the expertise

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and commitment of those people, there would have been no opportunity to have a consistent national approach to consumer credit.

Their knowledge of the issues is absolutely outstanding. They have been of great assistance to every person and group involved in this issue, and they deserve recognition for their herculean efforts in relation to the bill. I would also like to thank the office of the New South Wales Parliamentary Counsel for its efforts. There have been numerous drafts and redrafts, and this final bill represents a massive effort on behalf of those officers. I thank all of those parties for their input. I thank also the many consumer groups and industry groups, who all

played a part. I look forward to the support of the honourable member for Mount Druitt and the Opposition, and to enacting these important consumer credit laws as part of a coalition of State governments around Australia. I commend the bill and I table further detailed information on the clauses in the bill for the information of members.

**Debate adjourned on motion by Mr Amery.**

## **ELECTRICITY TRANSMISSION AUTHORITY BILL**

### **Second Reading**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [1.11 a.m.]: I move:

That this bill be now read a second time.

As the Legislative Council has passed this bill without amendment, I make available to honourable members copies of the second reading speech that was provided in the Legislative Council.

**Debate adjourned on motion by Mr Whelan.**

### **LEAD CONTAMINATION**

**Mr WEST** (Orange - Minister for Police, and Minister for Emergency Services) [1.12 a.m.]: In accordance with Standing Order 54 and the resolution carried by this House on 25 October, I table in the House all relevant material sought by that resolution. I also seek to advise that the attached papers have been assembled from the agencies named in the resolution within the required time frame. To the best of my knowledge, the papers include all the relevant documents in existence within the agencies concerned. Based on the advice of the Solicitor General, documents subject to legal professional privilege and documents subject to a claim for public interest immunity have not been included. I also indicate to the House that the estimated cost involved in collating this material was \$14,760.

### **SPECIAL ADJOURNMENT**

**Motion by Mr West agreed to:**

That this House at its rising this day do adjourn until Tuesday, 15 November 1994, at 2.15 p.m.

**House adjourned at 1.14 a.m., Friday.**

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## QUESTIONS UPON NOTICE

The following questions upon notice and answers were circulated in *Questions and Answers*:

### HUNTER REGION FORESTRY MINI-GRANTS PROGRAM

Mr Mills asked the Minister for Land and Water Conservation -

- (1) How many grants were made in the Hunter region under the Forestry Mini-Grants Program?
- (2) To whom was each grant awarded?
- (3) How much did each successful applicant receive?
- (4) What will each grant be used for?

Answer -

- (1) 23 grants were made in the Hunter region.
- (2) to (4) Details sought in these questions are provided in the following schedule:

ORGANISATION	AMOUNT OF GRANT (dollars)	PURPOSE FOR WHICH GRANT WAS MADE
Avondale High School	250	Purchase of library books and reference works related to State forests, forestry and the forest products industry and transport for an excursion to a State forest or other areas of forestry interest.
Black Hill Public School	350	Purchase of library books and reference works related to State forests, forestry and the forest products industry and transport for an excursion to a State forest or other areas of forestry interest.
Cessnock City Library Service	250	Purchase of library books and reference works related to State forests, forestry and the forest products industry.
Coolah Black Stump Tourist Committee	400	Provision of tourist information and publicity material related to State forests, forestry and the forest products industry.
Coolah Lions Club	400	Improvement to State forest visitor facilities and walking tracks.
1st Edgeworth Scout Group, Cardiff	350	Transport for an excursion to a State forest or other areas of forestry interest.
Dungog and District Promotion Association	400	Provision of tourist information and publicity material related to State forests, forestry and the forest products industry.
Grahamstown Public School, Raymond Terrace	400	Purchase of library books and reference works related to State forests, forestry and the forest products industry and transport for an excursion to a State forest or other areas of forestry interest.
Maitland Public School	250	Purchase of library books and reference works related to State forests, forestry and the forest products industry.
Morisset Public School	350	Transport for an excursion to a State forest or other areas of forestry interest.
Mount View High School	350	Purchase of library books and reference works related to State forests, forestry and the forest products industry.
Nelson Bay High School	255	Transport for an excursion to a State forest or other areas of forestry interest.
New Lambton Scout Group	350	Transport for an excursion to a State forest or other areas of forestry interest.
Newcastle Timber Industry Club	400	Transport for an excursion to a State forest or other areas of forestry interest.
Sandy Hollow Public School	400	Purchase of library books and reference works related to State forests, forestry and the forest products industry and transport for an excursion to a State forest or other areas of forestry interest.
	250	Purchase of library books and reference works related to State forests,

350

400

200

400

400

265

350

forestry and the forest products industry.

