

LEGISLATIVE ASSEMBLY

Wednesday, 30 October 1996

Mr Speaker (The Hon. John Henry Murray) took the chair at 10.00 a.m.

Mr Speaker offered the Prayer.

PARLIAMENT HOUSE FACILITIES

Mr SPEAKER: Members will be aware that since yesterday afternoon there has been disruption to airconditioning and hot-water services throughout the building. I am advised that the problem, which was a broken feed line, has been identified and rectified. All services have been restored, and apologies are offered for any inconvenience caused to members and staff.

BUSINESS OF THE HOUSE

Placing or Disposal of Business

Mr Rozzoli: On a point of order. I raise a point of order concerning matters that occurred in the House last evening relating to the calling by yourself upon certain motions of censure and no confidence. I draw your attention to Standing Order 123, no confidence in Minister, Standing Order 123A, no confidence in Speaker, and Standing Order 124, censure of member. Each of those standing orders has a common factor in that it states:

Such notice shall take the place of and be called upon at the time for consideration of Matters of Public Importance at the next sitting of the House after the notice was given.

Although there are several motions under these standing orders, it was always the practice, until last night, to bring them on at the time for consideration of matters of public importance. Yesterday the House suspended so much of the standing and sessional orders as would allow consideration at 7.30 p.m. that day of Government business orders of the day Nos 4, 5, 6, 7, 8 and 9. Curiously, the House moved that motion and carried it twice during the day, as recorded on pages 1 and 35 of the *Hansard* proof. No other motion was moved to reorder the business paper. The suspension allowed those items of Government business to be considered before the resumption of debate on the motion of no confidence in the Minister for Agriculture, but it did not allow a new item of business with precedence to be brought on at that hour.

Under standing orders, business with precedence can be brought on only in the place of matters of public importance, and you, Mr Speaker, have ruled consistently that you will accept no MPIs until all of these motions have been dealt with. The continuing motion of no confidence in you is, in accordance with that procedure, set down today in the place of a matter of public importance, as it properly should be. That has been the way in which you and the House have ordered the business of the House, up until last night. I ask that you give consideration to the matters I have raised and take appropriate action to restore to the business paper the notices of motions that were incorrectly called last night and declared as lapsed. I do not expect you to make a decision on this immediately; you have until the commencement of business this afternoon at 2.15 -

Mr SPEAKER: Order! The House will come to order.

Mr Rozzoli: - to give due consideration to the matters that I have raised. It is important that you make a determination because they are of considerable significance in the future conduct of the business of the House. If the House intends to continue in the same manner, the standing orders should be amended. I point out also that a pairing arrangement existed last evening between the Premier and the Leader of the Opposition.

Mr SPEAKER: Order! The member for Hawkesbury has the call. Any member is entitled to seek the call after the honourable member for Hawkesbury and to make a statement.

Mr Rozzoli: That fact is recorded at page 56 of the *Hansard* proof in the division that took place immediately prior to calling on the two censure motions. I admit that the standing orders do not cover pairings and that it is an informal arrangement, a matter that Speakers have regarded as a matter of discretion between the Whips. That arrangement, however, has always been considered by the Chair to be an integral part of the running of this House.

Mr Whelan: They dumped Peta Seaton; that is what they did. They dumped her.

Mr Rozzoli: In response to the interjection from the Leader of the House, if one turns to *Hansard* and looks at the pairing arrangement -

Mr SPEAKER: Order! This matter could have an impact on future orders of this House and the Chair will hear the member in silence.

Mr Rozzoli: Page 56 of the *Hansard* proof indicates that the Premier was paired with the Leader of the Opposition and that the honourable member for Lake Macquarie was paired with the honourable member for Murray. The censure motions were called on immediately after an indication was given to the House that those members were paired. Clarification of the pairing arrangement is needed, for it is of grave significance to honourable members. There are pairs or there are not. There is a procedure to be followed and it is important that it be clarified. On a Wednesday

Page 5525

afternoon the House will accept as notification of postponement an advance indication by a member that he will be absent from the House and is not in a position to take the carriage of his business. If the pairing arrangement in this House is not properly ordered, it will probably collapse because it operates on the basis of trust. Finally, I am advised that there was an arrangement between the Leader of the House and the Leader of the National Party that debate would conclude following the no confidence motion in the Minister for Agriculture. What happened last night, in any event, was a breach of an arrangement between the Leader of the House and the Opposition.

Mr Whelan: On the point of order. Mr Speaker, undoubtedly you will give weight to what the former Speaker, the honourable member for Hawkesbury, said, but it has no weight at all; it deals with past issues. Last night at 10.05 the Leader of the Opposition was nowhere to be found when the division bells rang.

Mr O'Farrell: Where was the Premier? Was he at the greyhounds?

Mr Whelan: He was paired.

Mr SPEAKER: Order! The Leader of the House will direct his remarks through the Chair.

Mr Whelan: The member who was to be paired was the honourable member for Southern Highlands. As a result of the absence of the Leader of the Opposition, during the division the Government

Whip was asked to pair him. This is the same Leader of the Opposition who was in the House at 7.30 p.m., the same Leader of the Opposition who voted on the motion of the Minister for Health after question time. No arrangement was made for the Leader of the Opposition, and no-one mentioned that he was absent. The Leader of the Opposition did what he and other members of the Opposition have been doing since the coalition has been in opposition - they disappear. They do not care about the House.

Mr Phillips: The Leader of the Opposition is automatically paired with your Premier.

Mr SPEAKER: Order! The honourable member for Broken Hill will cease discussing the matter across the Chamber with the Deputy Leader of the Opposition.

Mr Whelan: It is totally false, as members opposite know, to say that the Premier and the Leader of the Opposition are automatically paired.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will remain silent. If he continues to interject he will leave the Chamber.

Mr Whelan: It is likewise false and inaccurate to say that Ministers are given pairs. I have not been granted a pair to go to the Australasian Police Ministers' Council, to attend the induction attestation of 200 new police officers or to accept the invitation of the city of Goulburn to open a memorial to police officers who lost their lives in the course of duty. I am sure that other Ministers could indicate to the House how they have been denied pairs and that the Government Whip and the Deputy Whip could explain the concept of pairs. Standing Order 111 states:

Notices of motions shall take precedence of orders of the day, and if called upon must be moved, withdrawn, or postponed in the order in which they appear on the Business Paper or lapse.

Speaker Willis ruled in 1911, "It is not competent for one member to move a motion for another." As honourable members know, the standing orders state that every member is bound to attend the service of the House unless granted leave of absence. The Leader of the Opposition had a greater obligation than any other member to be in the House because he had given notice of two motions of great importance to the House, a censure motion and a motion of no confidence. But he chose to be elsewhere. The most important thing that the Leader of the Opposition had to do was attend the House. The honourable member for Hawkesbury has raised a fatuous argument. I am pleased that he has done so because it further exposes the complete lack of leadership of the Leader of the Opposition.

Mr Hartcher: On the point of order. It has been put to you that the standing orders form a self-contained code and that the code as laid down in Standing Orders 123, 123A and 124 stipulates the time at which the motions are called on. That is manifest in the business paper that is prepared by the Clerks, which is consistent with the operation of that code. The rulings of former Speakers are of persuasive value only in relation to certain historic practices, but they do not override the code. Pairing arrangements are an informal arrangement, which you, Mr Speaker, have acknowledged, but they are part of the customs and traditions of the House. In relation to the pairing arrangements, *Hansard* records that the Leader of the Opposition was paired with the Premier -

Mr Carr: No, no, no.

Mr Hartcher: Look at *Hansard* - immediately before these particular motions were called upon. Mr Speaker, you were not cognisant of that at the time you called on the motions. You were following the order of Government business, which under the standing orders the Government has the right to determine. But what is put to you now is that the order of Government business did not comply with the self-contained code, nor did it reflect the traditions of the House in relation to pairing arrangements. I ask you to consider those separate matters and, if you think fit, to vacate your ruling as you have vacated rulings in the past - most recently in respect of the privileges motion that gave rise to the motion of no

confidence debated last night - and restore these motions to the business paper.

Mr SPEAKER: Order! The matter has been dealt with adequately. The point of order raised by the honourable member for Hawkesbury contained
Page 5526

three ingredients: the order of calling of business in relation to censure or no confidence; the clarification of pairs; and breach of those arrangements. I will reserve my ruling on those three matters to a later stage of the sittings.

Mr Kerr: On a point of order. Simply to support what has been said -

Mr SPEAKER: Order! The honourable member for Broken Hill will remain silent. The honourable member for Cronulla will state the point of order.

Mr Kerr: My point of order in relation to the point raised -

Mr SPEAKER: Order! I have ruled on that. The honourable member will resume his seat.

[Personal explanation]

Mr JEFFERY: By leave, I wish to make a personal explanation. I believe that as a member of Parliament, as a Whip of the National Party and in conjunction with the Leader of the Opposition -

Mr SPEAKER: Order! The honourable member will state the reason for his personal explanation.

Mr JEFFERY: As a member of this House I have been slighted by the Leader of the House because he had an arrangement with me as Leader of Opposition business on the business paper. I know that he cannot get it right.

Mr Whelan: That is not a personal explanation.

Mr JEFFERY: It is, because my word is my bond. I do not get doublecrossed or lie to this House. If the Leader of the House cannot shake a hand, if his word is not his bond and he wants to change his word after discussing the business paper of the day, I believe I deserve the opportunity to make a personal explanation to this House.

Mr SPEAKER: Order! What the honourable member for Oxley has put forward does not fall within the ambit of a personal explanation. I will remove the Deputy Leader of the Opposition from the Chamber if he keeps interjecting. I hope the honourable member for Cronulla is not intending to make a personal explanation in a similar vein to that made by the honourable member for Oxley.

[Personal Explanation]

Mr KERR: By leave, I wish to make a personal explanation. The Government Whip behaved quite honourably. There was a request for a pair by the Premier -

Mr SPEAKER: Order! The member is debating the subject matter. He will state the personal explanation.

Mr KERR: In terms of the reputation of the Leader of the House making fraudulent pairing arrangements -

Mr SPEAKER: Order! There is no personal explanation. The honourable member will resume his seat.

REGULATORY REDUCTION BILL

Bill introduced and read a first time.

Second Reading

Mr CARR (Maroubra - Premier, Minister for the Arts, and Minister for Ethnic Affairs) [10.19]: I move:

That this bill be now read a second time.

The purpose of this bill is to reduce the level of regulation in New South Wales by removing the need for individuals and businesses to have licences to undertake particular commercial activities. The Government made this commitment in the election; it honours it in the House. I am pleased to announce that 35 licences will be repealed but a further 44 licensing categories are to be abolished or amalgamated for building work, bringing to a total of 86 the number of licences abolished. The Regulatory Reduction Bill is one element of a wide-ranging reform agenda being undertaken by my Government. The Government is at the forefront of implementing national competition policy reforms agreed to by the heads of government under the competition principles in April 1995. It sets in train the most comprehensive, systematic and rigorous review of legislation ever undertaken in New South Wales.

The New South Wales Government has nominated for review 190 Acts that affect competition. Unless it can be demonstrated that there is a net public benefit from maintaining a competitive restriction, and the objectives of legislation cannot be achieved by other means, that restriction will be removed. The Regulatory Reduction Bill is another weapon in this assault on red tape and underlines unequivocally the Government's commitment to regulatory reform and the reduction of unnecessary restrictions on business and the community. The licences have been identified through a review of over 250 licences and the review of partially registered occupations by the Vocational Education, Employment and Training Committee - VEETAC - working party on mutual recognition.

Licences included in the licence reduction program cover virtually the entire range of areas controlled by government licensing, including agricultural and building occupations, construction and manufacturing, transport and marine activity, and motor vehicle repairs. The review of partially registered occupations was established by the Council of Australian Governments in 1991 and was a comprehensive review of occupational requirements across all States and Territories. The implementation of the recommendations of the VEETAC review of partially registered occupations will increase the uniformity of regulatory regimes

Page 5527

and enhance labour mobility between States and Territories. For instance, New South Wales is the only State to require dried fruit classers to be registered. The VEETAC review recommended that this registration requirement be removed. Requiring a licence does not provide any protection for either the industry or community in terms of health and safety. Quality standards are addressed as a part of normal quality control within the business. Through this bill we are ensuring that small business in New South Wales is not subjected to unnecessary costs.

The other major benefit of the licence reduction program is increased labour mobility, allowing workers to move interstate without having to gain additional licences. For instance, a crane chaser in Western Australia, where there is no requirement for a licence, will no longer have to obtain a licence to be able to work in New South Wales. Licensing is used by governments to control activities which present threats to health and safety, the environment and consumers. Although it can be an effective form of regulation, it needs to be used judiciously.

Any form of regulation involves costs. The Regulatory Reduction Bill will result in significant cost

savings at a number of levels. The direct savings to business will be felt immediately, through the removal of licence and application fees. In addition, compliance costs such as time spent filling in forms, visiting government departments, and changing business practices to comply with overly prescriptive licence requirements, will be reduced. Earlier I mentioned that as part of the licensing reform program, the Government intends to remove 44 licensing categories for building work. This is a clear example of how licensing can be misused as a means of controlling commercial activity. Some of the categories created at administrative discretion include separate licences for brick cleaners, graffiti removalists, high pressure water cleaning, concrete cleaning, tile cleaning and sandstone cleaning.

There are separate licensing categories for garage frame repairers, tradespeople who maintain internal and external timber, install acrylic bath inserts and repair relocatable dwellings. There are 10 separate licences for people who erect fences, including masonry fences, chain wire fences, mesh fences, precast concrete fences and brushwood fences. I recall my old days as a brushwood fence erector. Those who have knocked about the bush as I have would be familiar with all these categories and how licences slow you down. In a career after politics I will be able to return to this sort of bush work, putting up fences across this wide brown land and not having to fill out a licence every time I undertake a new task. That is what this legislation means.

Mr Clough: I can get you some pretty good sludge, if you want it.

Mr CARR: Listen, I do not want you opening your ice cream containers anywhere in this building while the airconditioning is not working. This licensing system is not just administratively complex, not just expensive to maintain, but confusing for consumers and is potentially misleading. The danger for consumers is that they may be duped into paying for the services of, for example, a "specialist" wire fencer when the equivalent service can be provided by any competent fencing contractor. Licensing complexity of this sort may mislead consumers rather than provide them with useful information upon which to make a decision. Removal of meaningless specialist categories of work will improve the operation of this market for building services. Ultimately, consumers will benefit through lower prices for goods and services achieved by increased competition and reduced business costs. There is also a saving in respect of the administration costs of licences. The WorkCover Authority has estimated, for example, that removal of the requirement to submit a notice of intention to erect a conveyor alone will result in an annual saving of \$100,000.

Unnecessary costs are generated where problems are misidentified, the extent of the problem is overstated, incorrect controls are put in place, or controls are retained where a problem no longer exists. Duplication of regulatory controls is a common problem in the area of licensing, and it is often the case that licensing duplicates other controls, for example, where a licence is required in addition to certification or training or where the quality of service provided can be judged by the consumer. The bill, for example, removes licensing requirements for insemination and artificial breeding instructors and artificial breeding operators.

This bill reflects the reality that stock owners who contract for artificial breeding services have a big stake in a successful outcome. Low pregnancy rates for stock represent commercial loss. Farmers have a strong interest in checking the qualifications and the track record of people offering these services in order to maximise success rates. Licensing artificial breeding operators does not and cannot provide a guarantee about the quality of service provided or the quality of genetic material used in the insemination process. Licensing is often used to regulate activities which should be a matter of normal commercial prudence. The regulation of motor vehicle loss assessors is a case in point.

Loss assessors are often employed by insurance companies or undertake assessment on behalf of insurance companies on a contract basis. Most loss assessors already have trade motor qualifications and loss assessment is an extra skill for which they undertake additional training. There is certainly an argument that people who engage in motor vehicle loss assessment should be properly trained. Insurance companies would soon become aware if a particular loss assessor lacked the skill or

competence necessary to do the job properly. If a loss assessor recommends, for example, that a vehicle be written off when it could have been repaired, the insurance company will incur additional costs.

Page 5528

Governments sometimes act with more caution than is found to have been necessary with the benefit of experience. What may be a relatively small issue that could be solved with a simple mechanism can easily be blown out of all proportion. Ports authority licences included in this bill are in this category. Licensing can often be replaced with better targeted controls. Where licences are used inappropriately, not only are costs increased directly, but the effects are felt in terms of equity. The regulation of real estate business sales representatives restricts the supply of real estate agents. It does this by imposing service length requirements, which increase the costs of getting into the industry and ultimately have an effect on the supply of real estate agents. These costs are borne by people buying, selling or renting homes, and these are often the people on low incomes who can least afford it.

Often licensing is not the appropriate form of regulation to reduce risk to health and safety. The licensing of milk and cream testers and milk and cream graders provides an excellent example. Originally these licences were imposed to ensure that milk and cream products were safe for consumption. However the advent of new technology and the introduction of a hazard analysis critical control point has meant that the licensing of these technicians no longer contributes to the provision of health and safety. There are many other examples of the advantages of the bill. I will not detain the House by dwelling on them, despite the pleas of my colleague the Minister for Transport, and Minister for Tourism. Through the removal of unnecessary licensing, this bill represents significant savings for the entire community and demonstrates the Government's commitment to reducing red tape and implementing competition policy. I commend the bill to the House.

Debate adjourned on motion by Mr Kerr.

JOINT STANDING COMMITTEE UPON SMALL BUSINESS

Mr CARR (Maroubra - Premier, Minister for the Arts, and Minister for Ethnic Affairs) [10.30]: I move:

That, notwithstanding anything in the Standing Orders of both Houses, a joint standing committee be appointed to inquire into and report upon small business in New South Wales with the following terms of reference -

(1) The functions of the committee are to report to the Parliament on:

- (a) matters which reflect the importance of small business to the economy;
- (b) the streamlining of the provision of services to small businesses;
- (c) the reduction of regulatory control over small businesses;
- (d) the creation of employment opportunities within the small business industry;
- (e) the provision of assistance to small businesses in niche marketing;
- (f) the provision of assistance in the promotion of small businesses in regional development;
- (g) the provision of assistance to small business to become internationally competitive;
- (h) the provision of advice to persons intending to start a new business and to new starters in small

business; and

(i) any matters relating to or arising out of the above terms of reference.

(2) The committee is to consist of nine members of both Houses, three being members of, and appointed by, the Legislative Council (one supporting the Government, one Opposition and one Independent) and six being members of, and appointed by, the Legislative Assembly (four members supporting the Government, one Opposition, one Independent and in the event that an Independent member is unavailable to serve on the committee a member of the Opposition will be nominated instead). Members will be nominated in writing to the respective Clerks of the House.

(3) The quorum of the committee is five members, provided that the committee meet as a joint committee at all times.

(4) The chairman shall be a supporter of the Government.

(5) The chairman, or any acting chairman, has a deliberative vote and, in the event of an equality of votes, a casting vote.

(6) The committee have leave to sit during the sittings or any adjournment of either or both Houses, to adjourn from place to place, and to make visits of inspection within Australia and overseas.

The Legislative Assembly requests that the Legislative Council appoint three of its members to serve with the members of the Legislative Assembly and to nominate the time and place of the first meeting.

Debate adjourned on motion by Mr Phillips.

TRANS-TASMAN MUTUAL RECOGNITION (NEW SOUTH WALES) BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture) [10.33], on behalf of Mr Carr: I move:

That this bill be now read a second time.

The trans-Tasman mutual recognition arrangement was signed by the Commonwealth and all States and Territories on 14 June 1996. New Zealand signed it on 9 July 1996. The trans-Tasman mutual recognition bills implement the arrangement. The arrangement builds on the Australian mutual recognition agreement, which commenced operation in March 1993. The Mutual Recognition (New South Wales) Act was passed in 1992 by the New South Wales Parliament, with the support of all parties. The Australian scheme has successfully overcome many of the regulatory differences that exist between the States and Territories to create a more effective national market. The arrangement is designed to extend the Australian scheme to New Zealand.

Page 5529

The legislative scheme involves the States, the Territories, the Commonwealth and New Zealand. Each of these jurisdictions will enact legislation. The legislative scheme has two components: an Australian component and a New Zealand component. This bill is concerned with the Australian component of this larger legislative scheme. The Trans-Tasman Mutual Recognition Bill 1996 of New Zealand is concerned with the New Zealand component. That bill was introduced into the Parliament of

New Zealand on 18 July 1996. However, passage has been delayed by the New Zealand election. The Australian component is made up of two bills: the Trans-Tasman Mutual Recognition (New South Wales) Bill - the State Bill - which refers power to the Commonwealth over the matters set out in the Commonwealth bill, and the Trans-Tasman Mutual Recognition Bill - the Commonwealth Bill - which is attached as a schedule to the State bill, and is the bill the Commonwealth will enact to implement the arrangement.

The State bill makes a limited referral of matters to the Commonwealth to legislate under section 51 of the Constitution for the passage of the trans-Tasman mutual recognition legislation. The New South Wales bill will enable the Commonwealth to pass an Act in the terms, or substantially in the terms, of the Act set out in the schedule to the New South Wales bill. The mutual recognition scheme is to last initially for five years, after which time the Governor has the power to terminate the reference by proclamation. The Trans-Tasman Mutual Recognition (New South Wales) Bill has been drafted to mirror the provisions of the existing Australian Mutual Recognition Act 1992 as closely as possible.

Similarly, in drafting the New Zealand bill every effort was made to reflect closely the Australian legislation, whilst also recognising New Zealand's different legislative conventions. This approach is intended to minimise the potential for disputes to arise from differences in the interpretation of the legislation. The bill is drafted to make sure that any amendments to the Commonwealth legislation will also be required to pass through the New South Wales Parliament. The Commonwealth must wait for one State to refer power to it before it can pass its own legislation. New South Wales, which drafted both the State and the Commonwealth bills, is the lead jurisdiction. So today is the first step in the process to give effect to the arrangement in Australia.

The idea behind mutual recognition is to overcome problems caused by regulations that deal with the same things in different jurisdictions, yet often differ only in the most pedantic of fashions. The concept of mutual recognition is a regulatory model based on the idea that regulations that govern goods and occupations in one participating jurisdiction and meet that community's expectations should be equally acceptable in any other participating jurisdiction. Mutual recognition takes into account that there will continue to be differences in the substance of the regulations and regulatory regime used by each jurisdiction. It is a very elegant mechanism for overcoming artificial barriers to a more integrated trans-Tasman economy.

However, it should be acknowledged that while mutual recognition may also draw the Government's attention to outdated and unnecessarily prescriptive regulations, it does not actually bring about the removal of those regulations. In terms of its economic benefits, mutual recognition should rightly be seen as a significant reform. It reduces compliance costs for manufacturers, and facilitates the movement of people who work in registered occupations from one State to another. From the consumer's point of view, it promotes competition and encourages greater diversity in the marketplace. These changes enhance not just the national, but the international, competitiveness of the New South Wales and Australian economy.

There is already a high level of integration between the Australian and New Zealand economies. This is both through our historical ties and, more recently, as a result of the closer economic relations trade agreement - CER. The trans-Tasman mutual recognition proposal can be seen as a natural extension of that already close economic relationship. It will effectively increase the coverage of the existing Australian agreement by about 20 per cent in population terms, and will provide a market of about 21 million people. With our already strong bilateral trade relationship, and the constant movement of people between our countries, trans-Tasman mutual recognition represents a logical further step in integrating the regulatory standards and the conditions of occupational registration. Beyond that, it is also likely to enhance global market prospects for Australian and New Zealand producers.

At the meeting of the Council of Australian Governments - COAG - in April 1995, heads of government gave in-principle approval to a trans-Tasman mutual recognition agreement. They also

agreed to the release of a public discussion paper entitled "A Proposal for the Trans-Tasman Mutual Recognition of Standards for Goods and Occupations". The discussion paper was sent to peak industry and professional groups throughout Australia and New Zealand. Approximately 60 submissions were received, the majority of which were supportive. Officials from the Commonwealth, New South Wales and Queensland governments also met with representatives of peak industry groups at consultations organised by the New South Wales Chamber of Commerce and the Australian Chamber of Commerce and Industry. The comments made during the consultation process have been taken into account in deciding upon the lists of exemptions, exclusions, and cooperation programs.

Page 5530

After further negotiations, the arrangement was finalised for the June 1996 Council of Australian Governments. The legislation will apply to all participating jurisdictions. A participating Australian jurisdiction is one that refers power to enact the Commonwealth Act or requests enactment of it, or adopts the Commonwealth Act afterwards under paragraph 51 of the Commonwealth Constitution. Both the Australian and the trans-Tasman schemes operate in the same way - on the premise that goods acceptable for sale in one participating jurisdiction should be acceptable in any other. Similarly, services provided by a person registered to practise an occupation in one participating jurisdiction should be acceptable in any other. The way the mutual recognition principle works in relation to goods is set out in part 2 of the Commonwealth bill. Part 3 sets out the same in relation to occupations. As with the Australian scheme, the arrangement will not affect the operation of any laws which regulate the manner of sale of goods or the manner in which sellers are required to conduct their business, for example, registration of sellers, or persons to whom goods may be sold; the transportation, storage or handling of goods, if the laws are directed at protecting health, safety or preventing environmental pollution; or the inspection of goods, if the inspection is not a prerequisite to sale, and the laws are directed at protecting health, safety or preventing environmental pollution. Clause 12 of the Commonwealth bill deals with these points. Naturally, there are some areas where differences in regulatory standards have been identified and require special attention. The options for dealing with these areas of difference are harmonisation, temporary or permanent exemption.

One difference between the arrangement and the Australian mutual recognition scheme relates to the laws listed in the exclusions, permanent exemptions and special exemption schedules. A number of laws will be excluded from the operation of the arrangement that might otherwise unintentionally be affected by mutual recognition. These laws relate to customs controls and tariffs, intellectual property and trademarks, taxation and other specified international conventions. These laws are set out in schedule 1 to the Commonwealth bill. In addition, a number of laws will be permanently exempted from the arrangement where it has been agreed that it would not be desirable for mutual recognition to apply. These laws relate to quarantine and endangered species, firearms, fireworks, gaming machines, indecent or pornographic material, ozone protection, the registration of agricultural and veterinary chemicals, and high risk foods. With the exception of the last two items, this list is consistent with the exemptions under the Australian scheme.

These laws are set out in schedule 2 to the Commonwealth bill. The parties to the arrangement have also identified a number of areas of significant health, safety and environmental pollution regulations which will be subject to special exemption for a period of 12 months at a time, while closer consideration is given to dealing with significant regulatory differences. These areas are therapeutic goods, hazardous substances, industrial chemicals and dangerous goods, electromagnetic compatibility standards and radio communication standards, road vehicles, and gas appliances. Regulatory authorities in these areas will undertake cooperation programs to consider whether existing regulatory differences would be best addressed by either mutual recognition, harmonisation or permanent exemption. These laws are set out in schedule 3 to the Commonwealth bill. On the occupations side, it has been agreed that medical practitioners will be exempted from the arrangement.

Under an existing reciprocal agreement, New Zealand trained and registered doctors will still gain

automatic registration in Australia and vice versa. However, no such advantage will be available to doctors trained in third countries but registered in New Zealand. These laws are set out in schedule 4 to the Commonwealth bill. A temporary exemption may be invoked by New South Wales to stop a good from entering New South Wales for a period of 12 months while the relevant ministerial council considers whether a harmonised standard should be developed. The procedure for temporary exemptions is set out in clause 46 of the Commonwealth bill.

There is also a procedure for extending a temporary exemption for up to 12 months. The purpose of any extension is to allow time to implement the decision of a ministerial council made during the initial 12-month period. I stress that it is intended that extensions will be granted only to allow time to implement a decision of a ministerial council, not to give the ministerial council more time beyond the initial 12 months to make the decision. This procedure is set out in clause 47 of the Commonwealth bill. Extending a temporary exemption requires the endorsement of at least two-thirds of participating jurisdictions. The Commonwealth bill will enable the Governor General to make regulations for the following purposes: to omit an Act or reduce the scope of an item listed in the schedule of exclusions or permanent exemptions at the request of a single jurisdiction - clauses 44 and 45; to grant a 12-month special exemption for the continuation of a cooperation program provided this has the support of two-thirds of the heads of government - clause 48; to add an item to the schedule of permanent exemptions provided this has the unanimous support of heads of government; and to add an item to the schedule of exemptions relating to occupations provided this has the unanimous support of heads of government - clause 49.

One further issue relates to the provisions dealing with the unauthorised disclosure of information. New Zealand was concerned about the handling of personal information about New Zealanders by Australian registration bodies. One of the issues is the lack of privacy legislation at the State level in Australia that complemented the New Zealand privacy legislation. To take account of New Zealand's concerns, clause 39 refers to a set of privacy principles set out in schedule 5. Local registration authorities must have regard to these principles but they do not create separately enforceable rights or duties. The Government is confident that New South Wales will gain great benefits from participating in this legislative scheme. The unnecessary costs for producers in accommodating minor differences in regulatory requirements on either side of the Tasman will be removed. Australia's international competitiveness will rise as producers capitalise on economies of scale made possible by mutual recognition. This is a process that will occur over the medium to long term.

More efficient standards brought about by competition among jurisdictions should result in community standards being met at a lower overall cost. Wider consumer choice and a greater responsiveness to the needs and demands of consumers among producers and regulators should result. At the same time, as I said earlier, the mutual recognition scheme is designed to make sure that there is no compromise on standards in the important areas of health and safety and environmental protection. This legislative scheme is an historic initiative aimed at overcoming the regulatory impediments to creating a single trans-Tasman market in goods and services. I am pleased to acknowledge the substantial contribution made by New South Wales officials in developing the trans-Tasman mutual recognition scheme. The Government would also like to acknowledge the positive contribution made by all heads of government from different political parties in fostering and promoting this important development. It is a fine example of what can be achieved when all governments work together in the national interest. On behalf of the Premier, I commend the bill to the House.

Debate adjourned on motion by Mr Kerr.

FARM DEBT MEDIATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture) [10.48]: I move:

That this bill be now read a second time.

On 12 February 1995 the Farm Debt Mediation Act 1994 commenced operation. The objective of this Act is to provide for a farm debtor and creditor to mediate before the creditor can take possession of property or take other enforcement action with respect to a farm debt. The mediation process is carefully structured to facilitate discussions and negotiations in a cooperative setting - one which is beneficial to both the farmer and the creditor. The Act is based on similar legislation operating in the United States, specifically Iowa and Minnesota. A voluntary scheme of mediation had failed in the early 1980s during the rural crisis, and both States soon legislated for mandatory mediation schemes. By the end of 1986, 10 additional States had introduced similar mediation schemes. Initial fears that such legislation would prompt lenders to either increase interest rates for farm lending or reduce lending to the farming sector have proven to be unfounded. A sunset clause presently in the Farm Debt Mediation Act 1994 will repeal the Act on the second anniversary of its commencement, that is 12 February 1997. However, as I shall explain, the Act is achieving Government objectives and should remain in operation. Accordingly, this bill removes that sunset clause.

Recently I ordered a review into the operations of the Act. This review has been completed and a report has been publicly released. The Rural Assistance Authority is nominated as the implementing authority under the Act. I am informed by the authority that as at 30 August 1996, 728 notices indicating the availability of mediation and intention to take enforcement action have been issued by the major banks under the Act. The Rural Assistance Authority has issued 597 mediation kits to parties interested in mediation. Some 487 farmers have indicated to the major banks that they wish to proceed with mediation. A section 11 certificate is issued by the Rural Assistance Authority to a creditor to indicate that the Act no longer applies to a particular farm mortgage. The certificate is issued once the authority has satisfied itself of certain matters set out in section 11, for example that satisfactory mediation has taken place. Out of a total of 440 cases where a section 11 certificate has been issued by the Rural Assistance Authority to indicate that the Act no longer applies to the farm debt, 309 certificates have been issued on the basis that satisfactory mediation has taken place. In 263, or 85 per cent of those cases, the parties had reached an agreement.

The extensive use of the Act, together with the very significant proportion of mediations in which the borrower and creditor reach an agreement, indicates the success of the Act. Confidential information provided by a sample of the major banks indicates that, in the cases where an agreement has been reached, farmers have continued to trade post mediation. There is also evidence that many of the banks are developing a policy of going to mediation earlier. The earlier banks and other creditors enter into discussion with clients who have a history of poor repayments, the more likely will be the effectiveness of the discussions. The Act's existence, and introduction by this Government while in opposition, has provided an attractive alternative to protracted, costly and emotionally draining litigation. The introduction of the Act has been a catalyst in many instances for the restoration of communication between borrower and creditor. Prior to this a total breakdown of communication for several years had characterised the types of situations now subject to farm debt mediation.

Page 5532

It appears from this information that the objectives of the Farm Debt Mediation Act 1994 are being achieved. The recently conducted review into the operations of the Act also came to this conclusion and recommended that the sunset clause in the Act be removed. Recommendations were also made on how to improve the effectiveness of legislation and the community's understanding of farm debt mediation. The remainder of this bill addresses a number of improvements. A further round of consultation is now taking place on the review's more substantial recommendations. At present, once a section 11 certificate

has been issued by the Rural Assistance Authority to indicate that the Act no longer applies to a farm mortgage, the certificate will last for the life of the loan. This bill proposes to limit the life of a section 11 certificate to three years. This amendment will act to prevent creditors from issuing a notice under the Act to a farmer which would indicate an intention to take enforcement action on a farm mortgage when they do not intend to take such action.

It may also prevent some creditors from seeking a section 11 certificate for a minor default under a farm mortgage which would work to deny farmers the benefits of the Act in respect of any future difficulties they may experience in meeting their mortgage commitments. This amendment will give comfort to a farmer who has been to mediation, restructured, traded out of trouble, and experiences further problems at a later date. Under existing legislation, once the creditor has obtained a section 11 certificate, there is no obligation to submit to further mediation at any stage in the future. The bill proposes that after a period of three years the provisions of the Act should once again come into force for that particular farm mortgage. Some farmers and their advisers have had unrealistically high expectations of the legislation, specifically that mediation implies another chance or that debt forgiveness would be offered. When this is not forthcoming, disillusionment with the mediation process occurs. The reality is that it is within the rights of either party to reject options that deliver substantially less than their legal entitlement.

This bill reintroduces part of clause 49(3) in the original Farm Debt Mediation Bill as introduced to this House. That is, a failure to agree to reduce or forgive debt does not, of itself, demonstrate a lack of good faith on the part of the creditor. At present creditors may apply for a section 11 certificate on the grounds that the three months have elapsed after a notice was given under the Act offering mediation and the creditor has throughout the period attempted to mediate in good faith. As the farmer has 21 days to respond to that notice, it leaves very little time to organise and conduct a mediation and many parties agree to extend the three-month period for mediation. This bill provides that where both parties have agreed in writing to extend the three-month provision for mediation, section 11 certificates cannot be issued on the basis that three months have elapsed. It is pleasing to note that a significant proportion of mediations are now being conducted in regional and rural centres. This assists in reducing the mediation costs to the borrower, minimising time of absence from the farm, utilising local advisers and meeting facilities, and ensuring an environment which is less threatening to the borrower. I commend the bill to the House.

Debate adjourned on motion by Mr Kerr.

FARM PRODUCE (REPEAL) BILL

Bill introduced and read a first time.

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture) [10.56]: I move:

That this bill be now read a second time.

Today I move to provide for the repeal of an Act which my Government has concluded has outlived its usefulness in regulating credit control between farm produce growers and wholesalers of farm produce. Government intervention in the marketing of fresh fruit and vegetables began in 1926 - one of the Lang Labor Government's reforms - with the Farm Produce Agents Act. Historically, growers were located on the edge of urban centres and could readily transport their produce to market for direct sale to retailers and consumers. However, with the expansion of urban centres, fruit and vegetable growers were increasingly forced to locate away from principal markets. This required growers to consign their produce to wholesalers located in the urban centre, who sold the produce on behalf of the growers. Poor transport

and communication led to problems for growers such as the inability to ascertain whether their produce arrived in a marketable state and difficulties in negotiating the price and terms of payment.

The Farm Produce Agents Act 1926 was enacted to overcome these problems. This Act provided for the licensing of wholesalers, the regulation of commission rates and the requirement for wholesalers to hold an indemnity bond to provide growers with payment default insurance in the event that a wholesaler became insolvent. The 1926 Act only regulated agents and the need to extend this regulation to farm produce merchants led to the enactment of the Farm Produce Act 1983. Times have changed since the enactment of the Farm Produce Act and transport and technology have closed the gaps that once existed between farm produce growers and wholesalers. Growers are now more business minded and are aware of the importance of managing the marketing of their produce. Growers also have more choice in who they deal with and are not confined to dealing with wholesalers trading at the markets.

The current legislation is impractical to enforce given modern trading patterns in fresh fruit and vegetables. It is extremely difficult for government to regulate the many thousands of transactions that take place each week between growers and

Page 5533

wholesalers. In addition, the Act does not regulate those transactions where growers deal directly with retailers. This creates an inequity in the market as wholesalers of farm produce have additional cost and restrictions on their trade compared with retailers who deal directly with growers. The Farm Produce Act has given growers a false sense of security that all payment defaults by a wholesaler will be honoured. In practice the indemnity scheme under the Act is returning an average of only 66¢ in the dollar when a wholesaler defaults in payment. This coupled with the fact that growers are now taking more responsibility for their own affairs means that there is no longer a need for government intervention in the regulation of credit control between growers and wholesalers.

The Farm Produce Act was reviewed in 1992 due to concerns expressed by both growers and wholesalers regarding the relevance and performance of the legislation in the current marketing environment. The number of insolvencies was on the rise and growers were not being fully reimbursed under the Act's indemnity scheme. Following the review a working group was established in 1993 consisting of representatives from all sectors of industry and government. The working group concluded that government intervention could not be justified and a number of administrative changes were recommended. These recommendations were amended in June 1995, primarily due to the national competition policy agreement signed by the New South Wales Government. The cost-benefit analysis conducted pursuant to this agreement concluded that there is no clear net public benefit derived from the Farm Produce Act to justify its continued existence.

The proposed repeal of the Farm Produce Act is therefore in line with the principles of competition policy. The bill is structured in a way which provides that the Farm Produce Act ceases to have effect on produce sold after 31 December 1996. To the extent that the Act has any remaining application, it can be repealed at a later date by proclamation. The bill also provides that growers must notify the registrar before 1 July 1997 of outstanding claims if they are to be covered by the indemnity scheme administered by the Act. This will greatly assist with the early finalisation of outstanding claims, as in the past growers have often waited many months before lodging claims for non-payment. The bill includes a savings provision which allows the Flemington markets commercial services scheme to continue to operate under its current rules until 1 September 1997. This is to assist industry with the transition from government regulation to industry self-regulation.

Repealing the Farm Produce Act does not mean that growers will not be protected if a wholesaler defaults in payment. Protection of grower payments will still be available through a voluntary industry-based wholesaler accreditation scheme to be known as "prompt pay". The New South Wales Chamber of Fruit and Vegetable Industries has spent two years in consultation with growers, wholesalers and New South Wales Agriculture developing the prompt pay scheme. It is proposed that the scheme will commence on 1 January 1997, the day after the Farm Produce Act ceases to have effect. The proposed

prompt pay scheme is voluntary and self-regulatory, and both growers and wholesalers are eligible to join the scheme. The scheme protects payments to growers in the event of a payment default by way of a wholesaler-contributed fidelity fund. I am assured that the new scheme offers growers the opportunity to be responsible for their own credit management in dealing with wholesalers and that it also offers registered growers increased security, improved trading and access to current information on the payment performance of their wholesalers.

The Farm Produce Act no longer meets the requirements of the 1990s. It is not achieving its goals in protecting payments to growers and there is no clear public benefit derived from the Act so as to justify continued government intervention in the farm produce industry. The prompt pay scheme has been devised with the current marketing environment in mind, and I am sure that the repeal of the Farm Produce Act, together with the establishment of the prompt pay scheme, will benefit the farm produce industry as a whole and allow it to move with the times. I commend the bill to the House.

Debate adjourned on motion by Mr Slack-Smith.

SENTENCING AMENDMENT (PAROLE) BILL (No. 2)

Bill introduced and read a first time.

Second Reading

Mr DEBUS (Blue Mountains - Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts) [11.05]: I move:

That this bill be now read a second time.

