



NEW SOUTH WALES



Legislative Council

**PARLIAMENTARY
DEBATES**

(HANSARD)

**FIFTY-FIRST PARLIAMENT
THIRD SESSION**

OFFICIAL HANSARD

Wednesday, 8 April 1998

LEGISLATIVE COUNCIL

Wednesday, 8 April 1998

The President (The Hon. Max Frederick Willis) took the chair at 11.00 a.m.

The President offered the Prayers.

TRAFFIC AMENDMENT (CONFISCATION OF KEYS AND DRIVING PREVENTION) BILL

PETROLEUM (ONSHORE) AMENDMENT BILL

LAND SALES AMENDMENT BILL

LOCAL GOVERNMENT AMENDMENT BILL

AIR TRANSPORT LEGISLATION REPEAL BILL

Bills received and read a first time.

Suspension of standing orders agreed to.

COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY COMMISSION

Message

The PRESIDENT: I report the receipt of the following message from the Legislative Assembly:

Mr PRESIDENT—

The Legislative Assembly desires to acquaint the Legislative Council that it has this day agreed to the following resolution—

That Deirdre Mary Grusovin be appointed to serve on the Committee on the Office of the Ombudsman and the Police Integrity Commission in place of Reba Paige Meagher.

Legislative Assembly
7 April 1998

JOHN MURRAY
Speaker

PROFESSIONAL STANDARDS AMENDMENT BILL

Bill read a third time.

LEGISLATIVE COUNCIL MEMBERS CODE OF CONDUCT

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [11.08 a.m.]: I move:

That this House:

1. Requests the Standing Committee on Parliamentary Privilege and Ethics to consider the Code of Conduct for Members released by the Government and the draft Codes of Conduct for Members in the Report of the Committee to the House on 29 October 1996, and report to the House within four weeks.
2. Agrees that on the tabling of the report from the Committee, the House will debate and vote on the adoption of a Code of Conduct for Members.

The Government has developed a code of conduct for both Houses of Parliament that is clear and well defined. The proposed code will be considered by the Standing Committee on Parliamentary Privileges and Ethics, which will then report to the House within four weeks. The legal effect of the proposed code is important. The proposed code is not meant to be a document that sets the standards to which all members of Parliament should aspire; rather, it is meant to be a legal document that defines the jurisdiction of the Independent Commission Against Corruption to make findings of corrupt conduct against members of Parliament.

The ramifications of a finding of corrupt conduct by ICAC are extremely serious for members of Parliament. It is therefore essential that the code of conduct relate only to matters of corruption and define such matters with precision and clarity. ICAC is not the only means by which members of Parliament can be disciplined for improper conduct; they may be disciplined or expelled by their House for breach of parliamentary standards or they may be dismissed by their constituents at an election if they are dissatisfied with their conduct. ICAC should not usurp the role of the House or the people; it should not be given jurisdiction to decide whether members of Parliament should or should not have voted on a particular issue. This would undermine our system of representative government. ICAC should not be able to interfere with the privileges of Parliament, and the Commissioner of ICAC has

rejected such an approach. In evidence before the Legislative Council's Standing Committee on Parliamentary Privilege and Ethics, Commissioner O'Keefe stated:

The Parliament, governing its own procedure and having acted, should not have an outside body reviewing its actions, because the jurisdiction of such a body does not extend to the Parliament; it extends to members of the Parliament only acting in their capacity as members but not to the corporate body.

Although the code of conduct is being administered by the Parliament it could still be broad and imprecise. The more vague and subjective the terms of the code the easier it will be for a majority in the House to use it unfairly for political purposes against a member of a minority party or an independent. The possibility of such misuse will be all but eliminated by the tightening of the terms of the code. The code of conduct must be short, simple to read and understand, and clear so that members are aware of their obligations and liabilities. Legal challenges and disputes in ICAC about the standards that are to apply to members of Parliament will also be avoided. The Government does not want this hiatus to continue. I know that the Standing Committee on Parliamentary Privilege and Ethics will consider the draft code as quickly as possible. When the committee tables its report the House will debate and vote on the adoption of a code of conduct for members.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [11.11 a.m.]: For some time the coalition has indicated its support for the establishment of a code of conduct and supported the reference of this issue to the Standing Committee on Parliamentary Privilege and Ethics. The coalition has worked with that committee to ensure that the code of conduct for members is consistent in both Houses. This code, which is an adaptation of the reports of the Legislative Assembly's committee and the Legislative Council's committee, is a step towards achieving a uniform standard of conduct for both Houses. The coalition agrees that the rules must be consistent in each House.

The code of conduct has been referred to the Standing Committee on Parliamentary Privilege and Ethics—which works in a bipartisan manner to sustain a high standard of conduct for members of Parliament—to ensure that the public image of the Parliament is sustained at the highest level. The Opposition expects the committee to deliberate on the code and to produce a report within four weeks.

The committee will comment on the report and if measures need to be pursued further to enhance the reputation and image of the Parliament they can be debated by the House. The coalition supports the motion.

The Hon. ELISABETH KIRKBY [11.13 a.m.]: It goes without saying that the Australian Democrats support the motion, but I am disappointed about two matters. I am particularly disappointed by the draft code of conduct that was sent to my office by the Leader of the Government in this House. The draft code was prepared by the Premier's Office and we were asked for comments. The draft code is grossly inadequate. Other honourable members and I fully understand why the Government is so tender about the possibility of any member of Parliament being referred to ICAC—it is obvious and goes without saying.

I refer to the excellent work of the Standing Committee on Parliamentary Privilege and Ethics, which drafted a code of conduct in October 1996. I do not understand why the Government did not adopt the recommendations of the committee. The committee's comprehensive and detailed draft code of conduct is available to all honourable members. Another detailed report was prepared by a committee of another place. I regret to say that the referral of the code of conduct to the Standing Committee on Parliamentary Privilege and Ethics, once again, is a delaying tactic. The motion moved by the Leader of the Government does not suggest when the standing committee shall report.

The Hon. M. R. Egan: It is specified in the motion—it is four weeks.

The Hon. ELISABETH KIRKBY: I beg your pardon, Minister; I withdraw my statement. The committee has already conducted an inquiry into this issue. I hope that the principled and detailed stand that it took when it conducted its inquiry two years ago will be carried forward in the report to be put before the House for debate, possibly in May. A code of conduct must be established as soon as possible. Members of Parliament are under daily scrutiny by the media—they are subjected to wild rumours, innuendos and gross exaggerations by some sections of the media. Such scrutiny reflects on all honourable members, even if they have behaved ethically and reasonably. Members of Parliament cannot avoid being touched by what happens publicly. Some sections of the media look only for sensational stories on all subjects—not only those relating to parliamentarians.

A proper code of conduct should be established as soon as possible.

Reverend the Hon. F. J. NILE [11.18 a.m.]: The Christian Democratic Party supports the motion moved by the Government and supported by the Opposition. We need a code of conduct, but it is a two-edged sword. On the one side, a member may infringe some part of the code and therefore be obliged to explain his or her actions. For example, a member may try to benefit from his or her position in Parliament. On the other side, a majority of members may use the code against members of the minority parties, independents or crossbenchers.

The Christian Democratic Party does not want the code to be abused or misused. When I received this document it stated that a draft code of conduct was attached—it appeared to comprise 20 to 30 pages. However, on close examination I found that it comprises only one page. The first page contains the preamble, a general statement about members of Parliament performing duties with honesty and integrity and so on, which we support. The next page is headed "The Code" and contains five paragraphs. Apparently that is the code that the Government has presented to the House and referred to the Standing Committee on Parliamentary Privilege and Ethics. The other pages are extensive. A large section of the document refers to political contributions and electoral expenditure under part 6 of the Election Funding Act 1981. As honourable members know, the provisions in part 6 must be observed by members and parties when they disclose donations and so on.

Another section relates to the Constitution (Disclosure by Members) Regulation 1983 under the Constitution Act 1902, which was updated on 1 September 1994, dealing with the lodgment of returns by members of pecuniary interests and so on. Honourable members are already obliged to observe the provisions of that regulation. Does the Government intend that the privileges committee produce an extended code of 30 or 40 pages based on earlier reports of the committee, or does it propose that the code simply have five paragraphs and be linked with the existing requirements for members? Another point that should be made, perhaps by the chairman of the committee, is that the privileges committee is involved in a detailed inquiry into allegations made by the Hon. Franca Arena. The Hon. Elisabeth Kirkby asked whether four weeks will be sufficient time for the committee to report. Can the committee examine the code in the four weeks allocated as it is engaged in another inquiry at present? The committee may need to

request an extension of time. Such a request almost seems to have been anticipated.

The Hon. D. J. Gay: I would have thought this would take precedence.

Reverend the Hon. F. J. NILE: The Hon. D. J. Gay suggests that this reference take precedence over the inquiry into the allegations made by the Hon. Franca Arena, that that inquiry should be adjourned. To make that suggestion at this stage is a serious matter. I am not sure whether the Government intended that the committee give examination of this code priority over the inquiry into the Hon. Franca Arena's allegations when it proposed referring the code to the committee. Perhaps the Minister can indicate whether that is the Government's intention. We support in principle the development of a code. However, as I said, it must be carefully worded so that it is not a two-edged sword and honourable members who are carrying out their duties honestly and fairly are not caught in the wording of the code in a way that was never intended by this House.

The Hon. R. S. L. JONES [11.22 a.m.]: The Standing Committee on Parliamentary Privilege and Ethics, of which I am a member, spent some two years thoroughly investigating codes of conduct not only in Australia but overseas—in Canada, India and so on. As a result of its investigation it put forward what I think is a very good code. It cost a fair bit of taxpayers' money to develop that code. Then there was a wrangle between the upper House and the lower House. The lower House insisted that a much shorter, 10 commandments-type code be adopted. I did not support that; I thought this House should adopt the code that the privileges committee had spent a lot of time, energy and taxpayers' money developing. I thought our proposed code would be workable.

I do not oppose the proposal to refer the code to the committee for further examination but, as Reverend the Hon. F. J. Nile said, it is in the middle of a major investigation into allegations made by the Hon. Franca Arena in a speech in this House. That investigation should be concluded as quickly as possible. I do not think the privileges committee will suspend that inquiry to examine this code, and I do not think it can conduct two inquiries concurrently because it is very involved in its investigation into the allegations of the Hon. Franca Arena. Until this House adopts a code I hope that honourable members are conscious of the need to adopt a code—it may not be a written code—and will behave as befitting members elected by the people

of New South Wales. We do not need a written code because we should have our own code and our fellow members should ensure that we abide by that code.

It may be some time before this code comes before the House again and is officially adopted. Reverend the Hon. F. J. Nile alluded to the fact that if the code adopted by this House is not right, under the code adopted for the purposes of the Independent Commission Against Corruption Act, members may be referred to ICAC and investigated without justification. Allegations could be made against them and, because they have been investigated by ICAC, they may be named in the Parliament as having been investigated by ICAC. A serious problem may arise because coalition members, Government members or crossbench members wishing to get someone could do so by using the code. That is a possible danger unless we get the code right. In the meantime, we have a code that has been a code of this House for more than 100 years. We should abide by our own ethics as members elected by the people of New South Wales.

Motion agreed to.

Message forwarded to the Legislative Assembly advising it of the resolution.

INDUSTRIAL RELATIONS AMENDMENT (UNFAIR CONTRACTS) BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [11.26 a.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to exclude matters arising from the dismissal of employees from the jurisdiction of the Industrial Relations Commission relating to unfair contracts. Increasingly, unfair contract applications arise from the termination of contracts of employment. Despite the existence of separate and more specific provisions in the Industrial Relations Act 1996 dealing with unfair dismissals, the courts have held that applications can be made under the unfair contracts provisions arising from the termination of employment contracts. In effect, the explicit restrictions on access to the New South Wales unfair dismissal jurisdiction—award coverage, or State award free and earning less than \$66,200 or other prescribed amount—are being circumvented by those who can afford to litigate an

unfair contract claim. The unfair contracts jurisdiction is utilised because it appears cheaper and faster than the general courts, and because of the limited common law and equitable remedies which are available from the general courts when employment contracts have been terminated by employers.

Orders made in the unfair contracts jurisdiction can be contrasted with the limited compensation which is available to dismissed workers who bring an unfair dismissal claim. In dealing with an unfair dismissal application, the commission can only order an employer to pay an applicant an amount not exceeding the amount of remuneration received by the applicant in the preceding six months before being dismissed. In the unfair contracts jurisdiction orders for unfair dismissal compensation have no such limit. This discrepancy in the treatment of unfair dismissal applications and unfair contract claims is difficult to justify. Accordingly, it is proposed to remove the capacity for unfair contract applications to be brought arising from the termination of contracts of employment.

This bill will prevent the Industrial Relations Commission from exercising its jurisdiction with respect to unfair contracts in cases in which a contract of employment is alleged to be an unfair contract relating to the dismissal of the employee. The new provision will apply only to those contracts of employment terminated after the provision has commenced. In particular, clause 109A provides that the unfair contracts division—Division 2 of Part 9 of Chapter 2 of the Industrial Relations Act 1996—does not apply to a contract of employment that is alleged to be unfair for any reason for which an application could have been made by the employee under the unfair dismissals provisions.

The unfair contracts division does not apply to a contract of employment that is alleged to be unfair for any reason for which such an application could have been made if the unfair dismissal provisions applied to the dismissal of the employee. The bill will, for example, prevent the commission exercising its unfair contracts jurisdiction for the reason that the employee did not receive adequate compensation for the dismissal, or because the employee was not given a reasonable period of notice before dismissal. Contract of employment, for the purposes of this amendment, means any contract or arrangement under which work is done by a person in the capacity of an employee, and includes a related condition or collateral arrangement with respect to such a contract. I commend the bill to the House.

Debate adjourned on motion by the Hon. D. J. Gay.

**PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION LEGISLATION
AMENDMENT BILL**

Second Reading

Debate resumed from 7 April.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [11.31 a.m.]: The Opposition does not oppose the Parliamentary Contributory Superannuation Legislation Amendment Bill. For the purposes of defining salary for calculation of superannuation payments, the original proposal aimed at bringing together salary, additional salary and expenses allowances of members of Parliament. If members of Parliament pay tax on salary and other benefits they receive within a package, appropriate contributions by members of Parliament to the superannuation fund should be taken into account and superannuation payments calculated accordingly.

I supported that principle and I will continue to do so. Salaries and other emoluments of members of Parliament should be treated no differently from those of other people in the community. Under the new Federal statutory superannuation scheme, contributions are made on the basis of entitlements. Superannuation is calculated and paid on that basis, and members of Parliament should not be treated any differently. In drafting this proposal it subsequently became clear that its impact was broader than was originally intended. The breadth of the package attracted community outcry; but an amendment could have resolved the problem. Members of Parliament are required to make a statutory payment of approximately 12.5 per cent of their salary into the fund. Today superannuation is part of a total income package. Forgone salary is commonly negotiated in the community as part of superannuation. Legislation should reflect that today superannuation and salary form a total emolument package.

Federal Parliament amended earlier legislation to include within additional salary the expenses of the office of Ministers. Federal Ministers no longer receive remuneration for the expenses of their offices; and their superannuation entitlements are reflected within that package. New South Wales Ministers are not treated on the same basis, but they should have parity. Public debate over this legislation was generated by a perception that it was introduced without the world being aware of it. If debate on legislation was not permitted after 10.30 p.m., Parliament and the processes of government would not work. We all would prefer not to sit past

10.30 at night, but the demands upon Ministers require that Parliament sit as necessary to deal with the business of government.