Transport for an excursion to a State forest or other areas of forestry interest.

Purchase of library books and reference works related to State forests,  
forestry and the forest products industry and transport for an excursion to a  
State forest or other areas of forestry interest.

Transport for an excursion to a State forest or other areas of forestry interest.

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forestry and the forest products industry and transport for an excursion to a  
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forestry and the forest products industry and transport for an excursion to a  
State forest or other areas of forestry interest.

Transport for an excursion to a State forest or other areas of forestry interest.

Purchase of library books and reference works related to State forests,  
forestry and the forest products industry.

### SMALL BUSINESS REGISTRATION FEES

Mr Price asked the Minister for Small Business, and Minister for Regional Development -

- (1) What has been the increase in the past 3 years in the registration fee for a small business?
- (2) How much greater is this increase than the CPI for the same period?
- (3) Why has such an increase been applied to this sector of business?
- (4) What justification is there for the increase in view of the Government's policy to maintain costs and charges within the range of movement of the CPI?

Answer -

Registration fees of businesses is a matter which falls within the portfolio responsibilities of the Minister for Consumer Affairs.

Accordingly, I have taken the liberty of redirecting this question to the Minister for Consumer Affairs and Minister Assisting the Minister for Roads.

### EDUCATION DOCUMENT PUBLICATION COSTS

Mr Knowles asked the Minister for Industrial Relations and Employment, and Minister for the Status of Women, representing the Minister for Education, Training and Youth Affairs, Minister for Tourism, and Minister Assisting the Premier -

- (1) What was the total cost and unit cost of the publication "Building a Better Future for New South Wales - the Education and Training Policy Foundations of the New South Wales Government"?
- (2) How many copies were produced?
- (3) To whom were they distributed?
- (4) What was the original budget allocation for the publication?

Answer -

(1) to (4) "Building a Better Future for New South Wales - the Education and Training Policy Foundations of the New South Wales Government" is one of five Foundation Policy statements. The cost for the five statements was expected to be less than \$200,000. The Government is committed to consultation and communication with the New South Wales community and these statements meet this commitment. The distribution is as wide as possible and includes all key groups in this policy area, from employer groups, to unions, to professional



associations, the media and Government departments.

### **LAND TITLES OFFICE DRINK COASTERS**

Mr Martin asked the Minister for Land and Water Conservation -

- (1) Has the Land Titles Office arranged production of drink coasters?
- (2) If so, how many were produced and what was the cost of production?
- (3) Who authorised the production of the drink coasters?
- (4) Did he approve of the expenditure of Land Titles Office funds on the production of drink coasters?
- (5) Does the Government support such expenditure?
- (6) If so, on what basis?
- (7) If not, what action will he take to prevent a repetition of such expenditure?

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Answer -

- (1) Yes.
- (2) 5,000 cardboard coasters at a cost of \$795.
- (3) Acting Manager, Executive Branch, Land Titles Office.
- (4) No, expenditure was approved departmentally.
- (5) and (6) The Government supports the expenditure as part of the marketing efforts of the Land Titles Office. The Office operates as a Government trading enterprise and has been particularly successful in promoting its land records management systems overseas. The Office is visited by high ranking delegations from many countries and the coasters are used in official entertainment, and as a simple and inexpensive promotional item.
- (7) Not applicable.

### **OBERON DISTRICT TIMBER ALLOCATIONS**

Mr Clough asked the Minister for Land and Water Conservation -

- (1) Is the Forestry Commission currently considering applications from four firms for a timber allocation in the Oberon district?
- (2) Has a full investigation of the capacity of all four been carried out?
- (3) In particular, has a firm known as Pacfor made an application?
- (4) Has Pacfor the necessary capacity to carry out the project if awarded the contract or will they rely on overseas financing?
- (5) Is he aware that Pacfor were given a loan by Bathurst City Council to help in the preparation of an EIS into the project?
- (6) (a) Why was this loan made available?  
(b) Was it because of a shortage of funds held by Pacfor?
- (7) What is the anticipated cost of an EIS?
- (8) If Pacfor cannot afford an EIS, is it considered that they are capable of financing the project?
- (9) Has any indication been given to Pacfor by the Forestry Commission that they would be the successful tenderer?
- (10) Of the remaining tenderers, which companies are totally Australian owned?
- (11) Of the remaining tenderers, which companies are partially or substantially Australian owned?
- (12) Can he give an assurance that due process will be strictly enforced in this matter?

Answer -

- (1) Yes.
- (2) An evaluation of detailed proposals is currently being undertaken by a review panel.