In October 1994 the Hon. John Hannaford, then Attorney General of New South Wales, introduced the Sentencing Legislation Amendment Bill 1994. In broad terms, that bill gave to a victim of a crime a right to make submissions to the Offenders Review Board and to the Serious Offenders Review Council when either of those bodies was to consider making a decision about a serious offender who had committed a crime against that victim and that decision could result in the offender being released on parole, to work release or to a similar program. The bill was debated and passed by the Legislative Council on 22 November 1994; however, before the bill could be introduced in the Legislative Assembly Parliament was prorogued for the 1995 election and the bill lapsed. The Labor Party, then in opposition, supported that bill. The bill which I now introduce is based on the Hon. John Hannaford's 1994 bill. I

Page 5534

trust that the present bill will receive support from the present Opposition just as that previous bill received support from the previous Opposition.

I intend to explain the amendments contained in the bill and, as I do so, for the assistance of honourable members I will point out where the present bill differs from the previous bill and the reasons for those differences. First, the Sentencing Amendment (Parole) Bill changes the name of the Offenders Review Board to the Parole Board. The 1994 bill also made that change. The simple reason for the change is that the main function of the Offenders Review Board is to consider eligible inmates for release on parole. The bill also sets out new procedures which the Parole Board must follow when it considers the possible release on parole of a serious offender. "Serious offender" is defined in section 59 of the Prisons Act, and includes life prisoners, persons serving sentences with minimum terms of 12 years or more, persons convicted of murder and persons managed as serious offenders in accordance with a decision of a sentencing court or the Offenders Review Board. As at 22 October there were 410 serious offenders serving sentences in the New South Wales correctional system.

The new procedure is complicated because there are several different paths along which a

particular matter may proceed, depending upon what action the board, the victim and the inmate individually decide to take at each stage. I will give a brief description of the twists and turns that a matter may take, but I refer honourable members to the bill itself to get a full picture of the process. Before a serious offender's minimum term expires the board will give preliminary consideration as to whether the inmate should be released on parole. Following its preliminary consideration the board will formulate what is known as an initial intention, either to release the inmate on parole or not to release the inmate on parole. If the board's initial intention is to release the inmate, the board will give notice of its intention to any victim of the inmate who has registered his or her name on the victims register. Here is the first difference between the 1994 bill and the present bill.

The 1994 bill made provision for regulations covering the notification of victims. This bill puts the notification procedure into the Act. The Government considers that something of this importance should be clearly spelt out in the Act, not hidden away in the regulations. A victims register is essential so that the Parole Board can be confident that all victims who wish to make submissions have been duly notified of impending parole consideration. Similarly, a victims register is essential so that the board will not inadvertently contact those victims who have made it clear that they would rather have nothing more to do with the matter. Any victim given notice of the board's intention to grant parole will have 14 days to lodge notice of an intention to make a submission. If the victim gives notice of an intention to make a submission, the board will set a date for a hearing and advise both the victim and the inmate of that date.

If the board's initial intention is not to release the inmate, the board will give notice of its intention to the inmate. The inmate will have 14 days to give notice of his or her intention to make a submission. If the inmate gives notice of such an intention, the board will set a date for a hearing and advise both the inmate and the victim of that date. Honourable members will probably have observed that the procedure which the board will follow when it initially intends not to release a serious offender is similar to the procedure it will follow when it initially intends to release a serious offender. This commonality of approach will ensure fairness for both the victim and the inmate. Either before or at the hearing, both the victim and the inmate may make written submissions. At the hearing itself the inmate may also make an oral submission. So, too, may the victim, with the approval of the board.

There are two major reasons for giving the board discretion as to whether it will entertain oral submissions from a victim of crime or, in the case of a deceased, incapacitated or child victim, from a relative of a victim. One is, regrettably, that in the experience of the board disputes occur from time to time within the families of victims, exacerbated no doubt by the tragedy they have experienced. The estranged husband of a murdered woman may wish to give evidence to the board; the dead woman's mother may not wish any submissions to be made. The situation becomes still more complicated, for example, in the case of some ethnic communities where the wishes of the extended family need to be taken into account. The board needs to have discretion to balance the competing interests of the various members of the family and, if necessary, decline to allow oral submissions from a particular person.

The other major reason for giving the board discretion to decline oral submissions from victims is that the parole hearing is not a retrial of the circumstances of the offence. From time to time victims will seek to introduce extraneous information about the history of various persons which runs the risk of reducing the hearing to an adversarial process. After receiving submissions from both the victim and the inmate, if these are lodged, and having considered any other report which it thinks relevant, the board will make a decision either to grant parole or to refuse to grant parole. Following the board's decision the Attorney General, the Director of Public Prosecutions, or indeed the offender may apply to the Court of Criminal Appeal for a direction that the board relied on information which was false, misleading or irrelevant. That is the overall procedure which the board must follow. There are, however, four other points I should make about this procedure.

First, the bill provides that the State may also make a submission to the board. The 1994 bill did not

provide for State submissions. The Government considers, however, that there may be occasions when the State could make a helpful contribution to assist the board in its deliberations. The second point I wish to make about the Parole Board's procedure relates to the definition of victim. The bill defines a victim as either "a victim of the offence for which the prisoner has been sentenced" or as the family representative of such a victim. The first part of this definition is slightly narrower than the first part of the definition of victim in the 1994 bill. The 1994 bill defined victim as "a victim of an offence by the prisoner". The 1994 definition would, however, have allowed a person who was a victim of a crime committed by the offender many years ago, and in respect of which the offender has already served a sentence and been released, to make a submission to the board when the board considers the release of that same offender in respect of a completely different crime and a completely different victim.

The new definition will prevent such a submission from being made. The board would, of course, have available to it a professionally prepared report on the offender's entire criminal record. The third point I wish to make about the Parole Board's procedure also relates to the definition of victim. The bill includes in the definition of victim a family representative of the victim if the victim is dead or under any incapacity, or in such circumstances as may be prescribed in the regulations. I want to make an important point about this provision - namely, that in those circumstances where a family representative is able to make a submission, the family representative will not only be able to make a submission on behalf of the victim but also will be able to make a submission in his or her own right.

The rationale for including in this bill such a wide definition of victim is that, whereas a victim impact statement made to a court at the time of sentencing would focus on the effect of the crime on the victim, it is reasonable that a victim submission to the Parole Board be a document covering the possible effect of release not only on the victim but also, in some cases, on the victim's family. The final point I wish to make about the Parole Board's procedure is that the bill amends clause 19 of schedule 1 to the Sentencing Act, making it plain that a victim or a victim's representative is not entitled to call witnesses or, without the approval of the board, give evidence or address the board. The reason for the proposed amendments to clause 19 is the same as the reason for requiring prior consideration by the board before a victim makes an oral submission to the board - namely, that a hearing by the board is not a retrial and its proceedings should be non-adversarial in nature.

I now wish to say a few things about the procedures of the Serious Offenders Review Council, as amended by the bill. One of the functions of the council is to make recommendations to the Commissioner of Corrective Services on the security classification of a serious offender. The bill inserts new section 62A into the Prisons Act. This section provides that the council is not to make a recommendation which, if approved by the commissioner, would make the offender eligible for consideration for work release and similar programs, without first giving an opportunity to victims of the offender to make written submissions.

The thrust of this amendment is the same as the thrust of the amendments relating to submissions to the Parole Board - namely, to give an opportunity to victims to have their point of view considered. Honourable members will notice, however, that victims cannot make oral submissions to the council. This restriction was also in the 1994 bill. The present bill also provides for the State to make written submissions to the Serious Offenders Review Council. The 1994 bill did not have such a provision. The bill also amends section 62 of the Prisons Act to require the council, when exercising its functions in relation to a serious offender, to consider the public interest. I now turn to a number of more minor amendments to Parole Board procedures. These amendments are not directly related to the amendments on victim submissions.

The bill amends section 18 of the Sentencing Act so that the board will no longer have to consider annually any inmate whose parole has been revoked but who has not been returned to imprisonment following revocation of his or her parole order. The bill also extends the Parole Board's power to decline to reconsider an inmate for parole. At present the Parole Board must annually reconsider for parole every inmate to whom it has previously refused to grant parole. In a small number of cases, however,

professional and case management reports will indicate that the circumstances of a particular inmate are unlikely to change substantially in just one year. The bill therefore amends section 18 of the Sentencing Act to enable the board to defer reconsideration of parole for up to three years.

The bill extends the category of persons eligible to be appointed as judicial members of the Parole Board or the Serious Offenders Review Council. The category is at present limited to judges of the District Court and retired judges of the Supreme Court or District Court. The criteria for eligibility for appointment will now include any judge or retired judge of a New South Wales court or the Federal Court, any magistrate or retired magistrate and any other person qualified to be appointed as a New South Wales judge. This provision makes the Act consistent with the terminology used in legislatively defining other quasi-judicial positions and makes available to the board a broader pool of judicial expertise. This amendment was not included in the 1994 bill.

The bill also increases the number of community representatives on the Parole Board. At present a meeting of the Parole Board consists of a judicial member, two ex-officio members and four community members. As the board meets four days

Page 5536

per week many prospective members, understandably, see membership of the board as virtually a full-time job. The selection of suitable people to sit on the board would be facilitated if there were more community members to share the workload. The bill therefore amends section 45 of the Sentencing Act to increase the number of community members from four to a maximum of 16. The bill also amends section 45 to provide that, for the purpose of any single meeting of the board, not more than four community members may attend. This amendment was not included in the 1994 bill.

The bill also creates an offence of misconduct at Parole Board hearings. Persons appearing before the board - whoever they may be - should recognise that the board is a quasi-judicial body and that their behaviour at board hearings should be appropriate to the circumstances. This amendment was not included in the 1994 bill. The bill also makes a number of amendments by way of statute law revision, for example, to change references to the Director-General of Corrective Services to references to the Commissioner of Corrective Services. Finally, I would mention one other proposal which was in the 1994 bill but which has been omitted from the current bill. The 1994 bill contained amendments to section 447C of the Crimes Act. That section, which has not been proclaimed, relates to victim impact statements made at the time of sentencing. I commend the bill to the House.

Debate adjourned on motion by Mrs Chikarovski.

ENVIRONMENTAL LEGISLATION AMENDMENT (ENFORCEMENT) BILL

Bill introduced and read a first time.

Second Reading

Ms ALLAN (Blacktown - Minister for the Environment) [11.20]: I move:

That this bill be now read a second time.

Central to this Government's commitment to ecologically sustainable development is the need to provide for strong anti-pollution laws and an efficient and equitable enforcement regime. This Government is committed to overhauling the State's existing pollution control legislation, some of which is over 35 years old. A new bill, to be called the Protection of the Environment Operations Bill, is being finalised. The Government expects to release an exposure draft of this bill and a green paper explaining it for at least three months public consultation later this year. Clearly, this is a major project and it will be some time before the legislation is enacted. The purpose of the bill before the House today, however, is to address

potential deficiencies in the existing pollution control legislation which need to be corrected as a matter of urgency.

The Environmental Legislation Amendment (Enforcement) Bill will make two changes to the existing pollution control legislation. The first amends the existing limitation period within which criminal proceedings may be brought for environmental offences, while the second ensures that authorised officers have the power to properly investigate pollution incidents which have occurred in the past. At the moment section 12 of the Environmental Offences and Penalties Act sets time limits on when criminal proceedings can be started for all offences against the pollution control legislation. For most summary environmental offences, criminal proceedings must be started within 12 months of the date on which the offence is alleged to have occurred. However, section 12 provides a three-year limit for certain serious environmental offences, such as the wilful and unlawful dumping of waste which causes environmental harm.

Late in November 1995 the Court of Criminal Appeal in *Environment Protection Authority v Bathurst City Council* handed down a decision which has the potential to create significant problems for those prosecuting environmental crimes. The court decided that for offences involving the pollution of waters, the offence is complete when the pollution occurs. In other words, time will begin to run the moment that any pollutant enters the water and changes the environmental condition of those waters. The difficulty is that a prosecutor may not be able to show exactly when this event occurred and so cannot prove that he or she has brought the prosecution within the appropriate time period. This means that even when a prosecutor is aware of pollution which constitutes an offence and can prove who caused the pollution, but cannot prove that the event took place within the relevant period, the polluter escapes liability. Clearly, this is unacceptable.

Clause 3 of the bill amends section 12 of the Environmental Offences and Penalties Act to change the periods within which criminal proceedings need to be started. Section 12 will provide that summary criminal proceedings for environmental offences must be started within 12 months or, for serious environmental offences, three years from the date of the alleged offence or the date on which evidence of the offence first comes to the attention of a relevant authorised officer. In other words, where an environmental offence has been committed but it is not detected by a relevant authorised officer, time does not begin to run and the limitation period does not apply. Once evidence of an act or omission which constitutes an environmental offence does come to the attention of a relevant authorised officer, time will begin to run and proceedings must be started within the required time limit. In relation to the Environment Protection Authority, EPA, a relevant authorised officer means any member of the EPA's staff who is authorised to exercise any power under the pollution control legislation. For a local council, it means any council employee who is similarly authorised under the same legislation.

Page 5537

The bill also contains a procedural provision to ensure that the prosecutor is not put in the position of having to call evidence from every one of its authorised officers to show when a matter first came to the attention of a particular officer. The provision will allow the prosecutor to nominate the date on which evidence of an offence came to the attention of the relevant authorised officer and, unless the defendant can bring evidence to the contrary, the time limit for bringing criminal proceedings will run from that date. This helps to minimise the risk of increasing the cost of proceedings and causing even further delays in court processes. Of course, it is always open to the defendant to bring evidence that the matter came to the attention of a relevant authorised officer at an earlier date and, as a result, the proceedings have not been commenced within the relevant time limit. This would have to be judged by a court on a case-by-case basis.

There is little point in having strong laws to control pollution if those laws cannot be properly enforced. It is particularly important to ensure that authorised officers can properly investigate pollution incidents which have occurred at some time in the past. Currently, under some provisions of the pollution

control legislation, authorised officers have the power to enter premises where pollution is being caused or is likely to be caused in or from those premises. However, they are not explicitly given the power to enter premises where the pollution has occurred wholly in the past. However, it may be that a past pollution incident needs to be investigated. The bill amends the relevant Acts to ensure that this may occur.

A similar difficulty has arisen with respect to authorised officers inspecting and copying documents and records in relation to past pollution events. At the moment officers can require the occupier of any premises in or from which pollution is being or is usually caused to produce any relevant documents to the officer. Once again, officers are not given the clear power to require the documents to be produced where pollution has occurred at some time in the past. This will be corrected by the bill before the House today. This bill furthers this Government's strong commitment to ecologically sustainable development and the implementation and enforcement of strong anti-pollution laws to protect the environment of New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Hazzard.

HARNESS RACING LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [11.28]: I move:

That this bill be now read a second time.

The Harness Racing Authority of New South Wales assumed responsibility for the control and regulation of the harness racing industry in New South Wales on 1 January 1978 following the passage of the Harness Racing Authority Act through the Parliament in the previous year. This responsibility was previously vested with the principal club, namely the New South Wales Harness Racing Club, which is located at Harold Park. It also presides over the Menangle facility. The original legislation provided that the authority consist of eight members, five of whom were appointed as representatives of certain harness racing clubs and industry bodies. During 1982-83 an inquiry was conducted into the future finances and viability of the harness racing industry in New South Wales. One of the issues addressed by the review team was the membership of the authority. As a result of the findings of the inquiry, in 1983 the legislation was amended to provide that the authority shall consist of five members appointed by the Governor on the recommendation of the Minister of the day.

The amendment was designed to ensure that the Minister has the ability to appoint persons who would best serve the industry as a whole, rather than the previous arrangement whereby appointees were more inclined to support the particular groups which they represented. This system has remained in place to the present day. Until recently it was generally well received by the industry and, despite the criticisms, in the main it worked well. However, in the last 18 months or two years, to varying degrees, the situation has not been so happy. The matter probably came to a head at the end of 1995. However, upon attaining office I became aware that certain industry groups were concerned that the present manner of selection and the limitations on membership of the authority do not enable the appointment of a sufficient number of persons with direct involvement in the industry. In April this year I instigated the holding of a harness racing industry forum at which I listened to and fielded questions from over 400 industry participants.

Some people thought I had rocks in my head conducting the forum because there was a possibility of it getting out of hand. But the forum proceeded constructively. I pay tribute to the shadow minister,

Richard Bull, who participated alongside me. When the other participants could see that there was a genuine bipartisan effort to get some reality into the industry the forum was a success. At that forum I undertook to consider alternative models for the structure of the Harness Racing Authority and the inclusion of industry representation. I intend over the next 12 months to examine the need for the development of a model for the future composition of the Harness Racing Authority which will serve the harness racing industry into the next century. The extended time frame for the formation of this model is particularly appropriate given the current implementation of the AJC Principal Club initiative.

Page 5538

This initiative includes a statutory advisory committee with direct representation on the AJCPC, a feature which could be incorporated in any new harness racing model.

In the meantime, however, the bill before the House will address my undertaking at the harness racing industry forum in relation to industry representation on the authority. The proposed legislation will expand the Harness Racing Authority board from five members to seven members. Whilst the bill will retain the appointment of members by the Governor on the recommendation of the Minister for Gaming and Racing, I will be inviting nominations from the Harness Racing Industry Advisory Board for the two additional appointments by a formal process. In this regard, it is proposed that six nominees will be sought from the advisory board for the two additional vacancies. It will be made clear to the advisory board that its nominees need not be advisory board members and that it should put forward its "best six". All members of the advisory board will be entitled to put nominations forward and, if they cannot agree on the six names, they will be asked to conduct a ballot. It is anticipated that I will be able to select two suitable persons from the six named, but I will not be bound to make the two appointments if none of the nominees is suitable.

I believe that the inclusion of an additional two members on the Harness Racing Authority of New South Wales will be well received by the industry. I intend to make the appointments in time for the selected persons to take up their duties from 1 February next year. The bill before the House will also change the name of the Harness Racing Authority to Harness Racing New South Wales. The name change has been sought by the authority itself and is supported by the industry's advisory board. In this respect, it is felt that the term "authority" is outmoded and inconsistent with the cooperative and service-orientated approach which is provided by the industry controlling body. This initiative is consistent with action taken by the New Zealand and Victorian harness racing industries, which have changed the names of their controlling bodies to Harness Racing New Zealand and Harness Racing Victoria, respectively.

The bill will also give effect to the findings of a review conducted into the Harness Racing Authority Act by my department in conjunction with the Harness Racing Authority. The review identified and recommended changes to those sections of the Act considered outdated or not accurately reflecting current practices. In this regard, the bill will confer upon Harness Racing New South Wales the power to appoint an administrator, with the approval of the Minister for Gaming and Racing, to take control of a harness racing club and manage its affairs in the event that the club is unable to satisfactorily manage its operations.

A similar power has been given to the newly established controlling body for thoroughbred racing, the AJC Principal Club, by virtue of legislation which recently passed through the Parliament. The bill will also increase the maximum fine for a breach of the rules of harness racing from 20 penalty units to 200 penalty units, while the maximum penalty for an offence against the regulations will increase from five penalty units to 20 penalty units. These increases are designed to bring the penalties into line with current day values and to reflect the serious nature of certain offences.

Whilst the authority presently has powers which allow it to disqualify registered persons such as trainers and drivers from participating in the industry, it has no powers in relation to unregistered persons and cannot take action to prohibit any undesirable persons from attending harness racing meetings. Accordingly, the bill will provide Harness Racing New South Wales with powers to deal with unregistered

persons which are similar to the powers given in legislation to constitute the AJC Principal Club.

Finally, in addition to a number of miscellaneous minor amendments dealing with terminology and procedure, the bill will make it clear that Harness Racing New South Wales is not limited to imposing charges for services provided by the stewards, and will ensure that the appointment of an acting chairman of Harness Racing New South Wales can remain valid throughout the term of office of that body. The measures contained in the bill have the support of the present Harness Racing Authority and the industry's advisory board and have been developed in consultation with those bodies - something that needed to be done. Wide support from the bodies was sought. I believe that the proposed amendments will be well received by the harness racing industry in general as a first step towards a progressive and vibrant future for the industry in this State. I commend the bill to the House.

Debate adjourned on motion by Mr Downy.

MINING LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr MARTIN (Port Stephens - Minister for Mineral Resources, and Minister for Fisheries) [11.38]: I move:

That this bill be now read a second time.

The Mining Act 1992 is the basis for mineral exploration and mining operations in New South Wales. Under the legislation titles to explore and mine for minerals are granted and administered. The Act commenced in August 1992. It is an important piece of legislation, not only for the exploration and mining industries and the Government, but also for the community. The Act maintains a strong emphasis on protection of the environment in

Page 5539

accordance with ecologically sustainable principles. The environmental safeguards remain unchanged. Since its commencement four years ago, a careful study of its provisions has been undertaken. I am pleased to bring forward to the House a range of amendments which will improve the legislation. The Government is about removing red tape and other impediments to industry for the benefit of the community.

In 1992 the Labor Party when in opposition supported the replacement of the Mining Act 1973 and the Coal Mining Act 1973 by a single modern Act. The bill continues that approach. An important component of the bill is the introduction of measures to combat the growth in ratting on the opal fields of Lightning Ridge. Ratting is the practice of persons going into the opal mines of other people and stealing opal. Members on both sides of the House will be aware from press reports of the concerns in the community of Lightning Ridge in regard to that unacceptable practice. It has been reported to me that in a single night's activity a ratter can remove many thousands of dollars worth of opal. I have met with miners and their representatives as well as with the police. There is a united desire that the legislation be amended to provide appropriate and realistic penalties for those found guilty of ratting and to deter others who may contemplate ratting.

The Attorney General and I have jointly addressed the matter. I am pleased to say that agreement has been reached that the penalties should be serious, and they are serious. Ratting often leaves the workings of mines in an unsafe condition for the miners. The penalties will deter criminal activity and reduce the incidence of unsafe workings left by ratters. The bill proposes that new provisions, section 12A to section 12E, be inserted in the Mining Act to deal with stealing, attempted stealing, concealment and

removal of minerals. Those sections will re-enact sections 144, 145 and 147 of the Crimes Act, which in turn will be repealed. Section 12B of the Act will provide that a person guilty of an offence of stealing or attempting to steal opal will be liable to a penalty. Importantly, there is provision to elect to proceed in the Local Court or the District Court, depending upon the circumstances and seriousness of the matter. Where the offence is dealt with summarily, the penalty will be a fine of up to \$20,000 or imprisonment for two years, or both.

In a case where matters are dealt with on an indictment, the penalty will be a fine of up to \$50,000 or imprisonment for five years, or both. The bill further proposes to deal with unlawful entry on the sites of mineral claims via section 175A to section 175D. Any person found in or on any land the subject of a mineral claim held by another person without reasonable excuse will be guilty of an offence. A penalty of a fine of up to \$1,000 or imprisonment for six months, or both, will be provided. Where the guilty party is also found to be in possession of tools or equipment of a kind generally used for prospecting or mining, the penalty in those circumstances will be a fine of up to \$2,000 or imprisonment for two years, or both. A further penalty for the offence of ratting is that a court in convicting a person may make an exclusion order prohibiting that person from entering the whole or any part of the mineral claims district concerned, or any other mineral claims district, for a period not exceeding two years. That is provided for in proposed section 175B(2).

A most difficult issue faced by the Department of Mineral Resources, the Department of Land and Water Conservation and Walgett Shire Council has been the spread of camps on the opal fields at Lightning Ridge. I have personally observed the problem. I am addressing this issue in a staged response. Stage 1 involves camp holders using mineral claims as a title to the land on an interim basis. The longer term solution of stage 2 is being formulated by an interdepartmental committee. I am pleased to be able to record the good cooperation the Department of Mineral Resources is receiving from the Walgett Shire Council in addressing this issue. The bill provides that the holder of two or more exploration licences will be able to lodge one security deposit to ensure compliance with the conditions of the licences. Security deposits entered into between a financial institution and the Minister are generally required for each licence to ensure compliance with rehabilitation, reporting and other conditions of the licence.

The new arrangement will overcome the need for separate securities to be held for each individual licence. Whilst that will reduce much repetitive administration for both the exploration licence holder and the Department of Mineral Resources, the integrity of the security system will be maintained. That is, we will have adequate security to cover rehabilitation costs in the event that the holder fails to meet his obligations. The entry provisions for fossicking which have previously been located in regulation 10 are now being brought into this Act. In some areas it may be desirable for fossickers to be permitted to fossick in exploration licence areas without the consent of the holder being obtained. I will have the power to make such a decision.

The bill includes provisions relating to the use of coal washery reject for producing energy. That is an ecologically responsible use of a by-product of the coal industry. A royalty will be charged on coal reject to a maximum rate of half that which is payable for coal. Excavations are being made from time to time by the waste disposal industry or by the building and construction industry which are essential for those purposes, that is, waste disposal, building and road construction. During the course of excavations minerals are removed and sold. It is not appropriate for a mining title to be granted in such circumstances. However, a royalty should be paid. The bill makes provision for that. Fees under the Mining Act will be set by the Minister for Mineral Resources with the concurrence of the Treasurer. For mineral claims, the determination of the compensation payable to land-holders on a claim-by-

Page 5540

claim basis is onerous on all concerned. That matter is addressed in the bill so that a mining warden will be able to assess compensation for all claims within a mining division or for any group of claims within a division.

Amendments have been made to the provisions of the Act in regard to protection of houses and gardens. The protective zones around those will now clearly apply even if the house or garden is not on the land where the title is situated. In other words, the full zone - that is, 200 metres around a house - will apply irrespective of different land ownership. At the present time a period of 28 days is allowed for a holder to apply for renewal of his or her mineral claim. With the thousands of claims in force in Lightning Ridge that period has proved to be too short. Under the bill holders will now have a period of two months within which to apply for renewal. From time to time it is necessary to allocate specific parcels of land within an exploration licence to another party as a result of contractual arrangements between the parties. The bill streamlines the process by providing for partial transfers of exploration licences. The bill clarifies provisions relating to the entry onto mines and lands by departmental officers, including geologists and royalty officers.

Consolidation of a number of mining leases into a single lease has been a tremendous improvement and simplification. However, a lease subject to renewal action cannot currently be included in a consolidated mining lease. The bill allows the grant of a consolidated mining lease without any lease subject to renewal action first having to be renewed. That amendment further streamlines the process. The bill also provides for the deletion of mineral water from the list of minerals under the Mining Act. That is necessary if the administration of all mineral water extractions is to be handled by the one authority, namely, the Department of Land and Water Conservation. An oversight when the Mining Act was drafted in 1992 resulted in land below the waters of a prescribed dam being excluded from the notification areas around prescribed dams administered by the Dams Safety Committee. The oversight is rectified by the bill. A number of other small amendments of an administrative or statute law revision nature are incorporated in the bill, including appropriate savings and transitional provisions. The bill is a major step forward in the improvement of the Mining Act and I therefore commend the bill to the House.

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

BUILDING SERVICES CORPORATION LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mrs LO PO' (Penrith - Minister for Fair Trading, and Minister for Women) [11.49]: I move:

That this bill be now read a second time.

It is with great pleasure that I introduce this bill. The legislation before the House delivers a package of reforms aimed at establishing the right conditions for fair trading between consumers and contractors in the home building industry. For almost a quarter of a century successive New South Wales governments have struggled to find a workable and permanent solution to the problem of protecting consumers who are building or renovating a home from the pitfalls of dealing with a shoddy or bankrupt builder. I am sure that many honourable members have had people coming to them seeking their help with building problems. I certainly have. Some of them have been absolutely desperate. They do not know where to turn next as they face the prospect of financial loss.

Fortunately, for the majority of people, the job usually gets done properly and on time. But every building contract has the potential to go wrong, and when it does go wrong there can be serious problems, often involving thousands of dollars and great distress for those involved. With help and advice, many building problems can be sorted out quickly. However, last year more than 5,000 consumers found it necessary to lodge formal complaints with the Department of Fair Trading against their builders in order to get their disputes resolved. That is often after protracted efforts to get the builder to respond appropriately. To meet the costs of rectifying or completing work some \$14 million was paid out by the

Department of Fair Trading in insurance claims in 1995 in respect of work done or contracted to be done by licensed contractors. The figure for 1996 so far has exceeded \$17 million.

Those who work in the industry and take pride in having an unblemished record of good customer service can only be annoyed and concerned about those operators whose shoddy workmanship and unethical business practices bring the whole industry into disrepute. The Department of Fair Trading took over the administration of the present insurance scheme from the Building Services Corporation in September 1995. The BSC had been established in 1987 as a one-stop shop to provide consumer protection in the home building industry. Honourable members will recall that a commission of inquiry was conducted by Dr Peter Dodd into the operations of the BSC, following an earlier recommendation of the Royal Commission into Productivity in the Building Industry. Dr Dodd reported in February 1993, and the then Government introduced legislation aimed at addressing some of the problems identified in his report.

Whilst some changes have been made to the present system, the fundamental reform issues identified by Dr Dodd remain to be dealt with. These are the introduction of private home building insurance and the reform of licensing. The bill is largely about the first of these issues, the opening up of insurance to the private market. However, before I speak about the proposals contained in the bill I wish to make it clear that this is only one

Page 5541

mechanism by which the Government can assist consumers in the home building industry. Most importantly, I am committed to inspections during various stages of the building process as an essential consumer protection mechanism. The recent Crawford report stressed the importance of the inspection process. Discussions about this matter are continuing with the Minister for Urban Affairs and Planning, and Minister for Housing and the Minister for Local Government.

There appears to be general agreement that the present government-operated insurance system has not worked well. The Dodd review concluded that there were far too many conflicts of interest within the Building Services Corporation to allow it to work properly. On the one hand the BSC was a regulator. As part of that role it was responsible for advising consumers and assisting to resolve disputes. On the other hand, the BSC was an insurer, and was expected to run the scheme on commercial lines. Many conflicts arose between the BSC's regulatory role and that of dispute resolution and insurance. On the election of the Carr Government an inquiry was commenced into longstanding grievances between consumers and the BSC. The inquiry, chaired by Peter Crawford, was required to examine a number of identified cases and to consider whether the consumers had received their entitlement under the legislation and whether the BSC and the former Builders Licensing Board properly discharged their statutory duties to the consumers.

While the inquiry was asked to deal with, in the main, intractable complaints, it was able to identify some of the general characteristics of the operations of the BSC and what it saw as the clear evidence of systemic failure of the BSC model of oversight of the home building industry. Honourable members will be aware of the criticisms made of the BSC by the inquiry and the fact that it recommended the payment of significant amounts in compensation. I do not propose to go into those matters again. However, I would mention that the inquiry believed it was not appropriate for the Department of Fair Trading to operate an insurance scheme in this industry, even though the motivation may relate to consumer protection.

The inquiry supported the introduction of a private insurance scheme provided the private insurers met basic requirements and standards laid down by government. The Government believes that home building insurance should be compulsory. In a voluntary scheme, it is likely that some consumers will not take out insurance because they are not aware of the consequences of being uninsured. That could leave them exposed to the risk of crippling losses, which could financially ruin them and their families. Such an outcome would not be in the public interest and is socially unacceptable. Hence it will be compulsory for home builders to have insurance cover. The beneficiary will be their client, the consumer.

The system we have had in New South Wales has lacked the incentives to encourage competent

and efficient contractors and has treated all licence holders in the same way. There have been no rewards for the good builder, nor any incentives for others to lift their game. The same insurance premium is charged, irrespective of the risks which different builders pose or the quality of work they provide. Good builders have not been rewarded by lower premiums. Until recently all builders and contractors had gold licences. That raised the expectations of consumers and created a false sense of security. It was only after a problem arose that many consumers learnt, to their surprise, that there were no silver or bronze licences. As one consumer remarked to me, "If this is the work of a gold licence holder, God help the others."

Privately run insurance has the potential and the means to change all of this. Bad builders will be able to be excluded. They will not get insurance and therefore will not work in the residential building industry. Good builders will be rewarded with lower premiums. Private sector insurers will be able to manage the risks far better than a government scheme. The Government will, however, continue to play a key role by setting the minimum conditions of the insurance scheme and by closely monitoring its operation. The conditions set by the Government for the private scheme will also give New South Wales home owners significantly improved cover compared to those which operated in the past. I will say more about the specifics of the insurance proposals shortly.

I would now like to introduce one of the other major elements of the reform package: the regulation of contracts. This Government came to office with a commitment to tighten up on the form and content of home building contracts. This commitment recognises the importance of the contracting process to both parties. For too long it has been a process heavily skewed in favour of the builder. The legislation spells out specific inclusions and exclusions in building contracts, as well as statutory warranties which will be common to all building contracts. One of the important proposals is to eliminate compulsory arbitration clauses from building contracts. I will say more about the contract proposals a little later.

In these introductory remarks, I would like to refer to one other matter. The Government will continue to license builders. Work on reviewing the licensing system is under way and will continue. A discussion paper on licensing was released in September for public comment, with six options for licensing in the New South Wales home building industry. Submissions will close on 20 December, following which proposals for the future of licensing will be developed. The reforms dealt with in the bill form part of the overall regulatory framework for the building industry. As I mentioned before, another important area is the inspection of work during the construction process. I believe the level of consumer protection could be significantly raised

Page 5542

through the introduction of quality inspection services and I am having ongoing discussions with other Ministers on this important issue.

I will now turn to the specific provisions of the bill. The new insurance scheme will apply to all residential building work currently requiring a licence and costing over \$5,000. The \$5,000 insurance threshold is consistent with the level applying in other States with mandatory insurance schemes. Insurers have, however, advised that insurance cover for work under \$5,000 will be available as an option. Consumers will also continue to have access to the Building Disputes Tribunal, and, as well, the Department of Fair Trading will provide advice and assistance to consumers regardless of the contract value. I will enlarge upon the department's future role in dispute resolution later.

The scheme will not operate retrospectively and will only apply to contracts entered into or work begun after the commencement of the legislation. Building contractors will not be allowed to contract to do work unless insurance has been arranged covering the work. In most cases it is expected the contractor will do this but it will also be open to the owner to arrange the insurance. It will also be a requirement that a certificate of insurance be attached to the contract. Similar provisions apply to the suppliers of kit homes. In the case of "spec" builders and developers who are having work done the required insurance must be taken out prior to the commencement of the work. On the sale of a building by such persons a certificate of insurance will have to be attached to the contract for sale.

Owner-builders will be required to arrange for insurance coverage for subsequent purchasers but only where they decide to sell their property within seven years from completion of the work. It will also be a requirement for an owner-builder selling a property within that period to attach a certificate of the insurance to the contract for sale. The contract for sale will be voidable at the purchaser's option if the owner-builder does not obtain the insurance cover. In cases of exceptional circumstances or hardship the Director-General of the Department of Fair Trading will be able to exempt a person from the requirement to obtain insurance. This, however, will not apply to contractors doing work under a building contract.

The insurance scheme will cover consumers against loss from non-completion, defective work or otherwise from a breach of statutory warranty. It will also apply for the benefit of successors in title to the consumer who originally had the work done or who purchased the property from a builder or developer. The bill sets out the general requirements for insurance contracts. The contract must be of a kind approved by the Minister. So that insurance is only provided by sound and reputable companies, the Minister will approve insurers who operate. The Minister may revoke or vary an approval. The maximum cover must not be less than \$200,000 or such other amount as may be prescribed by regulation. This amount will be adjusted from time to time according to upward movement in building construction costs. Any limitation of liability clauses in the contract of insurance will have to comply with the regulations. To prevent minor or frivolous claims an excess of \$500 has been included.

The period of cover for non-completion will be for not less than 12 months from when the work ceased or the kit home was supplied. Cover for other losses, such as defective work, will be for not less than seven years from completion of work, supply of the kit home or the end of the contract, whichever is the later. The regulations will further provide for the requirements of policies with annual blanket cover, beneficiaries, losses indemnified, the periods within which a claim must be made, and when work is complete. The regulations will provide that an appeal may be lodged against the decision of an insurer with the Building Disputes Tribunal or Commercial Tribunal within 30 days of service of the decision. To help ensure that claims are dealt with expeditiously by insurers the regulations will provide that a claim that is not determined within a specified time will be taken to be refused unless the claimant agrees to further time. This will enable the claimant to lodge an appeal with the appropriate tribunal. I will discuss this new jurisdiction of the tribunals later.

As is the case under the existing government scheme the insurance provisions do not apply to dwellings built for or sold by the New South Wales Land and Housing Corporation. So that purchasers of such dwellings are not disadvantaged, the Director-General of the Department of Housing has given a commitment that the corporation will provide the same level of protection to these purchasers as they would receive under the insurance scheme. Because of the possible serious ramifications for a consumer in dealing with an uninsured contractor the bill provides for heavy penalties to deter uninsured contracting and building work. A penalty of up to \$10,000 will apply to persons breaching the insurance provisions. If holders of licences are convicted more than once in any 12-month period their licence will be automatically cancelled. Further, an uninsured contractor will not be able to enforce any remedy for breach of contract or to recover money from the owner by any other legal course of action.

As a further mechanism to deter uninsured building work the bill includes an amendment to the Local Government Act which provides that a council must not forward or deliver to any person a copy of the plans and specifications unless it is satisfied that the builder has complied with the insurance provisions. A similar role for councils is presently undertaken in relation to the current scheme. An approval will have no effect unless the council has endorsed on a copy of the plans that it is satisfied that insurance has been taken out. If the builder is not known at the time of building approval, council must grant approval subject to a condition that the

Page 5543

builder or person who does the work complies with the insurance provisions. These requirements do not apply to work to be done by the holder of an owner-builder permit.

I pointed out earlier in my speech that the legislation makes provisions relating to home building contracts. Contracts will have to be written, contain the parties' names, the contractor's licence details, the plans and specifications and any statutory warranties. The contract price will have to be prominently displayed on the first page of the contract and contain a warning if it is subject to change. The contractor must give the owner a copy of the contract within five clear business days after entering into the contract. The bill prohibits compulsory arbitration clauses in building contracts. Arbitration has been criticised as a way of resolving home building disputes because such compulsory clauses can lock the parties into the process without them realising. The bill does not prevent the parties, after a dispute has arisen, from choosing to use arbitration as a means to resolve their differences.

A building contract will also no longer give a builder an estate or interest in land in order to lodge a caveat on the title to the consumer's land other than in two special circumstances. These are where the contract price is over \$500,000 and where a judgment or order of a court or tribunal is made in favour of the contractor. Similar provisions apply to contracts to supply a kit home. As I have mentioned, building contracts will have to contain relevant statutory warranties. These warranties are set out in the bill and are given by the builder. They are implied in every contract to do residential building work. The warranties relate to the performance of the work, the materials to be used, compliance with the law, completion time and fitness for occupation. The warranties will apply not only to the consumer who enters the contract but also to subsequent owners of the property. These statutory warranties will not be able to be excluded by any provision of the contract and will last for seven years from completion of the work. If the work is not completed, the warranties will run from the completion date specified in the contract or, otherwise, the contract date.

A private insurance scheme will see changes to the handling of building disputes although the Department of Fair Trading will continue to play an important role. When consumers have a complaint they will be able to contact the department for assistance. The department will attempt to resolve the matter by getting the parties to discuss their problems. In my experience a number of complaints are the result of a breakdown in communication and can often be resolved if the parties will talk to each other. If this fails the department will advise the consumer on how best to proceed. This may involve the consumer participating in a mediation arranged by the department, lodging a claim with the insurer or taking the matter to the Building Disputes Tribunal, Commercial Tribunal or the courts. The role of the insurers will be to deal with insurance claims against the builder. I might point out that in the case of work done prior to the commencement of the legislation the department's current dispute resolution processes, complaint handling and insurance systems will continue to apply.

The Department of Fair Trading will retain its disciplinary role over licensees. If a complaint against a licensee in the department's view warrants action against the licensee, it may initiate show-cause proceedings in the Commercial Tribunal. The department will target those licensees who engage in misleading and deceptive conduct or who otherwise pose a risk to the public. To ensure that insurers are not dissuaded from making complaints to the department against builder clients, the bill provides that an insurer is not liable for any loss, damage or injury suffered by the insured or any other person because of the complaint made. As part of the reform package certain changes will also be made to the jurisdiction of the Building Disputes Tribunal and Commercial Tribunal. These will be made to ensure consumers have adequate avenues of redress under the private insurance scheme.