The Premier gave a commitment that he would repeal the legislation and that any further changes would be dealt with by the Parliamentary Remuneration Tribunal. When the Premier made that announcement I said that I had no difficulty with the tribunal dealing with superannuation issues, but added that the tribunal should deal with all of the emoluments of members of Parliament; that they should not be the subject of a Premier's reference or veto. The remuneration tribunal should deal with the emoluments associated with the working needs of a member of Parliament, including the cost of staff needed by a member of Parliament to meet demands from constituents. The tribunal, having made those determinations, should then table its report and the Parliament should accept that report without political interference.

When the Premier announced the referral of superannuation to the remuneration tribunal I hoped the issue would be dealt with without political interference. But that will not happen, because this bill provides that any change to superannuation will first require a political decision, then a referral to the remuneration tribunal, and finally another political decision as to whether the matter should be pursued. The community has demanded that these issues be dealt with at arm's length by the remuneration tribunal—and that is the way we should have proceeded originally. However, the Government has taken the view that it will control this issue, but ask the remuneration tribunal to, in effect, conduct assessments independently. In the long term the community and the Parliament would be better served by handing this issue to the tribunal completely. Just as other workers must argue before an industrial tribunal for changes to their benefits, we should, as we have for decades, argue changes to our benefits before the remuneration tribunal, which has its own procedures, and reports to the Parliament.

Although people may say that they do not know how the Parliamentary Remuneration Tribunal works or what it does, the fact is that it reports to Parliament in a public document. As a person who has advocated change before the remuneration tribunal, I am able to say that it is not easy to convince that tribunal to effect change. The Premier would be obliged to advocate before the tribunal any matter he elected to refer to it. In addition, the outcome of any such decision of the tribunal is rarely made known; usually, Premiers put it in the too-hard basket.

The Hon. B. H. Vaughan: Any Premier.

The Hon. J. P. HANNAFORD: Any Premier! Having worked closely with two Liberal Premiers, I know that if the Premier of the day is of the opinion that the public mood as reflected in the *Daily Telegraph* or the *Sydney Morning Herald* is that the time is not appropriate, any decision of the independent tribunal will be pigeonholed. That in turn generates massive dysfunction. Members of Parliament work very hard, and members of the community frequently signify their recognition of the services provided by members of Parliament. An adequate level of support should be given to members to enable them to deliver those services. Such recognition is seldom reflected in the print media, but credit must be given to the electronic media, which does make such comment.

In my view, if we are to achieve higher levels of service as members of Parliament, these issues ought to be taken out of the hands of members and made the responsibility of the Parliamentary Remuneration Tribunal. It will be necessary for this House to address that issue in the future. It is obvious that it will not be addressed during the term of the present Government, and that is regrettable. I thought there would have been an opportunity this session to pull the issue out of the morass and refer it to an independent body. However, that has not been done. Notwithstanding that, the Opposition does not propose to move further amendments to the legislation. The Government has, as a matter of principle, taken this approach and the Opposition will therefore not oppose the legislation. I sustain my position that the principle was soundly based and that the matter should now be dealt with appropriately by the Parliamentary Remuneration Tribunal, independently of political interference.

The Hon. I. COHEN [11.42 a.m.]: The Greens support the Parliamentary Contributory Superannuation Legislation Bill, but I should like to place on record the background to its precursor, the Superannuation Legislation Further Amendment Bill. That bill was introduced into the Legislative Council on Friday, 5 December 1997. That was the last sitting day of the year and it was an extraordinarily busy day, particularly for me as a single member of a political party in this House. Many bills of immense importance were passed by the House on that day, a number of which related specifically to environmental issues. They included: the Protection of the Environment Operations Bill, the Fisheries Management Amendment Bill, the Crimes Amendment (Child Pornography) Bill, the Summary Offences Amendment Bill, the Contaminated Land Management Bill, the Native Vegetation

Conservation Bill and the Environmental Planning and Assessment Amendment Bill—commonly known as the integrated development assessment bill.

On that day it was very difficult for me as a member to maintain an overview of all those bills as they were passing through this House. The Greens had prepared amendments to many of those bills and had been working on the bills for months, particularly the integrated development assessment—IDA—bill. The Superannuation Legislation Further Amendment Bill was slotted in between the Native Vegetation Conservation Bill and the IDA bill at 12.57 a.m. The Attorney General moved that the bill be read a second time, and sought leave to have his second reading speech incorporated in *Hansard*. The controversial amendments to the legislation were moved at 1.01 a.m., some four minutes later. The Committee stage of the bill was finalised by 1.06 a.m., when debate on the IDA bill began. The superannuation bill took a total of nine minutes from start to finish.

A division was not called on the bill, and I would like to place clearly on the record that the Greens did not vote in favour of the bill or the amendments to it. When the superannuation bill was passed, the Greens office was busy finalising the speech for the IDA bill. It is interesting to note that that all happened late at night. In the light of day, with the clarity of mind that comes with morning, this bill is proceeding at a much more reasonable pace and with clearer debate. As night follows day, it behoves Parliament to introduce reasonable working hours.

I was very concerned that that late-night jam occurred at the end of the session. The only argument I had from other members, who have far greater experience than I, is that both of the major parties have late-night sittings at the end of each session. I did say late on that night that I would be happy to come back on another day to continue the legislative program in a more civilised manner. In my view one of the great problems about the situation getting out of hand and the Parliament being brought into disrepute with the general public—and inevitably the media engaging in a beat-up—is that we are not acting in accordance with the wishes of the public: we are not able to fully consider each of these bills during reasonable hours and without the pressure of the all-night sitting we experienced last year.

The Greens were not aware of the implications of the amendment; and if I had known what they entailed I would never have supported them. I would

have spoken against the amendments. It is unfortunate that I missed out on the opportunity to do so. I recall in discussion that I was told by the Government that the superannuation bill was procedural only, that it was a housekeeping matter. The Greens consider that the public had the right to be outraged by the superannuation bill, which effectively gave members of Parliament a massive increase in their superannuation, funded from taxpayers money. The present bill amends the definition of "salary" so as to repeal the amendment that increased the superannuation benefits payable to both current and former members of Parliament, and provides that any changes to parliamentary superannuation will be subject to the determination of the Parliamentary Remuneration Tribunal, an important independent body. The Greens fully support this amendment, but I foreshadow that in Committee I will move amendments to permit the tribunal not only to have regard to the various matters set out in section 14A(2), but also to assess whether the increase in superannuation entitlements can be justified by an increased workload and various other things.

The amendments will provide for hearings to be conducted and for public submissions to be invited. The Greens consider that members of Parliament now receive very generous superannuation entitlements, and that any increase in those entitlements must meet the approval of the public; and that the public should be permitted to have input into the process of review of superannuation entitlements. Given recent events and the public outcry—which I believe was justifiable in this instance—I would like to believe that we could introduce legislation designed to show clearly that there is absolute transparency in our processes; legislation that will provide an opportunity for community consultation and public participation on issues as vexed as this. With those comments and my foreshadowing that I propose to move amendments in Committee, the Greens are pleased to support the bill.

The Hon. R. S. L. JONES [11.48 a.m.]: I support the Parliamentary Contributory Superannuation Legislation Amendment Bill. In the rush of the dying days of the last session I moved the amendment to include part of our parliamentary allowance for superannuation purposes. I accept that the principle of including taxable income for superannuation purposes is correct. However, in retrospect, I realise it was not a good idea to move the amendment at that time. I believe, as do other honourable members, that such decisions should be independent. I suppose I was caught up in the heat of the moment and agreed to move the amendment.

Of course, it was to my very great cost in the community. No doubt I lost a lot of support. Certainly, I was attacked again and again, not only in the media but also in the street, in the supermarket and elsewhere for having moved the amendment. I was abused at the airport and I am sure other members have been abused about this matter. All honourable members have paid a very high price for it.

The irony is that I was not actually doing it for myself, because I do not need the money. Some people say, "Well, why did you move the amendment if you do not need the money?" I suppose it was for all members to receive what I believe to be appropriate superannuation, but having regard to the public outcry, stoked up by some sections of the media in particular, it is clear that members should not determine their own superannuation package or they will be attacked. So I think it is appropriate that all of our remuneration and allowances be determined by an external body.

I understand that the Hon. Elisabeth Kirkby will explain how other public servants—and, after all, we are public servants—are much better remunerated than politicians. It has always been difficult to pay members of Parliament adequately, because every time their salaries are increased there is a public outcry, no matter whether it is a 1 per cent increase or a 2 per cent increase. The media claims that members of Parliament receive subsidised meals, but we do not. The dining room pays a dividend to Treasury. Drinks are not subsidised, because they are charged at cost plus a percentage. Car parking at Parliament House used to be free, but it now costs \$300 a year.

The Hon. C. J. S. Lynn: That is not a good story, though.

The Hon. R. S. L. JONES: It is not a good story for the media. I have regard to the public outcry about the superannuation amendment, and I have been the whipping boy, I suppose, but deservedly so. I knew what I was doing at that time. Of course, other members also knew what they were doing, and it was a fairly significant increase in our superannuation. As I say, I do not have a desperate need to increase my superannuation but some members do. Members have been forced to leave Parliament because they had built up debts to such an extent that they needed their superannuation to pay them off. I know of at least one high-profile member of Parliament who had to do that some years ago, and Parliament lost that person to another sector. I am somewhat chastened by this experience. It is easy to be wise in hindsight and I am quite sure

now that if I could turn back the clock I would not move that amendment. In hindsight, having been chastised by the media and by members of the public, I certainly would not have done it. It was not worth the money, quite frankly.

There should have been more consultation with crossbench members, but proceedings were very rushed in the last hours of 5 December. I should have consulted Reverend the Hon. F. J. Nile and the Hon. Elisabeth Kirkby, who did not know what was going on, and I believe some other members were not sure. Some members told me they were not sure what the amendment actually achieved, but I know many members, including some members on the crossbench, were absolutely sure. Some members were extremely busy preparing for other legislation and there was not a proper consultation process. Whenever a bill like this is introduced, regardless of whether it affects members, there should be a full consultation process. I regret we did not do that and I wish we had more time to do it.

It does not worry me in the least that this increased superannuation is to be taken away, because the remuneration tribunal should determine that matter. It may determine that it is appropriate to include part or all of our taxable allowances for superannuation purposes; it may not. I am happy to accept the umpire's decision. The tribunal may decide that our superannuation package is too high. If it does, and puts forward a mechanism for reducing it, I will support that too. Enough has been said. This is a much longer speech than I made on 5 December. It may have been better if I had made a longer speech with a better explanation of that amendment. At least then other members would have been more aware of what was happening.

The Hon. ELISABETH KIRKBY [11.54 a.m.]: On behalf of the Australian Democrats I support the Parliamentary Contributory Superannuation Legislation Amendment Bill 1998. I am very happy to discover on reading the bill not only that the Premier has kept his promise to repeal the amendment made by the Superannuation Legislation Further Amendment Act of 1997 to the definition of "salary", which took effect from 17 December, and to reinstate the definition in force immediately before that amendment, but that this legislation also amends the Parliamentary Contributory Superannuation Act of 1971 to prohibit any future amendment of that Act unless the Parliamentary Remuneration Tribunal first issues a certificate approving the amendment, and amends the Parliamentary Remuneration Act 1989 to set out the powers of the tribunal.

Schedule 2 to the bill provides that amendments must be approved by the Parliamentary Remuneration Tribunal. It prohibits the Legislative Assembly or the Legislative Council from originating or passing any vote, resolution or bill for the amendment of the Parliamentary Contributory Superannuation Act unless the tribunal has first issued a certificate approving the amendment. Of course, that will make it impossible for any further occurrence of what happened on 5 December.

Schedule 3 spells out the powers of the Parliamentary Remuneration Tribunal. It provides that the tribunal is required to take into account the heads of government agreement under which State public sector superannuation schemes are to comply with Commonwealth legislation applicable to other superannuation schemes. It provides that the tribunal is required also to take into account the effects of any proposed amendment on the present and future liabilities of the Parliamentary Contributory Superannuation Fund. The tribunal is to be given the power to obtain actuarial advice relating to the cost and effect of any proposed amendment. If it is intended to proceed with an amendment, a certificate must be laid before the Parliament and the determination is to be published in the *Government Gazette*. This makes the whole scheme transparent, and I believe that is proper.

During the past 48 hours I have been very concerned that Mr Speaker apparently decided that the members' guide, with which all honourable members are issued, should be confidential. I believe he made a statement to that effect in another place and also said that no member was permitted to publish the contents of the guide. I am not aware whether that is a correct interpretation of what Mr Speaker intended, but I believe it is wrong. Honourable members should be open about what they get. They should be open about their allowances. They should be open about their salary levels and they should be open about their superannuation.

Unfortunately, the honourable member for Manly, in disobeying Mr Speaker—if there was such a ruling—did not give the *Sydney Morning Herald* the correct information. An article under the by-line of David Humphries states that Parliament House parking costs \$150 a year. To the best of my knowledge, Parliament House parking costs \$300 a year. Parliament imposed that charge when the parking levy was introduced for all parking in the central business district. When I first became a member of this House, parking here was free. This article also states that members of Parliament buying

a new car are issued with a certificate that usually enables purchase at the fleet owner price. That simply does not happen. I do not know whether that applies to members of the Legislative Assembly, but it does not apply to members of the Legislative Council.

It has also been reported that members of Parliament are entitled to use the private dining rooms and bars. I point out that, because of the stringency of the parliamentary budget, the cost of the food has been increasing every year. Last night I had occasion to have a meal in the members dining room and I had oysters, which cost me twice what I can buy them for at the fish market section of Woolworths. In a joking way I took this matter up with David Draper, the head of the catering section. David was so disturbed at this that he took me into his office to show me the invoices from his supplier. He said that he could not help the price, it was relative to what he was being charged by the supplier. Year after year the costs of eating in the dining room are increasing. I point out that the journalist who wrote the article in this morning's paper has the privilege—and I am sure he uses it—of eating in the staff dining room and using the bar every day of the week. If members of Parliament are so subsidised, as is suggested, the subsidy is also enjoyed by the journalists.

I was saddened the other night when a statement was made by the honourable member for Bligh about members of another place rorting the system by obtaining taxi dockets. The report conveniently omitted to relay the fact that everybody working here is entitled to get a taxi docket, not just members of Parliament. Taxi dockets are available for the Hansard staff, the table officers, attendants and members of the catering staff. Taxi dockets are not a privilege or a perk for members of Parliament; all parliamentary advisers who have to sit here, often until after midnight, are recompensed, if we work after midnight, by getting a taxi docket. The suggestion that parliamentarians are rorting the system may have made a good story but it was totally incorrect.

Unfortunately, members are becoming the scapegoats. People are starting to say, "Let's cut down all the tall poppies." Members, as tall poppies, are having their salaries queried. I put on the record information contained in a document I obtained from the Parliamentary Library that lays out the annual determination of remuneration for the chief and senior executive services. The minimum wage at the lowest band of the chief and senior executive services is \$99,945 and the maximum is \$116,240. The minimum salary at level 8 is \$236,000 and the

maximum is \$291,000. In addition, those at SES level receive allowances—levels 7 and 8 are in receipt of an allowance of \$30,000 a year. They also get a proposed performance pay model, which is, presumably, negotiated with the individual officer when performance agreements are drawn up by the head of department.