- (3) Yes.
- (4) The nature of the competitive allocation process followed has not yet led me to being advised of the details of individual proposals received by State Forests.
- (5) State Forests have not been advised of such a loan by Bathurst City Council.
- (6) Refer response to question (5).
- (7) As commented in response to question (4) the nature of the competitive allocation process has not yet led me to being advised of the details of individual proposals received by State Forests. I am not aware of what may or may not be the requirements of environmental impact statements associated with those proposals. Consequently, I can give no indication of the anticipated cost of an EIS.
- (8) Financing capability is one of the evaluation criteria being considered by State Forests.
- (9) No.
- (10) and (11) To State Forests' knowledge, there are no significant foreign shareholders in the remaining tenderers.
- (12) Yes.

### **Dr VINCE VERZOSA POST-MORTEM EXAMINATION DUTIES**

Mr Markham asked the Minister for the Environment representing the Attorney General, and Minister for Justice -

- (1) Has the NSW Coroner directed that Dr Vince Verzosa, Illawarra Government Medical Officer, be precluded from performing:
  - (a) Coronial postmortems?
  - (b) Murder or suspected murder postmortems?
- (2) If so, why is Dr Verzosa who is an expert, qualified and experienced forensic pathologist of many years standing, now considered unsuitable to perform this work?
- (3) Will Dr Verzosa, who was credentialled by the NSW Medical Board to carry out coronial postmortems and assigned by the NSW Health Department to perform these postmortems amongst his other duties, be reinstated to his previous position?
- (4) If not, why not?

Answer -

- (1) (a) and (b) No.
- (2) and (3) Dr Verzosa is the Illawarra Government Medical Officer and is still called upon to perform routine postmortem examinations. However, in accordance with a protocol developed by Professor John Hilton, Director, NSW Institute of Forensic Medicine, examinations in cases such as homicide and deaths in custody are referred to the Institute of Forensic Medicine for the conduct of a specialised forensic postmortem.
- (4) Not applicable.

### **MOTOR VEHICLES EMISSION INFRINGEMENTS**

Mr Markham asked the Minister for the Environment -

- (1) How many infringement notices for illegal emissions from motor vehicle exhausts were issued in the Illawarra region by the Environment Protection Agency (EPA) and the former State Pollution Control Commission (SPCC) in:

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- (a) 1988/89?
- (b) 1989/90?
- (c) 1990/91?
- (d) 1991/92?
- (e) 1992/93?

- (f) 1993/94?
- (2) How many official cautions were issued for illegal emissions from motor vehicle exhausts by the EPA and the former SPCC in the Illawarra region in:
- (a) 1988/89?
  - (b) 1989/90?
  - (c) 1990/91?
  - (d) 1991/92?
  - (e) 1992/93?
  - (f) 1993/94?
- (3) How many infringement notices for noisy exhausts were issued by the EPA and the former SPCC in the Illawarra region in:
- (a) 1988/89?
  - (b) 1989/90?
  - (c) 1990/91?
  - (d) 1991/92?
  - (e) 1992/93?
  - (f) 1993/94?
- (4) How many official cautions for noisy exhausts were issued by the EPA and the former SPCC in the Illawarra region in:
- (a) 1988/89?
  - (b) 1989/90?
  - (c) 1990/91?
  - (d) 1991/92?
  - (e) 1992/93?
  - (f) 1993/94?
- (5) In the light of increased air pollution from motor vehicle emissions, does the Minister plan to:
- (a) Increase EPA resources to enforce current regulations?
  - (b) Take action to tighten current regulations?
- (6) If not, why not?

Answer -

- (1) Penalty notices/prosecutions for exhaust emissions:

	Year	Penalty Notices	Court Action
(a)	1988/89	6	-
(b)	1989/90	20	2
(c)	1990/91	52	4
(d)	1991/92	6	2
(e)	1992/93	47	-
(f)	1993/94	99	1

- (2) Official cautions/defective vehicle notices for exhaust emissions:

	Year	Cautions	Defect Notices
(a)	1988/89	-	-
(b)	1989/90	2	1
(c)	1990/91	7	-
(d)	1991/92	3	-
(e)	1992/93	9	3
(f)	1993/94	24	26

- (3) Penalty notices/prosecutions for noisy exhaust:

	Year	Penalty Notices	Court Action
(a)	1988/89	-	-
(b)	1989/90	-	2

(c)	1990/91	-	3
(d)	1991/92	27	-
(e)	1992/93	2	-
(f)	1993/94	38	1

(4) Official cautions for noisy exhausts:

	Year	Cautions
(a)	1988/89	-
(b)	1989/90	-
(c)	1990/91	-
(d)	1991/92	-
(e)	1992/93	1
(f)	1993/94	-

- (5) (a) In the Illawarra region, the number of officers authorised to enforce current regulations has increased from 6 under the previous Government in 1988 to 15 under this Government in 1994.  
 (b) Changes to vehicle emission regulations is now a Federal Government initiative.  
 (6) See answer (5) (b).