The changes to the Building Disputes Tribunal necessitate amendments to the Consumer Claims Tribunals Act. The Building Disputes Tribunal will be given power to hear appeals by consumers against decisions of insurers under a contract of insurance in respect of claims up to \$25,000. With the new role of the Department of Fair Trading in dispute resolution, those existing provisions of the Consumer Claims Tribunals Act which require the Building Disputes Tribunal to refer building claims to the department for investigation will be repealed. To supplement its existing powers to deal with building disputes between consumers and contractors, the BDT has been given new order-making powers. It may make an order requiring a claimant to pay money into a trust account administered by the Department of Fair Trading for the purpose of its being held pending the rectification of the work by a licence holder. The BDT will also

be given jurisdiction under the Contracts Review Act to set aside or vary an unjust term of a contract. This power does not impinge on any jurisdiction of the Supreme Court under the Contracts Review Act. The tribunal's jurisdiction is limited to contracts with a consideration of up to \$25,000.

The Commercial Tribunal, which presently hears all appeals under the current insurance scheme, will be given jurisdiction to deal with insurance appeals for amounts exceeding the monetary jurisdiction of the BDT, which is currently \$25,000. The tribunal will also be given authority to hear and determine building disputes between consumers and contractors for such amounts. The Commercial Tribunal will be given jurisdiction under the Contracts Review Act similar to the BDT to set aside or vary an unjust term of a building contract. This will apply to contracts with a consideration exceeding the jurisdiction of the Building Disputes Tribunal.

Page 5544

I explained earlier in my speech that the BSC insurance scheme is now administered by the Department of Fair Trading. Members will recall that in 1995 the Government announced its intention to amalgamate the BSC, Department of Consumer Affairs, Office of Real Estate Services, Registry of Cooperatives and the Motor Vehicle Repair Industry Council to form a newly created Department of Fair Trading. A number of administrative arrangements have already been put in place for this purpose, and since October 1995 the various functions of the BSC have been administered by the director-general of the department.

The bill formalises the steps already taken and abolishes the BSC as a legal entity. All the assets, rights and liabilities of the BSC are to be transferred to a newly created body under the control of the Minister, called the Fair Trading Administration Corporation. This will be the vehicle for the continued operation of the existing insurance scheme. Those assets and reserves not necessary for the insurance scheme will be able to be transferred, by order of the Minister, to the department for other purposes. The director-general will continue to be responsible for the day-to-day management of the functions of the department under the Act.

A new trust account will be established and maintained by the Fair Trading Administration Corporation. The trust account is a facility provided to assist in the resolution of disputes. It will be used to hold moneys paid in, either voluntarily as part of a settlement, or following an order of the tribunals, pending the rectification of work by the contractor. A new education and research fund is to be established and maintained by the department. The Home Building Advisory Council, a body consisting of consumer and industry representatives, will be able to advise the Minister on the provision of funding for education and research. In light of these changes it is proposed to change the title of the Act to reflect the fact that there is no longer a Building Services Corporation and to focus on the main area of operation of the legislation. The new title will be the Home Building Act.

The Government believes that the reforms which I have outlined will see the beginning of a new era for consumer protection in the home building industry. Consumers will benefit by fairer building contracts, the improved cover provided under the private insurance scheme and the new powers of the tribunals. Contractors will have greater confidence in the new system, which will provide incentives for those who supply quality, cost-efficient work. Taxpayers of New South Wales will no longer bear the risk of having to underwrite a government-run scheme. Lastly, it will clarify the role of government and enable it to concentrate its efforts on bringing about value and fairness in the home building industry. I commend the bill to the House.

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

FINES BILL

Suspension of standing orders agreed to.

Bill introduced and read a first time.

Second Reading

Mrs LO PO' (Penrith - Minister for Fair Trading, and Minister for Women) [12.18], on behalf of Mr Whelan: I move:

That this bill be now read a second time.

This bill provides for reform of the current system of fine enforcement in New South Wales. The fine is the most commonly used penal sanction in Australia. In New South Wales in 1994, 56.9 per cent of persons convicted in local courts received a fine as the penalty for their principal offence. A recent report by the Bureau of Crime Statistics and Research - BOCSAR - entitled "Fine Default: Enforcing Fine Payment" indicates that the average value of the 87,000 fines issued by the Local Court in 1994 was \$327, resulting in a total of \$28.5 million due in court-imposed fines for 1994. The vast majority of fines are, however, imposed by way of infringement notices.

According to the New South Wales Auditor-General's 1994 report, approximately 1.6 million infringement notices were issued for parking and traffic infringements, and a further 100,000 infringement notices were issued for infringements detected by red light and speed cameras in the financial year 1993-94. In addition to these, infringement notices are also issued by councils and other organisations. The BOCSAR report also estimated that 7.7 per cent of the adult population in New South Wales, or 397,000 individuals, had at least one outstanding warrant for unpaid or unexpiated fines at the central warrant index. The total number of warrants at hand on 10 December 1995 was 707,000, which were valued at \$132 million. In relation to the payment of fines imposed for traffic offences, the present system of cancelling licences and registration has a high success rate. The efficiency and effectiveness of the overall scheme is challenged, however, by the sizeable number of individuals who do not pay their fines and by the accumulated debt to the Crown in unpaid fines, which currently stands at an estimated \$298 million.

Traditionally, the adequacy or otherwise of the fine default system has been measured by the number of fine defaulters imprisoned for defaulting on the payment of their fines. The present system provides a number of non-custodial options in an attempt to avoid imprisonment. Accordingly, a high incarceration rate for fine defaulters can be taken as a failure of the system. In 1994-95 there were 2,438 fine defaulters received into New South Wales prisons. This figure represents a return to the pre-1994 moratorium figures, suggesting that recent legislative changes have done little to alter the number of fine defaulters being taken into custody for fine default. Whilst the imprisonment rate of fine defaulters can be an indicator of the success, or

Page 5545

failure, of the fine enforcement system, other factors are also important. What has been highlighted by the recent research by the Bureau of Crime Statistics and Research is the fact that the present fine default enforcement system involves extremely long delays at almost all stages of its implementation.

The bureau suggests that the imprisonment rate may reflect more on the fact that, due to the inefficiency and uncertainty of the present system, people believe that they will be able to avoid their obligations, rather than the fact that they have been unable to pay the fine. The bureau suggests that the fine enforcement system should operate with greater certainty and efficiency, informing defaulters of their obligations and of the consequences which would flow from the failure to meet those obligations. In September 1995, in response to perceived dissatisfaction with the present system of fine default enforcement, an interdepartmental working party was established to examine the issues associated with the implementation of the present system and to identify problems each agency was experiencing with the present system. Representatives of the working party visited Western Australia and Victoria to examine the systems for fine enforcement in those States.

The legislative changes contained in the bill are based on the working party's recommendations. The reform of the current fine-enforcement system will result in a new system with the following features. First, the establishment of a State Debt Recovery Office - SDRO. This office will have the essential role of managing the overall process of fine enforcement, coordinating the other agencies involved in the process and generally establishing performance management standards and creating an audit trail for the system. Second, enforcement procedures which will provide that an infringement notice requiring payment within 28 days may be issued by the police, local authorities or other prosecuting agencies. If the fine is not paid within the 28-day period, the prosecuting authority will send by ordinary post a final demand notice requiring payment within a further 28 days. The individual will retain the right to have the action dealt with in the Local Court, as will the prosecuting authority.

For a court-imposed fine, the offender will have 28 days in which to pay the fine or to make arrangements with the court for time to pay. If after the prescribed period the fine remains unpaid, the matter will be referred by the prosecuting agency or the court to the State Debt Recovery Office for enforcement action. On receipt of the reference the State Debt Recovery Office will notify offenders that they have 28 days in which to pay the fine and that failure to do so will result in a person's licence being suspended or registration cancelled. Offenders will also be advised of the enforcement provisions which will follow should they continue to be in default. After the 28-day period the SDRO will refer all unpaid fines, traffic and non-traffic offences, to the Roads and Traffic Authority - RTA - for matching against licence and car registration information. If a match is made, the offender's licence will be suspended or the car registration will be cancelled.

The SDRO will refer matters to the Sheriff's Office for civil enforcement where the RTA is unable to match a fine with a licence or car registration, or a licence has been suspended or car registration cancelled and the fine remains outstanding after six months. The SDRO will assess each matter prior to forwarding a warrant of execution to the Sheriff's Office. The SDRO will have access to Government databases to permit verification of offenders' addresses prior to the matter being referred to the Sheriff's Office. The Sheriff's Office will be authorised to seize and sell goods and property and, if necessary, land. If no goods are found to levy, the sheriff's officer will serve the offender with a community service order - CSO. In the event of a default on a community service order, a warrant for arrest will issue and the police may take the offender into custody.

It is not appropriate to view any one sanction imposed in the course of enforcement in isolation. Offenders can move on to the next stage of enforcement only when they have defaulted on the previous stage. The philosophy underlying the two major proposals which form the basis for the proposed New South Wales system of fine enforcement involves, firstly, the notion that if the State is to grant a privilege - that is, the right to drive on State roads - then members of the public who are in default of an undertaking to the Crown - that is, payment of a fine - can have that privilege removed. It is proposed that all fine defaulters will have their driver's licences suspended or vehicle registrations cancelled until the fine is paid in full. This will be so regardless of the fact that the fine may have been imposed for a non-traffic offence.

Secondly, any fine-enforcement system involving a number of agencies must be coordinated and accountable for its performance. The current scheme is owned by no one agency, with each agency operating very much in isolation from the other agencies. This results in very time-consuming enforcement procedures, no reliable statistical data on the current scheme and no reliable performance management systems. It is, therefore, proposed that a coordinating agency be established to assume responsibility for the coordinated implementation of the system and for establishing and monitoring the performance of the system. The main objective for the Government is to ensure that the integrity of the fine as an order of the court, or as an administratively imposed sanction, is maintained by providing an effective sanction against non-compliance.

Implicit in this objective is the need to ensure equity of treatment by preventing people from avoiding

the effect of sanctions; to reduce the
Page 5546

number of fine defaulters in custody; and to ensure that the fine enforcement system is efficient and effective. There is also a duty upon the agencies enforcing the system to ensure that the fine enforcement system maximises the collection of moneys due to the State. It is believed that this can be achieved by improving the certainty of the enforcement process and improving the knowledge of the enforcement procedures within the general community. It must be emphasised that the proposed system does not seek to rely upon imprisonment as an incentive to pay fines. Rather, it is intended that, by having an efficiently managed and timely enforcement procedure in place, offenders will pay their fines because they know they will not be able to slip through the enforcement net as they can at present.

The fact that an estimated 7.7 per cent of the New South Wales adult population has outstanding warrants for unpaid or unexpiated fines indicates how inefficient the present system is. Under the proposed scheme more offenders will be paying their fines to avoid licence suspension or registration cancellation in the first instance. This action is then followed by civil enforcement and if the person has no property, then they must undertake community service. At this point there should be very few people who have not either paid their fine or expiated it through civil enforcement or community service. Only those who may be described as professional fine defaulters are likely candidates for gaol and only then if they have no property to seize and wilfully fail to perform community service.

It is accepted that there will be occasions when some people will have difficulties in paying fines and that people will find themselves in financial circumstances which will make payment difficult. It is proposed to adopt a number of approaches to address this situation. Payment of fines will be assisted by providing for the payment of the fine by credit card, EFTPOS and periodic debit authority or credit slips. It is anticipated that telephone payment by credit card will also be available. Fine defaulters will also be encouraged to sign bank authorisations to permit direct payment of the fine. Payment may also be made directly to the State Debt Recovery Office or to a court at any time. Time to pay will also be available.

For traffic offences, offenders will have two months in which to pay their fine before it is referred to the State Debt Recovery Office for further enforcement. They will then have a further month in which to pay their fine before licence suspension or registration cancellation. For court-imposed fines, offenders will have 28 days in which to pay the fine or to make arrangements for time to pay with a court officer. There will be no limit on the time in which a fine must be paid and offenders will be given every opportunity to pay the fine before enforcement action is taken. Offenders can vary their payments on negotiation with a court officer.

However, on default of time-to-pay arrangements, the matter will be referred to the State Debt Recovery Office, and offenders will have 28 days to pay before licence suspension or car registration cancellation action is taken. If an offender keeps to his or her agreement for time to pay there will, of course, be no need for the matter to be referred to the SDRO. Once the matter has been referred to the SDRO, time to pay will be available only on application to that body. Time to pay will be available up until a community service order is made. In addition, financial efficiency requires that at some point in the enforcement cycle a decision is taken regarding the economic sense of continuing attempts to recover a fine or a penalty. In making that decision a balance must be struck between the cost of enforcement, the capacity of the defaulter to pay the fine or undertake an alternative and the maintenance of the integrity of the fine enforcement system.

The State Debt Recovery Office will be developing guidelines for the implementation of the write-off policy which will take into account such matters as the assets, the age, the state of health and the employment status of the defaulter, and whether any attempt has been made to pay the fine and to what extent any payment has been made. If a fine defaulter has no money or property and is unable to complete a community service order for particular health or social reasons then the matter may be written off. To assist in the smooth introduction of the new scheme, it is proposed that an amnesty be offered on outstanding fines for a three-month period prior to the new system being introduced. This will be

preceded by a major media campaign to inform the general community of the new system and how it works and the need for fine defaulters to pay their fines - or make arrangements to pay off the fine, or seek to have the fine otherwise dealt with - prior to the new system coming into force.

When Western Australia introduced similar reforms in 1995 it provided for an amnesty period also, and it is understood that the Government there achieved a 50 per cent recovery rate of outstanding fines during the amnesty period. After the amnesty, those people who still have outstanding fines which were imposed under the old system will go into the first stage of the new system, and their matters will be referred by the SDRO to the Roads and Traffic Authority for matching and processing through the new system. In summary, the legislation provides for an integrated enforcement process that is to be managed by a central body, which will ensure the timely progression of the enforcement process. This body will coordinate the other agencies involved in the process and generally establish performance management standards and create an audit trail for the system, none of which exists at present. The purpose of the new system is to ensure that, as the fine is the most commonly imposed penalty, the integrity of the fine as an effective sanction is maintained. In addition, it is the responsibility of the agencies enforcing the system to ensure that the revenue owed to the Crown is paid to the Crown.

Page 5547

Finally, the Government is very conscious of the need to keep defaulters out of prison as far as possible. The way this is to be achieved in the first instance is by encouraging offenders to pay their fines in the first place. This in turn is to be achieved by having an enforcement process which is clearly understood by the public and which is seen to be enforced in a timely manner. Under the new system, which provides a structured series of sanctions for fine defaulters, it is anticipated that more offenders will be paying their fines to avoid the various sanctions. There should be very few people who have not either paid their fine or expiated it through civil enforcement or community service. Only those who may be described as "professional" fine defaulters are likely candidates for gaol, and only then if they have no property to seize. I commend the bill to the House.

Debate adjourned on motion by Mr Rozzoli.

SUPERANNUATION LEGISLATION AMENDMENT BILL

Bill introduced and read a first time.

Second Reading

Mr DEBUS (Blue Mountains - Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts) [12.35], on behalf of Mr Carr: I move:

That this bill be now read a second time.

The Superannuation Legislation Amendment Bill introduces administrative reforms and corrections to the public sector and parliamentary superannuation schemes. Some of these proposed reforms are of long standing but were postponed in 1995 because of the State election. Other amendments are of more recent origin. Superannuation represents a significant cost component of public employment benefits and affects the rights of hundreds of thousands of public employees. Superannuation must respond to a constantly evolving environment of community standards and employment trends. It is, accordingly, appropriate that attention should be given to the need for constant review and the prudential governance of schemes. This amendment package consists of 17 separate measures, affecting a number of schemes and Acts. I will outline briefly the measures in the bill in their order of appearance. I will deal in greater detail with the more important measures.

The first two amendments are to the coal and oil shale mineworkers superannuation legislation. Although this scheme is now privately run as a trust deed arrangement a legislation shell is retained. The amendments add a provision for audit certification of employer contributions required by the Act and to meet Commonwealth guarantees. And, secondly, there is a correcting amendment to ensure that mineworkers are entitled to a safety net invalidity benefit that was intended following the repeal of the statutory scheme in 1993. I shall deal now with an important series of amendments to the First State Superannuation scheme, FSS. The amendments particularly affect death or invalidity benefits. In First State Super there is provision for all full members to be automatically covered for a basic amount of insured death or invalidity benefit. A full member is one not having a right to cover under any other public sector scheme. Such a member may elect not to be covered by these provisions, but otherwise cover is completely automatic.

A significant crisis has arisen in the provision of automatic basic cover affecting small accounts. Objections have been made by thousands of affected members to the trustee and the scheme administrator protesting the charges to their accounts for cover they did not know they had. The trustee acted to protect small accounts of \$1,000 or less by not providing the automatic cover. The trustee has also implemented a system requiring these members to elect if they require the basic cover. The proposals will legislate the changes in the availability of these benefits and will validate trustee actions since 1 March 1996. It is additionally necessary to take steps to prevent potential abuse of the availability of automatic death or invalidity benefits. For this purpose the proposed amendments will ensure that future cover is provided once only for a member and is not provided when a member has already received an invalidity superannuation payout.

Measures in the bill aimed at protecting small account holders in the scheme relate to administrative costs, and will ensure that costs for death or invalidity cover are not paid by members who do not have the cover. They will also sheet costs of reprocessing accounts to the employer concerned, when reprocessing is a result of employer error. Further measures in relation to the First State Superannuation scheme will streamline provisions for the payment of benefits and allow greater flexibility in line with Commonwealth regulations governing schemes that are subject to the Commonwealth Superannuation Industry (Supervision) Act 1993, the SIS Act. In particular, these amendments will allow transfer of an account balance from FSS to a complying scheme if the member has elected to have compulsory employer contributions paid to that scheme.

This latter provision will aid in consolidating superannuation coverage, and will help in the protection of small accounts against duplicated administration expenses. Amendments are proposed in this legislation to the Local Government and Other Authorities (Superannuation) Act 1927 following the enactment of the Local Government Act 1993. Under the superannuation legislation, superannuation benefits were reduced by gratuities paid under the Local Government Act 1919. The amendments will recognise similar gratuities paid under the new Act. I would like now to address proposals for amendments to the parliamentary superannuation scheme. These amendments are to permit benefits to be paid to the de facto spouse of a member or pensioner in the scheme upon the death of that member.

Page 5548

Currently the scheme provides a pension to the widow or widower, only, of a former member, or to the widow or widower of a member who dies in service. The amendments extend the spouse pension to de facto spouses of the opposite sex, subject to the same rules of entitlement and, importantly, redress discrimination in the provision of those benefits in the scheme. This will bring the scheme in line with similar provisions of the main New South Wales public sector employee superannuation schemes. As in the other New South Wales public sector schemes, equal priority will be given to legal and de facto spouses. In the event of competing claims, the trustees will be empowered to assess claims and make appropriate payment or apportionment of benefit entitlement. Similar discretions are exercised by the trustee corporations in respect of the employee schemes.

The redefinition of spouse in the parliamentary scheme will also extend entitlement for a child pension benefit upon the death of a member or former member. Entitlement is based on total dependency at time of death of the member or former member. A second series of amendments in the parliamentary scheme will enable any former member of the Commonwealth parliamentary scheme who becomes a member of the New South Wales scheme to roll over a benefit from the Commonwealth scheme into the New South Wales scheme. The rolled over benefit will be used to purchase benefit credits in the New South Wales scheme. This facility will be made available from 1 January 1996. Amendments affecting police superannuation are made to two Acts, the Police Association Employees (Superannuation) Act 1969, which provides for police who transfer directly from the Police Service to employment with the association, and the Police Regulation (Superannuation) Act 1906. In both Acts, amendments are made to remove discriminatory provisions for widower benefits which apply a dependency test. Similar provisions in the State Superannuation Fund were removed in 1993.

A second amendment relating to police superannuation affects employees of the New South Wales Police Association. Employees of the association who transfer direct from police service are allowed to carry their police superannuation cover. The amendment will correct an oversight which denied Police Association employees who resigned or were dismissed the right to preserve or defer payment of a benefit. The first of a series of amendments in this bill relating to senior executive appointees appears in the proposals for amendment to the Police Regulation (Superannuation) Act 1906, so I will deal with it here. The same proposed amendments also appear in relation to the State authorities superannuation scheme and the State Superannuation Fund. Following recent reforms the Government has made to the senior executive service, it has come to light that, without a break in employment, some appointees under senior executive contracts have been able to access a superannuation benefit while still on salary. They have been able to do this by exploiting a provision designed to give choice in coverage by way of preservation.

Ordinarily, preservation is not available until a period of employment has ended. At that point, a preserved benefit can be accessed as soon as the former member reaches the early retirement age. To correct this loophole the special provisions for preservation for SES appointees in the three schemes affected will be limited so that a payout directly to the former member can occur only when employment has ended. The proposed amendments to the public sector executives scheme add provisions to enable the trustee board to resolve competing claims for benefit that may arise between de jure and de facto spouses. The new provision aligns with provisions in other schemes. It is also proposed to make changes to the special additional death or invalidity benefits when these are insured with an external insurer, such as the GIO. The powers to decide whether a member can be admitted to cover, and whether a claim for benefit can be accepted, will be exercised by an external insurer, if one is appointed. This is appropriate because a separate contract in fact exists between each scheme member who has taken the additional cover and the insurer. Legal advice to the trustee confirms the need for the proposed amendments, but retention of the trustee discretions is appropriate when the trustee acts as self-insurer. The last of the amendments in this proposed legislative package are addressed to the closed State Superannuation Fund. Apart from the measures in relation to the SES that I have already described, the SSF is affected by two other proposed measures. The first of these is important because it affects the distribution of funds between employers' and contributors' reserves in the scheme, which in turn affects other reserve adjustments. It is also important because of the sheer size of the sums involved.

In 1988 the decision was taken to allocate the fund between contributors and employers. When employer contributions became subject to tax in 1988, the exact amounts paid and held for each participating employer had to be known to calculate the tax. The assessment of the employers' and contributors' shares of the fund was carried out by the Government Actuary in accordance with a legislated procedure. A publicly disclosed procedure and allocation, legally binding on the employers and contributors, was necessary because of the size of the sums involved - several billions of dollars of both public and individuals' funds. There was, moreover, a need for trust and reliance to be placed in the outcome by many people, both employers and employees.

A review by the Government Actuary has demonstrated that an estimated \$621.9 million - as at 1 July 1992 - too much has been credited to the contributors' reserve in the fund. The error, which has been verified by external actuarial consultants, has since grown to almost \$1 billion dollars. This amount must now be redistributed to the employers'

Page 5549

reserves in accordance with a new assessment carried out by the Government Actuary. The proposed legislation must first undo the previous allocation. In just the same way as the earlier legislation provided for a transparent and publicly disclosed allocation, the proposed legislation makes similar provisions which will see the outcome published in the *Government Gazette*. The second amendment affecting the State Superannuation Fund relates to its closure to new members in 1985. The amendment will limit a trustee discretion, which still operates to admit persons after closure, to cases in which action to gain admission has already commenced.

I shall speak briefly about costs. Advice of the Treasury, which carried out a detailed cost examination of these proposals, is that only one proposal will result in any notable increase in costs. This relates to de facto spouse benefits in the parliamentary scheme. It is estimated that increased pension payments to spouse beneficiaries of approximately \$63,000 per annum will arise. The inclusion of dependent children of de facto spouses as beneficiaries will similarly have a measurable but relatively small effect, amounting to approximately \$3,500 per annum. In the long term, total costs in present value terms are expected to increase by \$1 million over 25 years. This estimate does not take account of the possible commutation of pension by the beneficiaries which would realise savings. To sum up, the proposed amendments in the bill are a series of corrective and administrative measures. They remove administrative impediments and discriminatory provisions in the schemes, as well as correct a number of legislative and administrative shortcomings.

The amendments relating to spouse benefits in a number of schemes are important in addressing the remnants of discriminatory provisions in New South Wales public sector superannuation. The series of amendments to the First State Superannuation scheme are principally aimed at protecting the members' benefit accruals. This is the ongoing public sector employee scheme, covering many thousands of employees, with an increasing commitment by employers under the Commonwealth superannuation guarantee. For that reason, it is important to seek to achieve best practice in its provisions which meet the expectations and needs of its members. I commend the bill to the House.

Debate adjourned on motion by Mr Phillips.

[Mr Acting-Speaker (Mr Clough) left the chair at 12.49 p.m. The House resumed at 2.15 p.m.]

BUSINESS OF THE HOUSE

Placing or Disposal of Business

Mr SPEAKER: At the commencement of today's sitting the honourable member for Hawkesbury took a point of order in relation to certain proceedings that took place in the House yesterday. In essence the member put the proposition that business with precedence, notice of motion No. 1, no confidence in the Minister for Urban Affairs and Planning; notice of motion No. 2, no confidence in the Minister for Police; and notice of motion No. 3, no confidence in the Speaker, on the business paper for yesterday, had been incorrectly called on and that consequently notices of motions Nos 1 and 2 should not have lapsed with the member in charge, that is the Leader of the Opposition in both cases, not being present in the House. Having had an opportunity to examine the record I am now in a position to make the following observations and ruling. The situation is governed by Standing Order 123, no confidence in Minister, and Standing Order 123A, no confidence in Speaker, which both provide, inter alia, that:

Such notice shall take the place of and be called upon at the time for consideration of Matters of Public

Importance at the next sitting of the House after the notice was given.

These standing orders assume that there will be only one such motion dealt with at each sitting. This is reinforced by the fact that Standing Order 121, Matters of Public Importance, provides for only one matter of public importance to be dealt with at each sitting. When the new standing orders were agreed to in 1994 provision was not specifically made for determining the status of part-heard, that is, adjourned motions which take the place of matters of public importance. The practice has developed whereby such motions are placed on the business paper under the heading "Business With Precedence, Orders of the Day" and they are called on again on the next sitting day in the routine of business for matters of public importance with precedence of notices of motions in the same category.

A situation arose in the House yesterday evening whereby on 15 October 1996 the House had agreed to treat the censure motion of the Minister for Urban Affairs and Planning in a manner different from that which I have described. On 15 October the House agreed to a motion that this censure motion be dealt with immediately following the conclusion of the no confidence motion of the Minister for Agriculture. The motion in respect of the Minister for Agriculture was duly dealt with last night and, in accordance with the wishes of the House, the motion in respect of the Minister for Urban Affairs and Planning was called on. Standing Order 111 states:

Notices of motions shall take precedence of orders of the day, and if called upon must be moved, withdrawn, or postponed in the order in which they appear on the Business Paper or lapse.

In accordance with that standing order I called on the Leader of the Opposition to move his motion. He was not present in the Chamber and therefore the notice lapsed.

[Interruption]

Order! I call the honourable member for Northcott to order for the first time.

Page 5550

The routine of business in Standing Order 110 states that following matters of public importance on each sitting day, the House shall proceed to the consideration of business with precedence. The business paper has listed notices of motions and orders of the day of censure and no confidence as "Business with Precedence". When the motion of no confidence of the Minister for Urban Affairs and Planning could not proceed because the Leader of the Opposition was not present, I immediately called on the next notice of motion, which was against the Minister for Police. The House did not object to my undertaking that procedure. This notice similarly failed to proceed because the Leader of the Opposition was not present.

Order! Members will cease interjecting. I call the honourable member for Wakehurst to order for the first time.

The next notice was then called, which was a motion of no confidence of the Chair. The honourable member for Gosford being present to move his motion did so and the debate continued until interrupted by the adjournment of the House at 10.30 p.m. As I have stated earlier, the standing orders do not make any specific provision about the ordering of part-heard censure or no confidence motions. In view of this, I intend to ask the Standing Orders and Procedure Committee immediately to consider this matter and the related issue of multiple motions being placed on the paper and being part heard, thus denying members from both sides the opportunity to raise matters of public importance. In addition, in the interim, I propose that censure and no confidence motions - except no confidence motions in the Government - will not appear on the business paper under the heading "Business with Precedence" but will have a separate category of "Business taking the place of Matters of Public Importance". This should avoid confusion in the future.

In respect of the notices that have lapsed, the motion against the Minister for Urban Affairs and Planning, and Minister for Housing has been legitimately dealt with in accordance with a previous decision of the House. It is difficult to restore the no confidence motion in the Minister for Police to its place in the business paper in view of the fact that the no confidence motion in the Chair has been moved by the member for Gosford and is part heard as an order of the day and, as such, is in possession of the House. It is, of course, open to the Leader of the Opposition to give fresh notices today, if he wishes. In respect of the point of order of the honourable member for Hawkesbury relating to pairing, he would understand that the Chair is not privy to any private arrangements made between the Whips and other members of the House.

DISTINGUISHED VISITOR

Mr SPEAKER: I draw the attention of the House to the presence in the gallery of the Speaker of the Northern Territory House of Assembly, the Hon. T. R. McCarthy. I welcome him to these proceedings.

MINISTRY

Mr CARR: I advise the House that in the absence of the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, I shall be taking questions without notice on his portfolio areas on his behalf. The Deputy Premier is representing New South Wales at the Australia-India new horizons promotion.

[Notices of Motions]

Mr SPEAKER: Order! The honourable member for Gosford will cease interjecting. I call the Minister for Public Works and Services to order.

PETITIONS

Governor of New South Wales

Petitions praying that the office of Governor of New South Wales not be downgraded, and that the role, duties and future of the office be determined by a referendum, received from **Mr Armstrong, Mr Blackmore, Mr Brogden, Mr Chappell, Mrs Chikarovski, Mr Collins, Mr Cruickshank, Mr Debnam, Mr Ellis, Ms Ficarra, Mr Fraser, Mr Glachan, Mr Hartcher, Mr Hazzard, Mr Humpherson, Dr Kernohan, Mr Kerr, Mr Kinross, Mr MacCarthy, Mr Merton, Mr Phillips, Mr Photios, Mr Richardson, Mr Rozzoli, Mr Schipp, Mr Schultz, Ms Seaton, Mrs Skinner, Mr Smith and Mr Tink.**

Tweed District and Murwillumbah Hospitals

Petition praying that funding for the Tweed District and Murwillumbah hospitals be increased, received from **Mr Beck.**

Manly District and Mona Vale Hospitals

Petition praying that Manly District and Mona Vale hospitals not be downgraded, received from **Mr Brogden.**

Northern Sydney Area Health Service

Petition praying that additional funding be provided urgently to the Royal North Shore Hospital and the Northern Sydney Area Health Service, received from **Mrs Chikarovski.**

Ryde Hospital

Petition praying that Ryde Hospital and its services be retained, received from **Mr Tink**.

Jewells Primary School Library

Petition praying that a permanent library be provided at Jewells Primary School, received from **Ms Hall**.

Fassifern XPT Service

Petition praying that Fassifern be included as a station on the Brisbane to Murwillumbah XPT service, received from **Mr Hunter**.

Page 5551

Hunter Sewer Service Access Charge

Petition praying that the parameters of the sewer service access charge of the Hunter Water Corporation be modified, received from **Mr Hunter**.

Sydney Showground Fox Film Studio

Petition praying that the Fox Film Studio proposal for the Sydney Showground be subject to the conditions set out in the petition, received from **Ms Moore**.

Public Housing

Petition praying that the Government protect the interests of New South Wales public housing tenants and defend their rights to housing by retaining and expanding existing levels of public and community housing; reject the reallocation of Federal Government funds away from the provision of public housing; reject the replacement of rental rebates with direct subsidies; and undertake not to sell off public housing stock, received from **Ms Moore**.

Forest Protection

Petition praying that old-growth forests and other areas of high conservation value be protected, received from **Ms Moore**.

Cook Island Aquatic Reserve

Petition praying that the waters surrounding Cook Island be declared an aquatic reserve; and that all aquatic reserves be managed by New South Wales Fisheries, not by the National Parks and Wildlife Service, received from **Mr Martin**.

Beresfield District Mining

Petition praying that the mining exploration licence granted to Donaldson Projects to explore on the site west of Beresfield be withdrawn, received from **Mr Price**.

CHARTER OF PRINCIPLES FOR A CULTURALLY DIVERSE SOCIETY BILL

Withdrawal

Order of the day for the second reading discharged.

Bill ordered to be withdrawn.

Message sent to the Legislative Council advising it of the resolution.

REORDERING OF GENERAL BUSINESS

Egg Labelling

Mr HARRISON (Kiama) [2.35]: I move:

That notice of motion general business (general notice) No. 49 have precedence on Thursday, 31 October 1996.

Earlier this year the Minister for Agriculture gave an undertaking to look into the feasibility of egg labelling and truth in such labelling. Since then the issue has been debated in the public arena and it is appropriate that it be debated in the House as a matter of priority. Not only is it an extremely important animal welfare issue, but it is vital that the industry be involved in discussions as soon as possible because of the cost implications to producers. The New South Wales egg industry produces 70 million dozen eggs per annum at a gross value of \$78 million, and this cannot be ignored. New South Wales produces 35 per cent of Australia's eggs with a trend to increasing production in the Sydney Basin in close proximity to the major consumer market. The volume of egg production matches the population of the State, and this trend is evident in other Australian States. New South Wales also provides 50 per cent of Australia's laying stock. The concerns of animal welfare organisations are well recognised by both the poultry industry and this Government. Therefore, it is appropriate that my motion be given priority. Industry must be able to negotiate with government, animal welfare organisations and retailers so as to prepare themselves for the cost that industry will obviously incur. Mahatma Gandhi said:

The greatness of a nation and its moral process can be judged by the way its animals are treated. I hold that, the more helpless a creature, the more entitled it is to protection by man from the cruelty of man.

Mr SPEAKER: Order! There is too much audible conversation. Members, including the honourable member for Davidson, will be asked to vote on these matters within three minutes.

Mr HARRISON: I urge all honourable members to vote for this motion to be given priority.

Helicopter Rescue Services

Mr HARTCHER (Gosford) [2.37]: I move:

That notice of motion general business (general notice) No. 48 have precedence on Thursday, 31 October 1996.

The motion deals with the Child Flight helicopter service, which looks after babies and young children on the central coast. Last Thursday the Premier in reply to a question spoke about the problem of suicide on the central coast. His approach was sympathetic and it has been well received. I invite Government members to join with me in debating the important issue of whether the Child Flight helicopter service continues to operate on the central coast. This rescue service ensures that the people of the central coast receive intensive care facilities that are not otherwise available. Last year it was estimated that about 50

neonatal babies were transferred from Gosford to Sydney and that possibly 10 per cent of them would have died without the helicopter rescue service.

Time is of the essence in this service. Once a call is received from Gosford it is estimated that it takes 35 minutes to have the helicopter in the air and for it to reach Gosford, but if the proposal of the Minister for Health goes ahead and the Child Flight service is not maintained as a dedicated service, the existing service will be required to take

Page 5552

on board 120 kilograms of equipment that is important for looking after neonatal babies and young children. That adds, on a configuration, an additional 20 minutes to the outfitting of the helicopter, which will mean that it will be 55 minutes at least before babies on the central coast will receive proper medical attention. That difference of 20 minutes is the difference between life and death. The issue of whether the Minister in his budget obsession is determined to put dollars ahead of children and babies should unite members of all political parties. The people of the central coast contribute hundreds of thousands of dollars towards this helicopter rescue service. The Mingara Recreation Club Limited, which opened last Monday - a huge club that was attended by Cabinet in June - has dedicated the proceeds of its opening to this child flight service.

The people of the central coast have a hotline, which has so far recorded 1500 calls in support of the retention of this service. The message on the hotline simply says, "Keep Child Flight in the air, Mr Carr." Giving this motion priority will enable the four central coast Labor members to finally find their voices on this issue. Not one of those members has even been prepared to return the phone calls from the local newspaper. They are all determined to run scared on the matter. Not one of them will even speak out in support of the babies and children on the central coast. The honourable member for Peats, the honourable member for Wyong, the honourable member for Swansea and the honourable member for The Entrance will be given a chance to speak out. [*Time expired.*]

Question - That the notice of motion of Mr Harrison be reordered - put.

The House divided.

Ayes, 48

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Carr	Mr Neilly
Mr Clough	Ms Nori
Mr Crittenden	Mr E. T. Page
Mr Debus	Mr Price
Mr Face	Mr Rogan
Mr Gaudry	Mr Rumble
Mr Gibson	Mr Scully
Mrs Grusovin	Mr Shedden
Ms Hall	Mr Stewart
Mr Harrison	Mr Sullivan
Ms Harrison	Mr Tripodi
Mr Iemma	Mr Watkins
Mr Knight	Mr Whelan
Mr Knowles	Mr Woods
Mr Langton	Mr Yeadon

Mrs Lo Po'	
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 45

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr O'Farrell
Mr Blackmore	Mr D. L. Page
Mr Brogden	Mr Peacocke
Mr Chappell	Mr Phillips
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mr Collins	Mr Rixon
Mr Debnam	Mr Rozzoli
Mr Downy	Mr Schipp
Mr Ellis	Mr Schultz
Ms Ficarra	Ms Seaton
Mr Fraser	Mrs Skinner
Mr Glachan	Mr Slack-Smith
Mr Hartcher	Mr Smith
Mr Hazzard	Mr Souris
Mr Humpherson	Mr Tink
Dr Kernohan	Mr J. H. Turner
Mr Kinross	Mr R. W. Turner
Mr MacCarthy	Mr Windsor
Dr Macdonald	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Pairs

Mr Hunter	Mr Cruickshank
Dr Refshauge	Mr Small

Question so resolved in the affirmative.

Motion agreed to.

[Notices of Motions for Urgent Consideration]

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

QUESTIONS WITHOUT NOTICE

INTENSIVE CARE BED NUMBERS

Mr COLLINS: My question without notice is directed to the Premier, representing the Minister for Health. Does his Government's 1996 intensive care bed survey show that 10 per cent of all intensive care beds in Sydney's major hospitals were closed on a particular winter's night this year? Were patients such

as Mark Helmers denied access to an intensive care bed because his budget cuts closed one-third of the beds at St George Hospital and 15 per cent at Royal North Shore Hospital?

Mr CARR: Isn't it terrific of him to turn up! Isn't it terrific of him to put on a bit of a show! Let's hear it for him! As the Minister for the Olympics said, they must be paying him appearance money. I was discussing his performance with a member of my staff and he said -

Page 5553

Mr Hazzard: On a point of order. The standing orders and *Parliamentary Practice* direct that no member shall have in the House reading material other than that to be used in the debate. The Premier currently has a copy of *The Tale of Peter Rabbit* in his pocket, because he does not know what else to read - and *The Tale of Peter Rabbit* is not good for the House!

Mr SPEAKER: Order! The House will come to order.

Mr CARR: He said, "Isn't there a story somewhere in the fables about another Peter who goes missing and gets lost, who vanishes and who bursts into tears?" There are great similarities.

Mr Hazzard: On a point of order. In accordance -

[Interruption]

Mr SPEAKER: Order! The member will resume his seat.

Mr O'Doherty: On a point of order. The standing orders clearly state, and your rulings in this House have time and again confirmed, that members shall not display material when answering questions. The Premier is displaying in this House a prop for his use during question time. I ask that you direct the Premier -

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

Mr O'Doherty: The honourable member for Ermington was removed from the House for the same offence. I ask you to direct the Premier to cease referring to the material and to put it back in his pocket where it belongs.

Mr CARR: Yes, there must have been another Peter. Indeed, there is another Peter just like the Leader of the Opposition.

Mr Phillips: On a point of order. My point of order relates to relevance. It is clear that the Premier has no intention of attempting to answer the very serious question, which was about intensive care. You are making a mockery of this question, a very serious matter that is putting people's lives at risk.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will resume his seat. As the Deputy Leader of the Opposition has chosen to discuss the matter across the Chamber I will not rule on the point of order. The next time the Deputy Leader of the Opposition take a point of order and does not address his remarks on the point of order to the Chair, I will remove him from the Chamber.

Mr CARR: It says this, "Peter gave himself up for lost, and shed big tears."

Mr O'Doherty: On a point of order. Standing Order 138 requires that answers shall be relevant to the questions asked. The question related to the lack of provision by the Carr Government of emergency beds in Sydney and to the death of a patient. It had nothing to do with Peter Rabbit, and the Premier should stop trifling with the House. I ask you to draw him back to the ambit of the standing order.

Mr SPEAKER: Order! I understand the frustration of the member. However, he knows the standing orders. I cannot direct the Premier as to how to answer the question. I am sure the Premier is coming to the central issue of the question asked by the Leader of the Opposition.

Mr CARR: Isn't he thin-skinned over there! But it has been a very bad week for him. It has been a very, very bad week for him -

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

Mr CARR: - beginning at the Liberal Party State Convention.