I have absolutely no objection to parliamentarians' salaries and allowances being put on the public record, so long as the same practice applies to senior public servants and members of local government. Under the Local Government Act each chief executive officer has to have his total salary published so that all ratepayers know what their chief executive officer is being paid. Chief executive officers requested that they be banded like the chief and senior executive services, but the Minister for Local Government did not permit that. The Minister determined that their actual salaries and allowances were to be published in the annual report—and I am sure that the Hon. A. B. Kelly is aware of this—so that all ratepayers knew what the senior executive officers of their shire or town council were being paid.

The Hon. D. J. Gay: Tell us about the Hon. A. B. Kelly.

The Hon. ELISABETH KIRKBY: The Hon. D. J. Gay makes a very cogent point. The Hon. A. B. Kelly, having returned to this place after being chief executive officer of a local government authority, is losing money. He is being paid much less to be a member of this Chamber than he was when he was able to live at home in Wellington, was close to his family, did not have to travel to Sydney every week, did not have to spend a great deal of time at the weekends on party business and could live a much more comfortable family life and spend more time with his children. The Hon. A. B. Kelly is not the only member of this House who has given up substantial income to become a member of Parliament. That is something that is never highlighted by the media. It is something that honourable members ought to be fighting for now and that is why I am being so vehement about this issue.

Although I regretted absolutely the way in which the Superannuation Legislation Further Amendment Bill was amended before Christmas, I do not believe that there should be any further secrecy about what happens. I certainly do not believe that there is anything wrong with our salaries and allowances being agreed to by a remuneration tribunal, an independent tribunal. Information I have been given in the past few hours

suggests that in many cases the Parliamentary Remuneration Tribunal has voted further allowances for members of Parliament which the government of the day has refused on the grounds that it could not afford further allowances.

I believe that yesterday in another place the Premier agreed with the honourable member for Manly that the entitlements of State members of Parliament could be assessed by the New South Wales Industrial Commission, as are those of every other worker in the State. But if our entitlements are to be assessed by the Industrial Commission the government of the day will have to pay what the commission lays down; it will not be the privilege of the Premier or the Treasurer to say that the government of the day cannot afford something and will not pay it. The government of the day will have to accept the umpire's decision, as every other employer in the State has to accept the umpire's decision, whether or not it likes it—and in many cases employers do not like it.

About 10 years ago members of Parliament were subject to a time and motion study carried out by consultants. I think that study took place at the beginning of the Greiner administration. I recall being interviewed in my office about my daily duties and how much time they took—the normal procedure in a time and motion study. It was after that study that members of Parliament received an increase in remuneration. As the Hon. R. B. Rowland Smith would know, when he and I first came here we were paid the princely emolument of \$12,000 or \$13,000 a year. In those days many members of the Legislative Council had other jobs—they had to have, for they certainly could not survive on or bring up a family on what we were paid in those days. The Hon. J. R. Johnson has been here very much longer than I have and he would well remember those days, too. I believe that it is proper that this matter be settled by the Parliamentary Remuneration Tribunal. I hope that the Government will take into account the evidence the tribunal has before it and will see fit to treat members of Parliament accordingly. Then, when the superannuation entitlement is made public—as it will be because it will now have to be published in the *Government Gazette*—perhaps some of the hue and cry that has attended members over recent weeks and months will die down.

Reverend the Hon. F. J. NILE [12.10 p.m.]: The Christian Democratic Party strongly supports the Parliamentary Contributory Superannuation Legislation Amendment Bill and its various requirements. I felt so strongly about this matter that, as honourable members of the House know, on

our return after the Christmas recess I gave notice of a similar bill, which has been drafted by Parliamentary Counsel. When the matter was made public I went on record and said that I would take steps to repeal the amendments that dramatically increased the superannuation entitlements to members of Parliament and former members.

I am pleased that the Premier has kept his promise to introduce a bill which will repeal retrospectively changes made in December 1997 to the definition of salary in the Superannuation Legislation Further Amendment Act 1997 and to provide that future amendments to the Parliamentary Contributory Superannuation Act may be made only with the approval of the Parliamentary Remuneration Tribunal. Honourable members will recall that in December 1997 the Parliament passed amendments, moved at the Committee stage in the Legislative Council, to the definition of salary in the PCS Act. The amendments significantly increased superannuation entitlements to members and former members and were subject to adverse comment in the media, to put it mildly. My staff have collated the press clippings during that period. I will not take the time of the House to read them onto the record but the superannuation issue received perhaps as much coverage as any single issue that this Parliament has ever debated. I table those press clippings.

In response to the public's concern, the Premier undertook to repeal retrospectively those amendments and to ensure that any future changes to parliamentary superannuation be determined by an independent tribunal. The bill provides that the amendments to the definition of salary passed in December 1997 are repealed retrospectively with effect from 17 December 1997. There was concern that because the bill had been passed and assented to some honourable members may have sought to benefit from that amendment. For that reason the bill includes the provision that any action by the trustees of the fund during the period from 17 December 1997 to the commencement of the Act are invalidated.

Finally, the bill provides that future amendments to the PCS Act may be made only with the approval of the Parliamentary Remuneration Tribunal, provided by way of certificate. The certificate must be tabled in Parliament prior to the enactment of any amendment to the PCS Act. A decision by the tribunal whether to provide such a certificate cannot be challenged in any court. Those statements have been issued to honourable members by the Premier. At some point further investigations will be made as to whether such a certificate can be challenged in any court, but that is what the

legislation provides. I noted that in his remarks the Hon. R. S. L. Jones intimated that he is now sorry about the whole event. He said that he had no time to consult with anyone and he was rushed but there were reports in the media that there had been discussions going on for two months prior to the amendments being moved by him.

The Hon. R. S. L. Jones: Not with me.

Reverend the Hon. F. J. NILE: The honourable member is indicating that the two-months discussions were not with him personally, and I accept that. Opportunity was certainly available for people who drafted the amendments to have allowed members of the House to be briefed on the legislation, which is the normal practice. The Government has initiated a process of briefing which is supported by the Christian Democratic Party. Every Tuesday the Government briefs us and we meet with the Leader of the Opposition on Wednesdays. Up to that time everything had been conducted openly, which is how it should be done. The degree of trust that we had been exercising has now been seriously undermined. In the past we have been vigilant but we will have to be more vigilant in the future to make certain that something similar does not happen again. During the media controversy I was angry about what was being stated in mainstream media. I wrote a letter to the editor of the *Sydney Morning Herald* on 15 January 1998 which was not published—as often happens with my letters—in which I said:

I write in regard to the false perceptions in your Editorial (SMH 15/1/98) and in various Letters to the Editor such as Ken Knight (15/1/98).

You say, "After the MLCs deliberated for nine minutes on whether they should increase their superannuation by about 30% . . ."

At NO time did the Upper House MLCs **deliberate** on the increase. That is why I am angry that a clever device was used by Mr Jones . . .

I mentioned the Hon. R. S. L. Jones because he moved the amendment. The letter continued:

. . . to **conceal** from the MLCs the hidden purpose of his Amendments.

It is obvious the Upper House procedures are not fully understood by the public. At 12.57AM Mr Shaw moved the Bill with a brief 50 second motion and did not read but incorporated Mr Egan's lengthy Speech in Hansard.

At 12.57 Mr Hannaford made a 50 second Speech supporting the Bill.

At 12.58 Mr Jones made a 50 second speech supporting the Bill.

As there was no opposition the Bill passed in a virtual silent vote in 5 seconds.

Then there was a 2 minute delay while the President left the Chair and the Upper House became a "Committee", which is normally the procedure to debate any amendments.

At 1.01 am Mr Jones moved in 'globo' his NINE amendments, covering fifty four insertions in the original Bill. He did NOT read them, but had them incorporated in Hansard. Mr Jones gave the false explanation that his Amendments only improved the Bill and made NO mention of the hidden 30% increase in MP's Superannuation pensions.

There were no "deliberations" on the nine lengthy Amendments, which were only then handed out to the MLCs.

All the Amendments were agreed to in one block vote. Again there were no "deliberations" as both the Government and the Opposition supported him by their silence.

AT 1.02 AM THE AMBUSH IS COMPLETE.

Obviously there was no opportunity for MLC's or their research staff to study these amendments.

At 1.03 am the President returns and the Bill with Amendments was passed in a virtual silent vote.

When the Hon. R. S. L. Jones moved the amendments a red light started to flash and I wondered why, if the honourable member was improving a government bill, the Government did not move the amendments. At that point I said to my wife, "There is something odd happening." It was happening so quickly that there was no time to intervene with a point of order or an off-the-cuff speech. Honourable members will know that prior to debate on this bill, for more than four hours, from 8.41 p.m. until 12.56 a.m., I was involved in debate on the controversial Native Vegetation Conservation Bill.

The Hon. D. J. Gay: On a point of order. My point of order is about the accuracy of what Reverend the Hon. F. J. Nile said. He intimated that at the Committee stage of debate on a bill he was unable to see the amendments moved by the Hon. R. S. L. Jones. All honourable members know that if amendments are moved in globo they must be circulated. Therefore, the honourable member had access to those amendments, as did every other member of this House. Reverend the Hon. F. J. Nile is implying that he had no access to the amendments. That is totally inaccurate and I ask for the record to be corrected.

Reverend the Hon. F. J. NILE: On the point of order. In the letter to the *Sydney Morning Herald* I wrote:

Mr Jones moved in 'globo' his NINE amendments, covering fifty four insertions in the original Bill. He did NOT read them, but had them incorporated in Hansard.

I never said the amendments were not available. They were handed to members; we had the

amendments. I never made a statement that the amendments were not distributed to members.

The PRESIDENT: Order! I do not uphold the point of order.

Reverend the Hon. F. J. NILE: I put on the record that I did receive the amendments, as did other members who were in the House. However, as everything happened in seconds it was difficult to read the many pages which covered nine amendments that made 54 insertions into the original bill; indeed, they were larger than the actual bill. Before I was interrupted I was quoting from my letter, which further stated:

From 10.28 pm to 12.56 am I moved for over two hours forty important amendments one by one on behalf of the Farming Community of NSW.

All these Amendments were previously distributed and I read out each one as I moved it, so they could then be DELIBERATED upon and finally accepted or rejected before we moved onto the next amendment.

Yours sincerely,

(Rev) Fred Nile MLC
Christian Democratic Party
Parliament House, Sydney

I put that letter on the record to explain my reply to the editorial of the *Sydney Morning Herald* which stated that for nine minutes honourable members calmly deliberated on the increase. At no time in this House was there any deliberation on the increase; that is a fact. Following the public outcry resulting from the procedures which were designed to conceal the impact of the amendments, I issued what I called a solemn pledge. As I have indicated, I gave notice of a bill to repeal the specific amendment to the Parliamentary Contributory Superannuation Act. My pledge stated:

As Leader of the Christian Democratic Party I pledge that I will introduce the following Bills when Parliament resumes, to restore public trust, Government accountability and integrity.

1. All increases in MP's salaries, allowances, superannuation etc. will be first investigated and recommended by an Independent Parliamentary Remuneration Tribunal, and open to public scrutiny.

I moved in that direction by giving notice of a bill to repeal the amendment. I further pledged:

2. All MP's claims for travel, accommodation etc. will be audited annually by the independent NSW Auditor General.

3. All major Government contracts will be investigated by the NSW Auditor General before they are signed, especially for new tunnels, bridges, toll ways, buildings etc.

4. All Bills will be published and tabled for one month to allow public scrutiny before they are passed.

5. All Amendments which add to or change the purpose of the original Bill will be tabled, publicised and deferred for at least one week to allow public scrutiny.

6. The Quorum for both the NSW Legislative Assembly and the NSW Legislative Council to be increased from the current 19% to 90%, to ensure detailed scrutiny of all legislation is passed by the majority of Members of Parliament, not by only six or eight Members in the House.

7. Both Houses of Parliament to sit between 9.00 am and 6.00 pm between Monday and Friday, to ensure accountability and open Government with the media and public scrutiny of all legislation etc. so as to prevent any future midnight to weekend ambushes. "NO MORE SUPER RORTS!"

And that was my public pledge, which has been distributed. Members may know, as I made public at the time, that I referred the matter to the Independent Commission Against Corruption, based on statements, particularly by Ted Mack, the former Independent member for North Sydney who, in the *Daily Telegraph* on 12 January 1998, stated:

Now all of that is bad enough, but the shock conspiracy to avoid accountability on this occasion borders on major corruption.

Following that statement I felt obliged to refer the matter to ICAC to determine whether there was any basis for the statements he made.

The Hon. D. J. Gay: Did you get a reply?

Reverend the Hon. F. J. NILE: I did, yes. The reply stated that ICAC had determined that there was no need to further investigate the matter. As far as I am aware that was the end of it, unless ICAC is still doing something behind the scenes of which I am unaware. I issued a press statement on that matter. I raised with the President and the Clerk another matter concerning an amendment to the superannuation bill. The upper House had approved the expenditure of \$4.7 million per year, a total of \$47 million in 10 years. I had always been told that the upper House did not have the power to initiate a money bill.

I raised that with the President and the Clerk and was advised that what had been done was in conformity with the procedures of the House. In the past when I had sought to introduce a bill that might involve expenditure I had been advised clearly that the Legislative Council does not have the power to do that. I accept the advice from the President and the Clerk that all matters conducted in the House on that occasion were in accordance with standing orders and other procedures. With that background material I support the bill and trust that never again

will such an event take place. I know there is sensitivity about increases in superannuation and allowances, and that is why amendments tend to be dealt with at the midnight hour and pass through in seconds.

Sometimes such amendments may be completely justified and legitimate. Currently both sides of politics are very nervous about the way in which the media take up these issues and often distort a genuine matter so that it becomes controversial. I have observed that procedure over the years. In view of what has now happened the House will have to take the risk of media criticism and be quite open about what it does. Important legislation should be debated during the day when the media are available and members of the press gallery are working. In that way it cannot be alleged that the House is somehow concealing from the public a benefit to members of Parliament.

To finish on a humorous note, when I complained about this incident a member of the House said that I must have been the only member of the House who did not know that we were voting for this large increase in superannuation. I said, "Well, I did not know, it was never explained or mentioned in the debate, because there was no debate." The member said to me, "Fred, you should have heard all the computers going." I said, "What do you mean?" He said, "All the members had their computers out trying to calculate how much their superannuation would increase."

The Hon. Ann Symonds: You made that up.

Reverend the Hon. F. J. NILE: No, it is a true story. I felt that perhaps I was the one innocent member in the House.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.28 p.m.], in reply: I thank honourable members who have contributed to this debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 2

The Hon. B. H. VAUGHAN [12.30 p.m.]: I refer to new section 4 in schedule 2 relating to amendments requiring a certificate of approval. Mr Chairman, I seek your advice. I understand fully the public policy involved in this bill, but I think we

should hesitate when considering the provision in schedule 2 which, apart from anything else, is ultra vires the New South Wales Constitution. New section 4 states:

It is not lawful for the Legislative Assembly or the Legislative Council to originate or pass any vote, resolution or Bill for the amendment of this Act unless a certificate approving the amendment made by the vote, resolution or Bill has been first issued by the Parliamentary Remuneration Tribunal, or any successor of the Tribunal, during the Session in which the vote, resolution or Bill is proposed to be passed.

I do not want to obfuscate this morning's proceedings in any way but there is no point in the Parliament passing legislation which contains a provision that strikes at the heart of what all honourable members are doing here. This morning I found a South Australian Supreme Court case, *West Lakes Ltd v South Australia*, (1980) 25 SASR 389, which refers to Trethowan's case (1931) 44 CLR 394, which is a High Court matter. The statement delivered by Chief Justice King in the *West Lakes* case that hits one smack in the eye is as follows:

A provision requiring the consent to legislation of a certain kind, of an entity not forming part of the legislative structure (including in that structure the people whom the members of the Legislature represent), does not, to my mind, prescribe a manner or form of lawmaking, but rather amounts to a renunciation *pro tanto* of the lawmaking power.