### **ALUMINO AUSTRALIA DROSS PROCESSING PLANT**

Mr Price asked the Minister for the Environment -

- (1) In relation to the Alumino Aust. Pty Ltd dross processing plant proposed for Weston, near Kurri Kurri, what is the analysis of the gas emission present in plants and their surroundings of like operations in:  
 (a) Other locations in Australia?  
 (b) Other locations in foreign countries?  
 (2) How close to schools and residential areas would such a plant be located, given the nature of the material?

Answer -

- (1) (a) There are no similar plants in Australia.  
 (b) A similar plant operates in Toyohashi, Japan. The EIS conducted for Alumino Australia Pty Ltd quotes the following emission figures for that plant:

Parameter	Test Results
Dust concentration (milligrams per cubic metre)	1.4 to 1.6
Hydrogen fluoride (milligrams per cubic metre)	0.51 to 1.4

- (2) The plant should be located to ensure that the concentrations in residential areas and schools caused by the emissions from the plant are below recognised health goals.

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### **BARRINGTON TOPS WILDERNESS AREA DECLARATIONS**

Mr Bowman asked the Minister for the Environment -

When will a decision be made on the declaration of a wilderness area at Barrington Tops?

Answer -

A nomination for a Barrington Tops wilderness area, as lodged by the environmental group, the Wilderness Society, has been assessed by the Director-General of the National Parks and Wildlife Service and publicly exhibited for comment. Strong views both "for" and "against" the nomination, as well as comments suggesting amended versions, have been noted and the Government is currently taking all these views into account as part of the decision-making process.

#### **GOVERNMENT CONTRACTORS OBLIGATIONS TO SUBCONTRACTORS**

Mr Gaudry asked the Minister for Consumer Affairs, Minister Assisting the Minister for Roads, and Minister Assisting the Minister for Transport -

- (1) What procedures are in place to ensure that contractors on Government projects meet their payment obligations to sub-contractors engaged in work on these projects?
- (2) Is there a mechanism to ensure that contractors defaulting in this regard are removed from lists of preferred tenderers.

Answer -

Neither of these questions relates to matters within my portfolio jurisdiction.

The Minister for Public Works has principal responsibility on behalf of the Government for determining policy and procedures in relation to public works.

The issue of the protection and security of payments for building subcontractors is under review by the Minister for Industrial Relations and Employment.

#### **LEGAL AID APPLICANT, Mr GRIFFITHS**

Ms Allan asked the Minister for the Environment, representing the Attorney General, and Minister for Justice -

- (1) Will he ensure that Mr Terry Griffiths of Seven Hills receives legal aid to prepare a submission to the Royal Commission into the NSW Police Service?
- (2) If not, why not?

(3) What assistance will the Royal Commission provide for concerned members of the public to bring submissions before it?

Answer -

(1) The Government has established a Legal Representation Office to provide advice and/or legal assistance to persons called, or who believe they may be called, to give evidence before the Royal Commission.

If the Royal Commissioner authorises a person to be represented by a legal practitioner, the Legal Representation Office can provide that legal representation.

If a witness' interests conflict with those of another witness who is already represented by the Legal Representation Office, then he or she may apply to me to meet the cost of legal advice and/or assistance from an independent legal practitioner.

Mr Griffiths may contact the Legal Representation Office on 231 0811 for further information on receiving legal advice and/or assistance. His application will be considered with all others. He is always free to apply to me directly for assistance and should call 228 7582 for further information. Pamphlets which set out the operations of the Legal Representation Office may be obtained from the Publications Officer of my Department by calling 228 7185.

(2) See answer (1).

(3) See answer (1).

#### **NATIONAL PARKS AND WILDLIFE SERVICE WESTERN REGIONAL MANAGER RELOCATION**

Mr Beckroge asked the Minister for the Environment -

(1) Is the Regional Manager's position for the Western Region (NPWLS) being relocated from Broken Hill to Dubbo?

(2) If so, what has happened to his commitment that no action to relocate the office would be taken until a report into the sociological effects of the move was finished?

Answer -

(1) The position has been advertised to operate from Dubbo.

(2) The commitment remains in place. The relocation of any regional office functions to Dubbo will be further considered in the light of the consultant's report.

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