Mr SPEAKER: Order! The tolerance of the Chair has been exhausted. Any member who is now called to order will be placed on three calls to order.

Mr CARR: Very, very sensitive! It is the atmosphere of the Liberal Party before a leadership challenge.

Mr Collins: On a point of order. My question, in case the Premier did not hear it, related to intensive care beds and to the deaths of patients in our hospitals. Will he answer the question?

Mr SPEAKER: Order! No point of order is involved. The Leader of the Opposition will not trifle with the Chair; he will resume his seat.

Mr CARR: Little Peter Rabbit getting lost and tearful! The Government is well equipped with the answer. The Opposition put in its freedom of information request and had the information delivered yesterday. So right on cue from the predictable Opposition comes a question today, and just as quickly comes the answer.

Mr SPEAKER: Order! I place the honourable member for North Shore on three calls to order.

Mr CARR: The answer reveals a dramatic loss in bed numbers not only when the coalition was in government but when Peter Rabbit was Minister for Health. It will be more tears -

Mr Hartcher: On a point of order. The standing orders require that members be referred to by their correct titles.

Mr SPEAKER: Order! I uphold the point of order. The Premier will address the Leader of the Opposition by his correct title.

Mr CARR: When the Leader of the Opposition was Minister for Health there was a big loss in bed numbers, and I shall reveal that to the House. Once again the Leader of the Opposition is shooting himself in the foot; one can always count on him. What a bunch of stumblebums to be running an Opposition! Official figures released today show

Page 5554

that on 1 March 1995 the number of general intensive care unit beds had been slashed from 363 to 298. Guess who did that? It was the coalition Government. That was a reduction of 65 beds by the coalition Government. On 1 March 1995 the number of paediatric intensive care unit beds had been slashed from 36 to 25. Guess who did that? It was the coalition Government. In that category 11 beds were axed by the former Government. This question was supposed to be like the Opposition's great triumph on Thursday, when the Leader of the Opposition alleged that he had autopsy reports on 30 people who had died because of a fault in airconditioning in one ward. The hospital said it was not true; the hospital said he fibbed. Since the present Government has taken office the number of general intensive care unit beds

has been boosted to 309.

Mr SPEAKER: Order! The Deputy Leader of the Opposition will remain quiet.

Mr CARR: The Government has also increased the number of paediatric intensive care unit beds to 30. Under this Government an extra 26 coronary care intensive care unit beds have been opened. The former Government reduced them; the Government increased them. In March 1995 under the Liberals there were 543 intensive care beds in the State. Under the Carr Government there are 579 intensive care beds, an increase of 36 intensive care unit beds.

Mr SPEAKER: Order! The Deputy Leader of the Opposition has been asked on two occasions to stop interjecting.

Mr CARR: The only threat to the health and welfare of the people of New South Wales is that posed by the member for North Shore. She is the one who makes false allegations. Yesterday the member for North Shore told the House that she "respected and admired very much" the State Secretary of the New South Wales Nurses Association, Sandra Moait. Today Sandra Moait rightly called for a full apology from the member for North Shore for her offensive comments about the intensive care staff at Lismore hospital. The member for North Shore said that doctors and nurses at Lismore were unqualified. Yesterday those dedicated and fine doctors and nurses were reported in the Lismore media as saying that they were deeply insulted, and rightly so. One would think that the member for North Shore would not want to be carpeted by her leader twice in the one week. But that does not take into account poor Peter Rabbit, the rabbit who kept getting lost and who kept bursting into tears.

Mr Collins: On a point of order. The Premier is flouting the ruling you gave earlier, and I ask you to ask him to withdraw his comment and to address honourable members, myself included, correctly and to not persist in flouting your ruling.

Mr SPEAKER: Order! I uphold the point of order. I have asked the Premier to desist from using nicknames for members. All members are entitled to be referred to by their correct titles. The Premier will adhere to that convention.

Mr CARR: He is terribly sensitive and terribly thin-skinned. The poor Leader of the Opposition; the poor, sad Leader of the Opposition. I am delighted to withdraw. Poor, poor Peter. Poor little Peter, poor little Peter.

RAILSAFE PROGRAM

Mr NAGLE: I direct my question to the Minister for Transport, and Minister for Tourism.

Mr SPEAKER: Order! I place the Deputy Leader of the Opposition on three calls to order.

Mr NAGLE: What has been the progress made on the Government's railsafe program?

Mr LANGTON: I thank the honourable member for Auburn, a man I often refer to as Big Peter, for his question.

Mr SPEAKER: Order! The Minister for Transport would be aware of a previous ruling I made. I ask that he address members by their correct titles.

Mr LANGTON: Honourable members would be aware that the Government was given a clear brief by the electorate in March last year to improve security around the rail network.

Mr SPEAKER: Order! I place the honourable member for Wakehurst on three calls to order. I place the honourable member for Georges River on three calls to order.

Mr LANGTON: The evidence clearly shows that the Government has done that. The railsafe program comprises a number of strategies, including the safe stations scheme, which is already under way and will result in more than 60 stations across the network featuring guaranteed staffing from the first train to the last train.

Mr SPEAKER: Order! I place the Minister for the Olympics on three calls to order.

Mr LANGTON: The program also includes high-illumination lighting, closed-circuit television, platform passenger help points, the deployment of uniformed private security guards to patrol trains and stations, and the establishment of the Transport Safety Bureau in the Department of Transport and the community-based Transport Safety Advisory Committee to advise on effective strategies for crime prevention.

Mr SPEAKER: Order! I place the honourable member for Hurstville on three calls to order.

Mr LANGTON: The Government has boosted transit police numbers, extended the two-carriage Nightsafe service, and set up safety audits of all 169

Page 5555

suburban railway stations. The results of the strategies are coming in and they are very positive. An analysis of statistics of crimes against the person on public transport that compared the period April to December 1994 - before the present Government took office - with the period April to December 1995 - when the Government's strategies were being implemented - showed an overall decrease in crime of 11.2 per cent. That is a decrease of 11.2 per cent in the first corresponding year after the most recent election. Additionally, a pilot program on the south sector of CityRail, known as the security strategy group, has shown a 30 per cent decrease in crime on that sector since the program commenced in August last year.

The security strategy group program involves a cooperative effort between local police, station staff and transit police - working together to monitor all security issues, to spot emerging crime before it develops into a major problem, and to devise appropriate local solutions and strategies to reduce crime. As I said, the results speak for themselves. Crime has been slashed by 30 per cent. The Government congratulates all the police and CityRail staff who have worked together so well to ensure the pilot program's success. I am pleased to advise the House that the program is a pilot no longer; it is being extended to the entire CityRail network. The Government is committed to continuing to build on these results of improved security. I have every confidence that we will succeed. The high level of cooperation between the police and transport authorities, the commitment of State Rail staff to making public transport safer and the input of the community, government and union representatives on the Transport Safety Advisory Committee have combined to prove that we do not have to accept crime, we can fight it.

AEROMEDICAL RETRIEVAL SERVICE TRIAL

Mr WINDSOR: My question is addressed to the Premier. Given his statements in the House this morning regarding the honouring of his Government's election commitments, when will his Government honour its election commitment to carry out an aeromedical retrieval trial for country New South Wales based in Tamworth?

Mr CARR: I will refer the question to the Minister for Health. He will be delighted to report back to the House.

NORTH HEAD PLANNING POLICY

Ms MEAGHER: My question is directed to the Premier, Minister for the Arts, and Minister for Ethnic Affairs. What action has the Government taken to resolve the deadlock over the development proposal for Bear Cottage at Manly?

Mr CARR: I know that the proposal will generate support from all corners of the House. The New Children's Hospital is attempting to establish Bear Cottage, a hospice for children on the St Patrick's site at Manly. Bear Cottage is a facility that will allow for 10 families to holiday with their terminally ill children while they receive medical attention. Bear Cottage has the overwhelming support of the people of Sydney, almost \$5 million having been donated so far. It is hardly a dodgy development generated by a white shoe brigade developer. When it is built, it will be one of only a few such facilities in the world. It is proceeding only because of widespread support by the people of Sydney.

Despite the efforts of the children's hospital and the Friends of Bear Cottage, the project has become deadlocked in Manly Council. On 6 February this year Manly Council resolved to prepare a local environmental plan that would allow a development application for Bear Cottage to be processed. Nearly nine months later no LEP has been prepared. The situation is intolerable; it is uncaring; it is insensitive. That is why the Government has intervened to solve the impasse over Bear Cottage. Last Friday the Minister for Urban Affairs and Planning notified Manly Council that it had seven days to deal with this matter through mediation. Manly Council's response so far has been to waste five days seeking to negotiate the terms of the mediation. The council has now agreed to mediation on the Government's terms. It will take place tomorrow morning and will include an inspection of the site.

The mediation will be chaired by Gabrielle Kibble, the Director-General of the Department of Urban Affairs and Planning, and will include representatives of the State Government, Manly Council and the Friends of Bear Cottage. Make no mistake: this is Manly Council's last chance to resolve this matter itself. I expect that once the mediation is completed Manly Council will convene an extraordinary meeting on Friday to approve the LEP and put it on exhibition. This will ensure that the rezoning and the development application for Bear Cottage are approved before the end of the year. That is the only way the council can meet the timetable laid down by the Minister for Urban Affairs and Planning for the matter to be dealt with by Friday. But the message to Manly Council is clear: approve Bear Cottage in accordance with the council's original resolution by Friday or the State Government will take control of this important project. Bear Cottage is too worthy a cause to be delayed by procrastination or local bickering. The Government will make sure that it proceeds.

INTENSIVE CARE BED NUMBERS

Mrs SKINNER: My question is directed to the Premier, representing the Minister for Health. Did the health Minister tell this House following the death of Mark Helmers that the Government had not cut the number of intensive beds from that offered by the coalition? Why does his own 1996 intensive care bed survey show that he has cut 20 intensive care beds - from 408 to 388 - since 1995?

Page 5556

Mr CARR: The figures have been released and are publicly available. What do they show? The total of intensive care bed numbers was 543 when the Labor Party came to government and we have increased the number to 579. The figures are on the record.

Mr SPEAKER: Order! I remind the honourable member for North Shore that she is on three calls to order. The Leader of the Opposition will remain silent.

Mr CARR: Between 1993 and 1 March 1995 there was a reduction. The Government overcame the reduction by increasing the number of beds. That is the contrast. So once again there is a shadow

minister for health without a grain of credibility. The situation recalls the great occasion when the Leader of the Opposition called a press conference and said, "I have got figures on waiting lists that show that waiting list numbers have blown out." The figures turned out to be from the time of the coalition Government. Members of the press said, "Get him back down. Have him explain this little discrepancy." Where had he gone? He had gone home with the flu, took off with the flu.

Mr Collins: Your own figures proved that to be right.

Mr CARR: No, we are not fishing like a certain fairytale character. I will not say that the Leader of the Opposition is Peter Rabbit - I cannot say that - but he is the Leader of the Opposition who some people outside the Parliament would describe as Peter Rabbit.

INSPECTOR GENERAL OF CORRECTIVE SERVICES

Mr MOSS: My question is directed to the Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts. What is the Government doing to keep its election promise to create the position of Inspector General of Corrective Services?

Mr DEBUS: In each of the last two years of the coalition Government there were in excess of 450 complaints to the Ombudsman about the New South Wales prison system. In contrast, I am pleased to note that the Ombudsman's annual report for the 1995-96 financial year reports that the number of complaints about the prison system was at a record five-year low, despite a 50 per cent increase in the prison population. At the same time the rate of serious assault on officers decreased, the number of suicides and incidents of self-harm dropped, and the rate of inmates injuring other inmates also decreased, although in a prison environment dangerous and unpredictable attacks will never be eliminated entirely. It is my intention to maintain that level of improvement in the system of corrections. This week the Ombudsman has urged the Department of Corrective Services to spend some time watching the detectives.

Today I am pleased to be able to advise the House that the Government will do just that. Following Cabinet approval, legislation is now being drafted to create the position of Inspector General. The Inspector General of Corrective Services will scrutinise and streamline internal investigation processes to ensure improved fairness and discipline in our gaols. In short, the Inspector General will improve the management of the New South Wales prison system. Prisons are, and always have been, hard places. The pressures within prisons are often intense, on both staff and inmates. Notwithstanding the misconceptions of honourable members opposite, there are more than 6,000 prisoners in our gaols at present. A small core of inmates present serious challenges to prison staff. Prison officers regularly confront dangers and difficulties that the majority of citizens cannot even imagine. In such an environment it is inevitable that complaints and difficulties will arise from time to time. Officers are subjected to allegations by inmates and inmates accuse other inmates, and if such matters are not dealt with properly and fairly a climate of suspicion and rumour rapidly arises.

The kinds of complaints which occur in the system may seem trivial to outsiders, but in the superheated world of the prison such issues can produce explosive results. Inquiries into prison riots from the report of Justice Nagle in the 1970s in New South Wales to the English reports into the Strangeways riots have traced disturbances and unrest to the failure of the system to deal with grievances about apparently small things - from food and inmate property to movement between prisons. One example of the kind of matter which causes major unrest is the failure of the system to let visitors know when inmates are not available for a visit. Dozens of such complaints are received in my office each year, many raised by honourable members from both sides of the House on behalf of constituents.

As an example - and, because I am not Senator Vanstone, I hasten to point out that this is a hypothetical example - a prisoner's partner, whom I shall call Mrs Wright, with a couple of pre-school

children in tow, travels long distances on public transport to visit inmate Wright. On arrival, she is told that the inmate is unavailable; he has been taken to court or to a medical appointment. Distraught, she makes a scene. If her grievance is not taken seriously by local management and addressed early, a complaint like this can rapidly escalate. As night follows day any subsequent movement of the prisoner will be attributed by him and his partner to payback for her behaviour at the visit. Complaints will be lodged against officers, letters will be written to newspapers.

Ultimately, the matter will end up with the Ombudsman, who can ill afford to spend time on such welfare-related issues. Formal statements will be taken, endless paperwork will be generated, all for something that could and should have been resolved on the day. As a more serious example it

Page 5557

will be well known to honourable members that in the early part of 1994 there was a terrible surge in self-harm and mutilation attempts by inmates at the Mulawa Training and Correction Centre for Women. The Department of Corrective Services did not respond well. Unrest grew about conditions at the gaol. Ultimately, the matter resulted in major stories in the *Sydney Morning Herald* and a huge formal investigation by the Ombudsman. That investigation continues today.

Most of the inmates involved at that time have, no doubt, long been released and I am happy to say that changes to managerial and other practices at Mulawa have reduced self-harm incidents by 78 per cent. However, the inspector general, acting as a troubleshooter, could have been used to identify the problems at Mulawa much earlier, to work with local managers to resolve problems and improve the lot of the women concerned. At present prison governors and senior gaol staff and the system of official visitors deal with the complaints in the first instance, backed up by internal investigation units within the corrections system.

The inspector general will be charged with watching the detectives, providing an ongoing independent check on the probity and effectiveness of all investigations within the New South Wales prison system. The primary role of the inspector general will be to promote improved complaint handling and resolution at a local level. This should reduce the number of matters which escalate into formal grievances and lower the temperature in gaols, a temperature which rises when junior officers, visitors and inmates feel that their grievances are not being listened to. I am pleased to note that the promotion of internal complaint handling mechanisms, such as the appointment of the inspector general, has the explicit endorsement of the Ombudsman. The inspector general's first task will be to negotiate a protocol to work constructively and harmoniously with her office. The honourable member for Monaro might care to read the annual report of the Ombudsman, which quite specifically endorsed the closure of the Cooma gaol. The creation of the office of inspector general fulfils a pre-election commitment by this Government to bring fairness and discipline to the gaols in equal measure.

Mr SPEAKER: Order! I place the honourable member for Ermington on three calls to order.

Mr DEBUS: There is little doubt that this new position will be a force for change in the prison system, ensuring prompt and appropriate resolution of complaints and, in so doing, further improving the proud record that this Government has of management of the New South Wales prisons.

INTENSIVE CARE BED NUMBERS

Ms FICARRA: My question without notice is directed to the Premier, representing the Minister for Health. Why were one-third of St George Hospital's 12 intensive care beds still closed in August, six months after the Minister for Health was first warned of this problem by Dr Richard Morris? Is this why Mark Helmers' sister described the Minister for Health as a "joke", with no idea of how to run hospitals?

Mr CARR: With all these questions on the one subject, the information is flowing in. We now find out in more detail how the Opposition, inevitably, as one would expect under its leadership, has shot itself in

the foot again. The Opposition put in a little freedom of information request and has the information sent back. The Government knows that the request has been met and is able to look at the information. When question time comes around, right on cue comes the question. The figures show that the Opposition is attempting to make a contrast between bed numbers in 1993 and bed numbers in 1996. That is right. But in its figures the Opposition has use the white-out to delete the reference to the beds in 1995, hoping against hope. Great staff work, great research. Their great research team once again has used the white-out on the figures.

The Opposition is hoping to present a picture of a drop in hospital beds between 1993 and 1996. The Government has included, once again, the figures for 1995. Those figures show in these categories the savage reduction in bed numbers that occurred when the Leader of the Opposition was the Minister for Health and when his colleague the Deputy Leader of the Opposition was the Minister for Health. What is the bottom line? The bottom line is that under the Carr Government there are 579 intensive care unit beds across the State.

Mr SPEAKER: Order! I place the honourable member for Pittwater on three calls to order.

Mr CARR: That is 36 more beds than when the coalition lost office. This is another great day for the Opposition! It is wonderful that this great naval commander -

Mr SPEAKER: Order! The Leader of the Opposition will cease interjecting.

Mr CARR: The Leader of the Opposition wants people to think that he is Nelson, but he is another great naval figure - Gilligan! I went to the dawn service at the Cenotaph and when I turned around I had to look twice. I saw the Leader of the Opposition in a commando uniform, wearing a beret. An old digger standing next to me said, "What's he on about? He's never seen a shot fired in anger."

Mr Collins: How dare you! You are gutless! You are a disgrace to this Parliament!

Mr CARR: Go on, Peter, back in your burrow. You have never seen a shot fired in anger.

PORT MACQUARIE ELECTORATE ROAD FUNDING

Mr SOURIS: My question is addressed to the Minister for Roads. Do road funding figures for the electorate of Port Macquarie indicate that the

Page 5558

average road funding under the Labor Government is only half what it was under the coalition? Has the Government abandoned this electorate to spend money in its electorates?

Mr KNIGHT: The Premier has been rightly critical of shadow ministers who have done nothing to put forward policies and positions, but that criticism cannot be made of the shadow minister for roads.

Mr SPEAKER: Order! I place the Deputy Leader of the National Party on three calls to order.

Mr KNIGHT: During the break the Deputy Leader of the National Party was very active.

Mr SPEAKER: Order! I remind the honourable member for Monaro that he is on three calls to order.

Mr KNIGHT: No town was too small to visit, no promise too big to make. Of course the Deputy Leader of the National Party will be at it again in Port Macquarie. In Bathurst, he said that a coalition State government would improve access between Sydney and Bathurst by making the construction of a four-lane highway between Penrith and Mount Victoria a top priority. He went further and said that part of it should be six lanes. Now he is interjecting and saying it sounds okay, sounds great, sounds good. The

following week the Leader of the Opposition went to Bathurst. What did he have to say to that venerable journal the *Western Advocate*? He said the statement by the Opposition roads spokesperson, George Souris, was "premature". He said that the idea had not even been to shadow cabinet. That is indicative of their relationship. That is why the Deputy Leader of the National Party was bagging the Leader of the Opposition up and down the corridors of this place last night because he was missing when his motion was called on. What did the *Western Advocate* say? It headed its editorial of Wednesday, 12 September "Souris' rush of blood draws public rebuke" and went on to ask:

Did George Souris have a rush of blood when he announced a Coalition Government would build a highway across the Blue Mountains or did he just hope the commitment would escape further scrutiny?

The Opposition roads spokesperson has clearly upset Liberal Party leader Peter Collins with his promise. Mr Collins was quite blunt in disassociating the Coalition from any commitment to the project, saying it had not even come before shadow cabinet . . .

I am sure he will end up doing the same about the promises made in Port Macquarie by the Deputy Leader of the National Party. This Government is treating Port Macquarie fairly and equitably, just like everywhere else in the State.

SEXUAL ASSAULT VICTIM COURT EVIDENCE

Ms NORI: I ask a question of the Minister for Fair Trading, and Minister for Women. What action will the Government take to provide better protection in trials for the victims of sexual assault?

Mrs LO PO': I thank the honourable member for Port Jackson for her question and commend her ongoing interest in women's issues. The Department for Women has recently completed a comprehensive empirical study on the experiences of women in court as witnesses in sexual assault trials. The broad aim of this research was to determine how victims of sexual assault are treated in their role as witnesses in the justice system and to find out how well the legislation is working. The completion of this research fulfils another important pre-election commitment of the Government. This morning the Attorney General and I launched the report called "Heroines of Fortitude". Until this research was undertaken there had been no rigorous evaluation of the effectiveness of legislation introduced in 1981 and designed to protect women as complainants in sexual assault matters. The report examined 111 District Court trials and 73 sentence hearings in a 12-month period.

Mr SPEAKER: Order! There is too much audible conversation. The honourable member for Lane Cove will cease conversing with other members.

Mrs LO PO': I would have thought that the honourable member for Lane Cove had an interest in this issue, but I was wrong. This was a very comprehensive way to take a snapshot of the experiences of women in court as victims of sexual assault. Unfortunately the snapshot, once developed, is not pretty. I could give the House a vivid description of the types of experiences to which women are subjected in the courts, but I will not do that. Instead, I encourage honourable members to read the report. What it reveals is not good. The research tells us that in the courtroom women complainants of sexual assault often experience a distressing, demeaning and draining court process. They are required to prove their innocence and defend their integrity in an unfamiliar and often hostile court.

Anyone who thinks this is a trivial matter should bear in mind the case of one woman who was cross-examined for six hours, with the examination having to be stopped on 12 occasions because the woman was dry retching, sobbing and clearly distressed. Not one person in the court thought it would be fair to stop the trial and let her recuperate. That is the level of the problem with which we are dealing. Aboriginal women are dealt with much more severely than are non-Aboriginal women. In many cases it is as if the complainant is accused of a crime rather than being the victim of a crime. The distressing nature

of the experience is worse for Aboriginal women, women from ethnic communities and women with disabilities. The study shows that these women suffer the most in reliving their experiences before the court. Some Opposition members who are in the legal profession would do well to familiarise themselves with what their fraternal colleagues talk about.

Mr Hartcher: Stick to the script, Faye.

Page 5559

Mrs LO PO: Don't give me advice; you are not equipped to do it. The research indicates that myths and stereotypes still exist in the minds of prosecutors, defenders and judges which are detrimental to women and to justice, and therefore to society as a whole; and that distortions about a complainant's conduct and her "moral worth" occur frequently during sexual assault trials. The study found that while the legislative provisions, on paper, seem comprehensive, they are not working well in practice. For example, section 409B of the Crimes Act restricts the admission of evidence about the complainant's sexual experience, but the section was often breached by defence counsel, without challenge from the Crown prosecutor or intervention by the judge.

The Attorney General has taken immediate action in response to the findings of the report. Today he announced a complete review of the sexual assault laws. He has called for files on the cases cited in the report, and he will be talking personally with the heads of jurisdiction to see that the intent and spirit of the existing legislation is better implemented. The Attorney announced also his intention to have the Law Reform Commission undertake a parallel review of the effectiveness of the "rape shield" provision of section 409 of the Crimes Act. For those who do not know about the rape shield provisions, let me tell them again that that is where the judge has to instruct counsel in the court that they cannot bring up somebody's previous sexual experience. My department will work closely with the Attorney General's Department to ensure that this happens. Honourable members can be sure that the Carr Government is determined to give to the women of New South Wales the protection that they need whenever they have the courage and resilience to put themselves through the court process. The Government certainly admires that courage and resilience. I am not really sure about the Opposition.

SCHOOL FUNDING REVIEW

Mr SULLIVAN: I ask a question without notice of the Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs. What details can the Minister give of the Government's review into fairer school funding?

Mr AQUILINA: I should ask the honourable member for Wollongong whether he wants the short answer or the long answer. I would have thought that the honourable member for Ku-ring-gai would have asked this question, or that the Leader of the Opposition would have asked it. I say that because they lodged a request, under freedom of information legislation, for this particular answer. As they had made that request, I thought I would have copped a question some time over the past couple of weeks in relation to the matter. After all, it is a matter of interest to the people of this State.

I have much pleasure in informing the Leader of the Opposition that I have completed the answer and that I am sending it to him today, along with his cheque, because really it is a matter of public interest and there was no need for the Opposition to lodge a request under freedom of information provisions seeking information that is properly a matter of public record. Why would I do that? It is because at the last elections the Government's education policy contained a commitment to the principles of fairer school funding. Those included targeting asset sales on a statewide needs basis; establishing an older schools redevelopment fund; ensuring the interest on school bank accounts was calculated on the statewide balance of all school bank accounts; and reviewing the equity of distribution of resources to schools.

The Government has already fulfilled the first three commitments. Today I can announce the fulfilment of the final commitment. Over the past 12 months the Department of School Education's finance and audit directorates have been carrying out a detailed process of data collection about school funding. The review was conducted in two stages. First, detailed data for 1994 was collected from all schools in two Sydney regions and one country region. Because the data kept by the former Government was not sufficient to allow more detailed analysis of the equity impact in schools, a second stage was also conducted. The report is to be released for public comment. In answer to the member's question, I will outline briefly some of its findings and recommendations. New and developing schools and schools on split sites should receive special consideration. I have been besieged by requests from honourable member opposite to give special consideration to schools on split sites, as I obviously have from members on my side of the House. Under this proposal they will be receiving special consideration, and I am sure the honourable member for Cronulla will be pleased about that.

The second recommendation is that incentives for experienced teachers to move to those schools with a high proportion of new teachers will be looked at by the newly established professional relations forum. This is an inequity that will take time to reverse but it must be made. The findings also show that there are no general income and expenditure trends between regions. I am sure that honourable members opposite will be pleased to hear that the perception that schools in Sydney's north are financially better off is not borne out by the data. It is about time Opposition members did something on behalf of their schools, particularly the honourable member for Ku-ring-gai, who represents the north shore. Opposition members had seven years in office to do something about it. Schools of Sydney's south-west have the highest level of canteen income.

Utilities expenditure is similar to city schools and higher than in the sample of country schools, and the percentage of staff - and this is probably the most serious finding of the report - with more than 10 years teaching experience in Sydney's north is more than twice that of Sydney's south-west. As I have said, this report fulfils an election commitment

Page 5560

to ensure that funding to schools is fair. It provides a detailed insight into the resourcing of schools and it will be released for public comment. I have much pleasure in returning the cheque to the Leader of the Opposition for his freedom of information inquiry.

Questions without notice concluded.

INTENSIVE CARE BED NUMBERS

Privilege

Mr COLLINS (Willoughby - Leader of the Opposition) [3.41]: I raise a matter of privilege. During question time the Premier made offensive comments in relation to my service as a reserve officer in the Australian Defence Forces. It is important that this House understands that I have had -

Mr Whelan: On a point of order.

Mr SPEAKER: Order! I will not listen to a point of order until I hear more from the Leader of the Opposition on his matter of privilege.

Mr COLLINS: This House, especially in light of those disparaging comments, is entitled to know that I have had a lifelong commitment to the Australian Defence Forces as a reservist.

Mr SPEAKER: Order! The Leader of the Opposition is not addressing a matter of privilege. He is making a personal explanation. I will allow him to make a personal explanation, if he wishes.

Mr Collins: Thank you, Mr Speaker.

Personal Explanation

Mr COLLINS (Willoughby - Leader of the Opposition) [3.43]: Let me outline my service with the Australian Defence Forces. I have been a member of the Australian Defence Forces for 32 years. In 1964 I joined the Army Reserve. I spent five years in the Army Reserve and by the end of my time I was an officer in the commandos, the First Battalion Royal New South Wales Regiment. I now occupy the position of honorary colonel of that regiment. I was appointed to that position, a position that I was not able to seek or apply for in any way. I am deeply honoured to be -

Mr Whelan: On a point of order.

Mr COLLINS: You can't handle it, can you?

Mr Whelan: Don't you talk about that!

Mr COLLINS: You can't handle it!

Mr Whelan: But I am pleased to see you here.

Mr SPEAKER: Order! If the Leader of the House wishes to proceed with a point of order he will address his remarks through the Chair.

Mr Whelan: No member is entitled to propose a curriculum vitae. The Leader of the Opposition should indicate how his reputation has been traduced. No-one is interested in the history of any member of this House, whether it be in any of the armed forces.

Mr COLLINS: On the point of order.

Mr SPEAKER: Order! I suggest that the Leader of the Opposition explain to the House how he has been misrepresented or how he has had difficulty undertaking his parliamentary duties because of some misrepresentation.

Mr COLLINS: I have been misrepresented because the Premier has impugned by reputation as Leader of the Opposition. He has implied that I have no entitlement -

Mr Langton: On a point of order. The Premier did not say anything in his own words about the Leader of the Opposition. The Premier merely recounted a conversation that was made to him.

Mr SPEAKER: Order! The point of order is not upheld. The Leader of the Opposition will come to the essence of his personal explanation as quickly as possible.

Mr COLLINS: What I seek to establish is a genuine and lifelong commitment, a commitment I do not resile from. I know it is a commitment shared by other honourable members on both sides of the House who have served in the Australian Defence Forces and who are proud of it. I am one of them. The fact that I continue that service in a very much part-time capacity is something of which I am deeply proud. I am committed to that service and I do not think it is right for the Premier to attack me for seeking to represent one of the finest regiments in the Australian Army, which last year asked me to be its honorary colonel. I am deeply honoured to represent that regiment and other representatives of the Australian Defence Forces, the men and women who serve this country. My commitment in a part-time capacity should not be attacked in this House. That is a gross offence to anyone who has served this nation in a part-time capacity or in a full-time capacity. What the Premier has done is an insult to everyone who wears the uniform of this country.

CONSIDERATION OF URGENT MOTIONS

Development Import Finance Facility Abolition

Ms NORI (Port Jackson) [3.46]: The motion that I put forward for urgent consideration should take precedence today because of the serious consequences of the action of the Federal Government on employment, trade and business development in New South Wales.

Mr O'Farrell: On a point of order. I take this point of order reluctantly, and I am mindful of the endless points of order raised by the honourable member for Londonderry on this precise point, but the development import finance scheme which goes to the heart of this motion was abolished more than Page 5561 six months ago. No letters of advice have been issued for more than six months. It is up to the member to advocate why -

Mr SPEAKER: Order! The point of order has no relevance to the notice of motion.

Ms NORI: The future of New South Wales as a prosperous State ready to take on the challenges of the next century depends on the Government ensuring that New South Wales businesses are able to take advantage of rapidly expanding opportunities in Asian countries. Because Australia has a relatively small domestic market, exports are the key to future economic growth, research and development and, of course, jobs.

Mr Armstrong: On a point of order. The mover of the motion is clearly going to the substance of the motion as opposed to establishing why it should take precedence over any other.

Mr SPEAKER: Order! I uphold the point of order.

Ms NORI: The point I was really trying to make is that jobs, industry and business development are an urgent matter in the face of a Federal Government that is absolutely determined to be cruel to New South Wales -

Mr Armstrong: On a point of order. The honourable member has said that the creation of jobs is important to New South Wales, which it is. If that were the case, why has she waited for six months to move her motion? Clearly this is a contradiction in terms.

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

Ms NORI: If the Leader of the National Party were aware of what is going on he would understand that the Senate inquiry tabled its report into this matter only some 10 or 15 days ago and this is the first opportunity I have had to raise it in the Parliament.

Mr O'Farrell: On a point of order.

Mr SPEAKER: Order! The honourable member for Port Jackson is entitled to reflect on the interjection. The honourable member will resume his seat. The honourable member for Port Jackson will continue.

Ms NORI: The interim findings of the inquiry conducted by the Senate Foreign Affairs, Defence and Trade References Committee were tabled on 16 October.

Mr O'Farrell: On a point of order.

Ms NORI: Members of the Opposition will hear it whether they like it or not.

Mr SPEAKER: Order! The Chair may direct the honourable member for Port Jackson to resume her seat if she does not abide by the standing orders. The member for Davidson will resume his seat. I presume that the member for Northcott will take a point of order that the member is debating the substance of the motion rather than explaining to the House why urgency should be granted to her motion. I anticipate the point of order and uphold it. The honourable member for Port Jackson must present her argument within the provisions of the standing orders.

Ms NORI: It is important that this Parliament debate the findings of that Senate inquiry report because the Federal Government is able to change its position on the DIFF scheme. It is important that the New South Wales Parliament express its concern about the findings of that report and send an urgent message to the Federal Government to make sure that it reverses that decision. Jobs and business development in New South Wales are being threatened. For those two reasons alone, if for no other reason, it is important that the Parliament discuss this matter and send a message to Canberra to ensure that the Federal Government changes its decision. It is difficult to establish the urgency of this motion without alluding at least briefly to some of the -

Mr SPEAKER: Order! Standing orders require a member to establish urgency.

Ms NORI: It is important that the Parliament back up the many businesses based in New South Wales - [*Time expired.*]

State Emergency Service Southern Highlands Division

Mrs CHIKAROVSKI (Lane Cove) [3.51]: I seek to establish urgency for debate of my motion on the basis that members on both sides of the House will recognise the importance of the State Emergency Service of New South Wales and acknowledge that the SES operates on goodwill and trust between the volunteers and management of that organisation. Therefore it is important that the House today debate my motion, for three reasons. Firstly, for at least six months the Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts has been aware of the problems of the SES in the southern highlands division -

Mr Gibson: On a point of order. You, Speaker Rozzoli and many other Speakers have on many occasions ruled on the requirement to establish urgency. The honourable member for Lane Cove must establish why her motion is more important to be debated today than is the motion of the honourable member for Port Jackson. She cannot enter into the substance of the debate; she cannot list three points as to why the motion should be heard today. What members in this Chamber think or do not think about the SES is irrelevant to the debate which is now taking place. Former Speaker Rozzoli, the honourable member for Hawkesbury, spoke earlier this morning about standing orders. If members are to rely on standing orders they must do so at all times, not just when it suits them.

Page 5562

Mr SPEAKER: Order! The Chair understands the point that the member is making. The honourable member can present 15 points to the House if she wants to, but they have to be within the standing orders.

Mrs CHIKAROVSKI: If I am allowed to continue, I will point out that the first reason that the House should today debate my motion is that the House should direct the Minister to act now. The fact that he has not acted for six months makes the matter even more urgent. As honourable members will be aware, there is an urgency about the storm season approaching in New South Wales, which means that the SES has to be operational with all its volunteers; there must be trust between the SES organisation and the

volunteers in order for the SES to operate effectively. In terms of the problems of the southern division, the SES staff members have been speaking to the volunteers -

Mr Gibson: On a point of order.

Mr SPEAKER: Order! I anticipate the point of order and uphold it.

Mrs CHIKAROVSKI: This motion will ask the Minister to organise an external inquiry into the problems in the SES in the southern division of New South Wales. The reason the motion is urgent is that unless that investigation takes place there may be no SES volunteers in that division. The second reason that the House should today debate my motion is that there has been a breakdown in faith between the local controllers and divisional headquarters over the management of their complaints, which has put at risk the effective operation of the SES in the southern highlands division of the State. This means that people and property will now be at risk if that division is not able to operate effectively. The third reason, which is even more pressing, is that if this motion is not discussed today, and if the Minister does not establish an inquiry into the problems in that area, it is highly likely that a number of volunteers and controllers will resign from their positions in that division. That in turn will mean that the area which is covered by the southern division - which extends from Goulburn to the Victorian border - will be without properly trained volunteer staff at a time when the State is entering the busiest season for the SES, the storm season. That is not a risk that this -

Mr Debus: On a point of order. Surely the honourable member for Lane Cove has to demonstrate at least some degree of truth of the assertions that she is making: that there are to be mass resignations and that there is a lack of confidence. What evidence has she brought as to this lack of confidence -

Mr SPEAKER: Order! What the Minister has said is not relevant to the remarks of the honourable member for Lane Cove. The honourable member for Lane Cove will not debate the issue but will address the reasons that urgency should be granted.

Mrs CHIKAROVSKI: I will be happy to address those issues if this matter is allowed to be debated in the Chamber today. If the Minister is so keen to hear the substance of the motion, I suggest that he vote with members on this side of the Chamber to make sure the motion is called on. [*Time expired.*]

Question - That the motion for urgent consideration of Ms Nori be proceeded with - put.

The House divided.

Ayes, 47

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart

Ms Harrison	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 43

Mr Armstrong	Ms Moore
Mr Beck	Mr O'Doherty
Mr Blackmore	Mr O'Farrell
Mr Brogden	Mr D. L. Page
Mr Chappell	Mr Peacocke
Mrs Chikarovski	Mr Photios
Mr Cochran	Mr Richardson
Mr Collins	Mr Rixon
Mr Debnam	Mr Rozzoli
Mr Downy	Mr Schipp
Mr Ellis	Mr Schultz
Ms Ficarra	Ms Seaton
Mr Fraser	Mr Slack-Smith
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor
Mr MacCarthy	<i>Tellers,</i>
Dr Macdonald	Mr Jeffery
Mr Merton	Mr Kerr

Page 5563

Pairs

Mr Carr	Mr Cruickshank
Mr Hunter	Mr Phillips
Dr Refshauge	Mr Small

Question so resolved in the affirmative.

DEVELOPMENT IMPORT FINANCE FACILITY ABOLITION

Consideration of Urgent Motion

Ms NORI (Port Jackson) [4.09]: I move:

That this House notes with concern the Federal Government's refusal to reconsider its abolition of the development import finance facility scheme without replacement and in particular calls on the Federal

Government to honour all projects which had received letters of advice prior to the termination of the scheme.

The motion relates to a matter that I have been following for some time in my capacity as Parliamentary Secretary to the Treasurer, and Minister for State and Regional Development, the Hon. Michael Egan. Honourable members will probably be aware of the development import finance facility scheme - DIFF - as a result of extensive, and I must say unfavourable, press coverage received by the Minister for Foreign Affairs, Mr Downer, since he announced the termination of the scheme in May.

Honourable members will recall that Mr Downer denied in Parliament that he had received any formal adverse comment from recipient governments following the announcement that DIFF was to be abolished. This, of course, proved to be false and the Minister for Foreign Affairs was later forced to apologise to Parliament when several items of correspondence were found to have been received by his office. While the very public failures of the Minister for Foreign Affairs to account for himself are of concern, the abolishing of the DIFF scheme, the manner in which the Federal Government has done this and its impact on New South Wales are of greater concern. DIFF was introduced originally as an aid program in 1980 by the then coalition Government. It has been subject to considerable changes since then and, from the scheme's inception until termination, 123 projects were undertaken in 15 countries by 70 Australian companies.

In the time of its operation the development import finance facility scheme was the subject of a number of reviews and commentaries, resulting in a number of changes to the operation of the scheme. The last review of the scheme, by AusAid and external consultants, was published in 1996 and was based on a detailed survey of 51 projects. Its findings concluded that DIFF was effective in delivering its intended development benefits; that DIFF projects addressed key infrastructure constraints to economic growth and had a significant economic impact on recipient countries; and that DIFF has been effective in generating considerable commercial benefits for Australian industry. The report acknowledged the many changes made to DIFF since its introduction, the most significant of which were introduced in 1992 by the previous Labor Government in response to protocols of the Organisation for Economic Co-operation and Development known as the Helsinki guidelines and were designed by the OECD to discourage the use of aid to subsidise trade.

Australia was a strong supporter of those moves and as a result projects shifted in emphasis to social development needs, such as water supply and sanitation, transport infrastructure and rural electrification. The tightening in 1992 resulted in a much-improved set of criteria being put in place. Previously, Australian firms would try to convince recipient government agencies of the worth of undertaking a project at the suggestion of the Australian firm. The new criteria, however, were designed to put a greater emphasis on joint identification, selection and preparation of DIFF projects with recipient governments. DIFF operated in such a manner as to provide recipient countries with mixed credits, normally a 35:65 blend of grant aid and Export Finance and Insurance Corporation financing. The two components allowed the recipient company to obtain a loan in support of the full value of the export.