The problem for this Parliament is that section 7A of the Constitution Act 1902 clearly states:

The Legislative Council shall not be abolished or dissolved—

for that we are grateful—

nor shall:

(a) its powers be altered.

I suggest that the New South Wales Parliament has every power in the world to legislate that amendment. However, to so legislate is meaningless because it is doing something that the Constitution of New South Wales does not allow it to do. The Chairman may be able to help me on that point.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [12.34 p.m.]: I note the comments of the Hon. B. H. Vaughan on this matter. The Opposition assumed that the Government would introduce legislation that is constitutional. If the Parliament passes this bill the Attorney General is required to provide the Governor with a certificate of its constitutional validity—that is, that the bill can be properly passed by the Parliament, that the Parliament has followed the proper procedures in so passing the bill, and that the Attorney General has

received advice from the Solicitor General on such matters before signing the certificate and giving it to the Governor.

No doubt this issue will be addressed by the Attorney General and the Solicitor General before the Governor is asked to sign the certificate. In so far as the Governor is given advice, if the advice of the Solicitor General and the Attorney General conforms with the advice and views of our colleague, all the other provisions in the bill will be sworn into law and section 4 in schedule 2 will not be passed into law. No doubt the Attorney General will inform the Committee about the appropriate procedures he has followed and the advice he has received from the Solicitor General on that matter.

Reverend the Hon. F. J. NILE [12.36 p.m.]: Consideration should be given to whether the matter raised by the Hon. B. H. Vaughan should be referred to the President for advice. I understand that a certificate ensures that there is no way that the events that occurred late last year can recur. As I finished my contribution to the second reading debate I made a statement that I did not intend to make. I said that I am the only innocent member. I would like the statement to read that I am an innocent member. I want to make it clear that I am not the only innocent member because other members are innocent of the whole matter. I am referring not only to my wife, the Hon. Elaine Nile, but also to other members of the crossbench, including the Hon. I. Cohen and the Hon. Elisabeth Kirkby, who were not in the Chamber when it dealt with the original bill. I did not intend to cast aspersions on any other member. I am an innocent member but other members are innocent as well.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [12.37 p.m.]: The comments of Reverend the Hon. F. J. Nile have encouraged me to make a further comment. I am prepared to put on record, as I have, that the method of dealing with matters in the future should be dealt with as a matter of principle. I notice that not all other honourable members support me on the issue of principle. If the Government introduces further amendments to parliamentary superannuation legislation in the future, such amendments should require members to make a contribution of 12.5 per cent to gain the benefits of the scheme. If the Government looks at this matter in the future perhaps any legislation that is introduced should contain a provision enabling members to use their discretion about contributing to the scheme to gain benefits from that contribution. If members are perturbed about being statutorily condemned to participate in this scheme they should be allowed to use their discretion not to participate in it.

The Hon. B. H. VAUGHAN [12.38 p.m.]: As one advances in age matters are brought to one's attention that otherwise would not be relevant. For example, in this day of antidiscriminatory philosophy, members who turn 65 still cannot contribute to the scheme—and there are quite a few such members here.

The CHAIRMAN: Order! The Hon. B. H. Vaughan has asked me to comment on what he has said, and Reverend the Hon. F. J. Nile has suggested that the matter be referred to the President. The concerns have, in the main, been addressed by the Leader of the Opposition. However, the House is the master of its own destiny and has the power to pass whatever legislation it wishes. I cannot add anything to the comments that have been made.

Schedule agreed to.

Schedule 3

The Hon. I. COHEN [12.40 p.m.]: I move Greens amendment No. 1:

No. 1 Page 6, Schedule 3[2], proposed section 14A(2).
Insert after line 30:

- (c) must assess the amendment against evidence of increased work value and performance and must have regard to the effects of any proposed amendment on the public interest, including the impact on State Government finances, and

This amendment seeks to ensure that the Parliamentary Remuneration Tribunal is able to assess amendments to parliamentary superannuation against evidence of increased workload and performance of members of Parliament. This amendment also seeks to ensure that the tribunal has regard to the effects of any proposed amendment on the public interest, including the impact of State government finances. I commend the amendment.

The CHAIRMAN: Order! People in the public gallery may not speak to members.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.41 p.m.]: The Government does not support the amendment moved by the Hon. I. Cohen. With due respect to the honourable member, the amendment is unnecessary because the provisions he seeks are foreseen in the bill or would unnecessarily hamper the capacity of the superannuation fund to comply with the necessary Commonwealth regulation. The amendment seeks to require the tribunal to assess all amendments against evidence of increased workload and performance, and to have regard to the effects of the amendment on the public interest, including State finances.

The first part of the amendment appears to require the tribunal to make its determination conditional on the increased workload and performance of members of Parliament. While this appears plausible, superannuation encompasses many administrative tasks and taxation arrangements regulated by the Commonwealth. Many past amendments to the fund—and no doubt future amendments—were in response to changes in the regulatory environment. The amendment could prove unworkable if the fund has to meet these legal requirements.

The bill requires the tribunal to determine whether any proposal is warranted. Public interest would certainly form one of the tribunal's considerations in reaching that conclusion. The words have been carefully selected to ensure that the tribunal's examination is unfettered. Likewise, consideration of the impact on finances is already inherent in the bill, which requires the tribunal to consider the present and future liabilities of the superannuation fund and to decide whether an amendment is warranted. For those reasons the Government does not support the amendment.

Reverend the Hon. F. J. NILE [12.44 p.m.]: The amendment contains positive aspects in its wording and is a genuine attempt to bring other matters into consideration. However, the amendment appears to relate to salaries. An increased workload should be measured against an increased salary. The remuneration tribunal no longer considers the salaries of members of Parliament. Previous legislation linked the salaries of State members of Parliament directly to the salaries of Federal members of Parliament. The annual salary of a New South Wales member of Parliament is kept at \$500 less than the annual salary of a Federal member of Parliament. Therefore, discussions in relation to the workload and performance of members of Parliament would occur at the Federal level and the results would flow on to the State parliaments. The amendment is not necessary.

Amendment negated.

The Hon. I. COHEN [12.45 p.m.]: I move Greens amendment 2:

No. 2 Page 6, Schedule 3[2], proposed section 14A(2), line 33. Omit "amendment." Insert instead:

amendment, and

- (d) may call for public submissions, conduct hearings and receive independent advice from any source relating to the costs and effects of any proposed amendment.

This amendment enables the tribunal to call for submissions, to conduct hearings and to receive

independent advice from any source relating to the costs and effects of any increases in parliamentary entitlements. It also enables the public to comment on this issue, which is particularly important in light of the fact that taxpayers' money is used to fund any increases in parliamentary superannuation entitlements. Given the recent media spate, it is extremely important that there be adequate public participation in the process. All members of Parliament should demonstrate to members of the public that the process is open and transparent, and that they have an opportunity to participate in it. That would resolve the concepts of secrecy and lack of public input. As public servants in the parliamentary domain we should acknowledge that the process is exemplary. I commend the amendment.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.47 p.m.]: The Government opposes the amendment. It is unnecessary because the Parliamentary Remuneration Act already provides the tribunal with broad powers to conduct any inquiry it deems appropriate. Section 14(1) of the Act provides that the tribunal may inform itself and conduct such inquiries as it sees fit, receive written and oral submissions, is not required to conduct proceedings in a formal manner and is not bound by the rules of evidence. Section 14(2) provides that the tribunal may invite submissions from recognised office holders, members, officers of the Legislature, members and officers of statutory bodies and government departments and, importantly, any other person. Clearly, the tribunal has an unlimited discretion to conduct inquiries and to inform itself as it sees fit.

Finally, the bill already makes provision for the tribunal to obtain actuarial advice from any source to determine the impact of any proposed amendment on State finances. Parliamentary Counsel has given careful consideration to the bill to ensure that New South Wales, and indeed the tribunal, is able to achieve the highest possible level of independence when it determines superannuation entitlements for parliamentarians. The bill does not compromise the State's capacity to meet its legal obligations under the heads of government agreement in relation to the regulation of public sector superannuation. The bill achieves those objectives. For those reasons the Government does not accept this amendment.

Amendment negated.

Schedule agreed to.

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

TRAFFIC AMENDMENT (CONFISCATION OF KEYS AND DRIVING PREVENTION) BILL**Second Reading**

The Hon. R. D. DYER (Minister for Public Works and Services), on behalf of the Hon. M. R. Egan [12.53 p.m.]: I move:

That this bill be now read a second time

The purpose of the bill is to enable adoption of legislation to provide the Police Service with appropriate powers to confiscate motor vehicle ignition keys where drivers are considered to be incapable of having proper control of motor vehicles or in cases where the police, on reasonable grounds, believe that alcohol-affected drivers may reoffend. As honourable members may be aware, there have been cases where drivers, after being charged with offences such as high-range alcohol or drive under the influence of drugs, return to their vehicles and continue driving. At present the police have limited means to prevent this happening. This legislation will provide the police with a mechanism to prevent this type of behaviour from occurring. In these cases the police will be able to confiscate the ignition key. In the interests of road safety, this action will ensure that a driver who has been charged with an alcohol-related offence and is released on his or her own recognisance is unable to drive the vehicle.

This will have the effect of deterring intoxicated or otherwise seriously impaired drivers from driving their vehicles until a legal level of sobriety has been reached. Provision has been made within the bill to allow other responsible persons to take charge of the vehicles. The police will be responsible for determining whether a person can take charge of the vehicle and for the return of ignition keys. The legislation stipulates that vehicles or ignition keys be returned on request, unless the person from whom they were taken remains incapable of safely driving and is not lawfully entitled to them. Appeal to the courts will be possible. The bill has also been the subject of extensive consultation between the police and the Roads and Traffic Authority. The police are currently finalising operational orders to implement the measures contained in the bill, which will be commenced as soon as possible. The bill closely reflects legislation that has been operating effectively in Victoria since 1960 and in Tasmania since 1970. I commend the bill to the House.

[The President left the chair at 1.00 p.m. The House resumed at 2.30 p.m.]

The Hon. J. P. HANNAFORD (Leader of the Opposition) [2.30 p.m.]: The Opposition does not oppose the Traffic Amendment (Confiscation of Keys and Driving Prevention) Bill. It is interesting to reflect upon the urgency with which the Government is seeking to ram this legislation through Parliament. In 1995 the Government proposed as part of its election policy that legislation would be introduced to empower the confiscation of keys for high-range drink-driving offences. Three years ago the Government made that commitment. Since then my colleague the Deputy Leader of the National Party in the other place has called time and again for the Government to introduce legislation that would allow police to confiscate the keys of persons detected committing drink-driving offences.

Now, the day before Easter, the Government has introduced this legislation into this House. To outline the Government's haste with the bill, yesterday at 4.35 p.m. in the lower House the Government gave notice of its intention to suspend standing orders and to declare the bill urgent. At that stage the Government still did not have the bill and said the Opposition would receive a copy of it at 6.00 p.m. Around 6.30 p.m. yesterday my colleague did receive a copy of the bill and today it is before this House. Ostensibly the intention is to have this legislation in place for the Easter break. Well, there will be no operational legislation in place for this Easter break, because the responsible Minister has said that this legislation will not be operational until guidelines are produced. He said in answer to questions in the other place that it will be two to three weeks before they are produced.

Since 1995 the Government has had the opportunity to introduce this legislation, for which the coalition has foreshadowed its support. The coalition has called for it time and again. In fact, before Easter last year, as a result of an incident involving a drink-driver, the Opposition reminded the Government of its election commitment and that the Opposition would support the legislation, and called on the Government to introduce it. Twelve months later, the day before Easter, the House is confronted by the Government trying to ram through a piece of legislation ostensibly to provide protection for the community before Easter.

What is more alarming about this legislation is the extent of it. In its commitment to the people before 1995 the Government indicated that the legislation would apply to people driving vehicles with a high range of breath analysis testing. Is there to be any breath analysis test to trigger the operation of this legislation? No. One would have thought that

if it is illegal to drive with a blood alcohol reading in excess of 0.05 and if every police vehicle in New South Wales is equipped to test whether drivers have that level of alcohol in their blood, that should trigger the operation of the legislation. But it is not. In fact, the State is returning to the days before George Paciullo introduced breath analysis testing. It is going back to the days of the police officer having to be "of the opinion" that a person driving a vehicle or about to drive a vehicle is under the influence of alcohol. Honourable members should not believe this is just about people driving vehicles whilst under the influence of alcohol. It is not. The police will be able to stand outside any licensed establishment, any restaurant, anywhere a function is held, and, as a person puts his keys into a car—irrespective of whether that person intended to drive—challenge him and take away his keys.

One would have thought that the trigger for alcohol testing would be whether a person was over the limit, and that if a person was over the limit the appropriate penalties would be imposed and the vehicle keys confiscated. The person affected would be told to return the following morning and get his keys. That is not what the bill provides, however. I understand that the Government may have wanted to include in the bill the definition of a person who was in the opinion of a police officer under the influence of a drug. Honourable members would recall that last year the Parliament passed legislation to deal with people driving under the influence of drugs. Because of difficulties relating to a mechanical test, the Parliament supported the concept of a police officer being able to form a reasonable opinion as to whether a person was under the influence of a drug.

In this bill there is no requirement that the police officer has to be satisfied that a person is under the influence of a drug, whether or not that is a legal drug. There is no requirement that a police officer, having decided to confiscate keys, should take the person to a medical practitioner for an initial test to determine whether the person's ability to drive is impaired as a result of allegedly being under the influence of drugs. This bill gives the police the ability to confiscate keys and provides that if the person can find a doctor who determines that he is not under the influence of alcohol or drugs, he can return for his keys. With that sort of practice, how close are we coming to a police state?

The Opposition is of the view that the police should have the power to confiscate keys, but only when satisfied that an offence has occurred. That is not the approach of the Government, however.

Honourable members should consider what might happen if a person's keys are confiscated and the police direct that person not to drive his vehicle, but that person goes home, decides that he is not under the influence of alcohol or drugs, and returns with a second set of keys to collect his vehicle. Is a police officer to be required to satisfy a court that he reasonably formed the opinion that the person was under the influence of alcohol or drugs? No, that is not required. The Government has decided that a completely different test will be used. A person who uses a second set of keys and tries to take his car home will be guilty of an offence. Proposed new section 26A(6) provides:

A court may only find a person guilty of an offence under subsection (5) if the court is satisfied that the police officer had reasonable grounds for believing that, in the circumstances, the action taken by the police officer was necessary in the interest of the person or of any other person or of the public.

A police officer will not have to say that he formed a reasonable opinion, based upon particular tests with which we are familiar from other legislation, that the person was under the influence of alcohol or drugs. Under this legislation the police officer merely has to say that in his opinion in the public interest the person's keys ought to be confiscated. It is incredible that in one bill two different tests are applied to justify police actions. The Government has said that this bill has been the subject of extensive consultation. How can the Government say that when at 4.35 p.m. yesterday it did not have the bill, when the Parliament did not have the bill until 6.30 p.m. yesterday, and when organisations such as the National Roads and Motorists Association have not seen the bill and have not been consulted about it?

The Government has no understanding of the concept of consultation. It has no understanding of the need to deal appropriately with people in relation to significant legislation. Worse still, it has no understanding of dealing appropriately with the Parliament. Normally, the Parliament would allow the passage of legislation as a matter of urgency if it is to be implemented immediately. In this instance, however, the Minister says that the bill will not be implemented until the guidelines are available, and that they will not be available for two to three weeks. The Opposition will not stand in the way of the Government with this legislation, but I think the Government will be hoist with its own petard. The coalition does, however, give a commitment that when it is returned to office next March it will review this legislation and make sure that New South Wales has legislation that works in the public interest.

The Hon. M. J. GALLACHER [2.46 p.m.]: I also support the Traffic Amendment (Confiscation of Keys and Driving Prevention) Bill, although it is being rushed through the Parliament. The Government is saying that the bill should be passed for Easter, but that is a facade. There is no way that this legislation will be implemented before the Easter road toll once again rears its ugly head. We can only hope that this Easter we are blessed with good weather, because with heavy rain we unfortunately have a heavy road toll. This legislation is being rushed and its implementation is flawed from a policing perspective. I point out, tongue in cheek, that the Police Service will thank the Government for once again increasing its paperwork. By this bill, police will be required to maintain records of the keys they hold to ensure that people sign for keys that they collect. The records will have to be auditable, because keys will have to be returned within 24 hours. Records will have to be maintained so that the Police Integrity Commission, the Ombudsman or the internal affairs section of the Police Service can access them if a complaint is lodged with any of those bodies. I reiterate that the Police Service will not be too pleased about the increase in its paperwork as it continues its fight against crime.

The Hon. R. S. L. Jones: But the police want those powers, to save lives.

The Hon. M. J. GALLACHER: The police most certainly want the powers, but the implementation of this legislation in the ensuing weeks, if it were to be rushed through so quickly, would be difficult for the police. The shadow attorney general spoke about the problems the police will have in determining a person's level of intoxication. There is no doubt that there will be problems. I foresee some problems, too, with passengers. Suppose the driver of a vehicle is arrested and a passenger—who holds a driver's licence and purports to be responsible, as required under the legislation—demands the keys, but is refused on the grounds that a police officer suspects that the passenger, though not affected by alcohol, is under the influence of something else. Prior to the passenger taking control of the car the police officer does not have the power to refuse him the keys.

Nor do the police have the roadside facilities that have been promised time and time again to test for drugs, as opposed to alcohol. The police would then make a value judgment as to the person's ability to drive the car. That process is flawed and it is open to complaint that police officers have acted improperly. Similarly, it could easily be manipulated by unethical police officers to deny a person the

opportunity to drive a car away. Police could simply say, "Though I formed the belief that the person was affected by drugs I could not determine that to be the case, so I thought it would be in his best interests not to let that person have the keys."

That is all right in the Sydney metropolitan area but it would cause great inconvenience if it occurred, say, 200 kilometres from the home of a person who in all circumstances would be reasonably expected to be able to drive a car. Those potential problems need to be addressed. If an 18-year-old driver is stopped for having more than the prescribed concentration of alcohol he is subjected to a roadside breath test. If the test proves positive the person is arrested and taken to the police station to undergo a breath analysis. What happens if there is also in the car a passenger who, by virtue of not having a licence, cannot drive a motor vehicle? The police are not automatically allowed to take people as passengers in police vehicles.

Many police operate in good faith and would convey this person to a convenient point. However, if the police car was involved in an accident and that person sustained an injury, the police officers who have made that value decision could find their decision questioned and not supported by legislation. If the passenger is over 18 years of age, holds a motor vehicle driver's licence, and is not suspected of being affected by alcohol or drugs, he would quite likely be given the keys and asked to follow the police to the police station.

Problems will occur when unlicensed people, intoxicated people or people suspected, in the reasonable opinion of the police, of not being capable of driving a car, will be stranded without any means of travel. That is especially so in the case of a person under the age of 15 or 16, because the police cannot take passengers in cars. Another consideration is how a vehicle is to be immobilised? Police cars are not equipped with tool boxes, and police officers are generally not qualified motor mechanics or engineers. Basically a vehicle can be immobilised by a police officer in two ways. One method is to take the rotor arm out of the distributor, and the second is to shoot the tyres. In which way does the Government wish the police to immobilise vehicles?

The Hon. R. S. L. Jones: Shoot the tyres.

The Hon. M. J. GALLACHER: The Hon. R. S. L. Jones says to shoot the tyres, and I know that could give the police a warm feeling. The Government has inserted the words "immobilising a motor vehicle" in the legislation, but how does it

intend police officers to do that? What assurances will police officers be given, if a vehicle is immobilised in an improper way, that the Government will give them immunity from prosecution, bearing in mind that most police officers are not mechanically minded? Finally, how will police officers form the view that a person is affected by drugs and therefore can not be considered a reasonable person to drive?

The Government has made a number of promises that a scientific methodology will be introduced to policing to give them the opportunity to conduct roadside breath testing, or some other testing, to determine the extent to which a person may be affected by illegal substances such as marijuana and other drugs. Once again that is a continuum of the Government's promises, but the Government has not produced anything. I expect that police will go to the New South Wales Police Association's biennial conference in May of this year seeking a further commitment about that promise, but that once again it will just fade off into the darkness and not bear fruit.

The Hon. ELISABETH KIRKBY [2.55 p.m.]: The Australian Democrats support the Traffic Amendment (Confiscation of Keys and Driving Prevention) Bill. Though I agree with some members of the Opposition that this bill has been introduced at the last moment, I do not know why the legislation is not wholeheartedly supported. Ridiculous examples abound of drivers being stopped, breathalysed and found to be over the limit, but being allowed to drive on because the police have absolutely no power to stop them. It is on the record that that has resulted in at least two tragic fatal accidents and I cannot believe there have not been more.

Even if this legislation is flawed, surely it would not be wrong to pass it today. I have already circulated my amendment, which attempts to strengthen the bill to give police power to prevent that ridiculous situation arising. That anomaly cannot be allowed to continue. The legislation merely enables police to take car keys from a person who is significantly impaired by alcohol or drugs and incapable of having proper control of a motor vehicle. Indeed, that fulfils an Australian Labor Party's policy commitment given in March 1995. I agree that three years is too long to fulfil an election promise, even in the run-up to the next State election, but that does not mean that the legislation is not worthy of support.

The legislation will allow the police to forbid an incapable person from driving his vehicle, will

require the person to deliver forthwith all ignition and other keys of the motor vehicle in his possession and take such other steps as may in the opinion of the police be necessary to render the motor vehicle immobile or to remove it to a place of safety. A few moments ago the Hon. M. J. Gallacher asked in great detail how the police would render a vehicle immobile. I suggest the use of wheel clamps, which are widely used overseas and in Sydney on vehicles left too long in certain parking areas.

The Hon. M. J. Gallacher: Who is going to buy wheel clamps for every police car? The Government has taken \$30 million out of the police budget.

The Hon. ELISABETH KIRKBY: At least they could be allocated to police cars that are on breathalyser patrols. But it does not seem to be such an enormous expenditure. Maybe a cost-benefit analysis could be done on the cost of road accidents, hospitalisation, and insurance claims, particularly when people tragically die and families suffer, possibly for the rest of their lives if the breadwinner is wiped out, or maybe two breadwinners are wiped out. The fourth provision would allow police to give all ignition or other keys of the motor vehicle to another person whom police are satisfied is responsible and capable of having proper control of the motor vehicle.

A person who contravenes any prohibition or requirement by a member of the police force in the exercise of any power under the provision will be guilty of an offence, which carries a penalty. A person who is forbidden to do anything under those four conditions may request that his or her capacity to have proper control of the motor vehicle be determined by a qualified medical practitioner. That would be a very much more difficult condition to fulfil in country areas than it would be for police to breathalyse drivers, as all police cars carry breathalysing equipment. After a person is breathalysed it would be beyond doubt whether or not he or she was capable of driving. Unfortunately, some country towns do not have a medical practitioner and that has obviously been taken into account by the Government, because the proposed legislation states, "If reasonably practicable this request shall be granted." In many country areas it would not be practicable.

If the medical practitioner certifies that a person is capable of having proper control of a motor vehicle, the keys can be returned or the immobilised vehicle returned to running order. The bill will not permit keys to be retained or a vehicle immobilised for a period longer than is reasonably

necessary. Police must return the keys or vehicle on request unless it appears to them that the person from whom the keys were taken is still incapable or not otherwise lawfully entitled to possession of the keys or vehicle. A refusal to return the keys, if the request was made at least 24 hours after confiscation, will be subject to an appeal to a Local Court.

I am not sure why we are making such a meal of this legislation. Similar legislation has operated in Victoria under its Road Safety Act 1986, since 1960, which was long before random breath testing, and in Tasmania under its Traffic Act 1925, since 1970. Advice from both jurisdictions is that no operational difficulties have been experienced by police and there has been no negative feedback or questioning of the legislation by the community. If it can be done in Victoria and Tasmania why can it not be done in New South Wales? Are the police here so very different? I have received good advice, for which I thank the officers of the Minister for Police who consulted with my staff. During their visit they wanted to know if we proposed any amendments, to which we said no. However, we have now changed our minds and the amendments circulated in my name, which they have had an opportunity to look at, as has the Leader of the Government, are the result of my further consultation.

It was explained by the Minister's staff that this bill was partly the result of an incident in which a person was bagged with a high alcohol reading and released on bail with a condition that he not drive for seven hours. He promptly got in his car and suffered a fatal accident. We know that these sorts of things are happening, therefore this legislation is essential. It is not the intention of the Minister for Police to introduce these provisions before the Easter break. However, the Minister hopes that the police will be fully briefed and that the legislation will be in place by the Anzac Day weekend.

It is very sad that the legislation will not be in place by the Easter weekend, but I realise that that is nearly impossible even if the House does not delay the passage of the legislation any further. It has also been pointed out—and I thought this was self-evident—that in practice it would be more than likely that police would breath-test someone in control of a motor vehicle before the keys were asked for. The power to demand keys when someone is about to drive would be a more unlikely situation. Surely, if that occurred, it would be possible for the person from whom the keys were demanded to request a breath test.

It is my understanding that it is not possible for an individual to request a breath test. Perhaps that is because of the provisions of random breath-testing legislation, but I should have thought that individuals who wished to be absolutely certain that they were fit to drive would have the ability, in a polite way, to request the police to breath-test them. They should then be willing to accept the consequences if the breath test proves positive. I also discussed the legislation with the Parliamentary Counsel, who pointed out that the only real change is that the legislation allows police to confiscate keys belonging to a person whom they believe is not fit to drive due to the influence of drugs or alcohol.

At present under the provisions of random breath testing an individual has to be in control of a vehicle before he or she can be breath-tested. Under section 5(2) of the Traffic Act, relating to driving under the influence, police may adduce evidence of their opinion that someone is under the influence of alcohol. This evidence includes, "smelt of alcohol, unsteady on feet, weaving over the road". I agree that that is a very subjective test; however, it exists under section 5(2) of the Traffic Act. If it already exists, why is there any objection to the subjective test under this legislation? Similar evidence would have to be presented by police if there were to be a challenge from a person who was charged for refusing to give keys to the police.

The provisions in this bill are similar to those in the Traffic Act. If honourable members were willing to accept those provisions when the Traffic Act was debated I do not understand why they would not be prepared to accept them now. The figures that the police collected, especially over public holidays, showed that when there is a blitz, as at Christmas, Easter and other public holiday weekends, regrettably, in spite of random breath testing, a considerable number of people are still taking a chance. Although random breath testing has resulted in a lessening of the number of people driving under the influence of alcohol, it has not prevented some people from believing that if they are careful they will get away with it. Regrettably, the statistics show that far too many road accidents and fatalities are caused to innocent people by other people driving under the influence of alcohol. That has proved to be the case when post-mortems have been carried out.

In order to reduce this totally unacceptable facet of our road toll, honourable members should support such legislation, not spend their time trying to prove that it will not work. A few moments ago the Hon. M. J. Gallacher talked about the amount of

paperwork the police would have to do as a consequence of this bill. I believe that paperwork is an essential part of policing. Police have the responsibility, given to them by the Parliament, to cut the road toll, and if measures introduced to cut the road toll result in more paperwork for the police, that is for the good of the community and the police should not complain about it. I commend my amendment, to which I shall speak further in Committee, to all honourable members and hope that it will have universal acceptance.

The Hon. JENNIFER GARDINER [3.10 p.m.]: As the Leader of the Opposition said, the Opposition does not oppose the passage of this bill but notes the Government's dearth of business before the House. Despite having had several months of a parliamentary break in which to prepare and finalise its legislative program, the Government's dearth of legislation on behalf of the people of New South Wales has not been so evident as it is in respect of this bill. This bill was rushed through the Legislative Assembly yesterday and is being rushed through this House today, supposedly because of the imminence of the Easter break and the Government's desire to have the legislation in place for that period, which is well known for an elevation of risk for road users and an increase in road deaths.

This bill amends the Traffic Act 1909 to give police officers the power to prevent persons under the influence of alcohol or other drugs from driving motor vehicles. Proposed section 26A provides that if a police officer is of the opinion that a person who is driving or is about to drive a motor vehicle is under the influence of alcohol or other drug, the police officer may prohibit that person from driving and require the person to hand over the ignition keys to the officer or to another responsible person in the company of the person driving or about to drive. The police officer may also take action to have the motor vehicle immobilised or removed to a place of safety. Any person who contravenes any such prohibition or requirement, or attempts to obstruct the police officer in the exercise of the officer's powers under the proposed section, will be guilty of an offence, the maximum penalty for which will be 10 penalty units.

This bill amends the Traffic Act also to ensure that police officers will not be liable for any action taken in relation to the confiscation of keys or the immobilisation, detention or removal of a motor vehicle under proposed section 26A. The Opposition is of the view that the introduction of the bill has been much delayed by the Government and any opprobrium from a civil liberties point of view, for example, must attach to the ALP. We make the

point that the bill does not have an in-built necessity for a definitive test to be applied by the Police Service in assessing whether a person is so affected by alcohol or drugs that his or her keys should be confiscated. For example, the bill does not require the police to conduct a breath test. It provides that if a driver requests the return of his or her keys a medical practitioner may be called in to make an assessment of the blood alcohol level and certify whether the keys may or may not be returned.

A more reasonable approach would be to require the police officer to apply a breath test at the site where he or she intercepted a possibly alcohol affected driver. It will be interesting to observe how the Carr Government will require the Police Service to implement this new and quite radical law. The Opposition notes also that while the Labor Government is intent on rushing the legislation through, supposedly to implement part of its 1995 election platform on roads and transport policies, including other policies relating to the prosecution of high-range drink-affected drivers, those planks in its platform suffer from continuing neglect. Obviously the Government is in chaos. It does not have in mind the need for a coherent legislative program so it has simply plucked this item out of thin air to have some pre-Easter bills on the table, notwithstanding that it did not resume sitting after the summer break until last week.

The Opposition notes that the safeguards for motorists recommended by the Staysafe committee in implementing this legislation, which are in place in other jurisdictions in which such provisions exist, have not yet been provided for in the legislation. The Government has not thought through the issues and will no doubt bear the brunt of outrage from citizens who are unjustly affected by it in the future. It will be simply another reason for sectors of the community to vent their rage against this Government in March next year by throwing out an incompetent administration. This opprobrium will be all the more widespread, given that the Opposition has exposed the supposed need to rush the bill through before Easter as a sham. On the one hand the Government says that the legislation is urgent; on the other hand it says that it will not be implemented until guidelines covering the operation of the legislation are prepared and given to the Police Service. Of course, that will not be done until well after Easter.