DIFF is not a "subsidy paid to domestic business", as Federal Treasurer, Peter Costello, described it. DIFF in no way gave money to Australian companies to allow them to tender at a lower price. DIFF is in effect a soft loan given to the recipient government. In this manner the Australian Government made it easier for recipient governments to pay the Australian contract price. DIFF was similar to schemes existing in other OECD countries. The scheme allowed Australian companies to compete on a level playing field with rival foreign companies for development projects. The abolition of DIFF is currently the subject of an inquiry by the Senate Foreign Affairs, Defence and Trade References Committee.

The committee's interim report was tabled on 16 October. The interim findings highlight a Foreign Minister desperate at all stages in this fiasco to ensure that ramifications of his actions are kept from public scrutiny. Mr Downer's performance in the Parliament must have been viewed with dismay by our neighbours, hearing Australia's official international spokesperson deny receiving any of their cables of

protest and letters of concern. Within Australia the companies involved with 50 projects, covered by 85 letters of advice, found themselves without the support they quite rightly believed the letters of advice provided. Their reaction was unmistakable. Aquatec Maxcon, a water and waste management company, had this to say:

It is hard to believe we (Aquatec Maxcon) will ever be able to show our face at the Ministry of Health in Jakarta again.

The reaction from other companies similarly affected will be dealt with by my colleagues later in the debate. Suffice it to say that even terms such as

Page 5564

"king hit", "a total souring of relationship" and "humiliation" cannot convey the economic damage done to those companies. In spite of the demonstrable foolishness of the actions of the Federal Government, Mr Downer still did not alter his view on the need to abolish DIFF. Having convinced himself of the correctness of his actions, he proceeded to frustrate the reasonable requests of the Senate committee inquiry. Access to important documents and information has been denied and Mr Downer has refused requests to appear before the Senate committee. Some of that information is critical for gauging the impact that the abolition of DIFF has had on the State.

Fortunately, some of the affected New South Wales companies have made submissions to the inquiry. The Department of State and Regional Development and I have contacted these companies. I am therefore in a position to inform the House of the damage done to local industry. I am sure that honourable members opposite will be discomfited to hear that Downer's decision has meant that at least 340 jobs have been lost to New South Wales alone - and that number has been revealed by just skimming the surface, by phoning four or five companies that are known to have been affected.

Mr Cochran: That's about half the number you put out of work in the timber industry.

Ms NORI: The honourable member should listen. The number of 340 represents only those jobs lost in companies the Government has been able to contact. The Minister for State and Regional Development, Michael Egan, wrote to Mr Downer in June and pointed out that based on just three projects the New South Wales Government was aware of \$110 million worth of export earnings that would be lost so that the Commonwealth could save \$120 million a year on its budget. The New South Wales Government made a submission to the Senate inquiry and pointed out the effects on companies. The sunk costs came to \$3.4 million and the projected value lost to New South Wales was \$400 million. The submission pointed out that since much of Australia's high-value-adding industries are located in New South Wales the impact of the abolition of DIFF is likely to be higher in this State than anywhere else in Australia. The DIFF scheme had helped New South Wales companies tap into overseas markets and give Australian companies a scale of production that would not have been likely had our relatively small domestic economy been relied on.

DIFF also helped New South Wales firms gain access to growing overseas markets, not only giving them a lead into other export opportunities but also providing scope for overseas markets to be locked in to local technologies. The countries Australia was assisting through the DIFF scheme are the countries in which Australia's exports future lies. When the Government terminated DIFF 50 projects had been issued letters of advice. These had a total contract value of \$1.1 billion. The 50 projects were in four countries: China, with 24 projects; Indonesia, with 14; the Philippines, with seven; and Vietnam, with five projects. Contrary to what Alexander Downer would have the Australian population believe, the reaction from those countries has been considerable. The *Australian* of 17 July 1996 published a letter from the Minister Counsellor (Economic and Commercial) at the Chinese Embassy in Canberra, Mr Zhu Zhen Yuan, which stated:

The Chinese Government has, both prior and after the decisions of the Australian Government expressed many times and through various channels its grave concern over the termination of DIFF.

It has been revealed that the Philippines, Vietnam and Indonesia have also voiced their concern. But we will never know the full extent of that, because Mr Downer has refused to provide the committee with all information. The New South Wales Government is most concerned about the message that the abolition of DIFF is giving our Asian neighbours and the impact that will have on the New South Wales economy. I refer honourable members to a particular company that has come to my attention. GEC Alsthom is a manufacturer of communications equipment that has sites at Ryde and throughout Sydney. The company has been successful in exporting Australian technology to South-east Asia, notably to Indonesia, a high proportion of which has been due to the availability of DIFF funding. The company could not have succeeded in making inroads against competitors with similar schemes without DIFF support. The company has spent in excess of \$750,000 over the past year - *[Time expired.]*

Mr ARMSTRONG (Lachlan - Leader of the National Party) [4.19]: There have been many reports and opinions about the effectiveness and the appropriateness of the development import finance facility scheme, from its inception in the 1980s through to its conclusion in the middle of 1996. A brief summary in one of the many papers on the matter states that the development import finance facility known as DIFF, a mixed credit funding scheme, has had its share of controversy. Supporters maintain that it provides them with a level playing field in the growing markets of Asia, where other countries have traditionally provided such funding to their exporters. Critics maintain that the scheme distorts aid priorities and is a trade promotion subsidy for Australian industry. From its inception in the early 1980s to its demise in 1996 DIFF has been the subject of many reviews, revisions and changes in guidelines.

The debate on DIFF started virtually the day it was born under the Federal Labor Government. The major changes to our aid program were not started under the present coalition Federal Government; they were started under a previous Labor Prime Minister whom Labor people do not like to talk about much these days, the Hon. Bob Hawke. When the Hawke Government first took an axe to foreign aid in 1986, for budgetary reasons, the cut was supposed to be only temporary. But instead the level

Page 5565
of official development assistance, known as ODA, which was set at 0.55 per cent of gross national product by the Gorton Government in 1969, fell to 0.33 per cent under the Labor Federal Government.

The New South Wales State Government now has the audacity to pretend that debate over the DIFF scheme has occurred only this year. I suspect that the Federal Opposition has requested the assistance of the State Government. The honourable member for Port Jackson does not understand the background to foreign aid. If she did, she would be clearly aware of the continuing concerns, reviews and revisions conducted by the previous Hawke and Keating governments. She is wrong in her suggestions today about the Howard Government, or Minister Downer, being the final arbiter on DIFF.

Mr Anderson: But she did not know he had done it. He denied knowing anything about it.

Mr ARMSTRONG: Ignorance is not an excuse in this place. Whilst the abolition of DIFF is a disappointment to the companies directly involved, it needs to be seen in a much broader context. DIFF funding was available only to a relatively narrow subsector of the Australian economy, and the sectoral coverage has been narrowed considerably in recent years. The honourable member for Port Jackson mentioned that few Australian companies had access to this type of funding. The number of beneficiaries of the scheme was limited. Two thirds of all DIFF funds over the entire life of the scheme were awarded to only 10 companies. One company alone received \$150 million.

It is not surprising that those major beneficiaries were most vocal in the media about termination of the scheme. DIFF funding had become a major part of the balance sheets of those few companies. We must not lose sight of the fact that the vast majority of Australian exports to Asia occur on normal commercial terms. Every day a raft of Australian companies - ranging from agricultural, communications and high-tech companies through to shipping and transport companies - are doing normal business without assistance. The great majority of Australian companies trading into Asia are operating

successfully and are growing without the benefit of grant-based concessional finance.

For example, DIFF funding for China in 1995-96 represented only 3 per cent of total Australian exports to China. So 97 per cent of Australian exports to China in the last financial year were not assisted in any way by DIFF. As I said, the funding was narrowly directed with only 10 companies being assisted and with one company receiving \$150 million of the total funds. Ninety seven per cent of Australian companies trading with China, arguably the largest volume market in the world today, did not receive any benefit. It was in those commercial markets that many firms gained export experience prior to gaining DIFF-supported contracts. Whilst the termination of DIFF will affect the individual companies, the impact on the broader community is not so clear. Several attempts have been made to quantify trade flow-on benefits of DIFF, relying on responses from beneficiary companies. Some of the responses involved estimates of expected business without independent verification of whether expectations were met. The structure of the program was 35 per cent grant and 65 per cent loan. Therefore, we would expect every dollar of DIFF grant to produce up to \$3 of Australian exports since the scheme is tied to the purchase of Australian goods and services.

A review by the Department of Foreign Affairs and Trade of the trade statistics found no evidence of strong trade creation in the subsectors of Australian industry eligible for DIFF funding. DIFF's macro-economic impact was negligible. It was a very small program in relation to the size of the Australian economy and in 1995-96 it represented just 0.00026 of the Australian economy. Whilst it is understandable that the recipients of the funding feel as though they have lost finance to assist them in their business, in terms of getting value for the Australian dollars and giving value to the recipients of this DIFF funding or foreign aid, it is highly contentious whether the DIFF scheme was achieving its targets. Was it really satisfying the recipient companies, Australian taxpayers or our Asian trading partners? Could better use have been made of the available foreign aid dollars than through the DIFF program? They are the questions that have to be answered.

There has been a great deal of doubt over the years about the program. Much of it started under the previous Labor Government and it has now spread over two governments from both sides of politics. We must ask whether we are doing the right thing by the Asian countries targeted, Australian companies and Australian manufacturing industry by having a program that is so narrow in its appeal and which is not spreading the benefits to expand growth across the broader subsector of Australian manufacturing and research and development companies. This question could be debated for a long time without coming to a satisfactory answer. In the important area of increasing trade and improving relationships the page must be ruled off on such questionable expenditure. That is what the Federal Government has done to re-establish what it is hoped will be a far more productive and better scheme.

The honourable member for Port Jackson did not mention that, whilst DIFF programs have been curtailed, DIFF has provided preferential export assistance for Australian companies in only one sector, the infrastructure sector. She did not say that a review is occurring of the programs mentioned within the previous DIFF scheme. Some of those will continue to be funded if they satisfy the appropriate guidelines. So to claim that all funds under DIFF have been curtailed is simply wrong. The review is going on and the door is still open. Those projects which satisfy the criteria established to ensure that we get the best value for our money and to give the best value to our customers will continue to be funded.

Page 5566

Mr WATKINS (Gladesville) [4.29]: I am pleased to speak in this debate, in particular because the honourable member for Port Jackson referred to a company operating in my area of Sydney, GEC Alsthom, a manufacturer of communications equipment. That company is very successful in exporting Australian technology throughout Asia. It has sites throughout Sydney but in particular at Ryde. Cancellation of the development import finance facility scheme has been a heavy blow to the operations of that firm, which has projects worth many millions of dollars. The decision has impacted on jobs and on families throughout Sydney and in my electorate in particular.

The company was highly successful, particularly in exporting to Indonesia. A high proportion of exports was based on the availability of DIFF funding, and the company could not have achieved what it has and could not have made the inroads it has into its competitors markets without the support of DIFF funding. The company has spent in excess of \$750,000 over the past year pursuing projects and feasibility studies. The abolition of DIFF has meant that those funds and that time have achieved nothing. Having now built up a sizeable export base, the abolition of DIFF means that the company may have to scale down employment levels. Apparently the company forecasts a downsizing of 100 by Christmas and there will a substantial knock-on effect to subcontractors.

That decision, which was made in Canberra, is affecting jobs in my electorate. For that reason I am pleased to support the motion moved by the honourable member for Port Jackson. The development import finance facility accomplished a number of objectives. First, it provided much-needed aid to developing economies, and that should not be forgotten. Second, it gave support to Australian companies in the process. Importantly, looking at DIFF on a wider scale, it built the foundation for growth in bilateral trade, which is essential to the future of industry in New South Wales and, indeed, in Australia. The support which DIFF gave to local industry was critical in enhancing and building on the competitiveness of domestic industry in New South Wales. The scheme's abolition will, therefore, be a major setback to industry here. The assistance which DIFF provided was critical in giving domestic companies a leg-up.

That assistance was necessary not only because Australia's competitors gave a form of soft loan to other nations - that would be reason enough - but DIFF was also important because the sorts of goods and services provided under the program constituted infrastructure: energy, roads, construction and similar matters. The provision of these goods and services are inherently risky as they have large up-front costs which decrease over a long period. Such developments require long planning and gestation periods and uncertainty surrounds future revenue. All of that amounts to a high level of risk, which is why the public sector has traditionally been involved extensively with infrastructure, either as owner or regulator. The same applies whether the infrastructure is built locally or, indeed, in developing countries.

That is why the soft loan assistance such as that provided by DIFF was critical for Australian firms providing that infrastructure. The assistance helped offset the inherent risk which is part and parcel of such infrastructure. Now that DIFF has been axed local companies which provide goods and services related to infrastructure will face an even greater uphill battle, having to contend with greater exposure to risk and a playing field that is far from level. The losses to recipient countries must, of course, be noted. Infrastructure is fundamental to the development of an efficient market economy and a reasonable standard of living in those countries. The strong and positive link between infrastructure and economic growth has been well established and is now widely accepted.

The fact that the abolition of the DIFF comes at a time when Australia's development aid as a proportion of national income is at its lowest level for 30 years adds insult to injury. Overseas aid has fallen from 0.55 per cent of gross domestic product in 1969-70 to 0.29 per cent in 1996-97. Despite what Pauline Hanson has to say about such things, that is a most depressing and regrettable slide. However, this cutback does not mean that there have been benefits to the Australian economy. On the contrary, the Commonwealth's aid agency estimates that every \$100 of overseas aid returns \$87 to Australian businesses. [*Time expired.*]

Mr COCHRAN (Monaro) [4.34]: It has taken ten long months for the Government, in what it has described as the year of regional development, to bring one issue before this Parliament that in any way relates to regional development. The honourable member for Port Jackson has moved a motion that is well and truly out of date; it is probably several months too late. It is unfortunate that she has moved the motion at a time when most decisions in relation to it have been resolved. The motion seeks to have the abolition of the DIFF scheme reconsidered. To a large extent that has already occurred, and those countries which have been recipients of the benefits of the DIFF scheme have been well and truly consulted. That reconsideration has been written up by the media on numerous occasions, and the

honourable member for Port Jackson has missed the whole damn lot.

Nothing could have done more damage to the relationship between Australia and its trading partners in recent years than the "recalcitrant" statement by the former Prime Minister, Paul Keating, about the Prime Minister of Malaysia. For some reason the honourable member for Port Jackson has waited for 10 months to raise a regional development issue. In the year of regional development the House has not heard one word from her or from the Minister. It is a disgrace to now move a motion that is obsolete. On 23 July a

Page 5567

newspaper article bore the large headline "Downer reverses on DIFF for Asia". Somehow that escaped the notice of the honourable member for Port Jackson and the Minister. It is unfortunate that they raised this issue because if they had reasonable briefing notes from the former Minister in the Federal Parliament they would know that the funds made available for DIFF come from the entire cake for overseas projects.

The overseas aid allocation includes funding priorities that one would have thought this Government would be concerned about such as the alleviation of suffering and poverty in overseas countries. If there is to be any fiscal restraint in funding for overseas projects, one would have thought that the companies that had previously been the beneficiaries of these funds would be prepared to consider accepting reductions in funding or benefits so that the funds could be directed to reducing suffering and poverty in overseas countries. The honourable member for Port Jackson referred to a Senate committee. Honourable members know the numbers in the Senate and, unfortunately, the Government of the day has to live with them.

The Senate committee dealt with a number of issues raised by the honourable member for Port Jackson. It was of some interest to members on this side of the House to read that although the scheme had caused some disappointment in recipient countries, there was no substantive damage to the relationship between Australia and any of those countries. Many countries involved in the scheme will now be the beneficiaries of substantial funding which has been allocated as a result of a reconsideration of the issue. The honourable member for Port Jackson would do well to read articles published in the media, such as the one I referred to, which clearly states that Minister Downer had already reconsidered these funding matters and has the due consideration of the recipient countries. One would have thought that rather than moving the motion she has moved, the honourable member for Port Jackson would have addressed issues such as the loss of jobs in the timber industry; the decision regarding Lake Cowal, a project which could have created a significant number of jobs; or some other positive issue which could benefit the people of New South Wales. The issue that she raised in the motion has been well and truly placed in the dustbins of most members of the Federal and State parliaments. [*Time expired.*]

Mr CRITTENDEN (Wyang) [4.39]: The abolition of the development import finance facility - DIFF - leaves in its wake scores of New South Wales companies that have sweated it out to break into new markets but have lost time, money and opportunities, all on account of the Commonwealth's militant deficit fetish. Because of the nature of the projects funded under the DIFF scheme, virtually none of that employment would have occurred in its absence. Some examples of the litany of lost opportunity in New South Wales arising from the untimely abolition of the DIFF scheme include the loss of more than \$170,000 by a Sydney-based engineering company spent on developing the Tonga water project in China, plus other projects for which letters of advice had been received. Even larger costs will be incurred because of difficulties in competing with international competitors who receive official soft finance support from their governments.

The souring of relationships in key markets because of the way in which DIFF was abolished, the large costs incurred by recipient governments, and the fact that clients will take a harder line on contractual issues because there is no longer any incentive to maintain good relationships to facilitate future business will all add to the costs. The company already has retrenched staff directly because of the Federal Government's DIFF decision, and has observed that highly qualified and internationally

experienced personnel are likely to be lost overseas, and hence will compete with Australian industry.

BP Solar's work with the Philippines for the Department of Agrarian Reform, which was worth \$90 million, has been eliminated as a result of the DIFF abolition. This would have involved an innovative application of photovoltaics. At least 10 or perhaps 15 jobs would have been created locally as a result of this project. ABB Engineering Construction has utilised DIFF to break into new markets in Malaysia and Indonesia, and was pursuing three electrification contracts when the coalition cancelled the scheme. The estimated project investment costs were around \$450,000. About \$80 million of the company's \$104 million of potential work, which has now ceased on account of the DIFF cancellation, was to be sourced from Australia.

One engineering firm involved in project delivery to China noted that the DIFF abolition is the most serious blow in its 24 years of operation, that it is now trying to hold the business together, that it lost its managing director on account of the DIFF axing, and that four to seven years of forward work has been lost. More than 40 staff will be lost directly, and another 80 staff will be forgone indirectly. Those are jobs that would have been created had the projects proceeded, but they are now jobs that will never materialise.

Bulk Materials Coal Handling, BMCH, is a specialist in coal preparation and materials handling plants. It won its first export contract in 1986 with DIFF assistance for the Ombilin coal washery in Indonesia. This was the firm's first and only DIFF assistance, but BMCH traces its export success and its highly successful internationalisation since then to that initial DIFF support. The company has gone on to win other non-aid supported projects under international competitive bidding, winning contracts

Page 5568

in Vietnam, Papua New Guinea and Indonesia, transforming itself from a small, domestically oriented company to a medium-size internationally-based group. The company has pointed out that DIFF is instrumental in facilitating small companies accessing world markets.

Clearly, success stories like those of BMCH will be a thing of the past with the abolition of DIFF. Those are just some of the stories that have come to light about Australian companies over recent months following the Commonwealth's disastrous decision. They are stories of lost opportunities, job losses, export losses, wasted time and money, loss of face and goodwill, stymied hopes, and embarrassment for companies engaged in productive and socially beneficial enterprise. The abolition of the DIFF must rate as one of the most retrograde steps in international business relations, industry development and overseas aid ever executed in one fell swoop. These Australian companies will suffer badly under this atrocious decision of the Federal Government. [*Time expired.*]

Ms NORI (Port Jackson) [4.44], in reply: I will respond to some points made by the honourable member for Monaro, who accused the Government of having failed to act earlier on this matter. I should point out that the motion moved today relates to a report that was tabled in the Federal Parliament only 15 days ago. So the matter is very much topical. He should have taken into account the motion that has been moved. It criticises the fact that the Federal Government does not intend to institute a replacement for the DIFF scheme. I point out that the Treasurer, the Hon. Michael Egan, wrote to Mr Downer back in June, the moment that this became an issue, saying that New South Wales vigorously opposed the move at the Team Australia meeting in Darwin in June.

The Government also made a submission to the Senate inquiry, in addition to a collateral decision to the Symonds inquiry. So it is quite wrong of the honourable member for Monaro to claim that this Government has not taken an interest in this matter. Coalition members are supposed to be the supporters of business and of trade. They are supposed to be the supporters of the big end of town. I will tell them what the big end of town had to say about the coalition Government in Canberra. They were stunned by the decision to abolish DIFF. They will not forgive the coalition in a hurry; they will not dig into their pockets to donate to future Liberal Party election campaigns. They could not believe the way that the Federal Government has treated business.

The big end of town is also saying that Mr Downer should have been sacked, but it does not think the Prime Minister had the guts to do that. They are dead right; the Prime Minister should have sacked him. The Federal Government is crucifying business with decisions like this. I attended the Team Australia meeting on behalf of Michael Egan. That ministerial council meeting of Ministers for state development or their equivalent was chaired by Tim Fischer. Let me disabuse honourable members opposite of any notion they might have that I was the only participant who criticised the decision. The Deputy Premier of Western Australia, Mr Hendy Cowan, and the Queensland, Northern Territory, South Australian and Victorian Ministers - in fact all who were there - were appalled by the Downer decision.

Something quite unusual for a ministerial council happened at that meeting: the communique was changed and strengthened to reflect the concern and anger of the meeting. All who attended were furious at the implications of the decision for the economies of their States as well as future prospects for favourable dealings with our Asian neighbours. It was clear that the Deputy Prime Minister, Tim Fischer, to his credit, indicated that he too understood the implications of the decision. Unfortunately, his hands were tied because the scheme was not part of his portfolio responsibilities.

Mr DEPUTY-SPEAKER: Order! The honourable member for Monaro will cease interjecting.

Ms NORI: The honourable member for Monaro is the only one who cannot understand the implications of this decision. A price cannot be put on honour, straight dealing and trust. The abolition of the DIFF scheme has destroyed our good name in Asia. We cannot now expect foreign governments to believe anything we now say or do. That is the real damage that has been done. We have left some countries high and dry. In some cases recipient governments had spent millions of dollars on infrastructure studies for these DIFF projects. All of that time and money has gone up in smoke. Many Australian companies, and New South Wales companies in particular, also had spent not just tens of thousands but hundreds of thousands of dollars, yet the Federal Government wiped them out. What a great way to do business!

That is not the way we should be doing business in Australia, and it is certainly not the way that business is done in Asia. We will pay the price for the Federal Government's decision. This was a stupid and ridiculous decision taken by Alexander Downer. He should not have been allowed to get away with it. Our competitors are laughing. Japan and Canada, as well as all nations in the region, have programs with soft loan options similar to those offered under the DIFF scheme. Those countries are ready to jump in and fill the gap. Why should Australia be giving its competitors a head start and a free ride?

This decision is a joke. Australia needs to be involved in a developing nation's infrastructure programs and projects if it is to have a chance of

Page 5569

trading extensively with those nations later on. If we are involved in development of the first piece of infrastructure, we are more likely to be establishing bonds and networks that will result in us being invited back to build further items of infrastructure. That can only be good for New South Wales and Australian companies. But those bonds cannot be established without trust. They certainly cannot occur or be maintained when the Federal Government is ruining the credentials of our companies, as it has done in recent times. Another point about infrastructure - *[Time expired.]*

Motion agreed to.

BUSINESS OF THE HOUSE

Order of Business

Mr WHELAN (Ashfield - Minister for Police) [4.50]: I move:

That so much of the standing and sessional orders be suspended to allow consideration forthwith of the notice of motion given by the honourable member for Ashfield this day relating to Ministers moving motions for suspension of standing orders on any items of business before the House.

Mr Speaker's ruling today clearly indicated that the Leader of the Opposition should have been in the House to move the censure motion against the Minister for Urban Affairs and Planning, and Minister for Housing. That was the agreement entered into on 15 October and *Votes and Proceedings* show that the Leader of the Opposition gave notice of the motion that he now complains has lapsed. There is uncertainty in relation to the other two matters. The Opposition believed it was all right for the motion of no confidence against Mr Speaker to proceed, but it claims the preceding notice of motion, that is, the motion of no confidence in me, should have been proceeded with.

Mr Hartcher: We are looking forward to it.

Mr WHELAN: The Opposition may be looking forward to it, but this motion will enable the Government at any time to deal without leave with any item or items of business before the House.

Mr Hartcher: You could have sought leave and proceeded late last night.

Mr WHELAN: I thought I could, but I have heard a great deal today about my alleged behaviour and my alleged breakdown. I am putting this permanently on the record so that no-one will be able to throw anything at me at all.

Mr Hartcher: You are hiding behind a smokescreen.

Mr WHELAN: I am not hiding behind it at all. The motion will remove ambiguity and relieve the uncertainty. It will provide certainty for the running of the House. As honourable members know -

Mr Jeffery: You are going back to your old ways.

Mr WHELAN: I am not. The motion will enable the Government to deal with the business before the House. Debate on motions, whether they be censure motions or motions of no confidence, can take place at an agreed time and in an agreed time frame.

Mr Hartcher: That is nonsense. You set the agenda.

Mr WHELAN: The agenda is never completed, and I refer honourable members to the debate on the motion of no confidence in the Minister for Agriculture. The debate went on and on, not because the contributions of Opposition members had any merit but because they were filibustering. For those reasons the House should support the motion.

Mr HARTCHER (Gosford) [4.52]: This motion is an extraordinary attempt by the Leader of the House to hide behind what happened last night. The motion was drafted before Mr Speaker had ruled on the point of order of the honourable member for Hawkesbury.

Mr Whelan: What time did Mr Speaker give his ruling?

Mr HARTCHER: At 2.15.

Mr Whelan: What time did I give notice?

Mr HARTCHER: We received this at 2.15 p.m.

Mr Whelan: You couldn't have.

Mr HARTCHER: When does the Leader of the House think the Opposition got it?

Mr SPEAKER: Order! Honourable members will address their remarks through the Chair.

Mr HARTCHER: Notwithstanding that, the real reason for the motion is because the Leader of the Government was trounced yesterday. During question time -

Mr Amery: He was trounced?

Mr HARTCHER: Trounced, and trounced decisively. Oh boy, was he trounced! During question time he tried to table a Police Association press release of 13 September. He was refused leave. He could not do anything then because he had to wait for a break in proceedings. He had to wait until question time was over before the whole issue could be debated. But the purpose of this motion is to do away with having to seek leave to suspend standing orders. Suspension of standing orders will be able to be moved at any time, and that is what the Government intends to do. The Minister intends to ensure that he does not have to wait for breaks in proceedings -

Page 5570

Mr Whelan: No, no, no.

Mr HARTCHER: That is what the motion is all about. That is what it says, and the Minister knows that. He will try to catch people by surprise. The motion is a pathetic attempt to seize control of the House so that nobody knows what is going on other than the Minister. He will be able to move suspension of standing orders at any time without leave. The Minister could have sought leave last night if he had wanted to rectify the problem, a problem that had arisen because of his actions. It was the Minister who caused the problem. No wonder he did not want to seek leave to fix it; it was all his doing. He was the person stirring the pot. Obviously the Minister was not going to try to resolve the issue. I am glad that the honourable member for Manly is in the Chamber to hear these comments. This motion amounts to episode 75 in the constant degradation of the charter of reform. How the Independent members of this House can ever support the Minister on any issue is beyond me. They sometimes do but that support is becoming less frequent as they wake up to what the Minister is doing.

The purpose of this motion is to enable the Government to run jackbooted over what happens in this House. The jackboots are on the Leader of the House. He will walk over everything and seize every opportunity to move suspension of standing orders. The Minister is so transparent. He is very clever. He sits in his office and dreams up ways to play around with the standing orders. No wonder he does not do any police work. It is a transparent manoeuvre of the Minister to try to seize control of everything that happens in this House. It will not be taken lightly. I remind the Minister of the words he used to quote to me when we were members of the Standing Orders and Procedure Committee during the time of the Fahey Government. He always ended every deliberation with the flourish, "Wheels turn." Well, wheels do turn.

Mr Amery: And they did.

Mr HARTCHER: They did turn, and they will turn again. After 1999 the incoming Government will have to rewrite the standing orders because no self-respecting Government, especially one that signed the charter of reform with the Independents, would be prepared to move a motion that seeks to ensure that the Leader of the House can run the House for his convenience, not for the convenience of honourable members, not in deference to the Chair, and with no regard for the charter of reform. Does the Minister have any self-respect? His leader signed that document. He should not try to brush it away as though it is all a big joke. It was a contract signed by the Government but the Minister now seeks to

deliberately undermine it in every possible way. [*Time expired.*]

Question - That the motion be agreed to - put.

The House divided.

Ayes, 47

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 44

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr O'Farrell
Mr Blackmore	Mr D. L. Page
Mr Brogden	Mr Peacocke
Mr Chappell	Mr Photios
Mr Cochran	Mr Richardson
Mr Collins	Mr Rixon
Mr Cruickshank	Mr Rozzoli
Mr Debnam	Mr Schipp
Mr Downy	Mr Schultz
Mr Ellis	Ms Seaton
Ms Ficarra	Mrs Skinner
Mr Fraser	Mr Slack-Smith
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor

Mr MacCarthy	
Dr Macdonald	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Pairs

Mr Carr	Mrs Chikarovski
Mr Hunter	Mr Phillips
Dr Refshauge	Mr Small

Question so resolved in the affirmative.

Motion agreed to.

Page 5571

BUSINESS OF THE HOUSE

Order of Business

Mr WHELAN (Ashfield - Minister for Police) [5.04]: I move:

That private members' statements at this sitting be postponed until consideration of the motion relating to Ministers moving motions for suspension of standing orders on any items of business before the House notice of which was given by the honourable member for Ashfield earlier this day.

The House divided.

Ayes, 47

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge

Mr McManus

Mr Thompson

Noes, 44

Mr Armstrong

Mr O'Doherty

Mr Beck

Mr O'Farrell

Mr Blackmore

Mr D. L. Page

Mr Brogden

Mr Peacocke

Mr Chappell

Mr Photios

Mr Cochran

Mr Richardson

Mr Collins

Mr Rixon

Mr Cruickshank

Mr Rozzoli

Mr Debnam

Mr Schipp

Mr Downy

Mr Schultz

Mr Ellis

Ms Seaton

Ms Ficarra

Mrs Skinner

Mr Fraser

Mr Slack-Smith

Mr Glachan

Mr Smith

Mr Hartcher

Mr Souris

Mr Hazzard

Mr Tink

Mr Humpherson

Mr J. H. Turner

Dr Kernohan

Mr R. W. Turner

Mr Kinross

Mr Windsor

Mr MacCarthy

Dr Macdonald

Tellers,

Mr Merton

Mr Jeffery

Ms Moore

Mr Kerr

Pairs

Mr Carr

Mrs Chikarovski

Mr Hunter

Mr Phillips

Dr Refshauge

Mr Small

Question so resolved in the affirmative.

Motion agreed to.

SESSIONAL ORDERS

Suspension of Standing Orders

Mr WHELAN (Ashfield - Minister for Police) [5.11]: I move:

That during the current session, unless otherwise ordered, so much of the standing and sessional orders be suspended as would preclude a Minister moving a motion to suspend standing orders at any time, without leave, to deal with any item or items of business before the House.

The House agreed on 16 April with a like resolution. The resolution, which is now contained in the sessional orders, reads:

A Minister may move, at any time without leave, a motion to suspend standing or sessional orders for the consideration of Government Business including Tabling of Papers and Ministerial Statements.

Mr SPEAKER: Order! I remind the House that a number of members are on three calls to order.

Mr WHELAN: I have moved to extend that standing order to enable the Government, at any time, to deal with any other items or items of business before the House. That is to enable the Government to determine when motions of no confidence and censure motions, motions that have been proliferating on the business paper, should be dealt with by the House - and with some certainty.

Mr Photios: At your leisure; at your convenience.

Mr WHELAN: Well, it may be. The honourable member will have to judge whether I am going to call on a motion when the member who moved it is not present in the Chamber. I want to acquaint the House with the truth.

Mr SPEAKER: Order! The honourable member for Oxley and the honourable member for Murrumbidgee will remain silent.

Mr WHELAN: The motion is to be found on page 464 of *Votes and Proceedings* No. 33 of Tuesday, 15 October. Notice of motion 14, which is headed "Motion for Urgent Consideration - Suspension of Standing Orders", states:

That so much of the Standing and Sessional Orders be suspended as would allow the consideration of the Notice of Motion given this day by the Leader of the Opposition immediately after the conclusion of the Notice of Motion of No Confidence in the Minister for Agriculture.

That motion was moved by the Leader of the Opposition on 15 October. He moved that, immediately after the motion of no confidence in the Minister for Agriculture, he would move to censure the Minister for Housing.

Page 5572

Mr Photios: On one motion, not a blanket rule.

Mr SPEAKER: Order! The member for Ermington will remain silent.

Mr WHELAN: There is the motion. That is the truth.

Mr Collins: It is a lie.

Mr WHELAN: I do not lie. The motion is there for everyone to see. Honourable members have only to look at *Votes and Proceedings* to see that the Leader of the Opposition is the member who moved it. That is the truth of the matter.

Mr Hazzard: On a point of order. Mr Speaker, in contravention of your previous decisions and rulings, the Minister has flouted your direction not to throw papers across the Chamber. I ask you to have him withdraw the paper.

Mr WHELAN: Pass it back.

Mr Hazzard: You get it. I will not pass it back.

Mr SPEAKER: Order! The Minister will desist from such actions.

Mr WHELAN: I will be happy to go and get the paper when I have concluded my statement.

Mr SPEAKER: Order! That is unnecessary. The Minister will continue.

Mr WHELAN: There has been an abuse of process in this House, for the following reasons.

Mr SPEAKER: Order! I remind the House that a number of members are on three calls to order.

Mr Collins: You lie.

Mr WHELAN: It is lovely to see you in the Chamber.

Mr SPEAKER: Order! I place the Leader of the Opposition on three calls to order. If he continues to interject I will ask the Serjeant-at-Arms to remove him from the Chamber.

Mr WHELAN: But it is nice to see you here.

Mr SPEAKER: Order! The Leader of the House will speak to the motion.

Mr WHELAN: The orders of the day are as follows: there is a motion of no confidence in Mr Speaker, and the Opposition believes that it is reasonable to presume that it should proceed. It is all right for that motion to proceed because it can be considered by the House, but the Opposition contends that it is unfair that two notices of motions lapsed last night. The Opposition cannot have it both ways. There is a motion by the honourable member for Ku-ring-gai to censure the Minister for Education and Training; and there is a motion by the honourable member for Ballina to censure the Minister for Land and Water Conservation. Those motions have to be dealt with before matters of public importance are dealt with by the House. Honourable members have been denied the opportunity to introduce matters of public importance. The reason there have been no matters of public importance in the last week is because of the series of censure motions and motions of no confidence.

The difficulty about censure motions and motions of no confidence does not relate to whether there is or is not substance in them; the difficulty is that, under the standing orders adopted in 1994, time limits do not apply in respect of motions of no confidence, and the debates can proceed ad nauseam. Such was the debate that proceeded, without foundation, in respect of the Minister for Agriculture. That debate went on and on and on. That is the difficulty that the Government faced. The purpose of this motion - this very simple, very succinct motion - is to enable the Government to proceed to move a motion at any time, without leave, to deal with any item or items of business before the House. Honourable members may say that the process will be abused, but so can every standing order and every sessional order in this House; every one of them.

Mr Jeffery: According to you, it can.

Mr WHELAN: Every one of them. This motion will put on the record any abuses. Any abuse of the standing or sessional orders will be there for everyone to see. In my view and in the Government's view, there is no doubt that we have to end this sham of the Opposition dictating the Government's program by ensuring -

[Interruption]

That is what happens. There it is on the program: business with precedence, motions of no confidence, and censures. Two censure motions lapsed last night because Peter Collins did not turn up in the Chamber.

Mr Jeffery: On a point of order. You have consistently ruled today that honourable members should be addressed by their correct titles. I ask you to direct the Minister to do so.

Mr SPEAKER: Order! The Minister will refer to the Leader of the Opposition by his proper title.

Mr WHELAN: The Leader of the Opposition. I have concluded.

Dr MACDONALD (Manly) [5.20]: This motion is one of the most serious dismantlings of the charter of reform in the Fifty-first Parliament. The charter of reform, signed by both sides of the House, was an attempt to wrestle power from the Executive. It was an attempt to lessen the dictatorship of the Executive and to restore power to every member of Parliament, whether in government or in opposition. The standing and sessional orders, which this motion attempts to suspend without leave,
Page 5573

have a very clear purpose and exist for a number of reasons: to create some certainty and order in the House, to provide structure to the daily program and to provide a balance between the authority of the Government and the scrutiny of the House, particularly the Opposition.

The standing and sessional orders have already been seriously eroded by the Government, and one need only refer to the fiasco that is going on with motions for urgent consideration for an example of that. I do not say this lightly, but in my opinion this Government is entering a very dangerous state of arrogance. The unilateral decision making of the Premier in the past 12 to 18 months has been well documented in the public domain, but some items deserve reiteration. I refer to the decisions made about Government House and their consequences - that was the first evidence of unilateral decision making. The fiasco with the motorway tolls provides another example. There has also been a series of debacles, one after another, over hospital funding.

I am also greatly concerned about the way in which the Premier treats the House with total disdain. He has complete disregard for parliamentary practice. I sit on the cross bench and I have not been called to order once in the past six to nine months. I watch members from both sides of the House enter into skirmishes that lead to shame in the community about the way in which the Government is behaving. The behaviour is being provoked by the actions of one person: it is being provoked by the way in which the Premier comes to the Chamber and treats question time. That sets the tone for the rest of the day. The mornings in the Chamber are often quite civilised, but when it comes to question time the Premier comes into the Chamber and deliberately flouts your rulings and normal parliamentary practices.

Other issues have emerged that reinforce the Premier's arrogance. There is the question of pairs. I know what is going on behind the scenes. Perhaps it has not been formalised, but there is in the House an arrangement and a longstanding tradition regarding pairs. It is my belief that the arrangement was breached last night. I turn to the pulling of stunts regarding motions of no confidence and censure motions. The fact that the notice paper contains four or five motions of no confidence and censure motions is perhaps a reason for the pulling of stunts. Perhaps it is not that the Opposition is pulling stunts but that the Government needs to be subjected to proper scrutiny by the Opposition. I support the ability for a vigorous opposition to move motions of no confidence and censure motions. The tradition was basically ignored yesterday when the Government, I believe inappropriately, pulled on a stunt and tried to bring on a motion of no confidence when the Leader of the Opposition was being paired.

I put it to you, Mr Speaker, that you have a very heavy responsibility to be evenhanded in your rulings and in the way you deal, particularly, with question time. I sit on the cross bench and I am not happy about the way question time is being dealt with. Those members who are given their marching orders always seem to come from the Opposition side of the House; none come from the Government side. Those who are called to order are almost exclusively Opposition members. One of the benefits of being an Independent member and sitting on the cross bench is that one can in a sense be an umpire. I speak in this motion to try to exercise that role. I do not think that the Speaker is ruling this House fairly; I think he is unfair. I conclude by saying that it is my opinion that the Premier is entering a very dangerous phase. He has got very arrogant, he is treating this place with disdain, he is on a slippery slope and he is on thin ice.

Mr CLOUGH (Bathurst) [5.25]: I have been a member of this House since 1976 and I will be here to cause the lot opposite a great deal of trouble for another couple of years, make no mistake of that. I am in the unfortunate position that at times I have to relieve you in the chair, Mr Speaker. A number of honourable members believe that after they have been called to order three times they are able to walk outside the Chamber, gain absolution and then come back to taws. That is not correct. The behaviour from the Opposition in the past weeks has been absolutely abysmal. Your good humour and tolerance have been very much evident. I assure Opposition members that had I been in the chair at the time half of them would have taken an early shower and would deserve it.

Mr Cochran: On a point of order. Mr Speaker, there is a motion before the Chair in relation to no confidence in you. In debate on the motion of no confidence the honourable member for Bathurst will be able to speak to the issues he is now addressing, which are well outside the leave of the current debate.

Mr SPEAKER: Order! The member for Bathurst may continue. The honourable member for Manly was given considerable licence in that regard.

Mr CLOUGH: That was an example of the idiotic kinds of points of order that are taken by the Opposition time and time again. In the past three weeks the House would have heard a hundred references to the fact that a Minister was not answering a question in the way Opposition members wanted him to. The Speaker has very little control over the way a Minister chooses to answer a question. Ministers have answered questions in the way they see fit for as long as I have been a member of the House. The story is: if you have the numbers, you run the place.