This bill is further evidence of the Government not being on top of its legislative schedule. It is not up to the job of governing New South Wales. A few minutes ago the Hon. Elisabeth Kirkby suggested that the Government do a cost-benefit analysis of

supplying all police vehicle with wheel clamps. We know that the Government is not of a mind to undertake cost-benefit studies on anything. For example, it can close veterinary laboratories and scientific research institutions at the drop of a hat and then publicly admit that no cost-benefit analysis of the closures had been undertaken. So why would the Government do a cost-benefit analysis of supplying all police vehicles with wheel clamps? I am pleased to hear that the Leader of the Opposition, on behalf of the Liberal and National parties, has undertaken to review the operation of this legislation when the new government takes office in March of next year.

Reverend the Hon. F. J. NILE [3.16 p.m.]: The Christian Democratic Party supports this bill, the purpose of which is to enable adoption of legislation to provide the Police Service with appropriate powers to confiscate motor vehicle ignition keys when drivers are considered to be incapable of having proper control of motor vehicles or when police, on reasonable grounds, believe that alcohol-affected drivers may re-offend. In some cases drivers, having been charged with offences such as having a high-range alcohol level or driving under the influence of drugs, return to their vehicles and continue driving. Apparently the police do not have the power to prevent that from happening by confiscating ignition keys.

Considering all the factors involved, the Christian Democratic Party believes that this bill is positive and should be passed by the House. Its provisions should be tested over a period and any weaknesses reported by the police or members of the public can be considered by the House in due course. This bill seems to be a fairly straightforward measure and should be supported. My only concern—other honourable members have expressed the same concern—is that during our briefing by the Government we were told that this urgent bill had to be passed so that it could become operational for the coming Easter break, when we know that there is a higher level of accidents in New South Wales. At page 45 of the *Hansard* proof of 7 April the Minister for Transport, Carl Scully, said:

The police will have the discretion to make the call operationally on the day. How that is handled in their operational instructions is a matter for the Minister for Police and the Commissioner of Police. Guidelines on that matter will be fleshed out in the next few weeks, before this legislation becomes operational.

That seems to be inconsistent with the Government's reason for declaring this bill urgent. The legislation should be operational for the Easter period. The legislation is not too complicated. This bill has

positive values for the community and when it is passed through both Houses a document setting out guidelines for its operation this Easter should be faxed to all police stations. The Opposition's criticism is that the bill will not become operational for some weeks. The challenge is for the Government to ensure that those guidelines are issued forthwith. Surely during the time the bill was under discussion operational guidelines were already in draft format. It should not be so much of a shock to the police commissioner's staff who handle guidelines that they need weeks in which to prepare them. If it is, they should keep themselves better informed of government plans and proposed legislation. We support the bill.

The Hon. J. S. TINGLE [3.20 p.m.]: I agree with the general thrust and intent of this bill which of course means I will support it. However, I am troubled about some portions of it. My comments derive from a degree of experience, because I am prepared to say in this Chamber that I have driven a vehicle when I was under the influence of alcohol—not a drug. If other honourable members search their consciences and memories, they might find themselves in the same position. I remember clearly that about 25 years ago I drove a vehicle without remembering the next morning how I got home. I have grown up since then. Having now made that confession in this place, I am filled with horror when I think of the risks I took and the danger in which I placed my passengers and other people on the road. In my young flashy days I drove powerful and fast vehicles that would have caused tremendous damage had I been in an accident. Thank goodness I was not in an accident and I managed to survive. One day I woke up to myself, and I do not behave that way now.

The Hon. R. S. L. Jones: What were you driving?

The Hon. J. S. TINGLE: A hot V8 Ford 351. I know how incompetent a person can be when he or she is too drunk to drive a car. Therefore, I support the intent of the bill to take the keys to a car from a driver who, in the opinion of a police officer, is too drunk to drive. However, that is the exact cause of my unease. The bill and the associated briefing paper refer often to phrases such as "if a police officer is of the opinion" or "if the police officer has formed the opinion". With the greatest of respect to our police, that provision is far too subjective.

Does it subsequently have to be proved that the person was too drunk to drive or under the

influence of drugs, and therefore incompetent to drive, to justify the policeman's actions? Or can the police officer immobilise the vehicle, take the keys and do all other things provided for in this bill if he thinks the driver is under the influence? Is it possible that a police officer could form an incorrect opinion that somebody was under the influence of drink or drugs simply because of the person's speech or behaviour?

Many medical conditions that do not make a person incompetent to drive produce an appearance and behaviour similar to those exhibited by someone under the influence of drugs. I am also bothered by the differentiation between being under the influence of alcohol and being under the influence of drugs. A person can be tested to determine whether he or she is under the influence of alcohol. As far as I know, at this time a person cannot be submitted to a roadside test that will show whether that person has been smoking marijuana, sniffing cocaine, shooting up heroin—

The Hon. R. S. L. Jones: Taking Mogadon.

The Hon. J. S. TINGLE: —or taking Mogadon, Serepax or any of those behaviour-modifying drugs. The bill provides for a police officer to deal with somebody under the influence of alcohol but contains no provision for police to deal with somebody under the influence of drugs. I appreciate the motivation of the bill, but I would have preferred real consultation to have taken place. In the second reading speech the Minister mentioned the Roads and Traffic Authority being consulted. Who else was consulted? Did I miss a couple? Did they consult the NRMA, the drug and alcohol expert Dr Graham Starmer or other people with knowledge about the effects of these things and the limitations of testing?

Under those circumstances I will support the amendment foreshadowed by the Hon. Elisabeth Kirkby, which provides that a person about whom a police officer has formed the opinion that he or she is under the influence of alcohol has the right to request and receive a breath test to see whether the officer was right or wrong. The motivation for the bill is excellent. Separating a person from his or her car when he or she is not fit to drive that car is a correct procedure, but there are better ways to achieve that result and also prevent the impossible abuses that could arise when a police officer must justify nothing more than that he formed an opinion that a person was unfit to drive.

As the Hon. M. J. Gallacher said, I do not know how to immobilise a car. Perhaps if police were issued with .44 magnum pistols they could shoot the engine block! I do not know how cars will

be immobilised. I welcome an assurance from the Leader of the Opposition that his party will review this legislation if it gains office at the next election. This bill must operate for at least a year before we determine whether it has achieved its purpose. If not, should it be withdrawn or changed? This bill is a fine idea but its proposed execution is flawed.

The Hon. R. S. L. JONES [3.26 p.m.]: I support the Traffic Amendment (Confiscation of Keys and Driving Prevention) Bill. Part of this bill's genesis is a recent accident on the Pacific Highway near Brunswick Heads. A young driver under the influence of a drug—to this day it is not known what drug—was driving erratically. He was stopped by the police, tested, found to be totally free of alcohol, was allowed to drive on and ultimately killed himself and a taxi driver. If this legislation had been in force at that time, the police could have taken away his keys. They knew he was incapable of driving, but they had no way to stop him. If the legislation had been in force one month ago perhaps two lives could have been saved.

Similar cases have been reported of people being booked for drunken driving again and again. In one case three or four people were booked on separate occasions for driving the same car while affected by alcohol. Police should have powers to confiscate keys from drivers under the influence of alcohol or drugs, for the safety of others. The revised Police Service under the control of Commissioner Ryan and the highly educated police officers entering the Police Service must be trusted not to abuse this power.

I had some reservations about the Australian Democrats amendment being a loophole to allow those under the influence of Rohypnol, Mogadon or another stupefying drug to continue driving. I do not believe the amendment will allow that to happen. As the Attorney General pointed out, if the police officer is only of the opinion that the person is under the influence of alcohol the amendment will not create a loophole. The officer may say, "I believe you are under the influence of alcohol or a drug." In that instance the amendment would not apply. The bill is a welcome amendment to the Traffic Act. I hope it is proclaimed in time to operate over this Easter break because it might save one or two lives. The Government should be applauded for taking this step, which may have resulted in part from that tragic accident in the north.

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [3.28 p.m.], in reply: I thank honourable members for their general support of the bill. I commend honourable members for their observations and attention to the detail of

the bill. I undertake to ensure that the ministerial advisers draw those observations to the attention of the Minister for further consideration. Of course, this House will have the opportunity in Committee to consider any amendments appropriate to the bill. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. ELISABETH KIRKBY [3.30 p.m.]: I move the Australian Democrats amendment circulated in my name:

Page 3, Schedule 1[2], proposed section 26A. Insert after line 31:

- (2) If the police officer is of the opinion that the person concerned is under the influence of alcohol, the person is entitled to request that the person undergo a breath test in order to determine whether or not the person is under the influence of alcohol. If such a request is made, the police officer may not take any action under subsection (1) until the person undergoes the breath test.

This is a perfectly reasonable amendment. The person concerned will have the right to request a breath test, the police will have to allow the person to have the breath test, and the police will be able to determine quickly and easily whether it would be proper for them to remove the keys from the vehicle and immobilise it. I appreciate that this amendment will not solve the problem if the person is under the influence of other types of drugs. However, as the statistics indicate that the majority of people being picked up by the police or involved in serious accidents appear to be under the influence of alcohol, it would go at least some way towards reducing the road toll. I hope honourable members will agree that my amendment will strengthen both the rights of the individual and the powers of the police. I commend my amendment to the Committee.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [3.33 p.m.]: The Opposition supports the amendment. As I understand the position, if a police officer suspects that the driver of a vehicle he has stopped is under the influence of alcohol he is able to require the driver to undergo a breath test. If, however, a person is not driving a vehicle but is about to get into a vehicle and the police officer wants to take custody of the keys because he believes that person is under the influence of alcohol

he is not able to require that person to undergo a breath test. Under the proposed legislation a police officer may ask a person who is not driving, but is about to use a motor vehicle, to hand over the keys of the vehicle. The amendment provides that a person who believes that he is not under the influence of alcohol is entitled to ask for a breath test and a police officer is required to apply it. In my view that is a reasonable check and balance against an overzealous use of this power by certain police officers.

Reverend the Hon. F. J. NILE [3.35 p.m.]: I appreciate that "the person" referred to in the second line of the amendment is the person who has been stopped by the police. However, I am seeking clarification. Let us suppose that a driver is stopped, the police officer asks for the keys and the person detained requests a breath test. If the breath-testing equipment is not immediately available and it takes some time for the test to be administered is the driver at liberty to drive away? How could the police officer prevent that person from driving away? The wording of the amendment indicates that the police officer may not take any action under proposed subsection (1) until the person undergoes the breath test. That means the officer cannot take the keys from the driver. The driver will retain custody of the keys. How will the police officer prevent the driver from driving away before the breath test is administered?

The Hon. ELISABETH KIRKBY [3.36 p.m.]: In view of the question asked by Reverend the Hon. F. J. Nile it would appear that he was not listening to the remarks made by the Hon. M. J. Gallacher during the second reading debate. I thought it was made quite clear that every police car is equipped with random breath testing equipment. Therefore, it should not take long for an individual to be breath tested. In addition, I believe that an officer walking the beat in the city would be able, within a very short time, to arrange for a police car to attend and that vehicle would contain breath testing equipment. In country areas police officers are usually in police cars: they do not walk the beat as they do in the suburban areas of Sydney. I do not believe there would be undue delay in making a breath test available.

Reverend the Hon. F. J. NILE [3.37 p.m.]: I appreciate that the equipment could be available. The point is that the police officer would have to return to the police vehicle to get it. The driver may be intoxicated and sitting at the wheel of his vehicle. The police officer cannot take the keys from the driver while he returns to his vehicle to get the breath testing equipment. What is to prevent the driver from driving away?

The Hon. J. W. SHAW (Attorney General, and Minister for Industrial Relations) [3.38 p.m.]: The Government does not oppose the amendment moved by the Hon. Elisabeth Kirkby. The fundamental answer to the question raised by Reverend the Hon. F. J. Nile is that the police officer has a number of options and powers available. First, under proposed section 26A the police officer can prohibit the driving of the vehicle. That power is not inhibited by any qualification on the power to require the keys to be produced to the police officer. If there is a reasonable apprehension about the driver being under the influence of alcohol or any other drug, a police officer can prohibit the driving of the vehicle. In addition, proposed section 26A(1)(c) provides that the police officer may take other steps that, in his opinion, are necessary to immobilise the vehicle or to remove it to a place of safety and detain it at that place. The amendment proposed by the Hon. Elisabeth Kirkby is, as I understand it, only an inhibition or qualification on the requirement of the person to immediately hand over the ignition or other keys of the motor vehicle under proposed section 26A(1)(b). It does not dilute the other powers to prohibit the driving of the vehicle or to otherwise immobilise it.

Amendment agreed to.

Schedule as amended agreed to.

Bill reported from Committee with an amendment and passed through remaining stages.

FEDERAL AGRICULTURE POLICY

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [3.42 p.m.]: I move:

That this House congratulates the Howard-Fischer Government on the launch of the integrated rural policy package "Agriculture Advancing Australia" on 14 September 1997, which will contribute to the positive restructuring of the rural industries of Australia.

Agriculture Advancing Australia is a \$500 million Federal Government integrated rural policy initiative for farmers and rural communities. The AAA package is part of the Federal Government's holistic approach to revitalising the farm sector and regional and rural Australia. A key element of the coalition's strategy is to build the competitiveness, sustainability and profitability of the sector and, in doing so, to maximise its contribution to the economic, social and environmental wellbeing of the nation. The AAA initiative is a comprehensive response by the Federal Government to the many challenges facing the farm sector and regional and rural communities. It will help rural people respond

positively to these challenges so they can benefit from changing circumstances. The cornerstones of the package are effective measures to address the key issues of rural adjustment, farm business risk management, skills development, drought, farm family welfare and rural community development.

Agriculture Advancing Australia has four key objectives: to help individual farm businesses profit from change, to ensure the farm sector has access to an adequate welfare safety net, to provide positive incentives for ongoing farm adjustment and to encourage social and economic development in rural areas. The AAA package builds on wider government rural policy reform that is aimed at investing resources where they are needed, such as quarantine and natural resource management, and encouraging industry control of industry matters. There can be no denying that farmers have done it tough for many years—they have suffered both drought and low commodity prices. AAA brings together a number of reforms to lift the viability of farmers into the future and lay the basis for greater self-reliance. It also provides scope for farmers to exit with dignity if they so desire.

The main elements of the package include a more attractive financial risk management tool for farmers through the creation of a commercialised, tax-linked farm management deposit scheme; help for individual farm businesses to profit by building on their business management skills; a new consultative rural finance forum involving farmers, government and banks to improve communication on farm finance issues; assistance to establish credit unions in rural centres where the banks have withdrawn services; and assistance to allow older farmers to transfer ownership of the family farm to the next generation, retire and have immediate access to the aged pension.

The elements of the package also include continuation of exceptional circumstances assistance, including welfare support for farm families and interest subsidies for farm businesses; a new income support payment for farm families experiencing financial hardship but who are not in areas where exceptional circumstances have been declared; assistance for farmers experiencing financial hardship to obtain professional advice on the viability of their businesses and future options if they decide to leave the industry; enhanced re-establishment grants to encourage non-viable farmers to leave the industry and make a fresh start, but only available for two years; and assistance to rural communities to develop strategic regional economic development plans.

The elements of the package also include recognition of the important role rural women play in agriculture; assistance to rural communities to kick-start community development projects and to maintain services such as rural counsellors and telecentres; funding for research to give government a better picture of the social impacts of changes in rural communities; and additional funding for agriculture-focused climate research to help farmers manage climatic fluctuations. Agriculture Advancing Australia is a positive and an integrated approach by the Federal Government to help the farm sector and the rural and regional communities successfully adapt to change.