When the coalition was in office in 1988 and, when I came back to the House, between 1991 and 1994 it ran this place according to its rules. There is a matter that concerns me greatly. When I was in the chair last week an honourable member was called a dill. The member who had been called a dill objected and wanted that term withdrawn. In fairness, I asked the Minister involved to withdraw

Page 5574

the comment. The Minister then said, "But you are a dill." Candidly, I thought both of those concerned were acting in a peculiar manner for members of Parliament. Unparliamentary behaviour comes from members on both sides of the House, as do unwarranted interjections. What annoys me most are those Opposition members who jump up, point at the Speaker and threaten the Speaker. I urge you, Mr Speaker, as from tomorrow to hand out marching orders to the first honourable member who points a finger at you.

Mr Photios: You just did that.

Mr CLOUGH: I put the honourable member for Ermington high on the list.

Mr Hazzard: On a point of order.

Mr CLOUGH: The honourable member for Wakehurst, who is now taking a point of order, also behaves disgracefully.

Mr Hazzard: There is a longstanding tradition in the Westminster system that any member who takes the chair as an acting speaker should show no bias in his decision-making process. What the House is currently hearing is that the honourable member for Bathurst would happily be biased.

Mr SPEAKER: Order! No point of order is involved. The honourable member for Wakehurst has today disobeyed two directions from the Chair. If he disobeys another direction from the Chair today, he will be removed from the Chamber.

Mr CLOUGH: The honourable member for Wakehurst confirms the point I am making. Today the

honourable member for Wakehurst should have been thrown out twice at least. The honourable member for Ermington, strangely enough, was fairly well behaved today. The Deputy Leader of the Opposition put on an act today. So far as the Leader of the Opposition is concerned, I believe he had just cause to defend his role as a member of the army and navy reserves. To qualify that remark, I point out that I served in that area myself and had a commission. I know exactly what the Leader of the Opposition is talking about.

The behaviour in the House in recent weeks has been abysmal. Opposition members have to realise that they are in opposition - they are not running the place. This place is being run by the Government; we are running the place. Some of the points of order taken by the honourable member for Monaro would have been laughable in the days when I first was a member of Parliament. In those days members on the opposite side had substance - men like Eric Willis, John Maddison, Tom Lewis, Tim Bruxner, Leon Punch; big men who could take the toing and froing of parliamentary debate.

Mr McManus: And big Wal.

Mr CLOUGH: Yes, and big Wal. Big Wal has a sense of responsibility, coupled with a sense of humour, and he is a damned good friend of mine - because he is a man. Opposition members are Lilliputians. They act like children and when they are treated like children they complain. I warn them that when I am in the chair any member who transgresses after having previously been called to order three times will be removed from the Chamber - bingo!

Ms MOORE (Bligh) [5.30]: I cannot believe this motion before the House today. It proposes that during the current session, unless otherwise ordered, so much of the standing and sessional orders be suspended as would preclude a Minister moving a motion at any time, without leave, to deal with any item or items of business before the House. I find the motion astounding. I have a different attitude and a different background from the majority of members of this House. I believe in parliamentary democracy. I believe in accountability. I believe in scrutiny. And we saw all those things occurring in the Fiftieth Parliament. The hypocrites from the Labor Party said that it was terrific.

The former Leader of the Opposition and the former manager of Opposition business said that they supported parliamentary democracy, scrutiny and accountability. They made the most of every opportunity in this place to enable those things to occur. And what have we seen during this Parliament? Arrogance and dictatorship, absolute contempt for the Parliament. Contempt for the Parliament is contempt for the community. It is contempt for the people of New South Wales. When the Premier shows contempt for the Speaker, for the backbench members, for all members, he is showing contempt for the people of New South Wales. That is what is occurring in this Chamber day in and day out. I have sat on the cross bench for eight years and I have never seen anything like I have seen in the last couple of weeks.

Mr McManus: Don't you remember Greiner?

Ms MOORE: I do remember Greiner. I certainly had my fallings out with former Premier Greiner and former Premier Fahey, but they never treated this Parliament with the contempt the current Premier -

Mr SPEAKER: Order! The member for Kiama will remain silent. I place the honourable member for Bulli on three calls to order.

Ms MOORE: During my first term in the House Premier Greiner had a huge majority: he had members falling off the bench. He certainly did not need any Independent, but he did not treat this House with contempt. I did not agree with his policy and I did not agree with the way in which former Leader of the House Dowd ran the House, having us sit on one occasion for 31 hours. However, there was always respect for the process and respect for other members, because they represented the people of New South Wales. Members are not respected now. We are treated with contempt, which means that the

people of New South Wales are treated with contempt. Things change: I have seen remarkable changes. I make a commitment, when the pendulum
Page 5575

swings and the Independents are again in a position of influencing outcomes, to a return to parliamentary democracy, a return to scrutiny and a return to accountability - the sorts of things we have lost with the Government. Government members collectively should hang their heads in shame.

Mr HARTCHER (Gosford) [5.32]: Mr Speaker -

Mr Price: The voice of reason.

Mr HARTCHER: Thank you. I am very flattered that the Deputy Speaker should describe me as the voice of reason in this place. It is not surprising in view of the behaviour of members on the other side of the House. One of the purposes of the motion moved by the Leader of the House is essentially to destroy the routine of business of the House. It says that a Minister may move at any time, without leave, a motion to deal with an item or items of business before the House. The routine of business will not now be as charted out and as given to members; it will be as determined by the whim of the Minister at the time. We all know which Minister that will be - no Minister other than the Leader of the House, the Minister for Police. He is the person who is the most indecisive; he can never make up his mind. He wants to be able to make decisions on the run as he sees the situation, and he expects the House to fall into line with him. That is basically what is going to happen. The House will have to revolve around him, his work habits and his indecisiveness.

As the honourable member for Bligh said, in a previous Parliament the Leader of the House was the Hon. John Dowd. Whatever his faults, he believed that everybody should have the right to speak. That is why the House sat for 31 hours: he wanted everybody to talk. He had many opportunities to use the gag during his term as Leader of the House but he would not do it. Members from his own side begged him to use the gag. They were all sick and tired of having to listen to the boring speeches being read out by members of the then Opposition. But coalition members tolerated the situation because we believe that there is value in this institution. We are sent here because the institution has a value to our electorates and to the people of New South Wales. We are not sent here simply to be rubber ducks, to be manipulated by the Leader of the House at will. He is the sort of person who likes to play with rubber ducks in the bathtub.

This motion would vest in the Leader of the House the power to determine everything that happens in the House - without even seeking leave. Why is it that whenever things do not go right for the Government its first reaction is to move to change the standing orders? We had a set of standing orders that worked very well and quite fairly. When I was a Minister we often did not like the standing orders but we were able to live with them. In those days we had a Speaker who was able to maintain order for three years without throwing anyone out of the Chamber, except on one occasion after he was sorely tempted by the present Leader of the House.

Mr Knight: He threw me out.

Mr HARTCHER: He threw people out in the period 1988 to 1991 but from the inception of the Fahey Government, from 1991 to 1995, the only person Speaker Rozzoli threw out was the honourable member for Ashfield, Paul Whelan, who blatantly and deliberately defied him to the extent that even Speaker Rozzoli's patience was exhausted. Mr Speaker, it can be done. It is not easy but it requires that everybody have a foundation of respect for the procedures and forms of this House. They are not ends in themselves; they are the means by which members have the right to express views on legislation, to call the Government to account and to raise issues of concern to their electorate. That is what the procedural system is set up for.

The Government is trying to manipulate the procedural system to suit its purposes and its purposes

alone. Every time the Government comes up against an obstacle it immediately moves to change the rules. That is why the rules have been changed quite a number of times since the inception of the Labor Government in 1995, and I predict that there will be more changes. The notice paper contains notices in respect of motions of no confidence in the Speaker and motions of no confidence in Ministers. The Government does not like motions of no confidence and it is therefore seeking to limit the time that is allocated to them. This is a very serious matter but the Government now proposes to change the rules to limit the amount of time available for debate. This is what one would expect from people representing a political party that has the biggest rule book in the world. The rule book for the Australian Labor Party is enormous. The three-day conferences the ALP has every year always include a big rules fight. It has become part of the ritual agenda. The Right and the Left do not fight about policy any more, or about communism or all the great issues they used to fight about once. The big fight at every conference is the rules fight. When the Right finds that it did not get its way in some branch or other, it rushes to change the rules at conference so that it can walk all over the Left.

Dr Macdonald: How do you know all about that.

Mr HARTCHER: It pays to be well informed about what is going on in this place. Who knows more about every faction than the man who has represented every faction, the man from central casting, the Minister for the Olympics, and Minister for Roads, who is at the table. You want him Left, he is Left; you want him Right, he is Right. But above all he is for power, and power for its own sake. Regardless of the intrigues of the Australian Labor Party, this is quite a serious point. It is part of the ongoing undermining of the processes and procedures of the House. It is important that members be passionate about this because this is what they have to defend. Once members lose these procedures, they lose their basic rights to represent

Page 5576

their electorates and to scrutinise the Government. Governments dislike nothing more than being scrutinised; I know, I have been there. Government members do not like being questioned and Ministers do not like having to debate motions and having to defend their departments, themselves or their decisions. But they do it, without liking it. If the rules are changed to make that procedure more difficult there will be a temptation - and the Government is succumbing to that temptation.

Mr Knight: You will not allow joint estimates committees, you will not allow Ministers to be grilled by joint estimates committees.

Mr HARTCHER: I will come to that. Fundamentally this is part of that ongoing process that was referred to earlier. One of the things the Leader of the House said that got everybody laughing was, "Let me speak the truth." He said that as if it was the first time he had ever done so. The Minister referred to the events of last night and to the fact that the Leader of the Opposition was paired. *Hansard* reflected that the pairs included Mr Collins and Mr Carr. The two motions were then called on. The Minister sat on this side of the House because he voted with the noes and the Opposition voted with the ayes. He pointed at me and said, "I hope you're ready, because you won't be ready either when yours comes on." He expected me to move a motion of no confidence in you, Mr Speaker, without any notes, without any preparation. That was an attempt not simply to catch out the Leader of the Opposition, but also to catch me out.

The Leader of the House was party to a contrived exercise that played games with the forms and procedures of this House. It was not done for any great purpose because he knew that the Opposition could reinstate the motions of no confidence the following day if the Speaker was not prepared to uphold the point of order taken by the honourable member for Hawkesbury. The motions have been reinstated. The Minister knew that I would speak, however adequately or inadequately, to the motion of no confidence, with or without notes. Nothing would be gained in the long run. The Minister was playing games with the procedures of this House. That is a debasement of everything that this House stands for. Sure, both sides take tactical points; sure, both sides try to use the standing orders to maximise their advantage, to get their own points up and to get an opportunity to speak and argue. It is a whole different

dimension when the standing orders are manipulated to make fun of one side or another.

That is exactly the example the House was given last night by the Leader of the House. Compounding that is the Minister's total dishonesty when he said that the Leader of the Opposition was not here; *Hansard* proved him wrong. That dishonesty was compounded when he said that the motion of censure of the Minister for Urban Affairs and Planning was to come on after the motion of no confidence in the Minister for Agriculture. He had told three people - me, the Leader of the National Party and the National Party Whip - that the House would rise after the determination of the no confidence motion in the Minister for Agriculture.

Most people who intend to commit a crime at least have the sense to commit it in secret, or when only one person is present, so that it is a case of one person's word against another's. Criminality is compounded by stupidity by telling three people one's intentions, and that casts a reflection upon the Minister's intelligence as well as his desire to manipulate the proceedings of the House for his own purpose. The Opposition is not prepared to cop it sweet; the Opposition will not cop these changes to the standing orders; the Opposition will not cop these procedural matters being hurled against it by the Australian Labor Party; and the Opposition will not cop this ongoing tearing up of the charter of reform. While the coalition parties in government may not have liked the charter of reform, they signed it and honoured it. The honourable member for Hawkesbury honoured it when he was the Speaker. He was not bound by it, as it was a document between the former Government and the Independents, but he sought to honour it in spirit.

The Government of the day, of which I was a Minister, as was the honourable member for Ermington, not only sought to honour the charter of reform but did honour it. The former Government honoured the charter every day, despite the inconvenience and frustration it caused. The charter of reform has been acknowledged as a genuine attempt to ensure that the Parliament returned to its supremacy over the Executive Government. The destruction of that agreement is an attempt to ensure that the Executive Government rules the Parliament. That is what has happened since the steady diminution of the effect of the charter of reform and that is what is happening now as the Government seeks to change every rule that frustrates it in its desire to whittle away at that charter and the rights of members. This Government is frightened of scrutiny.

That is clear because last year the House sat for 33 days, this year it will sit for 50 days, and according to the Government's program it will sit for a maximum of 55 days next year. Over a three-year period that is an average of 43 days a year that this House sits. The House will debate this matter on another occasion, when the motion is moved. The underlying rationale of limited sitting days is to ensure that there is no parliamentary scrutiny of the Government. The underlying rationale of these notices of motions is to minimise the amount of parliamentary scrutiny that can take place. The rationale is the same in both cases. The Government is so contemptuous of this Parliament that every time it does not get its way it immediately runs off to change the rules to make sure it does not happen again.

Page 5577

Yesterday honourable members saw the classic case. The Minister for Police sought to table two documents, one of which was a press release, but he was not prepared to table a document produced by the honourable member for Eastwood about the Ombudsman's report. The Minister for Police thought he was being very smart. He was going to flourish the documents around, move the suspension of standing orders, throw the documents on the table and show that he was king. When leave was refused, he was forced to wait for a break in proceedings so that he could move a motion for suspension of standing orders. To his surprise that motion was debated. The Minister had expected to move his motion and wham, bang, have it passed. He did not like the debate because it was about him. The debate addressed the Ombudsman's letters obtained by the honourable member for Eastwood which disclosed irregularities in the police investigation into a bashing at his Mercantile Hotel. The Minister did not like that. The honourable member for Eastwood said, quite rightly, that he had a report.

Mr O'Farrell: It comprised two letters.

Mr HARTCHER: The honourable member for Northcott correctly stated that the report comprised two letters. I am sorry that I do not have the letters with me. I am sure the House would like to hear more about them. However, that is not the issue.

Mr Knight: Have you been caught short unexpectedly?

Mr HARTCHER: Certainly not, without any help from you. The issue is the desire of the Minister for Police to ensure that the House reflects his will, that he alone will be the determining voice as to what happens in this House and that the standing orders will simply be a guidebook which he has no intention of abiding by when it does not suit his purpose.

Mr PHOTIOS (Ermington) [5.48]: Today the Government is seizing control of the Parliament and establishing an autocracy, a dictatorship. This motion should be seen as purely and simply a grab for power and a grab for control without any qualification. The motion will enable any Minister in this place, on any issue, at any time, to deal with any item without leave to reorder the program of this House. The motion essentially tells the House that the set of standing orders for this House today are being ripped up and replaced with one standing order. That is unequivocally the intent of the motion. The effect of the new standing order will be that almost any motion in this place, any item of business will be able to be dealt with at the will of the Government, without leave. The standing orders of this House are to be replaced by a standing order that can be reduced to writing on one page. This extraordinary display of gross abuse of power is happening today within this parliamentary democracy in New South Wales.

It is one thing for members from both sides of the House to exploit the standing orders, to abuse the standing orders, or in a robust debate to lose their self-control or even from time to time lose control of their thought processes, but it is quite another for the Government to announce that it will tear up the rule book, burn the bible, and for the first time have one rule that can be applied politically to control the House and exploit the Government's power in this place. This single rule will not be used by the Speaker; it will be used by the Government, the Executive of the day, to dictate to all members of Parliament how we will be governed.

The motion provides an all-powerful rule for the Government and does away with democracy as we know it in this Parliament. This is a disgraceful proposal. It is a red-letter day in the history of this Parliament that the Government would introduce a single-sentence rule that will give the Government total autocratic control of this place. We have witnessed the rules applied in such a manner that that there has been in effect one rule for the Government and another for the Opposition. Members on this side of the House, day in and day out, night in and night out, have been thrown out of this Chamber. From time to time Mr Speaker, in the application of the rules - for which he should be congratulated - has called Government members to order three times. But to note that they have been called to order three times is singularly meaningless if consequentially the rule is applied to me and not to, for instance, the Minister for the Olympics, and Minister for Roads. If I am called to order three times regularly -

Mr Knight: Daily.

Mr PHOTIOS: - or daily, that is an appropriate and fair discharge of the rules. But Opposition members are not receiving a fair consequence. A member on the Government side who continues to interject will remain in the Chamber whereas any member on this side of the House who so offends will be removed from the House. It is not an unusual day if not one but two Opposition members are ejected from this place.

Mr Knight: On a point of order. Honourable members have been allowed extensive latitude in the debate. Indeed, the honourable member for Gosford was permitted to range wide and delve into all sorts

of matters. However, the honourable member for Ermington seems to be confused about the subject matter of the motion to which he is speaking. The motion of no confidence in the Speaker was moved last night. The House is now debating a different motion. If he wishes to reflect on the Chair and dissent from the Chair's decision, the only way to do so within the forms of the House is by way of an appropriate substantive motion. He should not be doing so in this forum.

Mr Fraser: On the point of order.

Page 5578

Mr SPEAKER: Order! The honourable member for Coffs Harbour will resume his seat. I have allowed wide-ranging debate though I had hoped the debate would be finalised quickly. Members may refer to the implications that will flow from adoption of the standing order, but I ask them to try to keep their comments relevant to the matter before the House.

Mr PHOTIOS: It is fair to say that in this debate honourable members can discuss almost any of the standing orders of the House, or circumstances in which I and other members are named and removed from the House, or whether rules are misapplied.

Mr SPEAKER: Order! I have made a decision on that.

Mr PHOTIOS: The effect of the application of this standing order will be to replace all other rules and standing orders of this place. The Speaker, quite sensibly in my view, has allowed free-ranging debate to enable each honourable member - and I assume the decision will be applied equally to all members - to discuss all issues before the House. The fact is that although it has been ruled good enough for the Premier to display newspaper clippings in the House it has been ruled out of order for Opposition members to do likewise. I did that once and was removed from the House. At the last count, the Premier has displayed newspaper clippings in the Chamber on 14 occasions. Did he get thrown out 14 times, 13 times, or 12 times? I could count down to one, but I will save the time of the House. No, he was never thrown out. In fact, on eight of those occasions the Premier was even told that he could continue.

In contrast, Opposition members who display just one newspaper clipping are not called to order once, or twice, or three times, but are suspended from the House immediately. It is not a case of three strikes and you're out; you are just out! In that context the standing order motion appals me, as it should appal every honourable member of this House. Those who would say that the present set of rules are not working should understand that the new rule removes the protective covers and permits the House to be controlled not by the Speaker but by the Government. The new Speaker of this House will be the Leader of the House charged with progressing government business. The new Speaker of this House, the new controller, the new orderer, the new dictator of Parliament will be the Minister for Police -

Mr BECKROGE (Broken Hill) [5.58]: I move:

That the question be now put.

The House divided.

[In division]

Mr SPEAKER: Order! I remind the honourable member for Burrinjuck that a division is in progress. He will resume his seat.

[Interruption]

Mr SPEAKER: Order! If the honourable member for Burrinjuck continues to direct comment across the Chamber, I will have him removed.

Ayes, 47

Ms Allan	Mr Markham
Mr Amery	Mr Martin
Mr Anderson	Ms Meagher
Ms Andrews	Mr Mills
Mr Aquilina	Mr Moss
Mrs Beamer	Mr Nagle
Mr Clough	Mr Neilly
Mr Crittenden	Ms Nori
Mr Debus	Mr E. T. Page
Mr Face	Mr Price
Mr Gaudry	Mr Rogan
Mr Gibson	Mr Rumble
Mrs Grusovin	Mr Scully
Ms Hall	Mr Shedden
Mr Harrison	Mr Stewart
Ms Harrison	Mr Sullivan
Mr Iemma	Mr Tripodi
Mr Knight	Mr Watkins
Mr Knowles	Mr Whelan
Mr Langton	Mr Woods
Mrs Lo Po'	Mr Yeadon
Mr Lynch	<i>Tellers,</i>
Mr McBride	Mr Beckroge
Mr McManus	Mr Thompson

Noes, 44

Mr Armstrong	Mr O'Doherty
Mr Beck	Mr O'Farrell
Mr Blackmore	Mr D. L. Page
Mr Brogden	Mr Peacocke
Mr Chappell	Mr Photios
Mrs Chikarovski	Mr Richardson
Mr Cochran	Mr Rixon
Mr Collins	Mr Rozzoli
Mr Cruickshank	Mr Schipp
Mr Debnam	Mr Schultz
Mr Downy	Ms Seaton
Mr Ellis	Mrs Skinner
Mr Fraser	Mr Slack-Smith
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor
Mr MacCarthy	<i>Tellers,</i>
Dr Macdonald	Mr Jeffery
Mr Merton	

Ms Moore

Mr Kerr

Pairs

Mr Carr

Ms Ficarra

Mr Hunter

Mr Phillips

Dr Refshauge

Mr Small

Question so resolved in the affirmative.

Page 5579

Question - That the motion be agreed to - put.

The House divided.

Ayes, 47

Ms Allan

Mr Markham

Mr Amery

Mr Martin

Mr Anderson

Ms Meagher

Ms Andrews

Mr Mills

Mr Aquilina

Mr Moss

Mrs Beamer

Mr Nagle

Mr Clough

Mr Neilly

Mr Crittenden

Ms Nori

Mr Debus

Mr E. T. Page

Mr Face

Mr Price

Mr Gaudry

Mr Rogan

Mr Gibson

Mr Rumble

Mrs Grusovin

Mr Scully

Ms Hall

Mr Shedden

Mr Harrison

Mr Stewart

Ms Harrison

Mr Sullivan

Mr Iemma

Mr Tripodi

Mr Knight

Mr Watkins

Mr Knowles

Mr Whelan

Mr Langton

Mr Woods

Mrs Lo Po'

Mr Yeadon

Mr Lynch

Tellers,

Mr McBride

Mr Beckroge

Mr McManus

Mr Thompson

Noes, 44

Mr Armstrong

Mr O'Doherty

Mr Beck

Mr O'Farrell

Mr Blackmore

Mr D. L. Page

Mr Brogden

Mr Peacocke

Mr Chappell

Mr Photios

Mrs Chikarovski

Mr Richardson

Mr Cochran

Mr Rixon

Mr Collins

Mr Rozzoli

Mr Cruickshank

Mr Schipp

Mr Debnam	Mr Schultz
Mr Downy	Ms Seaton
Mr Ellis	Mrs Skinner
Mr Fraser	Mr Slack-Smith
Mr Glachan	Mr Smith
Mr Hartcher	Mr Souris
Mr Hazzard	Mr Tink
Mr Humpherson	Mr J. H. Turner
Dr Kernohan	Mr R. W. Turner
Mr Kinross	Mr Windsor
Mr MacCarthy	
Dr Macdonald	<i>Tellers,</i>
Mr Merton	Mr Jeffery
Ms Moore	Mr Kerr

Pairs

Mr Carr	Ms Ficarra
Mr Hunter	Mr Phillips
Dr Refshauge	Mr Small

Question so resolved in the affirmative.

Motion agreed to.

[Mr Speaker left the chair at 6.07 p.m. The House resumed at 7.30 p.m.]

PRIVATE MEMBERS' STATEMENTS

BREAST CANCER RESEARCH

Mr SCHULTZ (Burrinjuck) [7.30]: This month has been dedicated as breast cancer awareness month throughout Australia. I inform my colleagues of the outstanding research being undertaken by the Breast Cancer Institute of Australia here in New South Wales. I remind honourable members that every day six Australian women die of breast cancer and that 20,000 Australian women will have died as a result of breast cancer during the 1990s. The cause of breast cancer is not known. Until the cause is known the disease will continue to have a devastating effect on all of our communities. Breast cancer research is vital to improve the treatment of breast cancer and, more importantly, to find the cause of the disease. Statistics show that in Australia in 1978 one woman in 17 developed breast cancer. The figure for 1996 is one in 12, and the incidence is increasing. It is important to note that all women are at risk. Breast cancer research is in need of funding, and lack of allocation of sufficient funds is slowing progress at a time when answers are needed urgently.

Australia has some extremely dedicated and talented researchers. At the forefront is the Breast Cancer Institute of Australia, which is the only truly national breast cancer research institute and the only breast cancer body that is entirely dedicated to breast cancer research. The Breast Cancer Institute of Australia is at present undertaking clinical trials testing new treatments for every type of breast cancer and a program to prevent breast cancer. It will take years to complete this research at the present level of funding. I appeal to the Minister for Health to review the level of funding for breast cancer research so as to give the State of New South Wales the opportunity not only to show the way for Australia but to allow Professor John Forbes and his acknowledged world-standard research to lead the way worldwide by saving the lives of this country's most precious commodity, its women.

The research funding from the National Health and Medical Research Council must support all medical research. The demands are great and, unfortunately, the cake is too small. Support for the Breast Cancer Institute of Australia will produce better outcomes now for Australian women and breast cancer, and the prospect of better survival rates for future generations. It will also keep Australia's breast cancer research program in the forefront of international research, a position which it proudly occupies at present. Despite the progress already made, daunting challenges remain. More women aged up to 65 still die from breast cancer more than from any other cause. Every day in

Page 5580

Australia more than six women die from breast cancer, and more than 300,000 women die from the disease each year worldwide. The impact of the disease on the community is massive, and its incidence continues to increase. That is not merely because mammography screening is effective in finding more breast cancers early but because there has been a real increase in breast cancer numbers each year for more than 40 years. The challenge and the needs are clear. We must substantially increase our research effort and focus on the areas most likely to produce real gains.

In the United States more than \$2 for every female is spent on breast cancer research. The Victorian Government has specifically committed \$30 million over a 10-year period to breast cancer research. What commitment does the New South Wales Government plan to make to breast cancer research for the women of this State? With the Olympic Games coming to Sydney and the recent announcement of Professor Peter Doherty winning the Nobel Prize in medicine, the third Australian to do so, it is clear that Sydney will have a high international profile. I can think of no better way of enhancing that profile than by a commitment to help the women of New South Wales by providing funding to the outstanding breast cancer research groups that I am proud to say are located in the State of New South Wales.

I have mentioned the level of breast cancer research in this State. I want to make the House aware of the anomalies involved in the levels of funding for breast cancer research. The Australia and New Zealand breast cancer trials group attracts funding of a measly \$29,000 per annum. The New South Wales Cancer Council program receives a total grant of \$312,500. Honourable members know that the New South Wales Cancer Council does a magnificent job in the role it plays to ensure that mammography screening is undertaken, and in the models that it provides through cancer research right throughout the State. It is imperative that the meagre amount of money allocated to breast cancer research be reconsidered. The technical and practical expertise of Professor Forbes must be recognised. [*Time expired.*]

Ms ALLAN (Blacktown - Minister for the Environment) [7.35]: I congratulate the honourable member for Burrinjuck on his initiative in bringing this matter to the attention of the House. Breast cancer is a matter of significant concern to the New South Wales Government, as it is to other governments around Australia. It is certainly of concern to the former Federal Government. In more recent years breast cancer has achieved the status of an issue almost above party politics, and for that reason I assume it is of concern to the current Federal Government as well. I undertake to draw to the attention of my colleagues the Minister for Health and the Minister for Women the honourable member's suggestions about increasing specific funding for breast cancer research.

GOSFORD-WYONG JOINT WATER SUPPLY AND SEWERAGE SCHEME

Mr McBRIDE (The Entrance) [7.37]: I voice my concerns relating to the Gosford-Wyong steering committee review of the joint water supply and sewerage scheme by the micro-economic and government trading enterprise reform standing committee of Cabinet as it relates to my constituents, current employees and the future of the central coast. My original concerns related to the representation and structure of the review and the fact that Wyong and Gosford councils were unrepresented in the review. That aspect has now been partially addressed following joint representations to the Treasurer in July this year by the then mayors of Wyong and Gosford councils, Councillor Tony Sheridan and Councillor Tony

Sansom, and me. However, I am still concerned about the inclusion of council's representation and that its role in the review needs further development. I will deal with this issue directly with the Treasurer.

The most disturbing aspect of the review is the possible impact it will have on local jobs. Currently Wyong and Gosford councils employ around 1800 employees. Of those employees, some 300 are directly employed in the water supply and sewerage section of council. I believe those jobs are at risk if the current status of the water and sewerage supply is changed. It is profitable at this stage to consider the current employment situation on the central coast so the House will appreciate my concern about jobs. The central coast has a 52 per cent participation rate in the work force, one of the lowest participation rates in Australia, as against a national rate of 62 per cent. That is 20 per cent or one-fifth less than the national rate of participation in the work force. The reason for this low participation rate is that there are very few jobs available on the central coast. Further, the tyranny of distance is such that people simply drop out of the work force rather than seek a job in Sydney.

The Wyong shire has one of the most intractable, long-term unemployment situations in the State. The unemployment rate in the area administered by Wyong Council is around 12.5 per cent, compared to the national figure of 9.01 per cent, that is, 38 per cent or more than one-third higher than the national figure. The situation is much better in the area administered by the Gosford City Council, where the unemployment figure is currently 7.5 per cent. However, the train and commuter trip from Sydney to Gosford is significantly shorter from all points south. There are significant differences in the regions, but the issue of local jobs is paramount and overrides any differences. I now turn to the review that is being undertaken. Firstly, I am disappointed that the review was initiated, as it has generated widespread anxiety and insecurity amongst the work force. As a worker said to me:

I took retrenchment from Pacific Power and obtained job security and a local job when I was employed on the water supply scheme. Now that job and security is being threatened again.

Page 5581

Job security and local jobs are a real issue as the rationalisation of the power industry over the last decade and the recent establishment of the national power grid have significantly reduced the number of local government trading enterprise jobs on the coast. I share the concern of workers that any review outcome, such as the amalgamation with Hunter Water and Sydney Water, will mean fewer jobs locally. I also oppose a separate local authority because it will not provide any additional benefit to the area. In fact, it will provide an increased cost to the consumer, given the requirement for another separate bureaucracy and the loss of economy of scale to councils.

The two previous State Government inquiries over the last 10 years, in 1986-87 and 1992-93, could not produce any rationale or advantage for residents and customers to warrant any significant change to the current administration. The 1994 KPMG management consultancy report, commissioned by the two councils, and the Independent Pricing and Regulatory Tribunal reviews have confirmed councils' operating efficiencies and found no reason for radical change. In summary, the Government reviews in 1986-87 and 1992-93, the 1994 KPMG report and regular IPART reviews have confirmed the efficiencies of the existing system. There is an old saying - and like all sayings it is the concentration of human wisdom over centuries - which states, "If it doesn't need fixing, don't fix it."

Clearly the central coast water supply and sewerage system does not need fixing. It is cost efficient, provides higher levels of service than neighbouring authorities, and is subject to regulatory oversight by the Public Works Department, Department of Land and Water Conservation, the Environment Protection Authority and IPART. Most importantly, it is a vital part of the local employment structure. The system works; it meets all government requirements; it is efficient; the price of the service is competitive and most importantly it now constitutes a vital component of the underlying job structure that is the engine room for the local economy. The central coast cannot afford any further job losses. Accordingly, I ask the Treasurer in another place to wind up this review as quickly as possible, support retention of the status

quo and leave the central coast water supply and sewerage service under the local councils.

BINDERY-MANN WILDERNESS AREA

Mr CHAPPELL (Northern Tablelands) [7.42]: I am pleased to see the Minister for the Environment in the Chamber because it is appropriate that she hears my comments. I bring to the attention of the House the consequences of the announcement of new wilderness areas in the north of the State recently. I will quote extensively from a letter I received yesterday from the Watters family, who live in my electorate and have an occupational lease in the Bindery-Mann area east of Glen Innes. The words they write reflect a view that is common among a number of families throughout that whole northern area, particularly the area managed from Glen Innes - that is Timbarra, Washpool, Bindery-Mann and Guy Fawkes, some 53,840 hectares of recently declared wilderness area. Mr and Mrs Watters write:

We are writing to express our opposition to the proposed additions to the Bindery-Mann Wilderness Area. We do not believe the area complies with the criteria set out for wilderness areas and also believe the current management of the area produces more benefit than would occur if this area was converted to wilderness.

The country controlled by our family has been grazed for at least 148 years, and still has a wide range of native flora and fauna. We strategically burn parts of the land each two to three years and the resultant light fires allow timber regrowth and do not harm animals. This practice reduces the risk of hot summer fires which damage both plants and animals severely. Graziers don't like big fires either, they kill the soft grasses, favour the spread of blady grass and although it may surprise the conservationists, we also like the animals and don't wish to see them suffer . . . In country locked up in Parks and Wilderness the first severe fire, which is inevitable with their management practices, will kill more small animals, insects and reptiles, not to mention, trees and plant life, than grazing and graziers have killed in 150 years.

Mr and Mrs Watters go on to talk about the removal from local industry of timber resources. Clearly the letter relates also to the reduction in available bee sites in what used to be forest country, so there is an impact right through the local economy from these decisions. I return to the letter:

Our own families livelihood will also be harmed by this proposal. We rely on this country for our cattle breeding and growing programme. We also contribute to district organisations (Shire rates and R.L.P.B. rates) and to the State through rents, not to mention the local communities we support.

If we lose this area our viability will be severely affected. We employ two married men with families and will almost certainly have to retrench both if this goes ahead. This has been the winter country for approximately two thousand head of cattle and we have used some of this country dating back to 1938.

Who is going to pay the cost of fencing the country? What compensation are we to receive for loss of income?

Myself and two brothers raised 11 children with the use of this land, without Government assistance. This country has become a way of life for all of them. It seems unfair that a family like ours who have caretaken this land in an obviously excellent fashion should be penalised for doing exactly that. If we were to have stripped our land bare and built roads everywhere, with no thought for the environment, we would have been accused of land degradation, but we would still have it.

In summary Mr and Mrs Watters say in their letter:

. . . our objections are based on the following points:

1. The area DOES NOT comply with the definition of wilderness.
2. Existing management is environmentally friendly in regard to fire protection, forest preservation and abundance and diversity of wildlife.
3. The proposal would result in economic loss to existing users, the regional economy and Government organizations.

Page 5582

That is just one letter in respect of one particular area. I can add names of other families in the same area who are in much the same condition, many of whom have farmed that land for generations - Quilty, Newsome, Chard, Cox, Rhodes, Williamson, Lloyd and others. All of these people are conservative farmers. They love that country. They have raised their families from working it and their whole enterprises are about to cease. By the end of next year they will be off this land. All they ask is that part of the land which has been opened up, developed and grazed responsibly for that period of time at least be negotiated. They are not asking to turn back the clock but simply to be allowed to continue good management such as they have practised, otherwise the Government and conservationists would not be interested in the land.

I raise the matter today because the maps are still in the process of finalisation and the opportunity for negotiation on the ground is still available. A number of these areas are not yet finally defined. I would like the Minister, her colleague Ministers and their senior advisers to come to this area and have a look at the country, meet the people they are dealing with, negotiate with them and give those people and their families a fair go.

Ms ALLAN (Blacktown - Minister for the Environment) [7.47]: As the honourable member for Northern Tablelands is well aware, in the recent round of wilderness declarations no private land was declared as part of the Bindery-Mann Wilderness Area or in fact any other wilderness area. However, I acknowledge that areas of Crown land with grazing leases are part of the declaration process. I emphasise to the honourable member for Northern Tablelands - and I take into account the final appeal in his speech - that negotiation and at the very least discussions are occurring with the same people whose concerns he has brought to the Chamber this evening. It is incorrect for the honourable member to insinuate in this House that there has been no attempt to talk to these people whose letter he is quoting from this evening and for him to indicate that no dialogue is proceeding. In fact, dialogue is proceeding. There is recognition by me and by the Minister for Land and Water Conservation, whose department administers those Crown land grazing leases and licences, that the efforts of those people should be acknowledged and accommodated.

No pressure is being applied to throw those people off the land in the short term. In fact, there are negotiations about the longer term. Let us not kid ourselves. It is not these people's land; it is Crown land. The honourable member has acknowledged that they have used the land but it is not their land. It is the land of the Crown and therefore the Crown has the right to pursue whatever land use it chooses. Having said that, I acknowledge - and the honourable member should acknowledge - that the relevant government agencies are prepared to talk to and negotiate with those people to reduce any hardship. They know that because they have been provided with that exact written message.

Mr Chappell: Let's have genuine discussions on the ground.

Ms ALLAN: I am sorry but that is the case. The honourable member should take that into account.
[Time expired.]

HUNTER REGION ARMED ROBBERIES

Mr PRICE (Waratah) [7.49]: I raise an issue of concern, not only to the people in the electorate of Waratah, but to everyone in the lower Hunter region, that is, the increase in the number of armed hold-ups during the past several weeks. The lower Hunter region has had an excellent run for quite some years. Honourable members might recall that, prior to the end of the 1995 parliamentary session, negotiations were commenced with the Minister for Police and with Cessnock Council to bring police patrols up to strength. That took a little time, but did occur. During the period between the commitment and the increase in patrols a number of armed robberies were committed. Those armed robberies caused a great deal of concern to the local community but, because of the rearrangement of patrols and the consistent and conscientious effort by police, I believe all but one of the perpetrators were arrested and are awaiting court appearances.

The action by police was greatly appreciated, although I read recently that the Deputy Mayor of Cessnock was concerned that, once again, the system may not be working. I assume that his reference was to a number of robberies in the Newcastle and Lake Macquarie areas. Bank hold-ups and service station hold-ups have occurred, to the point where the Service Station Association has expressed concern that there is a hold-up almost every day in the Hunter region. That is not true but, nevertheless, the increase has been alarming. The reaction of police has been excellent. The report of the Sub-Committee on Response Policing in Operations - SCORPIO - suggested that beat police would better serve the community if they were put back into the station so that they could respond quickly to major calls from the public in respect of crimes and other matters. That has been successful and I believe units are being reinforced to a degree that will allow police to maintain a low level of public interference by criminals, such as has occurred in recent times.

The concern of small business people has been noted. A newspaper report of 24 October stated that police were alarmed at the blasé attitude of many businesses towards their own security. I also express my concern about that; one cannot expect the Police Service to anticipate every robbery in every location and be there on the spot. It is most important that small business people recognise that part of the obligation of running a successful business is to provide sufficient safeguards for staff, for business property and for any capital equipment about which they may be concerned. That in no way excuses a rapid response by police officers but I believe that, in most cases, the response has been forthcoming.

Page 5583

The community has a sense of satisfaction and relief knowing that the police are responding to these criminal activities. I understand that a significant task force has been formed under the command of Chief Superintendent Moeller of the Hunter police district. The task force is currently active and a number of arrests have already been made in respect of this crime wave, as it has been termed.

One of the problems to be faced is the difficulty of consolidation of the Waratah police patrol on its new site. I understand that the Minister for Police and his department are considering ways and means of expediting that consolidation to the benefit of the community and certainly to the benefit of policing in the region. The concern expressed by the community is real; it is not antagonistic. I believe that the Police Service has responded effectively, but the extra support that would be achieved by consolidation of the Waratah site and the completion of the Waratah patrol headquarters will make a significant difference to the level of effective policing in the Hunter region. I believe it will allay the fears of the local community and allow serving police officers in the area to get on with the job they are trained to do; a job they do not want to fall into disrepute as a result of apparent negligence on their part.

Mr WHELAN (Ashfield - Minister for Police) [7.54]: The matter raised by the honourable member for Waratah is certainly one of great concern to him and to his constituents. There has been a spate of recent armed hold-ups in the Hunter area, but I am pleased to be able to report to the honourable member that local police are working hard to clear up these matters. Several operations are ongoing in relation to these offences. I am advised that Operation Allonby is a joint Hunter district and Major Crime Squad North task force which is now targeting all armed robberies in the area. The honourable member will be pleased to learn that, as a result of the increased focus, several charges have been laid. In fact, since 1

September three offenders have been charged with armed robbery on service stations, six offenders have been charged with armed robbery on other business premises and an offender has been charged with two armed robberies, one at a bank and one at a building society.