The Hon. D. F. Moppett: Contrast that with what this Government has done.

The Hon. R. T. M. BULL: I will come to that shortly. I shall refer to some of the key points of the package. The business management and the farm business improvement program will receive \$50 million, including \$15 million from the Natural Heritage Trust. The FarmBis program will provide a framework to promote a positive approach to change and build on the farm sector's culture of continuous improvement to help farmers improve the productivity, profitability and sustainability of their businesses. Assistance will be provided by way of direct financial contribution towards the cost of the programs and training activities in which farmers participate.

The program supports activities such as skills development, farm business, financial planning and advice, farm performance benchmarking, quality assurance, risk management, rural leadership development, marketing and natural resource management. FarmBis will commence operations on 1 July. In the meantime farmers will continue to be able to receive assistance in meeting the cost of building on their farm management skills and obtaining professional advice through the rural adjustment scheme. The RAS group training provisions will continue to operate until 1 July.

This initiative is very important and will enable farmers who are there for the long term to improve their business skills. Farming in Australia today is very much a business operation, more so than ever before. It is very important that all of our farmers, whatever their age, have the very best possible skills to enable them to survive in the future. The \$50 million farm business improvement program will go a long way towards assisting farmers. Another important part of the policy is the farm management deposit scheme, a \$60 million cost to the Commonwealth Government revenue.

The Commonwealth Government will overhaul the existing income equalisation deposit scheme, IEDs, and farm management bonds, FMBs, to improve their attractiveness as financial risk management tools for farmers. The new measure will be known as the farm management deposit scheme.

The farm management deposit scheme will be fully commercialised, with financial institutions being authorised to hold FMDs. The key features of the enhanced scheme will be as follows. First, there will be a limit on holdings of \$300,000 per taxpayer, with an investment component of 100 per cent on the first \$150,000 and 80 per cent on the balance thereafter. Second, eligibility will be restricted to individual primary producers with a taxable non-primary production income of less than \$50,000. As currently applies, deposits will not be accepted from partnerships, trusts or companies. Third, financial institutions will pay an interest rate determined in the marketplace. Fourth, interest will be taxable in the year it is earned. Fifth, deposits will be fully tax deductible in the year of deposit and taxable in the year of withdrawal.

Sixth, a 20 per cent withholding tax will be applied on each withdrawal, but the rate of withholding tax will be able to be varied in times of financial hardship. Financial hardship will be assessed against the farm management bonds withdrawal criteria. Seventh, other than withholding tax, no withdrawal conditions will apply to the scheme. Legislation to implement the farm management deposit scheme will be introduced in this session of the Federal Parliament and it will have effect from royal assent. In the meantime, farmers may continue to use the existing farm management bonds and income equalisation deposit schemes. Arrangements for the subsequent transfer of IEDs and FMBs holdings to FMDs are still to be finalised. This is another very important initiative of the Federal Government. It will allow farmers to put aside into the farm management deposit scheme funds from years of better commodity prices and better seasons and have those drawn at a time of need. Obviously, a year such as this would be one such time.

The rural adjustment scheme is a \$115.6 million package, including \$70.5 million provided in the 1997-98 Federal budget. Applications for interest subsidies under the productivity improvement provisions of the rural adjustment scheme close later this year. Assistance through interest subsidies will not be provided in the future except during exceptional circumstances. The funds have been provided to meet all Federal Government commitments under the rural adjustment scheme, as

well as regional strategies under the rural partnership program. Funds not spent under these transitional arrangements will be transferred to the FarmBis program. The rural adjustment scheme is one of those critical elements of any farm package, allowing interest subsidies to assist farmers in special need at a time when commodity prices are very low and when severe drought impacts on the productivity of farmers. This scheme has been well received and will continue to be well received by the farming sector.

A \$3.5 million package is to go towards climate research and development. The development of improved forecasting systems resulting from agriculture-focused climate research will help farmers plan for and manage climatic variability. This will build on the national climate variability program, with research and development into the effects, forecasting and management of climate variability and drought. It will include the development of decision support systems for farmers. It is appropriate that the House consider that issue at this time. The retiring farmer assistance program will give access to the age pension. The older generation have faced difficulties in leaving farming because of an inability to access the age pension. The intergenerational transfer of the family farm can be extremely difficult for many families, particularly as the assets test that applies to the age pension discourages older farmers from gifting ownership of the farm to a younger generation.

The retiring farmer assistance scheme provides a three-year window of opportunity, effective from 15 September last, for age-pension-aged farmers to transfer up to \$500,000 in net farm assets to a younger generation and be able to access the age pension without waiting the current five years. Key features of the retiring farmer assistance program are: it will be available to retiring farmers with net equity in the family farm of \$500,000 or less; farmers must have owned their property for at least 15 years or have been actively involved in farming for 20 years; farmers will have to have had an average income less than the age pension rate in the preceding three years; and the next generation must have had an active involvement in the farm over the preceding three years. This important measure will allow many of the older generation to retire from farming without facing the penalties they have faced in the past.

The sum of \$5.1 million has been set aside for farm household support. The farm household support scheme was terminated last year. That scheme provided income support to farmers unable to borrow to meet their day-to-day living expenses. It

was paid as a loan that could be converted to a grant under certain circumstances. Approximately \$5 million in the farm household support scheme will be converted to grants. A small number of farm household support debts already repaid by farmers will be reimbursed. That is another very effective measure providing assistance to those farmers in extremely difficult circumstances. The farm family restart scheme has been funded in the sum of \$120.4 million. This new scheme will be the Commonwealth Government's key program for delivering improved welfare support to the farm sector, as well as providing adjustment assistance to farmers who wish to leave the industry. The scheme began operation on 1 December 1997, providing a welfare safety net for low-income farmers experiencing financial hardship who cannot borrow further against their assets and/or who are not ready to decide to place their farm on the market and access welfare support under the social security hardship provisions.

The farm family restart scheme will be available to farmers with low income who cannot borrow further against their assets. Key features of the scheme include the following. First, a maximum of one year's income support will be available without the farmer having to put the farm on the market. Second, support will be paid at the Newstart allowance rate, with partner component. No activity test will apply. Third, there will be an obligation, and financial assistance, to obtain professional advice on the future viability of the business and future employment options if the family decides to sell the farm. Fourth, re-establishment grants of up to \$45,000 will be available to applicants who decide to leave the industry. The grants will be available to farmers who apply during the first two years of the program only and will be payable on sale of the farm. Fifth, income support used will be deducted from the re-establishment grant. Sixth, re-establishment grants will be subject to an assets test on sale of the farm. Farmers may have up to \$90,000 in assets to qualify for the maximum grant.

The farm family restart scheme is also an important initiative. As some honourable members would be aware, some families face very difficult circumstances on their properties. It is important that they have access to assistance such as this to vacate the farm and get out with some equity. It is important for them financially and for their self-esteem. In the main farmers get into trouble because of circumstances beyond their control, such as drought or extremely low commodity prices in wool and beef, for example. A number of initiatives are important as part of the full triple-A package. Agriculture Advancing Australia recognises

exceptional circumstances such as severe drought to be beyond the scope of normal risk management. In such circumstances it is in the national interest—but apparently it is of no interest to the State Government—for governments to provide assistance.

The State Government has abrogated its responsibilities so far as farmers are concerned. At the end of last year it walked away from transactional subsidies for no good reason except to save money. That is an absolute disgrace. The Government has sold out the farmers in this State who are under severe stress because of drought. Minister Amery said that it is not a real drought. I suggest he go to the Parliamentary Library and view the video of last night's edition of the Australian Broadcasting Corporation's *7.30 Report*. The drought is exceptional; a one in 100 years drought in the Monaro, and it is causing extraordinary hardship for the people of the region.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

WATERFRONT INDUSTRY PROTOCOL

The Hon. J. P. HANNAFORD: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. Has the Government refused to release a copy of a protocol negotiated between the Government and the Maritime Union of Australia concerning the waterfront? What is contained in that protocol that is so embarrassing to the Government that it has been suppressed? If the protocol is in the public interest, why has the Government hidden its activities by keeping the protocol secret protocol? Is the Minister keeping it secret because he knows that it is not in the public interest at all?

The Hon. J. W. SHAW: The question is couched in the colourful terms that one has come to expect in New South Wales politics. The arrangement or the protocol between the Government and the MUA is the subject of an application by Mr Chris Hartcher, the honourable member for Gosford, under the provisions of the Freedom of Information Act and it is being duly considered. There is a question of principle to be determined: whether documents that have been to Cabinet can be properly released. I am in no way embarrassed by any of the details of the document but the Government does not want to breach principle and precedent with regard to what are

Cabinet documents and what are not. Matters of protocol are purely procedural and they provide for appropriate measures of consultation. The documents constitute absolutely no embarrassment to me or the Government.

The Hon. J. P. HANNAFORD: I ask a supplementary question. In view of the Minister's statement that it does not cause any embarrassment will he authorise the release of the protocol?

The Hon. J. W. SHAW: I have already explained the difficulty of principle, that is whether a Government should divulge what are, in essence, Cabinet documents. The only inhibition I have is whether, in accordance with principle and precedent, it is appropriate and suitable to release such documents. If that difficulty can be overcome, I will be happy to hand the documents to Mr Hartcher or to anyone else.

PATRICK STEVEDORING DISMISSALS

The Hon. I. M. MACDONALD: I direct my question without notice to the Attorney General, and Minister for Industrial Relations. What impact will the Gestapo-like storm-trooper tactics of Patrick stevedoring at Port Botany have upon the lives of hundreds of workers? Is it the case that the maintenance of industrial wellbeing that has characterised New South Wales industrial relations since the election of the Carr Labor Government is under threat from this ideologically obsessive company? Does the use of dogs against workers constitute fair industrial tactics in modern New South Wales? Is it the case that Reith and Corrigan have conspired to unleash an industrial war upon our waterfront for short-term electoral advantage? In the knowledge that recently the Federal Government gave workers in Cobar nothing, what is the Minister's view about the millions of dollars that the Federal Government has put behind Corrigan in this outrageous attack workers in this country?

The Hon. J. P. Hannaford: On a point of order. The issues raised by the honourable member relate to federal legislation and administration of matters under federal jurisdiction. As they do not come within the Minister's responsibilities I ask that the question be ruled out of order.

The PRESIDENT: Order! There is no point of order.

The Hon. J. W. SHAW: I am glad that the question does not contain the same hyperbolic language that was contained in the previous question, which was asked by the Leader of the

Opposition. This question is much more measured. It is not appropriate that in established circles and the offices of Tory politicians French champagne is being opened to celebrate the dismissal of 1,400 Australian workers. It is tragic.

The Hon. R. T. M. Bull: They would not work. They were on strike.

The Hon. J. W. SHAW: The Deputy Leader of the Opposition interjects that they would not work. I believe overwhelmingly that they are decent, ordinary Australians and that they probably have the same defects and flaws that we all have. It is no cause for celebration or for front-row cheering. It is sad that people are being deprived of their jobs in an obvious conspiracy between the Federal conservative Government and a major private corporation.

Mr Reith is hoist with his own petard because of the stance he took in the Rio Tinto dispute, an intractable dispute about which I believe there was a reasonably based application to terminate the bargaining period, to terminate the period of protected industrial action. But what did Mr Reith say to that? He said no. He said that that could only be done if the nation were basically on its knees; if there were a national economic crisis of enormous proportions. Mr Reith argued that it did not matter that the Hunter Valley—an important regional economic area in New South Wales—was threatened. The Federal Government's hard line ideological position was that it was not enough that the bargaining period in that dispute ought to endure, that the protection of the strike action ought to continue and that the salutary processes of conciliation and arbitration ought to be debarred.

The position has changed. If that logic were applied to the waterfront dispute, Patrick could not terminate the bargaining dispute, could not invoke the umpire, could not turn to conciliation and arbitration. It was merely left with apocalyptic solutions that apparently have been invoked. That is not a cause for celebration, it is a cause for concern for those who take a moderate, conciliatory approach to industrial relations. The State Government, which administers a system that recognises the rights of workers to choose to be union members, is limited in what it can do to intervene in the stevedoring dispute.

In the Government's initial analysis there appear to be two areas in the new arrangements for the State's ports that will need to be scrutinised. The first is with respect to the contract to operate at Port Botany and Darling Harbour. Patrick operates on these wharves under a contractual arrangement with the Sydney Ports Corporation. The corporation, a

separate statutory entity whose governing legislation separates its management from government, is administered by my colleague, the Minister for Ports.

A member company of the Patrick group holds a commercial leasing arrangement with the Sydney Ports Corporation. The decision by Patrick to appoint an administrator to four of the group companies has given rise to questions about contractual relationships. Accordingly, I am advised that the Minister for Ports has asked the Sydney Ports Corporation to scrutinise the contract with Patrick. This will involve independent legal advice and may take some days to finalise.

The second area of concern is with respect to occupational health and safety issues. The Occupational Health and Safety Act requires every employer to provide a safe place of work, including a responsibility to contractors and the general public. The proposed reorganisation of Patrick's operations gives rise to concerns in this regard. According to media reports, Patrick plans to cut its national work force from 1,400 to 400. Importantly all remaining workers will be new to the New South Wales waterfront, as I understand it. This represents a massive downsizing of the firm's operations and will require a significant change to work practices. I am advised that it is widely recognised that a number of factors following downsizing—such as loss of experience and expertise and increased stress—can increase risks that would be inconsistent with the maintenance of the legal duties of employers.

In relation to work on the wharves, factors to be taken into account would include: an appropriate number of staff to use heavy machinery; and adequate resources to complete shifts, including provisions for appropriate breaks between shifts. In relation to the use of contractors, the following factors are relevant: ensuring the appropriate level of health and safety training is provided, including induction on site, and adequate communication systems between contractors and management to ensure safe management systems are in place. Accordingly, I will ask WorkCover to closely monitor the establishment of Patrick's new operation should it be allowed to go ahead. This will include careful scrutiny of training and work practices to ensure that neither workers nor the public are placed at risk.

REGISTERED CLUB STAFF FRAUD ALLEGATION

The Hon. R. T. M. Bull: I address my question to the Treasurer. Is he aware that the leaders of the New South Wales club movement

walked out of the Club Industry Advisory Council meeting at 9.30 this morning after the Minister failed to substantiate his accusation of fraud against registered club staff, directors and managers? Is the Treasurer also aware that the level of anger in the club industry is such that the TAB float is in jeopardy because of the Carr Government's unsubstantiated accusations against club employees?

The Hon. M. R. EGAN: I am not aware of the matter to which the Deputy Leader of the Opposition referred.

The Hon. R. T. M. Bull: It was on the front page of the *Daily Telegraph* last Monday.

The Hon. M. R. EGAN: Last Monday? I thought I was asked about a meeting held this morning. I am not aware of any meeting this morning.

NON-UNION STEVEDORES

The Hon. DOROTHY ISAKSEN: I direct my question without notice to the Attorney General, and Minister for Industrial Relations. Does the Government have any concerns about the reported plans to establish a non-union stevedore firm on the Australian waterfront?

The Hon. J. W. SHAW: The Government does have concerns but the idea of additional players on the waterfront is something that the Labor Party, whether federally or in New South Wales, has never opposed. If the industry is to become more competitive, that would seem on the face of things to be a good thing. The idea of a plot to destroy the union is unseemly and the New South Wales Government will not support such a proposal.