I am pleased to be able to advise that police are also focusing on crime prevention as a strategy to overcome these crimes. Service stations in the district have been consulted and visited about improving their security measures. Afternoon and night shift vehicles throughout the district - including detectives and highway patrols - have been allocated the task to visit service stations and other high-risk areas during shifts. Of course, banks are another obvious target and I am pleased to advise that there is ongoing liaison between banking institutions and police. These latest initiatives are subsequent to the success of Operation Moonlighter, which, earlier this year, resulted in the arrest of more than 100 people and the laying of more than 450 charges. That operation focused on the market in stolen goods, attacking the problem from the demand end of the process. I assure the honourable member for Waratah that I am just as concerned as he is about the crimes that are occurring in the Hunter. Based on the information I have just related, it clearly is the case that the Police Service is seriously attacking the problem.

Mr JIM BADGER SEXUAL ASSAULT ALLEGATIONS

Mr HUMPHERSON (Davidson) [7.56]: I express my support, and the support of the local community in the Forest area, for Mr Jim Badger, OAM. Mr Badger has been the subject of a great injustice, as honourable members will appreciate from an article in today's *Daily Telegraph*. He was the subject of allegations of sexual assault and has endured five months of hell, which ended last week when the charges were dismissed at a committal hearing. This incident has cost him his reputation - hopefully only in small part - and \$12,000. Jim Badger is someone I regard - and whom the community in the Forest area regards - as a man of impeccable character. He is an outstanding, active member of the community and has given a great deal to that local community. He is a very honest and caring person who has given hours of entertainment to Australian children over many years.

Mr Badger worked at Channel 9 for 32 years and is well known for his role as Humphrey B. Bear. He is a life member of the Belrose Rugby League Football Club, a regular View Club speaker and a compere of many community events. He is very well respected and highly regarded. Unfortunately, Mr Badger was the victim of silly and careless claims by a three-year-old girl and a four-year-old boy who live next door to him. The children were regarded by all neighbours in the street as having significant anti-social behaviour. They used extremely bad language, and were known for being disobedient and for urinating and defecating regularly in the street and on neighbouring properties. Unfortunately, the charges were laid within 24 hours of the allegations having been made and very little investigation work was done. Other children who were allegedly present later denied the allegations, and one child alleged to have been present could not have been there because she was at school.

During the committal hearing last Friday the now four-year-old girl admitted that nothing had happened and the now five-year-old boy maintained his lie. When asked what he had done in response to the alleged sexual assault, he said, "I put the stick up Jim's jumper and threw him in the garbage bin and he got stung by bees all over his head." When told that his story had to be a lie, he insisted that it was not a lie. Unfortunately, this young child seems to be living a terrible fantasy which has had sad consequences for his family. Honourable members all recognise the importance of treating allegations

Page 5584

of child abuse extremely seriously, but we also need to recognise how reputations can be irreparably damaged by allegations, particularly if those allegations are not properly dealt with.

The system clearly failed Jim Badger and his wife, children and family. Fortunately his community, friends, neighbours and the broader community stood behind him over the past five months and remain behind him today. The police failed to adequately investigate the allegations, and charges were laid rapidly. The police not only made mistakes in recording evidence of the allegations but also failed to

realise that serious doubts would have been raised if more time had been put into the investigation. The magistrate at Manly court who heard the allegations failed to protect Jim Badger and allowed his name to be disclosed in the *Manly Daily*. That newspaper tried to correct the situation but, as we all know, mud sticks.

Jim Badger does not deserve to have his name tarnished. He has given an enormous amount of his time and effort to the community. Without qualification he deserves the full support of our community and the Australian community to whom he has given a great deal of time over many years. He has suffered family troubles and misfortunes. Two of his four children died at a young age, but fortunately the community rallied round him. I congratulate the community on that support, but it must be cognisant of the problems associated with such allegations. I make it clear yet again that Jim Badger deserves our full support.

Ms ALLAN (Blacktown - Minister for the Environment) [8.01]: As the honourable member for Davidson well knows, mud certainly does stick because I suspect he has already developed a reputation within this Parliament of making sure that that is appropriate political behaviour. While I appreciate his sincere motivations in this case to defend the reputation of the Badger family in his electorate, I raise concerns about the appropriateness of his behaviour in this Chamber by attacking three- and four-year-old children. It would have been a more appropriate role for him as a local member to defend his constituent in the way he has, but, in addition, to refer the further allegations to the responsible Minister. I will certainly take up the issue that he has raised and direct it to the Minister for Community Services.

Honourable members know that pursuing justice in child abuse matters presents many anomalies. Mistakes are made and in Jim Badger's case it appears that the system failed him. However, the difficulties in the system are compounded when the honourable member for Davidson makes these sorts of allegations in this environment. In fact, given the sensitivity of members opposite to issues of sub judice, I suspect that a number of issues and allegations made this evening certainly fall into that category. I shall ask the Minister for Community Services to investigate the matter further, which is a step that the honourable member for Davidson should also have taken.

SWANSEA HIGH SCHOOL STUDENT BEHAVIOUR

Ms HALL (Swansea) [8.03]: Quite often private members' statements relate to community problems. Tonight I have the pleasure of bringing to the attention of the House the commendable behaviour of Swansea High School students. Many general statements are made about young people, some of which condemn their behaviour and point to things they do wrong, but the conduct of Swansea High School year 12 students could be used as a model for all year 12 students throughout the State. Students at the other Swansea electorate high schools - Belmont and Northlakes - also behaved most admirably on their end of school muck-up days.

Northlakes High School students held a breakfast at the school followed by a concert for all of the schoolchildren and various sporting activities for students and teachers. Year 12 students from Belmont High School and Warners Bay High School, which are attended by many Swansea electorate students, also behaved in an appropriate manner on their muck-up day. But the behaviour of Swansea High School students was outstanding. Though the school is not classified as disadvantaged, four of its five feeder schools are so classified. It is only a small school with a low student retention rate, and this year only 53 young people will attempt the higher school certificate. Instead of the usual muck-up day, these year 12 students voted to have a sleepover at the school and collect for a charity. Two teachers gave their time to stay overnight at the school so that they could support the efforts of these young people. The students paid for a security guard to supervise the sleepover.

Led by Sharnnah Brown, the students decided to collect money, food and clothing to donate to the Hunter Mission. Of the 53 HSC students, 45 stayed at the school on the night of Friday, 20 September,

and played basketball, volleyball and generally stayed awake all night. They had a good time and participated in healthy activities, at the end of which they had achieved something for their community. This behaviour is very typical of the Swansea community. Swansea people stick together and work together; the students attending Swansea High School reflect the attitude of their local community.

But their actions did not finish there. On the last school day the Mobile Blood Bank came to the school and all but a couple of students freely donated blood. Actually, more students gave blood than participated in the sleepover. This behaviour is in stark contrast to that at a number of schools, whose students damaged schools and behaved destructively. The behaviour of Swansea High School students demonstrates how year 12 students can undertake constructive activity, and they should be commended for their positive acts. Other honourable members could suggest to schools in their electorates that this is an appropriate activity for year 12 students. On that note, I commend the

Page 5585

students of Swansea High School and recommend that their actions be copied more widely throughout the community.

STATE ENVIRONMENTAL PLANNING POLICY 46

Mr COCHRAN (Monaro) [8.08]: On behalf of the residents of Bombala and Delegate and surrounding districts I express concerns at the detrimental consequences of State environmental planning policy 46 upon a number of aspects relating to land values and the opportunity to purchase grazing land. I am pleased that the Minister for the Environment is in the Chamber to respond to this matter as she was one of the architects of SEPP 46. The Minister may be enlightened to learn of the consequences of SEPP 46 on those who have suffered extensively from the Carr Government's forestry policies. Restrictions on logging private land under SEPP 46, particularly in relation to native forests, are forcing State Forests to buy land that in most cases is extensively improved grazing land. Local land-holders are unable to compete with State Forests in attempts to buy up land to extend their family properties and increase their viability.

State Forests is using taxpayers' money to buy up prime grazing land because Government policy provides for extensive plantations of native and softwood forests. I am greatly disturbed by a number of the consequences of that. Given that State Forests has no choice but to comply with the policy of the State Government, it finds itself paying exorbitant prices for the land, thereby exacerbating the problem and making it more difficult for land-holders to compete in the purchase of private land. This State Government policy is objectionable and accords no consideration for the traditional graziers and land-holders of the area, many of whom have supported this State's economy for generations.

I am sure that New South Wales taxpayers are not aware that they are subsidising land purchases in the area to meet the ideology of the present Government. Another misgiving I have about the policy is that the land that is purchased by the State is removed from the ambit of the local council's rateable land. Therefore, the council's area of rateable land diminishes and remaining ratepayers in the Bombala shire are required to pay an additional cost. The matter is most unjust and needs to be addressed by the Government. There is ample scrub land and some very ordinary bush, which in some cases is regenerated scrub, that could readily be used for plantations. The Government needs to treat this as a matter of urgency because a considerable amount of land is coming onto the market and land-holders in the surrounding area are finding it increasingly difficult to compete with State Forests.

State environmental planning policy 46 has been widely condemned in the news media and across the State and is still the subject of considerable debate in our area. In my mind the matters raised are no closer to resolution than when SEPP 46 was introduced. The Minister for Land and Water Conservation is yet to address the real issue that SEPP 46 invades the sanctity of freehold land, a principle for which land-holders have fought for generations. The attitude of land-holders is not going to change. The Carr Government can expect rural land-holders across the State to take this issue to the wire - they intend to

fight to the bitter end. The Minister for the Environment can rest assured that the issue will not go away; the Government will have to confront it. If the Government wants native forest plantations, it will have to make some provision for plantations in SEPP 46 that does not intrude on the normal market for freehold land.

Mr KNOWLES (Moorebank - Minister for Urban Affairs and Planning, and Minister for Housing) [8.13]: Whilst this issue comes under the administration of my colleague the Minister for Land and Water Conservation, I cannot help but note that the honourable member for Monaro once again seeks to scaremonger and to worry people in rural and regional New South Wales on forestry issues, as he has done for years.

Mr Cochran: You don't know the effects of your own policy. Go down there and have a look.

Mr DEPUTY-SPEAKER: Order! The honourable member for Monaro should listen to the Minister's response in silence.

Mr KNOWLES: The Government introduced SEPP 46 as an interim measure and has always undertaken, with the involvement of constituent stakeholders, to introduce legislation to repeal SEPP 46. That process is well in train. The amendments that have been made during the interim period of SEPP 46 are well understood and articulated by both the Minister and key stakeholders. The only people who are out of the loop these days are members of the National Party, who continue to try to scaremonger and to worry people in rural and regional New South Wales. My friend and colleague Chris Levins, who is celebrating his fortieth birthday today, would understand that this is absolute nonsense. All I can suggest to the National Party is that it puts down the cards, stops the scaremongering and waits for the Government's legislation to come forward.

ILLAWARRA EMPLOYMENT OPPORTUNITIES

Mr SULLIVAN (Wollongong) [8.14]: This evening I wish to follow up on comments I made in the House on 23 October about employment generation in the Illawarra. When I raised this matter a week ago I did not have time to talk about all the issues I wished to raise. Last week I listed the areas in the Illawarra in which major job losses had occurred and talked about the need for collective government attention to job generation to overcome the difficulties. It is my calculation that between 3,000 and 4,000 jobs have been lost in the
Page 5586

past six months and leading to the next three to six months. Inclusion of the negative multiplier impact will show an even more serious result. The only level of government that is doing anything to counterbalance job losses is the State Labor Government. This evening I wish to enunciate some of the major projects that are under way.

The clinical services building at Wollongong hospital will be the recipient of \$50 million. Other major projects include the children's ward at Wollongong Hospital, the new psychiatric ward at Port Kembla hospital and the second linear accelerator at Wollongong hospital. There has been an increase of just over 20 per cent in recurrent expenditure by the Illawarra Area Health Service since March 1995 - a 20 per cent increase in the budget in just on 18 months. In education \$1 million is being spent at Warrawong primary school, one of the major primary schools in the electorate. The Department of School Education is opening a State office at Wollongong, which will generate jobs. A new classroom complex is being built at Mount St Thomas primary school to replace a very old building that was unfortunately destroyed by fire.

There is to be a major upgrade of the F6, with an increase from four to six in the number of traffic lanes, the construction of sound barriers and the construction of a major interchange bridge where the F6 joins Mount Ousley and the northern distributor near the University of Wollongong. That project will

amount to \$25 million. Major sound barrier contracts have been let and work is under way with that, going from Ghosts Bridge at Mangerton, Figtree and Mount St Thomas all the way down to Dapto. In the electorate of Wollongong there will be sound barriers near Figtree and near Berkeley. A major program of restoration work is being undertaken at Lake Illawarra.

A \$14 million entertainment centre is being constructed, after some delay, which will provide a permanent home for the Illawarra Hawks and meet the requirements of the National Basketball League so that the team will be able to continue to operate in the national league competition. The Department of Land and Water Conservation has centred its Sydney and south coast regional offices at Wollongong, which has meant another 70 jobs coming to the Illawarra. I have looked for other levels of government activity in my area. The Federal Government has no commitment and is doing absolutely nothing. That is a gross injustice that reflects severely on the present Federal Government. The Federal Government needs to examine its responsibilities to areas such as the Illawarra, which is one of the 18 designated depressed areas of Australia where employment generation is a major issue.

Unfortunately, the local council has become somewhat obsessed with economic fundamentalism and has the goal of becoming debt free by the year 2000. I voice my concern about that. There are important projects that should be undertaken. While it is sensible and admirable to have sound finances, the goal of being debt free is really an obsession and one that the council should consider in terms of the needs of the local community. I believe that there is an important role for government, Federal, State and local, in pump priming in the Illawarra and that each level of government has a responsibility it must discharge. As a member of the State Labor Government, I am very pleased that the State Government is discharging its responsibility. Ultimately, there must be a greater investment by the private sector. To that end I will certainly be doing all I can to achieve economic growth through greater private sector investment.

CRONULLA ELECTORATE DISABILITY SUPPORT SERVICES

Mr KERR (Cronulla) [8.19]: I draw the attention of the House to the services provided for disabled people in the electorate of Cronulla. In a letter from the Handicapped Children's Centre, New South Wales, the chief executive officer said:

I am writing on behalf of the Centre's Board of Directors seeking your assistance in the provision of electricity for our Hydrotherapy Pool.

In January of this year I wrote to the then Sydney Electricity requesting the donation of the cost of electricity for this specialist project. As you are aware, the pool is heated to 32° and provides essential therapy for our intellectually and physically disabled children and adults. Sydney Electricity responded by saying that there were restrictions on the provision of energy on a no cost basis. As Sydney Electricity sponsors other groups, I then approached them with a view to their providing sponsorship for the "Sylvanvale School Hydrotherapy Programme" at a level that might equate with the annual cost of electricity. Unfortunately they were unable to assist.

Certainly, the Southern Region of Energy Australia have been extremely helpful and at the present time they are monitoring the Centre's electricity usage with a view to determining a lower tariff rate. However, even if power is supplied at a lower rate the cost will still be extremely high.

We are all very appreciative of your support of the Centre and hope that you may be able to assist us with sponsorship by Energy Australia.

Many people in my electorate use the hydrotherapy pool. I have written to the State Treasurer, the Hon. Michael Egan, about this matter. I ask the Minister and the Government to consider sympathetically the

proposal put forward by the Handicapped Children's Centre. I visited the hydrotherapy pool with the Federal member for Cook, Stephen Mutch. It is an excellent facility and the work being undertaken there is admirable. The disabled people in my electorate are grateful also for the work done by Sutherland Shire Community Transport Incorporated. Recently I received a letter from that group which I passed on to the relevant Minister. The letter stated:

On behalf of the Sutherland Shire Community Transport Inc. I should like to raise with you a matter which adversely affects your aged and infirm constituents in the Shire and indicates a certain lack of understanding by two Government Ministers . . .

Page 5587

By way of background, you may already be aware that Government policy is to minimise the cost of nursing homes by maintaining the aged and infirm in their own homes wherever possible.

To achieve this end our organisation, and another 120 or so throughout the State, are accredited by the Department of Transport and receive Federal and State funding to provide a means of transport for the aged, infirm and disabled to enable them to visit medical appointments, etc.

The guidelines under which we operate are quite strict and are administered by the Home and Community Care Services (HACCS).

We operate 6 buses and between 40 to 50 private vehicles using volunteer drivers to service our 600 clients and until last December, we had 25 Disabled Parking Authorities to enable our volunteers to park in designated areas when carrying particular clients who meet RTA guidelines.

However, in December when we sought renewal of DPA's which we had held for a number of years and are usually renewable each three years, the RTA advised (without prior warning) the DPA's had all been cancelled.

That is the present situation. In July I received a letter from the Acting Minister for Roads, the Hon. Carl Scully, which stated:

These parking spaces are placed close to entrances and exits and their dimensions are greater than normal parking spaces to accommodate people who use wheelchairs and other large mobility devices. The parking spaces, and consequently the scheme, are clearly meant to help people with permanent mobility disabilities.

In the case of Sutherland Shire Community Transport, the local RTA Area Business Manager issued the number of authorities that were assessed to be required by that organisation in light of the people it transports.

The letter further stated that, having regard to the eligibility criteria, the organisation received only those disabled parking authorities deemed appropriate. [*Time expired.*]

BURRAGA WATER SUPPLY

Mr CLOUGH (Bathurst) [8.24]: Last Sunday my wife, Doreen, and I visited the small village of Burraga, which is about 70 kilometres south of Bathurst. We were there for the tenth anniversary of the water supply being turned on. This probably does not mean much to those who do not know the area. However, to the 100 people who live in the village, it was the beginning of a project to provide the entire village with a reticulated water supply. The project involved installing 16 fire hydrants, a turf oval, a five-hole golf course and a registered club to serve the small village population - every amenity available

in the bigger towns in the district provided for the people of Burraga by the people of Burraga.

The project came about following an invitation I received in 1984 to visit Burraga. About two or three kilometres from the town was a dam left over from the heyday when Burraga was a goldmining centre. The dam was big and held an enormous amount of water but it was not being used. The people of Burraga were confident that they could install the necessary equipment, dig the trenches, provide the pipeline and reticulate the system throughout the village. The Department of Public Works considered the proposal and decided that it would cost at least \$250,000 to provide a reticulated water system to the village. The people in the village said that that was rubbish, and I agreed. We then approached the then Minister for Water Resources for assistance.

The then Government agreed to match dollar for dollar the funds raised by the people of Burraga; later it decided to provide all the finance necessary to complete the water scheme, at a total cost of \$60,000. The people of Burraga accepted the challenge. They obtained a pump and backup pump from the best suppliers. They laid the kilometres of necessary line from the dam to the village. On the long weekend in October 1996 I officially opened the project in Burraga. It was a freezing day. I unknowingly stood downwind of the water; when the water was released most of it went over me. Tonight I pay the highest possible tribute to the people of Burraga. I believe that people who are prepared to help themselves should be given every encouragement. I am not prepared to single out individuals in the village because that would cause ill feeling to those not mentioned. Hardly a man or woman in the village of Burraga was not completely involved in the project and did not fully support it.

Today, as a result of the water system and the facilities provided, Burraga has a licensed club, with five poker machines and a bar. The club provides regular entertainment to the people of Burraga and is strictly controlled. When Doreen and I were having lunch in the club on Sunday I noticed children standing next to a barrier. I asked the secretary of the club what they were doing, and he said that they know that licensed premises are on the other side of the barrier. The club is run in such a way that the kids are not allowed on licensed premises. I have never heard bad language used there, and I have never seen inappropriate behaviour. As I said, not only are the people of Burraga well regarded by those who live in other towns in the district; the other towns are envious of the facilities provided in Burraga.

Private members' statements noted.

EMERGENCY LEGISLATION AMENDMENT (OFFENCES) BILL

Second Reading

Debate resumed from 29 October.

Mr O'FARRELL (Northcott) [8.29]: Arguably there can be no more important legislation to come before a Parliament than that which provides for the protection of emergency workers, those who are employed in their daily lives, sometimes on a part-time basis, to protect us from various events and happenings. To that extent this bill is good legislation and deserves the support that the Opposition will give it. Our support is not unconditional, and in the course of this debate Opposition members will highlight the deficiencies and failings that have become the hallmark of the

Page 5588

Minister for Corrective Services, Minister for Emergency Services and the Government. The bill reinforces the Government's record of being soft on crime and the causes of crime. That can be laid at the door of the Minister in particular. The bill also exposes the Minister as a hypocrite and as tardy in the fulfilment of his official duties. If there was any justice in the Australian Labor Party the honourable member for Auburn would be sitting at the table today as the Minister responsible for the bill. He would give far greater service to this State and its taxpayers in pursuit of such issues than the Minister does.

A number of bills cover emergency workers and police. Firefighters and emergency workers are more or less covered by similar, but not the same, legislation. On the other hand, the police are covered by legislation which provides that anybody interfering with, assaulting or attacking police in the execution of their duty, upon successful prosecution, may be gaoled for five years. Under the existing various legislation the penalty in relation to attacks on other emergency workers is up to two years imprisonment. After the passage of this bill - I can read the numbers in this House; but the bill may be amended in the upper House - the penalty for attacks on police will still be up to five years imprisonment. The penalty for attacks on emergency workers, with the exception of ambulance officers, will be up to two years imprisonment or a fine of up to \$5,000. People convicted of interfering with or attacking ambulance officers in the course of their duties will not be liable to a gaol sentence.

It is unacceptable for a Minister described as the Minister for Corrective Services and Minister for Emergency Services to present a bill which would differentiate between emergency workers in the face of firm evidence that ambulance officers in particular are subject on a weekly basis to attacks, assault and interference. The Minister is ignoring their plight. I had a sense of deja vu when I saw this bill on the notice paper. I remembered that on 18 April the honourable member for Eastwood introduced a private member's bill seeking to redress the situation. His excellent bill sought to provide the same protection to emergency workers and the police regardless of their occupation and did not seek to make second- or third-class citizens of ambulance workers, firefighters or other emergency workers.

The bill of the honourable member for Eastwood sought to double penalties for attacks and assaults upon police, increasing them to up to 10 years imprisonment, and sought to include emergency workers in the legislation. The honourable member told the House that it was anomalous that no such special protection as provided to the police is afforded to people such as ambulance officers, emergency services workers and firefighters. The honourable member stated that it had been suggested to him that emergency services officers may have been covered by other emergency services legislation, in particular the State Emergency and Rescue Management Act and the State Emergency Service Act. But both Acts contain totally inadequate maximum penalties of 50 penalty units and make no provision for a gaol term. The honourable member also pointed out that those Acts are limited to the special circumstances of a declared state of emergency.

The example given by the honourable member was that if a fire brigade worker was interfered with or assaulted during the January 1994 bushfires, it could be reasonably argued that the State Emergency Service legislation would make that an offence, albeit not one punished severely enough. Earlier today members debated the Mining Legislation Amendment Bill 1996, which was introduced by the Minister for Mineral Resources, and Minister for Fisheries. It provides a greater penalty for the mining offence of ratting than is provided in this bill for the offence of interfering with emergency workers conducting their operations. Once again the Government is legislating tougher penalties for offences against property than it is for offences against individuals - worse still, offences against individuals who are charged by our society, by us, with protecting us from the situations with which firefighters, ambulance officers and other emergency workers deal. The honourable member for Eastwood put to the House evidence of the need for his bill. He quoted the Reverend Denis Madigan, chaplain of the Ambulance Service of New South Wales. I shall quote but part of that letter.

Mr ACTING-SPEAKER (Mr Clough): Order! The Minister for Corrective Services will refrain from interjecting.

Mr O'FARRELL: Reverend Madigan wrote:

Presently the Service is trialing white shirts so that we appear dissimilar to the Police, with a view to move away from the traditional blue shirt for clearer identification, in case that be a contributing factor to violence.

I can think of no greater indictment of our society than the fact that the New South Wales Ambulance

Service is trialing white shirts to distinguish ambulance officers from police because the police are being thumped by thugs and hooligans as they go about their duties to protect our society. The Government bill does not address that point, as the honourable member for Eastwood tried to do earlier this year. It would create two classes of citizen in relation to police, ambulance officers and other emergency workers. That is unacceptable. It exposes the Minister's hypocrisy in this area. The bill has come before the House in the last week of October, exposing the Minister's tardiness. There would not have been such tardiness had the honourable member for Auburn been the Minister for Corrective Services, and Minister for Emergency Services. The Villawood incident that prompted the honourable member for Eastwood to introduce his bill on 18 April 1996 occurred in December of last year. That bill was voted on in this House on 23 May, when every member of the Labor Party voted against it.

Page 5589

In the last week of October, 10 months after the original incident, the Minister for Corrective Services, and Minister for Emergency Services has finally acted. We had to wait 10 months before any action was taken. In the *Sun-Herald* of 31 December 1995 the Minister for Emergency Services was quoted as saying that he was deeply disturbed and he fully supported the firefighters' move to get police protection. We know that the Ambulance Service records more than one assault a week against its officers. We have had to wait 10 months, or 40 weeks, during which time there have been 40 additional assaults, for this Minister to introduce legislation in this House to provide those people with the sort of protection they deserve - legislation which excludes from its purview the Ambulance Service. It is a disgrace that it has taken the Minister almost a year to introduce legislation which does not cover all that is required. There is increasing, daily evidence of the need for action in this area, particularly in relation to ambulance workers. I dispute the claims made by the Minister and those in the Ambulance Service that such protection is not required. On 16 October, only two weeks ago, the *Daily Telegraph* referred to an attack on an ambulance officer and said that that officer was punched in the head as he sat in his vehicle. The article states:

. . . the Ambulance Service said Mr Michael was just one of 66 officers to be assaulted at work this year.

An Ambulance Service spokesman said that many more attacks on and verbal assaults of ambulance officers went unreported. On Saturday, 12 October - four days earlier - two ambulance officers were threatened with a knife. The article continues:

Ambulance Service spokeswoman Leslie Martin said . . . attacks this year have included officers being punched, kicked and grabbed around the throat while tending to patients.

Despite these reports the Minister has come into this Chamber and said that the Ambulance Service does not believe that special legislation is necessary to cover its workers. I do not know what has to happen before they are given protection. Does an ambulance officer have to be killed before this Government takes action? Earlier this week a person was critically injured outside a Surry Hills hotel. The Ambulance Service responded within minutes but, if it had been delayed, that person might have died because of the wounds inflicted. [*Extension of time agreed to.*]

This Minister claims to represent his portfolio. In Labor's western Sydney policy and its law and order policy which it took to the election in March 1995 - I thought that this Minister might have read at least one of those policies - specific action was promised in relation to police and other emergency services. Specific action was promised to prevent gangs and others from interfering with ambulance officers and others going about their work. It has taken almost 18 or 19 months for the Government to take action. The Government's clear failure is evidenced by the Villawood dispute late last year, by ongoing attacks upon ambulance officers and by the attack last Wednesday night at the Pennant Hills hotel on two police officers from Pennant Hills patrol. Those officers are not covered by this legislation. That highlights the fact that those who are employed to protect society and who are being beaten up by

thugs are not being offered genuine or real protection by this Government.

The Government, and this Minister in particular, are soft on crime. They talk tough on crime but they deliver little. This Minister would prefer to empty our prisons and introduce non-custodial sentences. That would be his solution to the increasing incidence of crime across Sydney over the last 10 days. His great solution would be: do not lock them up; send them out. What sort of message does that send to the thugs who attack Pennant Hills police and two ambulance officers every week? In the time that it has taken this Government to introduce legislation in this place there have been 40 additional incidents. What sort of responsibility does this Minister accept?

Mr Debus: Ask the Ambulance Service.

Mr O'FARRELL: The Minister is wiping his hands of the affair. If an ambulance officer dies, will the Minister simply say that the director-general of the Ambulance Service is at fault? Is the Minister willing to accept responsibility for the death of an ambulance officer?

[Interruption]

Mr ACTING-SPEAKER (Mr Clough): Order! The Minister will have an opportunity to reply later.

Mr O'FARRELL: I hope that, at that stage, the Minister succinctly addresses the points that have been raised. If an ambulance officer is attacked, is seriously assaulted or dies, will the Minister accept responsibility, or will he try to shift the blame on to the bureaucrats? The facts simply do not add up. The Ambulance Service is saying that there is more than one attack a week and the Minister comes into this House and says that the hierarchy in the Ambulance Service does not want protection. Ministers, who are supposed to be responsible and accountable to this Parliament, must make decisions in the public interest. At times that means disagreeing with bureaucrats, meeting community expectations and legislating in the best interests of the community. It is in the best interests of the Pennant Hills police and the Ambulance Service that the Minister act and not wait for a disaster to occur.

I know that other honourable members want to participate in this debate so I will simply say that this legislation is an exercise in hypocrisy by this Government. On 23 May every member of the Labor Party voted against a sensible bill introduced by the honourable member for Eastwood which sought to address this issue. That legislation addressed this issue five months earlier than the bill

Page 5590

before the House and five months after the incident at Villawood last year. The Minister, when contributing to debate on legislation introduced by the honourable member for Eastwood, criticised that honourable member roundly. When members of the Labor Party vote this evening I hope they remember that earlier debate. I hope they remember the questions I asked the Minister about the position of ambulance officers. I hope that the Minister addresses those matters when he replies to debate on this bill.

Mr RIXON (Lismore) [8.47]: I support the Emergency Legislation Amendment (Offences) Bill, but I have one reservation about it. I will try to explain what that reservation is. The objects of the bill are:

(a) to amend the following Acts:

- the *Bush Fires Act 1949*
- the *Fire Brigades Act 1989*
- the *State Emergency and Rescue Management Act 1989*
- the *State Emergency Service Act 1989*

to increase the maximum penalty to 50 penalty units (\$5,000) or imprisonment for 2 years, or both, for offences of obstructing certain personnel while they are exercising functions under each Act (for example, fire fighters or members of SES units), and

(b) in addition, to amend the *State Emergency and Rescue Management Act 1989* to create an offence of obstructing members of accredited rescue units acting in connection with a rescue operation or otherwise in response to an emergency.

Section 58 of the Crimes Act makes it an offence, punishable by imprisonment for up to five years, for a person to assault, resist or wilfully obstruct a constable, prison officer or other peace officer in the execution of his duties. This provision does not extend to ambulance or fire brigade officers. In the Emergency Legislation Amendment (Offences) Bill the punishment for offences of this nature is two years, whereas in the Crimes Act the punishment for offences of this nature is five years. I draw attention to the fact that constables, prison officers and peace officers, who are covered by the Crimes Act, are trained to defend themselves in awkward situations. They expect irresponsible people within the community to attack them or behave in other reckless ways. It is right and proper that those officers be protected by legislation which provides that those who do the wrong thing should be gaoled for two years or five years.

The officers who are covered under the Emergency Legislation Amendment (Offences) Bill are not trained to defend themselves. When they are saving someone's life they do not expect to be attacked or harmed in any way. When a hooligan attacks an ambulance officer not only is that officer's life or body put at risk, but the person that that officer is administering aid to is also at risk. The hooligan who attacks an emergency services person is putting two lives at risk, or exposing them to harm. In the normal course of duty a police officer would expect to come up against an attack on occasions. It is a far more serious crime to attack someone who has not been trained to defend himself who is administering help to another person than it is to attack a police officer - although both offences are serious.

The punishment for obstructing emergency services personnel while they are exercising their functions, although a far more serious crime, is only 50 penalty units or imprisonment for two years, or both. The penalty for that offence should be at least the same as that set down under section 58 of the Crimes Act - in fact, I think it should be more severe. I ask the Minister to consider raising those penalties. The offences covered by this legislation are far more serious and should be treated more seriously. I ask the Minister to assure me that all emergency services people are covered by this legislation whether they are from the Bush Fire Services, the fire brigades, the Ambulance Service of New South Wales, the State Emergency Service, or the rescue squads, including those involved in flood rescue. Are they all covered by this legislation and will they be protected?

When emergency services were established society was different and emergency services personnel were highly respected. These days irresponsible people show those personnel no respect whatsoever. In the past the Emergency Legislation Amendment (Offences) Bill would not have been necessary; no-one ever thought of attacking an ambulance officer, obstructing a fireman, or even acting so irresponsibly. But society has changed and there is a need for this bill. I support the legislation, but I would like the Minister to make sure that all emergency services personnel are covered, no matter how wide the gamut of such protection. I ask the Minister to consider making penalties more severe. I support the legislation.

Mr TINK (Eastwood) [8.53]: The Minister did not mention in his second reading speech the Crimes Amendment (Emergency Workers) Bill that I had introduced and which had been voted on. The Minister indicated during that debate that he foreshadowed his bill as the Government's response. A number of things concern me about the Government's bill. My first concern, already mentioned by other honourable members, is the differential treatment that police and other emergency services workers receive. In a situation such as that at Villawood, emergency workers should be treated with equivalence. Police are

able to assess a dangerous situation and act accordingly, for that is primarily their role. Fire brigade officers are unable to defend themselves while they are holding hoses and trying to put out fires.

I cannot understand why emergency services personnel should be protected by only a two-year gaol penalty deterrence, whereas police are assisted by a five-year gaol penalty deterrence. My second point has been canvassed by the honourable member for Northcott. Reverend Madigan, the chaplain for
Page 5591

the Ambulance Service of New South Wales, wrote to me expressing grave concern about the safety of ambulance officers. I understand that ambulance officers do not come within the direct province of the Minister for Corrective Services, and Minister for Emergency Services, but the Deputy Premier, and Minister for Health should have been sufficiently concerned to inquire beyond the advice of his senior bureaucrats and listen to rank and file ambulance officers.

When I introduced my bill I received feedback from ordinary rank and file ambulance officers concerned about their safety in the field. Reverend Madigan wrote to me and stated that ambulance officers are actively considering changing the colour of their shirts from blue to white because they are afraid of being mistaken for police officers. I had contemplated an amendment to the bill, but it was not possible to draft an amendment in the form I would like. During the course of debate the Minister referred to the Crimes Act. That is precisely what this bill should be, an amendment to the Crimes Act. My bill, which sought to amend the Crimes Act, provided that the penalty for attacking police be doubled from five years gaol to 10 years gaol and that cover be extended to all other emergency services workers.

I introduced my bill because of the disgraceful assaults that occurred in Villawood and, regrettably, in outback towns of this State. Greater penalties will deter serious attacks on emergency personnel. The Crimes Act is the appropriate place for this legislation, not the bill currently before the House. Earlier the Minister interjected when the honourable member for Northcott was speaking and mentioned the Crimes Act. It is worth looking at the Crimes Act to compare the relative penalties. Section 57 provides a seven-year gaol term for the offence of assaulting a person carrying out his or her duty in relation to preservation of a vessel in distress or of a wreck lying under water or on a beach. The Minister's bill provides that if a fire brigade officer is attacked by a bunch of thugs, as at Villawood, those thugs will receive a fraction of the penalty given to a person who attacks a person preserving a wreck.

As shadow minister for police I find it astounding that police who are attacked do not get the same protection as a person protecting a wreck on a beach. Between now and the 1999 election, whenever a policeman is hurt in an affray, whether at Redfern, Bondi, Villawood, Bathurst, Bourke or wherever, I and other Opposition members will declare that the Government voted down proposals to double the penalty for attacking a police officer in the execution of his duty. Next week Opposition members will be travelling to Bourke and Broken Hill, and they will stress that point in every town they visit. I assure honourable members that the Opposition will be making that point up until the 1999 election. The honourable member for Northcott said that last week there was a disgraceful and disgusting attack on two police officers at Pennant Hills.

The bill is flawed and inadequate, and will not create a deterrence. If five years imprisonment is not a deterrence against attacks on police in Pennant Hills, regrettably two years imprisonment, as provided in the bill, is even less of a deterrence against attacks on the fire brigade. Ambulance officers would have no protection. The Opposition does not oppose the legislation, although it believes it does not go far enough. It does not put in place the deterrents that are required to deal with situations similar to the events at Villawood. Those sorts of situations will recur, and I hope the Government reconsiders including this raft of penalties in the Crimes Act, because that is where they should be.

Mr HARRISON (Kiama) [9.00]: I did not intend to speak on this bill. Having listened to the discussion I decided to place my thoughts on the record in relation to those who are involved in protecting the public. The object of the bill is to amend the Bush Fires Act 1949, the Fire Brigades Act 1989, the State Emergency and Rescue Management Act 1989, and the State Emergency Service Act 1989. Like

honourable members on the other side of the House I was horrified by what happened at Villawood when people involved in protecting life and property were set upon by a bunch of hooligans who caused one firefighter to sustain injuries. I am of much the same mind as most speakers in the debate. The injury or obstruction by hooligans of those involved in the bush fire brigade, the fire brigade and rescue operations is totally unacceptable. It is an unfortunate fact of life that such behaviour is more prevalent now than it was when I was a young man.

I remind honourable members on the other side of the House of a bill that was put through this House during the term of office of the previous Government but was eventually withdrawn because of opposition from the police force. The bill was introduced by the Liberal Party Attorney General, the Hon. John Dowd. The legislation sought to remove the common law obligation on any citizen to assist police who were being bashed or threatened by hooligans or other violent people. I spoke on that bill and refuted what the Hon. John Dowd had said about people not realising they had a responsibility to go to the assistance of police officers in difficulty. People of my generation and the generation of the honourable member for Bathurst, who is in the chair, were told that when we were growing up. Our fathers would have told us that police and emergency service workers protect us, our families and our property and if they were in difficulty and called for assistance, we had a clear obligation to react to such a call.

Mr O'Farrell: It is humanity.

Mr HARRISON: It is, and it makes sense. On that occasion the Liberal-National party coalition Government had their way and forced the bill, which sought to remove the common law obligation on citizens to assist police in difficulty, through the

Page 5592

House. I have had the experience once in my life of being very pleased to see the police arrive at a time when I was involved in a melee.

Mr O'Farrell: There must have been a few of them.

Mr HARRISON: I can assure the honourable member for Northcott that there were quite a few of them. There might have been as many as 50 people involved and only one person was assisting me at that time. He happened to be the middleweight boxing champion of Australia so I had a fairly good backstop. Nevertheless, I started to think that I would be lucky to get out of that situation in one piece. The fact that two police officers arrived and came to our assistance was very satisfying to me. The uniformed police officers arrived and they were about six feet tall; with their blue caps on they looked about six foot three. That was enough to quieten the situation.

That works both ways. Anyone who saw police officers - who are employed by the taxpayers of this State to protect us, our families and our property - in any great difficulty would have an obligation to assist them. Those not physically capable of wading in with flying punches can at least get to the nearest telephone and call for assistance for the officers who are in trouble. I believed it was necessary to revisit the bill that was introduced by a Liberal-National coalition Government seeking to abolish that common law obligation. The bill was hardlined in this House by the Attorney General, but because of the outcry from the Police Association and from others interested in some semblance of fair play for police officers it was eventually withdrawn. People like myself and Peter Anderson and the Minister for Agriculture, Richard Amery - both of whom are former police officers - know the ropes. I have never been a member of the police force, but it was impressed on me by my father when I was growing up that I had certain obligations as a citizen of this State.

I am pleased that the Government no longer takes that attitude. I have taken part in this debate with no prepared notes. I take on board the suggestion that some of these matters, the protection of ambulance officers for example, might be better dealt with under the provisions of the Crimes Act. Any legislation that is introduced to protect bush fire brigade workers, fire brigade workers, State Emergency

Service workers or anyone else who puts his life on the line to protect life and property in a society that is becoming more and more violent is totally worthy of support, and I indicate my support for the bill.

Mr DEBUS (Blue Mountains - Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister for the Arts) [9.08], in reply: Most of the speakers opposite have spent most of their speaking time talking about attacks on police and ambulance officers. They have not talked about attacks upon those the legislation is designed to protect. They have talked about almost everyone else. The honourable member for Northcott spent all his time speaking about assaults on police and ambulance officers and occasionally mentioned those other emergency service workers to whom this legislation is directed. All cases of assault, including the assault of the firefighters at Villawood, result - and did result in that case - in charges being laid under the Crimes Act.

Mr O'Farrell: What are the penalties?

Mr DEBUS: The penalty is five years. In other words, legislation is not needed to protect emergency workers from assault.

Mr O'Farrell: That is what you said in May.

Mr DEBUS: I said that in May for good reason. These amendments deal with the offence of obstructing or hindering emergency service workers, including firefighters and volunteer firefighters. The description of those offences in the legislation has been somewhat confused, and the bill seeks to correct that confusion. It seems beyond the capacity of honourable members opposite to accept the propositions put forward in the debate in May. It is remarkable that not one Opposition member who spoke in the debate acknowledged, even by a word, that in that debate I made it clear that I had been advised by both management and union representatives of the Fire Brigades that they were enormously concerned that precipitate changes to the law such as were then proposed by the honourable member for Eastwood would actually do them tremendous harm.

That was not a matter of bureaucratic reporting; I received personal phone calls from a whole range of people across the Fire Brigades reminding me that it had been long-held policy of both management and unions within the New South Wales Fire Brigades to avoid an identification of its officers with police and law enforcement officers. The most extreme examples of the consequences of an identification with police and law enforcement officers may be seen from the United States urban riots that have occurred from time to time over the past 20 years in which firemen have been shot on speculation by rioting citizens who could not distinguish between the firemen and law enforcement officers and police who were the object of the hostility of the rioters.

I note that the honourable member for Northcott has lost interest in this subject. Certainly the Villawood firemen were extremely anxious that the sort of grandstanding that the Opposition went on with at the time, combined with tabloid reporting, would encourage imitative behaviour by other young hooligans and perhaps lead to the permanent establishment of the sort of behaviour that occurred at Villawood. I point out that we have not had another Villawood. Of course neither I nor anyone else can give a guarantee that that type of incident will not occur again, but I believe it is a

Page 5593

consequence of the measured response then to the Villawood incident by the Government and the Fire Brigades that we have had no similar incident since.

I turn now to the Ambulance Service. Honourable members opposite apparently place great store in the opinion of a chaplain at the Ambulance Service. I am sure the chaplain is a splendid citizen and, like the chaplains I have come to know in the emergency services for which I have responsibility, a person to whom one would pay great attention in respect of a great many matters. But, for the life of me, I cannot understand why honourable members opposite would put more credence in the opinion of the chaplain from the Ambulance Service than they would in the opinion of the entire management hierarchy and

representatives of the rank and file. Not once but twice I have asked the Minister for Health whether he wished the Ambulance Service Act to be the subject of the amendments brought forward in the bill.

On each occasion, after consulting with the Ambulance Service, the Minister replied that he did not wish inclusion of the Ambulance Service Act in this measure. In my second reading speech I gave reasons for that. The Ambulance Service has indicated to the Minister for Health that ambulance personnel do not generally have a public order or control role; that incidents of obstruction, apart from road traffic, of ambulance personnel are uncommon; and that reported assaults, which are relatively few in number, tend to be attributable to the health status of patients, that is, those who are influenced by drugs or alcohol, or those who are affected by a psychiatric condition. The Ambulance Service has indicated that the health care role of ambulance personnel could be compromised by launching criminal proceedings against its patients. The Ambulance Service advised the Minister for Health that, in its view, those who may assault ambulance officers already can be dealt with, if necessary, under the general offence provisions for assault under the Crimes Act 1900.

The honourable member for Northcott presumed to lecture me about the way that I should regard both the public interest and the leadership of various emergency services in respect of these matters, suggesting somehow or other that I should ignore their advice and instead, apparently, take the advice of someone who may choose at some time or other to write to the editor of a newspaper. The fact is that those with portfolio responsibilities such as mine interfere with great caution in the operational concerns of emergency services. It would be plain stupid for members of Parliament to ignore the advice of operational officers in a matter of this significance, a matter that so evidently goes to the operational policies of the services involved. I have no hesitation, in those circumstances, in rejecting the half-baked advice of the honourable member for Northcott and accepting that of the emergency services for which I am responsible. I assure honourable members that they are entirely content with the bill.

The only other matter that I should raise concerns the Bush Fires Act and its relationship to the bill before the House. The Bush Fires Act is old legislation; it was originally drafted in 1949. It includes provisions for offences now covered by the Crimes Act and the Summary Offences Act. The legislation drafted in 1989 has the more restrictive offence provision of obstruct and hinder. However, the Bush Fires Act is in the throes of being rewritten as the Rural Fires Act, and the wording of the offence provision within the new Act, to be brought forward in the relatively near future, will be made consistent with that appearing in the legislation affected by the bill before the House. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TAXATION ADMINISTRATION BILL

TAXATION ADMINISTRATION (CONSEQUENTIAL AMENDMENTS) BILL

Suspension of standing orders agreed to.

Bills introduced and read a first time.

Second Reading

Mr KNIGHT (Campbelltown - Minister for the Olympics, and Minister for Roads) [9.19]: I move:

That these bills be now read a second time.

These bills are the first major legislative step in the Government's program of micro-economic reform of

State taxes and are the outcome of work commenced with the express approval of the coalition during its time in government. In coming months honourable members can expect to see a bill completely rewriting stamp duties legislation introduced along with substantial financial institutions duty reform proposals. While the product of a cross-jurisdictional project involving Victoria, South Australia, Tasmania and the Australian Capital Territory, the Taxation Administration Bill will not be identical to legislation being introduced in those States and that Territory because of the need for jurisdiction-specific policies to be reflected and because different degrees of public consultation have been undertaken in each place. I will deal initially with that bill.

The principal bill is the outcome of extensive consultation with large and small business representatives and tax professionals who have endorsed it as a major step forward in the development of uniform State and Territory taxation legislation. Most of the changes from current provisions in the taxing Acts contained in the bill have come about as a result of this detailed consultation. Nothing in the bill is intended to abrogate the right of confidentiality arising out of the solicitor-client relationships or to abrogate legal professional privilege.

Page 5594

I will now outline the provisions of the bill. The bill introduces legislation which will standardise administrative provisions applying to revenue Acts imposing debits tax, land tax, payroll tax, parking space levies and health insurance levies. It will also be extended to stamp duties and financial institutions duty legislation when the cross-jurisdictional stamp duties rewrite has been completed. The administrative provisions currently contained in various tax statutes are inconsistent, creating inequity for taxpayers and uncertainty for their advisers. However, by applying the same administrative provisions across these statutes, the bill will significantly reduce compliance costs for the taxpayers of New South Wales.

The bill provides for an estimated assessment to be made where the chief commissioner does not have access to all relevant information; a reassessment within five years of the original assessment, except if there has not been a full and true disclosure of facts, in which case no time limit applies; and a compromise assessment, if agreed between chief commissioner and taxpayer, where it is difficult or impractical for the chief commissioner to determine a person's exact liability due to the complexity or uncertainty of the facts. Under the provisions of the bill, the chief commissioner is required to refund any amount paid in excess of any tax liability shown on a notice of assessment.

The bill provides for the chief commissioner to offset a refund against an existing tax liability and, with the approval of the taxpayer, to credit a refund against a future tax liability. The bill also provides that, where tax has been passed on to another person, a refund can be withheld until the chief commissioner is satisfied that arrangements have been made to pass it back to the rightful recipients. The bill provides for interest to be applied to the late payment of taxes, at the same rate as is applied under Federal income tax legislation. These provisions will not only standardise the approach across the various tax bases but will bring the imposition of interest for late payment into line with accepted commercial practice. The bill also provides for interest to be remitted by the chief commissioner if warranted by special circumstances.

In addition to the interest payable, the bill provides for penalty tax to apply where a degree of culpability can be established on the part of the taxpayer in relation to any underpayment. The standard penalty rate will be 25 per cent of the tax concerned. This may be increased to 75 per cent for intentional disregard of the law. If the underpayment was outside the taxpayer's control, or the taxpayer took reasonable care, no penalty will apply. This regime is similar to the income tax regime, although simplified considerably. The bill provides a discretion for the chief commissioner to reduce any penalty amount imposed by these provisions. The bill contains general returns provisions and also provides for special return arrangements to be made.

The bill provides the chief commissioner with the power to recover moneys from defaulting

taxpayers. In addition, a third party may have moneys owing to or held on behalf of a taxpayer garnisheed by the chief commissioner. In genuine cases of hardship, the chief commissioner will be able to extend the time for payment or enter into an arrangement to pay by instalments. The bill provides that records to enable the chief commissioner to determine a person's tax liability must be kept for five years after the records were prepared, or obtained, or the transaction or activity to which they relate occurred, whichever is the later.

The general offences created by the bill include knowingly giving false or misleading information or omitting information; deliberately omitting information; wilfully destroying records; falsifying or concealing identity; and failure to lodge documents, statements or returns. These offences will replace similar offences currently specified in each of the taxation Acts. Under the provisions of the bill, an offence committed by a corporation may attract a maximum penalty five times that imposed against a natural person for the same offence.

The bill replaces the offices of the chief commissioner, deputy chief commissioner and commissioner of specified taxes with a chief commissioner and commissioner of state revenue. The bill enables all powers and functions held by the chief commissioner - except the power of delegation itself - to be delegated to tax officers appointed by the chief commissioner. The investigation powers of the bill are consistent with existing New South Wales tax statutes which provide powers of investigation and rights of access to premises and records. The bill requires a person to provide information or evidence or to attend the chief commissioner and give evidence, as set out in a notice.

The bill also provides authority for obtaining a warrant to enter and search premises and to seize records, information, equipment or evidence in accordance with the New South Wales Search Warrants Act 1985. However, consistent with current practice, no search warrant will be executed otherwise than by a police officer. Access to residential premises may only be obtained with the agreement of the owner or under the authority of a search warrant.

The bill prevents the chief commissioner from publishing information which may identify a taxpayer unless there is consent from the taxpayer. The bill enables the chief commissioner to disclose information for the purposes of administration or execution of a taxation law, or to authorised recipients such as the Ombudsman, the Archives Authority and the Auditor-General's Office. The bill makes provision for a taxpayer to lodge an objection in writing where the taxpayer is dissatisfied with an assessment or a decision of the chief commissioner.

Under the provisions of the bill, the chief commissioner will be required to provide written notice of the decision with reasons where the objection has been disallowed or only allowed in part. Where the chief commissioner has not issued a

Page 5595

notice of decision within 90 days after receipt of the objection, the objector may choose to proceed directly with an appeal to the Supreme Court. This is a new concept placing a discipline on the chief commissioner to deal with objections expeditiously. Where a refund results from a successful objection, the bill provides for interest to be paid to the taxpayer from the date tax was paid. Interest is not payable in these circumstances under the current objection provisions.

Where a taxpayer is dissatisfied with the chief commissioner's decision in relation to an objection the taxpayer may refer the matter to the Supreme Court. Under the provisions of the bill, neither the appellant nor the chief commissioner will be limited to the grounds of objection in pursuing the appeal. In the case of amounts refunded as a result of a successful appeal, the bill provides for interest to be paid to the taxpayer from the date the tax was paid. The chief commissioner may state a case to the Supreme Court on a question of law. Where this power is used, consideration will be given to meeting the costs of any taxpayers who are joined in such an appeal.

The bill updates the means by which documents may be served, including processes such as

facsimile or, where appropriate, other electronic means. Under the provisions of the bill the requirements on the chief commissioner regarding the service of documents will be consistent with service requirements for taxpayers. The bill provides that a notice of assessment, or a copy signed by the chief commissioner, is conclusive evidence of the making of the assessment, and that the amount and all particulars of the assessment are correct, except in objection or appeal proceedings, where it will be prima facie evidence only.

The bill before the House introduces the most modern concepts of taxation administration. Its development represents a unique example of cooperation between five State and Territory jurisdictions and the business and professional community. The savings on compliance costs will significantly benefit the people of New South Wales. The cognate Taxation Administration (Consequential Amendments) Bill removes provisions from the various tax Acts which are replaced by provisions in the Taxation Administration Bill. I commend these bills to the House, and I table a summary of their provisions for the assistance of honourable members.

Debate adjourned on motion by Mr Brogden.

LEGAL AID COMMISSION AMENDMENT BILL

Second Reading

Debate resumed from 25 September.

Mr TINK (Eastwood) [9.30]: The Opposition supports this bill, which amends the Legal Aid Commission Act 1979. The bill, the product of extensive consultation with the Legal Aid Commission and the Law Society, was designed to remedy deficiencies of the Legal Aid Commission which have become evident over time. Of particular importance are measures designed to enhance revenue protection and cost recovery of the commission and to increase maximum penalties for offences under the Act. It also provides for an internal review of decisions to refuse or terminate a grant of legal aid by enabling the commission to redetermine those decisions. A number of matters of a minor machinery nature are covered in the bill. Arguments in support of the bill include clarification of the commission's power to release confidential information to make the day-to-day work of the commission more predictable and to assist the courts by clarifying what information they will and will not have access to. For those reasons the Opposition supports the bill.

Mr LYNCH (Liverpool) [9.31]: I have pleasure in supporting the Legal Aid Commission Amendment Bill. The aim of the proposed amendments to the Legal Aid Commission Act is to make the scheme under which the commission works more effective. That must inherently be a desirable objective. One of the marks of a civilised and just society is that everyone is entitled to fair access to courts. Indeed, the High Court recently said that if legal aid services were not provided, trials would be delayed. For those reasons the introduction of legislation that will allow the system to work far more efficiently and effectively is to be earnestly supported by anyone with an interest in fairness and justice in society.

A number of measures in the bill are important, in particular that which deals with the confidentiality provisions of the Act. Because of the way the Act is presently drafted, unreasonable restrictions are placed on the release of information. It has been argued that the way the Act is currently drafted the Legal Aid Commission cannot reveal to a court whether a legal aid application has been made, whether it has been determined, whether an appeal has been lodged or whether the appeal has been determined. That is significant because legislation provides that cases can be delayed while legal aid applications are being determined. It is bizarre to have those sorts of provisions in a bill.

In addition, the current confidentiality provisions could be construed as preventing the Legal Aid Commission from referring matters for determination by alternative dispute resolution, which is obviously

an absurd proposition. The use of alternative dispute mechanisms is increasing dramatically. That is desirable because it has the added advantage of trying to assist matters without necessarily going the full length of contested hearings. Another provision allows for, essentially on the commission's own motion, review of an application for legal aid without necessarily pursuing the course of a full appeal. Another measure deals with increased cost recovery.

Page 5596

I understand the Law Society has some difficulties with proposed section 44. Having read it I would think those concerns are probably not based as strongly as they might be. Certainly any practitioner in receipt of a grant of legal aid has a clear obligation to ensure that money is paid back to the Legal Aid Commission if required. The provision in proposed section 44 which seems to have generated some interest merely clarifies that and provides that the amount of money concerned can be recovered as a debt in a court of competent jurisdiction. Those matters and similar other matters are clearly based upon making the Act and the system far more effective.

As I have said, it is critical for the legal aid system to work, if we are to have a fair and just legal system where all people are able to get reasonable access to courts. In that context, of course, it is particularly regrettable that the Federal Government is adopting precisely the opposite course. Its actions go directly to the Legal Aid Commission legislation and the Legal Aid Commission because if the changes in funding that the Federal Government is talking about are implemented there will be a dramatic decrease in the provision of legal aid in this State. That will have an appalling effect upon electorates such as mine and those electorates where people do not have a lot of money to obtain legal services. It will have a devastating impact on the court system.

Anyone who has the slightest knowledge and experience of the legal system would understand that the provision of competent advice in court proceedings is a significant asset in the administration of justice. Unrepresented litigants will inevitably slow down the court system. Therefore, having an increase in unrepresented litigants should be avoided but it is the inevitable consequence of a dramatic decrease in the appropriate funding. In that regard I draw the attention of the House to some comments of a learned criminal silk, Michael Green, who has recently written:

The proposed termination of current Legal Aid funding by the Federal Government signal a return to a dark age in the delivery of legal services. Even at current levels Australian governments spend only \$13.00 per capita on legal aid compared with \$65.00 in the UK, \$22.00 in the Netherlands, \$18.00 in Canada and \$16.00 in New Zealand. The Law Council of Australia estimates that we need an immediate injection of \$50 million just to bring us back to the 1987-1988 levels of funding.

It is particularly regrettable that when this State Government is attempting to improve the legal aid system by these amendments the Neanderthals in Canberra are trying to turn us back to the Dark Ages with poor people not being able to get access to the courts. It is particularly regrettable that this State Government is doing the appropriate thing but we have to deal with people who have no sense of social justice or equity in Canberra.

Mr KINROSS (Gordon) [9.37]: The Opposition supports this bill, which, I am pleased to say, builds on much of the work undertaken by the previous coalition Government when this Act was amended following on from a recommendation in the Robson-O'Connor report. Mr Ken Robson, a former Auditor-General, and Mr Steve O'Connor, solicitor for the Department of Public Prosecutions, undertook a review of the Legal Aid Commission at that time specifically in relation to its structure and internal management with a view to improving its efficiency and effectiveness. This bill certainly builds upon a lot of that work undertaken by the previous coalition Government. Schedule 1 includes provisions in relation to further accountability together with amendments in relation to confidentiality.

One of the concerns I had when practising at the bar was the extent to which confidentiality

provisions were a one-way test. An example of that was when a barrister was mentioned adversely on the record by a solicitor in relation to a legal application. The barrister or the lawyer named could not obtain information on the conduct of that litigation as that matter was protected, yet it was divulged quite widely among commission officers, not to mention the client. Accordingly that needs to be addressed.

I am not necessarily convinced that some of the amendments in schedule 1 will adequately address the problem. One wonders whether the proposals for confidentiality in proposed section 25(4)(h) to (l) inclusive and section 26 contain so many exceptions that it almost makes the exception for divulging what would otherwise be a confidential communication the rule as opposed to the exception. However, the bill contains some welcomed measures. When the coalition was in government it endeavoured to enhance the accountability and protective mechanisms for reclaiming cost recovery by the commission, which have been strengthened in some ways by the bill. Other ancillary provisions make minor amendments and in some cases increase maximum penalties. Apart from that matter and matters I raised about confidentiality - I am unsure whether the Minister will address them in reply - the Opposition supports the bill.

Mr WHELAN (Ashfield - Minister for Police) [9.40], in reply: I thank honourable members for their acceptance of the bill and their contributions.

Motion agreed to.

Bill read a second time and passed through remaining stages.

CRIMES AMENDMENT (APPREHENDED VIOLENCE ORDERS) BILL

Second Reading

Debate resumed from 23 October.

Mr TINK (Eastwood) [9.41]: As previously indicated by other speakers, the Opposition supports this important bill, which is based on the discussion paper on apprehended violence orders issued in the Page 5597

middle of last year by the Government. The bill is the product of the 70 submissions received by the Government on the discussion paper. For some time it has been plain to members of the public that it is necessary to tighten up the terms of apprehended violence orders. Although the bill goes a considerable distance in that regard, it does not go far enough in all respects. Without anticipating debate tomorrow, the bill proposed by the honourable member for The Hills in relation to certain matters concerning Gregory Wayne Kable and related issues also need to be addressed. I would like to raise one matter that has been brought to my attention that is directly relevant to this bill and to some wider issues. It is an extraordinary situation that illustrates only too well the dilemma that can occur with AVOs. I have a letter from a person, dated 21 October, that states:

I have lived for ten years in a domestic violence situation, for nine of those years I knew no better and accepted my husband's behaviour as I had been taught you must do everything to keep your marriage together . . .

I had my husband's gun removed from our home by the police and I moved out. Four days later the police obtained an A.V.O. on my behalf, a piece of paper that seems to have no power over the abuser and no power for the police to act on . . . There is so much promotion and publicity about "breaking the silence", "We can do something about it", "You don't have to put up with it", and yet this is exactly what I have had to do and at a far more intense level than it would have been if I had stayed with my husband . . . In my own situation, right from the moment I left my husband the police were involved. My husband breached the A.V.O. seven times in less than six weeks. Finally he was arrested after assaulting me and spent seven days in gaol as bail was refused. The police told me my husband would

settle down after his imprisonment and I would not have to fear him any more. How wrong they were.

My husband knew exactly how to breach the A.V.O. without being charged or caught. Even when he was on \$2000 bail, he was able to assault me (this time police photo's were taken and medical evidence was available) and to this day he has not been charged or summoned in relation to this matter. This assault took place three months ago, since then he has intimidated, harassed, stalked and two weeks prior to the . . . situation threatened to kill me and the family. My husband has not been formally interviewed regarding the death threat.

I regret to say that that extraordinary situation recently resulted in a hostage situation. This person's husband held two children hostage for many, many hours and in the process disarmed two police. The letter indicates the extraordinary difficulty that people have in practical terms when an ongoing relationship or family connection exists. For a whole host of emotional reasons, people cannot totally move away from each other and their domestic situations. Whatever laws we pass in the Parliament, those practical connections remain, and they can be absolutely dangerous. I regret to say that in some circumstances those ongoing connections seem to be cumulative and, as we know, the result can be fatal. This bill is a step forward in trying to bring more precision to AVOs, to put more bite into AVOs, but in extreme situations - the Kable example is a species of this - this sort of legislation and the Act it will amend is not sufficient.

We must continue to examine the type of legislation proposed by the honourable member for The Hills so that people who do not get the message will realise that if they continue to harass and assault people, intimidate and threaten them, they can be declared and then sent to gaol for a long time. It is a sad thing that some people in the community do not and will not get the message until this type of legislation is in place. It is regrettable that we have to head down that track. However, in the meantime this legislation is an important step forward. The Opposition is very pleased to support it, and hopes that this legislation will be helpful in the many domestic situations in this State that are extremely dangerous, regrettable and distressing. As shadow police minister I know, and the Minister would know, that this legislation is of practical assistance to police, who are more concerned and more fearful of attending domestic violence situations than any others. They are the most dangerous, difficult and unpredictable situations of them all. If this bill will assist in helping the police, it is even more strongly supported.

Mr LYNCH (Liverpool) [9.47]: It is with pleasure and enthusiasm that I support this legislation, which involves amendments to the Crimes Act and an amendment to the Director of Public Prosecutions Act. The current proposals arise largely from a review of the apprehended violence legislation contained in part 15A of the Crimes Act. That review, conducted by the Criminal Law Review Division of the Attorney General's Department, commenced in October 1994. A discussion paper released in July 1995 elicited some 70 submissions. Before proceeding further I ought to refer to two of the points raised by the honourable member for The Hills.

He commenced by saying that some people might be surprised about his speaking in the debate because he did not represent an area whose constituents do not have a lot of money. To be fair to him, he then said that was an unacceptable stereotype. I wish to reiterate that it is an unacceptable stereotype, because applications for apprehended violence orders are not restricted to any class, strata or subgroup in our society. It is not about money and resources; it is about power. It is about the power that some people want to wield over those who do not have power. It is about the power of people who want to control other people. It is about the power of people who want to exploit the weak and the defenceless. That power is not subject to any financial or other restriction.

A matter raised by the honourable member for The Hills that causes me even more concern is his suggestion that this legislation will prevent psychiatric reports being obtained prior to sentencing in respect of those people who have been convicted of a breach of an apprehended violence order. The Minister referred in his second reading speech to a change in the regime and the fact that it is no longer mandatory for such psychiatric reports to be obtained for people convicted of offences against

apprehended violence orders. The honourable member for The Hills seemed to suggest that that proposal means that no-one will be able to get a psychiatric report. Item [20] of schedule 1 to the bill proposes the removal of section 562I(2B), which makes it mandatory for a magistrate to obtain a psychiatric report. The amending legislation will remove that obligation so that a defendant - someone who has been convicted of a breach of an apprehended violence order - will be subject to exactly the same sentencing process as occurs with any other defendant in any of our courts. That means it would be possible for a psychiatric report to be obtained in an appropriate case. The amendment will mean it is no longer mandatory in absolutely every case but give a magistrate the discretion to order the provision of a report, or for the defendant or his counsel to tender a report.

The philosophical basis behind that amendment is quite important. The retention of a provision that requires a psychiatric report in every case in which someone has been convicted of a breach of an apprehended violence order seems to suggest there is a psychiatric problem in every case, that somehow these matters stem from psychiatric illness. There are certainly cases in which that may well be so, but these very serious criminal matters should not be trivialised and redefined as psychiatric or medical matters when in fact they are criminal matters related to the exercise of power, people wanting to oppress other people, and the strong imposing their will on the weak. In some cases they may involve psychiatric considerations, but more often they do not, and are simply criminal offences, which have to be dealt with.

I will not outline the proposed amendments in detail, but one of the amendments that is in some way symbolic, but is nevertheless important, is the amendment to the Director of Public Prosecutions Act. The Director of Public Prosecutions or someone from his office will be authorised to appear in apprehended violence proceedings in either the Local Court or the District Court. There is a practical import to that, in that the Director of Public Prosecutions has a great deal of skill in such matters and that involvement is to be welcomed. An even more important symbolic effect will be that the Director of Public Prosecutions is seen as the prosecuting body in what are regarded as more serious offences. It is a proper and appropriate recognition of the seriousness of these sorts of matters that the Director of Public Prosecutions will appear in these matters.

The only other specific provision I point to is that which requires magistrates to give reasons for not making orders excluding defendants from a home when those orders are sought. It is appropriate for reasons to be given when decisions are made and that is something I have pursued in other places. That is covered under a general rubric of natural justice; it is also commonsense. If orders are sought but not granted, it is only proper and appropriate that reasons be given. It is also perhaps a very important way of bringing to the attention of the judicial officers just how serious the matters are. I am happy to commend the legislation to the House.

Mr KINROSS (Gordon) [9.54]: It might come as a surprise, indeed a worry, that in 1995, 23,134 apprehended violence orders were issued in New South Wales alone. That does not include those sought in 1994 or in the years prior to 1994. It is therefore conceivable that there could be at least 50,000 orders currently existing. The worry is not so much what the law can provide but what resources are available to ensure that amendments passed by the Parliament have teeth and backup. In that sense, whilst the Opposition is supportive of toughening up the legal provisions relating to apprehended violence orders as part of the Crimes Amendment (Apprehended Violence Orders) Bill, the fact is that resources are nevertheless very important.

I was interested to hear the comments of the honourable member for Liverpool, who is a lawyer, as I am. However, I was a little surprised when he said that he believed that the requirement or condition for a psychiatric report perhaps trivialised the issue. At this hour of the day I do not want to create an uproar, but there was no clearer example of the trivialisation of an apprehended violence order than when the honourable member for Cabramatta sought such an order against another person. In fact, she showed that there was really no substance in her request for such an order because, of her own motion, she

eventually sought its withdrawal.

The honourable member for Eastwood, the shadow minister, cited one case when an apprehended violence order was requested seven times in less than seven weeks - that is almost one a week. Yet, the necessary police resources and counselling services are not available to make the system work. Why is counselling and rehabilitation necessary? Because, clearly, some psychological or psychiatric review of the person against whom an order has been sought might well go some way towards really analysing the depth of the problem. Why do they behave in this way? Stalkers, in respect of whom an AVO has been obtained, and who may be sent to a psychiatrist, or indeed a psychologist, might eventually accept that at last the relationship is over.

Often the problem is that until people are given professional guidance they will not accept that the relationship is over; they will not accept that type of advice from the police, and intervention at a professional level is definitely needed to help them face reality. Sometimes the trivialisation of AVOs - and a substantial number have already been issued in this State - in effect make the job of police extremely difficult. Honourable members need only recall the tragic incident of Patrick, the constituent of the honourable member for Manly, and the sad circumstances surrounding that case. This matter needs to be viewed in its total context, including the provision of psychiatric reports and possibly even presentence reports, which I know the Probation and Parole Service sometimes requires after sentence.

Page 5599

Those are some of the practical issues and the Government needs to give weight to these amendments. I agree that amending the Director of Public Prosecutions Act to allow sufficient action on the part of the Director of Public Prosecutions may strengthen the circumstances under which such orders can be obtained. I would suggest, as other members on this side of the House have, that the amendments do not go far enough. Notice has been given by the honourable member for The Hills for a bill to declare various offenders dangerous, and so enable the DPP to take appropriate action. While the Opposition supports a number of these amendments, they must be adequately resourced. We have a commitment to the great many people in the community who unfortunately have to seek apprehended violence orders - 23,000 in 1995. Their safety and wellbeing must be maintained. It is a frightening picture indeed, and the Government will have to do a lot more to make sure that the welfare of those people is protected.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [9.59], in reply: I thank members for their constructive contributions. This process of the House is typical of the way the mother Parliament has always conducted business.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC LOTTERIES BILL

In Committee

Consideration of the Legislative Council's amendment.

Schedule of amendment referred to in message of 29 October

Page 2, clause 4, lines 20-23. Omit all words on those lines. Insert instead:

commission, in relation to a public lottery, means an amount:

- (a) paid to, deducted by or retained by an agent in connection with a subscription to the public lottery (whether or not in the person's capacity as an agent of the licensee conducting the public lottery), and
- (b) determined by or in accordance with, and identified as commission in, the conditions of the relevant licence or the rules of the public lottery.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [10.01]: I move:

That the Committee agree to the Legislative Council's amendment.

This amendment has been agreed to by the Government to overcome a problem that emerged in the original bill. In time this will lead to the activities of a person involving himself in politics at the time of the last election being exposed. That person's activities in connection with keno caused difficulties with this legislation. The President of the Registered Clubs Association, Jack Ball, has told me that he appreciates the efforts to overcome the problems the association was having. His complimentary remarks would not be echoed by his chief executive officer, whose vindictiveness has created considerable difficulties for the Government, my ministry and the department. The Government is happy to accept the amendment.

Motion agreed to.

Legislative Council's amendment agreed to.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

LIQUOR AMENDMENT (NIGHTCLUB LICENCES AND TRADING HOURS) BILL

In Committee

Consideration of the Legislative Council's amendment.

Schedule of amendment referred to in message of 29 October

Page 12, Schedule 1. Insert after line 21:

- (c) any adverse impact on existing businesses in the neighbourhood.

Mr FACE (Charlestown - Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [10.05]: I move:

That the Committee agree to the Legislative Council's amendment.

This amendment was agreed to by the Government in consultation with the Opposition. I pay tribute to the shadow minister, the Deputy Leader of the Opposition, for his efforts in bringing to a satisfactory conclusion debate on a bill that will result in the introduction of a licence that is separate and distinct from hotel and registered club licences. The cabaret licence will fill a void that has become apparent in the restaurant business.

I never thought that in my time in this Parliament Reverend the Hon. F. J. Nile would support

amendments put forward on behalf of the Australian Hotels Association. No doubt the media will become aware of this amusing circumstance and will see the irony of it. The Government and the Opposition have seen through the action of the AHA, with whom I have had an extremely good relationship over the years. For some unknown reason the association has prostituted itself to Reverend the Hon. F. J. Nile.

I have read the *Hansard* record of the debate in Committee in the other place when Reverend the Hon. F. J. Nile moved one amendment after another in an attempt to scuttle legislation which arose from a policy of the Labor Party to overcome a problem

Page 5600

that had arisen whereby every spiv in New South Wales was attempting to take advantage of the provisions of section 32(3) of the Act. People were having a lend of one another. The Opposition parties and the Government agreed that it was necessary to introduce restaurant and nightclub licences to overcome this difficulty, which had also been referred to by the Royal Commission into the New South Wales Police Service.

The fact that Reverend Fred Nile attempted to move 15 amendments to scuttle the legislation is ludicrous to say the least. The Government is happy to have cooperated with the shadow minister, the Hon. Richard Bull, to beef up the legislation and dismiss the ludicrous hypocrisy of Reverend Fred Nile. For the first time in history he has supported the Australian Hotels Association of New South Wales. The Government accepts the amendment because it is sensible. It is the result of cooperation between like-minded parties.

Motion agreed to.

Legislative Council's amendment agreed to.

Resolution reported from Committee and report adopted.

Message sent to the Legislative Council advising it of the resolution.

MARRIED PERSONS (EQUALITY OF STATUS) BILL

Second Reading

Mr AMERY (Mount Druitt - Minister for Agriculture) [10.11], on behalf of Mr Whelan: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 17 October and the second reading speech appears at pages 29 to 30 in the *Hansard* proof for that day. The bill is in the same form as introduced in the other place. I commend the bill to the House.

Debate adjourned on motion by Mr Hartcher.

BANK MERGERS BILL

Bill received and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [10.12], on behalf of Mr Knight: I move:

That this bill be now read a second time.

The bill was introduced in the other place on 24 October and the second reading speech appears at pages 30 and 31 of the *Hansard* proof for that day. The bill is in the same form as introduced in the other place. I commend the bill.

Debate adjourned on motion by Mr Hartcher.

LEGAL PROFESSION AMENDMENT BILL (No. 2)

Bill received and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [10.13]: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 24 October and the second reading speech appears at pages 31 to 35 of the *Hansard* proof for that day. The bill is in the same form as introduced in the other place. I commend the bill.

Debate adjourned on motion by Mr Hartcher.

INDUSTRIAL RELATIONS AMENDMENT BILL

Bill received and read a first time.

Second Reading

Mr WHELAN (Ashfield - Minister for Police) [10.15], on behalf of Mr Yeadon: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 24 October and the second reading speech appears at pages 35 and 36 of the *Hansard* proof for that day. The bill is in the same form as introduced in the other place. I commend the bill.

Debate adjourned on motion by Mr Hartcher.

BILL RETURNED

The following bill was returned from the Legislative Council without amendment:

Real Property Amendment Bill.

BUSINESS OF THE HOUSE

Order of Business

Mr WHELAN (Ashfield - Minister for Police) [10.16]: I move:

That so much of the standing and sessional orders be suspended to allow the consideration forthwith of business with precedence order of the day No. 1 standing in the name of the member for Gosford.

Mr HARTCHER (Gosford) [10.17]: This motion to suspend standing orders shows the attitude of the Leader of the House. He will bring matters before the House at any time to suit his own convenience. At this time last night he decided he wanted debate to commence on the motion to censure the Minister for Urban Affairs and Planning, and Minister for Housing, followed by the motion of no confidence in the Minister for Police, knowing full well that the sessional orders require that the House stand adjourned at 10.30 p.m. unless the Minister has moved its extension.

Page 5601

Mr Whelan: This is a motion of no confidence in Mr Speaker.

Mr HARTCHER: That is right. I was referring to the Minister's motion to suspend standing orders.

Mr Whelan: You will have five minutes.

Mr HARTCHER: That is right. Does the Minister object to that?

Mr Whelan: I cannot object to it. The standing orders so provide.

Mr HARTCHER: I am making the point that the proper running of this House is being traduced by the way the Minister is introducing legislation and raising matters in the House. At 10.20 p.m. the Minister wants to debate the motion of no confidence in Mr Speaker. A motion of no confidence in Mr Speaker is an extremely serious matter. Mr Speaker regards it very seriously; he has not slept for weeks. It is something not entered into lightly by the coalition parties. The attitude of the Leader of the House is to give the debate 10 minutes, and if a further five minutes is available at a later stage, to continue the debate then.

A motion of no confidence demands a proper, reasoned and uninterrupted debate. That is what no confidence motions are all about. Such motions should attract full debates with reasoned arguments from the Leader of the House - though I know that is a high expectation - and the expectation that the House has the chance to properly consider the matter. It is not appropriate to suddenly bring on debate at 10.15 p.m., as the Leader of the House attempted yesterday to bring on the motion to censure the Minister for Urban Affairs and Planning, and Minister for Housing and also the motion of no confidence in the Leader of the House. The coalition completely understands why the Leader of the House would want to bury the motion of no confidence in him. The proper running of this House continues to go overboard because of the way the Leader of the House runs this place. He can suspend standing orders until he is blue in the face and he can write new standing orders until he is blue in the face, but it will not make this House more efficient and better organised, and it will not ensure that the dignity of the House is preserved.

Mr Whelan: I am more concerned about the dignity of the Parliament.

Mr HARTCHER: Let us talk about dignity of the House. If matters as serious as motions of no confidence involving serious allegations are just dealt with on a piecemeal basis and debated for 10 minutes here and there, the level of debate in the House and its administration by the Leader of the House will be regarded as farcical.

Motion for suspension of standing orders agreed to.

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Motion of No Confidence

Debate resumed from 29 October.

Mr HARTCHER (Gosford) [10.22]: My contribution was interrupted last night by the operation of sessional orders. I said that under the Westminster system that operates in Australia the Speaker is chosen by the House. Because of the operation of the political party system, the Speaker is a member of a political party. There is no way that process will be avoided in our system. It is expected that the Speaker, once chosen, will rise above political party membership to preserve the dignity of the House and carry out the duty to act impartially and fairly. It is not expected that the Speaker will abandon his party membership, as that affiliation will be continued in the Speaker's electorate. It is not expected that the Speaker vote with the Opposition or other than on the merits. However, what is not expected is that the Speaker, in the exercise and discharge of his duties, will show an ongoing partiality towards his political party. That is the allegation made against you, Mr Speaker. In the exercise of your duties you have continued to show a partiality towards the political party of which you are a member.

From 1976 until 1995 there were no motions of no confidence in the Speaker. A period of 19 years elapsed in the running of this House without a single motion of no confidence in the Speaker. In 1995 you became Speaker and faced a motion of no confidence. In 1996 you faced a censure motion. Now in 1996 you face a further motion of no confidence. Those processes are an indication of the opinions of honourable members of this House of how you discharge your duties as Speaker. These motions are not moved lightly. They are only moved for substantial reasons. The Opposition regards the forms of this House seriously and the dignity of this House as a matter of concern. That the Government and the Leader of the House do not share those views is no excuse for such ongoing conduct by the Government and is certainly no excuse by the Speaker to support such conduct.

The allegations I have made relate to one specific day. I have not sought to bring forward complaints about other days from the entire *Hansard* record. The procedures of Thursday, 17 October, have led to the moving of this motion and to the four specific allegations that constitute the charge against you as Speaker. A reading of *Hansard* will reveal hundreds of occasions when the Opposition could complain of unfair treatment. When two teams engage in a match, it will always be the case that the side losing complains about the umpire. The coalition is not concerned to do that; it is concerned to bring to the attention of the House clear evidence of bias and to seek the support of the House to ensure that the motion is passed. When you were elected as Speaker of this House in 1995, notwithstanding your membership of a political party, you saw fit to say as follows:

Page 5602

In dedicating myself to the service of members of this House my endeavours will always be based on the fundamental rule of the Constitution of New South Wales . . . The elected Government derives its mandate from this House . . . this is where we practise the system of parliamentary democracy that has been built up in New South Wales since 1856.

You then addressed all honourable members of this House and said:

. . . I pledge to you . . . that I will be vigilant in protecting your rights . . . It will be my particular aim to promote opportunities for you to voice your concerns -

What opportunities were given to the honourable member for Monaro or the honourable member for Ermington to voice their concerns? You continued -

and those of your constituents.

The next bit is not so much the best but the most tragic. You said:

As your Speaker, I dedicate myself to the service of each and every member and to bringing, to the best of my ability -

and here is the most tragic bit -

the qualities of fairness and firmness to the proceedings of this House.

That statement is worthy of repetition. You said:

I dedicate myself . . . to bringing, to the best of my ability, the qualities of fairness and firmness to the proceedings of this House.

No-one would dispute those words or the expectation they aroused in honourable members of this House. No-one would dispute that that is what this House is entitled to expect from its Speaker. The dispute is whether the Speaker has lived up to those words; whether the Speaker has exhibited in the discharge of the duties of his office the qualities of fairness and firmness and brought them to the proceedings of this House. This motion would not be necessary if those qualities had been displayed. On reading what happened on 17 October, the result is disappointing. I have recounted three specific allegations arising from 17 October.

I now move to the fourth allegation arising from 17 October, which concerns your treatment of the way in which questions are asked in the House and what happened in relation to specific questions asked on that day. On 17 October at question time the honourable member for Eastwood sought to ask a question of the Minister for Police. The honourable member for Eastwood directed his question to the Minister for Police, and was interrupted by the Premier. The honourable member for Eastwood replied to the Premier. What then transpired is what forms the allegation against you. Mr Speaker said:

Order! The Minister will resume his seat. I rule that question out of order. If the honourable member cannot ask a question in a proper manner I will not accept it.

The honourable member for Eastwood had answered an interjection made by the Premier.

Mr Whelan: It's 10.30, or close to it.

Mr HARTCHER: Is the Minister for Police the timekeeper as well?

Mr Whelan: Actually my watch says that it is 10.28 p.m., but the clock on the wall says that it is 10.30 p.m.

Mr HARTCHER: Subsequently - and this is where the bias arises - the honourable member for Clarence sought to ask a question of the Minister for Agriculture. Page 39 of the 17 October *Hansard* proof records that when the honourable member for Clarence rose he said:

Mr Speaker, why don't you put something in Opposition members' water to calm them down?

Mr Speaker said:

Order! The member will disregard the interjections and ask his question.

Pursuant to sessional orders business interrupted.

VISITORS

Mr SPEAKER: Order! Before the House adjourns I note the presence in the gallery of the spouses of the honourable member for Keira and the honourable member for Rockdale. We welcome them to the debate this evening.

House adjourned at 10.32 p.m.