PATRICK STEVEDORING CONTRACT REVIEW

The Hon. J. P. HANNAFORD: My question is directed to the Attorney General, and Minister for Industrial Relations. Does the decision just announced by the Minister to review all of Patrick's contracts on the waterfront arise out of the protocol which the Government has with the Maritime Union of Australia?

The Hon. J. W. SHAW: The question misstates the intention.

The Hon. Dr B. P. V. Pezzutti: That is what you said.

The Hon. J. W. SHAW: No, I do not believe that that is an accurate summary of what I said. The answer to the second part of the question is no. Any

question of the legal status of the leases does not arise from the protocol between the Government and the MUA.

NATIONAL PARKS ECOSYSTEMS

The Hon. R. S. L. JONES: I direct my question to the Attorney General, representing the Minister for the Environment. Is the Minister aware of the significant underrepresentation in the national parks system of highly important ecosystems in western New South Wales? What steps has the Minister taken to correct this glaring deficiency?

The Hon. J. W. SHAW: I undertake to refer the honourable member's question immediately to the Minister for the Environment and obtain a response.

WORLD TRADE ORGANISATION GOVERNMENT PROCUREMENT AGREEMENT

The Hon. E. M. OBEID: My question is directed to the Minister for Public Works and Services. What is the Government's position on the plans of the Federal Government to accede to the World Trade Organisation—WTO—agreement on government procurement?

The Hon. R. D. DYER: An agreement on government procurement is currently being negotiated between the Federal Government and the World Trade Organisation with little or no direct input from New South Wales, nor for that matter from the other States and Territories of Australia. This only shows the arrogance of the Howard Government in its dealings with the people of Australia: that it can attempt to lock out the States from the negotiation process from a world regulatory body. Recently I attended the Australian Procurement and Construction Council meeting in Canberra. I was shocked to read in a report by the consultancy group ACIL Economics that the estimate for the total cost to comply with agreement guidelines of the World Trade Organisation agreement on government procurement is \$200 million. The ACIL Economics report stated:

No acquisition-related benefits for Federal, State and Territory government agencies and government business enterprises have been reported to the consultants.

Another chilling factor is that the WTO agreement would open up the Government's market to all potential suppliers, including international suppliers. This requirement would erode the Government's right to choose with whom it does business. This would shut out the possibility of the Government using its procurement policy to achieve its social

and economic goals; for example, not buying products manufactured by using sweated labour or promoting regional development in New South Wales. The Government's draft procurement policy referred to in my answer yesterday aims to utilise the Government's influential position in the marketplace, with its ability to use its purchasing power to achieve value for money and promote its economic and social goals.

The economic goals that the Government aims to achieve through its procurement policy are industry and work force development. A key tenet of the draft procurement policy is the promotion of opportunities for small to medium enterprises and local industry development to ensure that there is job creation and economic growth. The impact of the Government's plan for local industry development was evident in a recent review of the ISO economic multiplier commissioned by the New South Wales Industrial Supplies Office—ISO. The review found that for every \$1 million of new or retained manufacturing 22 full-time jobs are created, \$328,105 of tax revenue is generated, \$210,082 of welfare benefits is saved, and \$1,216,267 of value adding is generated. According to the ACIL Economics report such advantages would be lost to Australia if it acceded to the WTO agreement on government procurement. The ACIL Economics report stated further that there would be an abandonment of any buy-local policy or strategy to support local businesses, that is Australasian companies.

The Hon. Dr B. P. V. Pezzutti: Who signed this agreement? Did the Keating Government sign it? I bet it goes back to Keating or Hawke: it sounds like another Labor Party shove.

The Hon. R. D. DYER: As usual, the Hon. Dr B. P. V. Pezzutti is in a state of almost invincible ignorance. To put it simply, he does not know what he is talking about. At present the Howard Government is negotiating this agreement with the World Trade Organisation. The inference that can be drawn is that the World Trade Organisation agreement on government procurement would not support the Australia and New Zealand agreement on government procurement or the New South Wales country industry preference scheme. Clearly, this would mean a loss of jobs for the people of New South Wales and Australia. I have recommended to the Premier that he raise this issue at the next COAG meeting to ensure that Australia does not join the World Trade Organisation agreement on government procurement or that if it does it is on terms that will not damage employment

or economic activity in Australia. This is not only a New South Wales issue, it is also a national issue.

DEPARTMENT OF COMMUNITY SERVICES CHILD PROTECTION PROCEDURES

The Hon. PATRICIA FORSYTHE: My question without notice is addressed to the Attorney General, representing the Minister for Community Services. Why did the Manly office of the Department of Community Services fail to retrieve a nine-year-old boy who had been roaming the streets of Manly for three months, although the department was informed about the boy's whereabouts almost three weeks ago? Why was the boy taken into care only after the police intervened last Saturday night? In view of the boy's background and his three months of unsupervised care, why was he placed in foster care and not in intensive residential care?

The Hon. J. W. SHAW: I undertake to refer the honourable member's question to the Minister immediately and seek a response.

CONSTITUTIONAL CONVENTION

The Hon. B. H. VAUGHAN: I direct my question without notice to the Attorney General. Can he provide the House with a report on the recent Constitutional Convention, which he attended on our behalf?

The Hon. J. W. SHAW: It was an honour to attend the convention with the Premier and the Leader of the Opposition in the other place as representatives of the Parliament of New South Wales. Indeed, the Leader of the Opposition of this House was a proxy delegate and attended the convention for some time as well.

The Hon. D. J. Gay: They're all republicans.

The Hon. J. W. SHAW: The Hon. D. J. Gay says that they are all republicans. I suppose there is an element of truth in that.

[Interruption]

The Deputy Leader of the Opposition has indicated that there is nothing wrong with that. There were 152 delegates at the convention, half of whom were elected and half of whom were appointed by the Federal Government. There was an interesting range of backgrounds and opinions. Indeed, despite the criticisms of the electoral process and the like, the convention worked, more or less. It did have a certain frisson, a certain utility. The

convention was chaired by the Rt. Hon. Ian Sinclair, MP, who has since gone on to bigger and better things. The deputy chair was one of our national living treasures, the Hon. Barry Jones. As was widely reported in the press, the chair and the deputy chair did a tremendous job handling the debate.

The first day of the convention provided a forum for the set-piece speeches on whether Australia should become a republic. Prime Minister Howard described his reluctance about republicanism but he agreed to set the process in train if the convention so wished. Kim Beazley and Malcolm Turnbull gave passionate addresses about the importance of the republic to the future of Australia, and Lloyd Waddy, a senior member of the New South Wales Bar, gave a solid and impressive account of the antirepublican position. Our Premier, Mr Carr, spoke about the need for the constitution to reflect the fact that power in our political system derives indivisibly from the people and that their allegiance and loyalty should belong indivisibly to Australia rather than to the Crown. The Premier also took the opportunity to address the issue of how a head of State should be appointed. It is fair to add that both Mr Carr and Mr Collins were basically *ad idem* on those important points.

The convention organisers set aside many other sessions throughout the fortnight so that all the delegates had the opportunity to address the general question of whether Australia should become a republic. The second day was devoted to the question of what the powers of the new head of State should be. This proved to be a difficult and contentious topic. The option of largely codifying the powers of the head of State was rejected by the convention, surrounded by much controversy. As a result the rules of the convention were amended so that motions supported by 25 per cent of the delegates would continue to be considered. The issue of how the president of the republic should be appointed was debated on days three and four of the convention. Three main alternatives were presented. First, the McGarvey model included the idea of a panel of three wise people who would take the place of the Queen, and the Prime Minister would recommend a candidate for appointment by this panel. Second—

The Hon. Dr B. P. V. Pezzutti: On a point of order. While I am *ad idem* with the Attorney on this matter, I think his answer is flouting a ruling that was given on this matter yesterday.

The PRESIDENT: Order! I am unaware of any such ruling that was given yesterday.

The Hon. J. W. SHAW: Clearly, the point of order is vexatious and should be treated with the appropriate disdain. The alternative view was that a president should be elected by a two-thirds majority of Parliament. A similar range of alternatives for the dismissal of a president was presented. The preamble, often a contentious issue, was handled harmoniously by the convention. It was agreed that references to God would stay, and all the delegates wanted a reference to the special position of indigenous people. Those consensual elements underlying the convention's decision were important. The ideas of references to God being retained and the position of indigenous people being specified were useful attributes of the convention.

The effect on the States of Australia becoming a republic was a matter of particular interest—and I believe this responds to the Hon. D. J. Gay's interjection. The position of the States was specifically debated. New South Wales took the view that it would be preferable for the States to follow suit; other States disagreed. The final two days were spent voting on different issues. An enormously complex voting system was designed so that the various packages of possible change were pitted against each other.

The Hon. J. F. Ryan: Isn't the Attorney aware that we might actually know this?

The Hon. J. W. SHAW: If this is not of interest to Opposition members, I will desist.

The Hon. B. H. VAUGHAN: I ask a supplementary question. Bearing in mind that the conventions on Federation back in the 1890s took more than six months to reach their magnificent conclusions, does the Attorney agree that the maximum of 10 days, which was all the time allowed this convention, was too brief a period in which to consider such a significant change?

The Hon. J. W. SHAW: To be fair to the Federal Government, which had a supervisory role in relation to the convention, it must be said that this convention narrowly focused on one important point of constitutional change, whereas the conventions in the 1890s were concerned with—

The Hon. D. J. Gay: On a point of order. On numerous occasions the Minister has refused to answer questions that seek an opinion. This question clearly seeks an opinion, rather than fact, and I ask you to rule it out of order.

The PRESIDENT: Order! No point of order is involved.

The Hon. J. W. SHAW: The conventions of the 1890s were concerned with a variety of issues. It was a more formidable task in a sense, though the essential focus was on one fundamental issue of principle, of whether there ought to be an Australian Federation. I suggest that those who took part in the 10-day convention would agree that there was a lack of sympathy to expand the process. It was an arduous process, but an interesting and important one. It surprises me, and saddens me a little, that the Opposition is so flippant about its response to the report. I know that is not the view of all Opposition members and I am sure that the Hon. Peter Collins and the Leader and Deputy Leader of the Opposition in this House would have given a much more civilised and sensible response. Some Opposition backbenchers are understandably frustrated in their lives and ambitions and are a little more anguished about the whole matter. Perhaps they want to show that they are aggressive people and that all this sensible stuff is boring.

LOCAL GOVERNMENT ADMINISTRATION

The Hon. D. J. GAY: My question without notice is directed to the Attorney General, and Minister for Industrial Relations, representing the Minister for Local Government. Will the Minister for Local Government initiate an inquiry into Newcastle City Council and act immediately to rectify the council's dysfunction, which has culminated in a brawl between the left and right factions of the Australian Labor Party? Is Minister Ernie Page once again repeating the appalling inaction he has displayed with Maitland and Byron Bay councils, whose administration has crashed around him while he has been missing in action for 12 months? Is it correct that this Minister retired 18 months ago and has forgotten to inform the Premier?

The Hon. J. W. SHAW: I do not believe there is a skerrick of truth in the final part of the honourable member's question. From my travels throughout New South Wales it is obvious that the Hon. Ernie Page has been an assiduous Minister and has enormous support from the local government community. He has much support from those who otherwise might be expected to be sympathetic to a Labor Minister in this field. He has done a great job.

I am equally surprised to hear the honourable member assert that there is some dysfunctional aspect arising from factional conflict in a political party—I believe he mentioned the Labor Party. I find that a mysterious proposition and I just cannot begin to understand the member's point. Nonetheless, I shall refer the question to the

Minister for Local Government and no doubt an answer will ensue that will illuminate the intricacies of politics and life on Newcastle City Council.

GREENHOUSE GAS EMISSIONS

The Hon. I. COHEN: I ask the Attorney General, and Minister for Industrial Relations, representing the Minister for the Environment, what action has the Minister required of Pasminco's Cockle Creek Zinc and Lead Smelter in relation to its sulphur dioxide emissions, which currently exceed World Health Organisation standards. The Environment Protection Authority has advised that the emissions signal a danger to human health. What action can existing residents take to reduce the impact of these emissions on their health?

The Hon. J. W. SHAW: I undertake to refer the honourable member's question immediately to the Minister for the Environment and seek a response.

BUSINESS MIGRANTS

The Hon. J. KALDIS: My question without notice is directed to the Treasurer, and Minister for State Development. What is being done to assist business migrants to establish commercial ventures in New South Wales?

The Hon. M. R. EGAN: Like most honourable members, the Hon. J. Kaldis is certainly aware that business migrants make a substantial contribution to the economies of New South Wales and the other Australian States. To qualify as a business migrant, people looking to settle here must pass the Federal Government's business skills test and give an undertaking to make a genuine effort to start a business within three years of arrival in Australia. Statistics show that almost half of all business migrants settle in New South Wales.

I am informed that the 2,350 business migrants who arrived in this State between 1996 and 1997 are expected to invest more than \$2.2 billion and create more than 10,500 new jobs over the next two years. These are impressive figures, but still more can be done to encourage investment and job creation. Business migrants arrive in Australia with successful professional backgrounds, excellent business skills and valuable overseas contacts, but quite often they possess limited knowledge of how business is conducted in Australia.

To further assist new business migrants, last year the Premier announced the establishment of the Business Migrant Information and Referral Service.

The service provides bilingual information services, individual counselling and advice, and networking information sessions to give them a better understanding of New South Wales business culture and opportunities.

In recognition of the language barriers these migrants often face, the Business Migrant Information and Referral Service has translated a series of information leaflets into Chinese and Korean, and the business booklets "Getting Started" and "Understanding Business Records" are now available in Chinese, Vietnamese, Arabic, Greek, Italian and Spanish. New business migrants play an important role in the development of our economy and in the creation of new jobs. Through the Business Migrant Information and Referral Service the New South Wales Government will continue to provide assistance to new migrants seeking to establish their own businesses.

ACCOMMODATION LEVY

The Hon. J. M. SAMIOS: My question without notice is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. In May last year did the Minister describe the bed tax as a tourism boom dividend and also allege in this House that holidays in Australia were now much cheaper and therefore attractive to tourists from Europe? How does the Minister now explain the 10 per cent drop in room occupancy rates in the central business district and in North Sydney? Is this an example of how the Minister is helping tourism in New South Wales?

The Hon. M. R. EGAN: Last week I told the House about the huge increase in new approvals for hotels and motels in New South Wales. In 1994, when the coalition was in its last full year in government, approval was given for \$93.1 million worth of new hotels, motels and other forms of accommodation in New South Wales. In 1995 the figure increased to \$248 million, and in 1996 it increased to \$252 million. Between July 1997—two months after the last State budget, which introduced the accommodation levy—and January 1998 a staggering \$896 million worth of new hotels and motels, and other tourism accommodation was approved in New South Wales. That is \$896 million in half a year compared with \$93 million in the whole of 1994.

It is true that the tourism industry in Australia is suffering quite severe ill effects from the Asian financial crisis, and that will continue to have an impact, not only in the Sydney central business district and other parts of New South Wales but

throughout Australia. What is significant is that the figures I have seen indicate that the impact on areas outside the Sydney CBD and outside New South Wales has been greater than it has been in the Sydney CBD, where the accommodation levy applies. For example, there is no accommodation levy in Queensland, but the Queensland tourism market has been most severely affected by the downturn in the number of Asian tourists—no doubt because of the financial circumstances within many countries in Asia.

We have to acknowledge that we have a difficulty maintaining the level of Asian tourism in Australia whilst these problems continue. We have to refocus our marketing efforts particularly towards North America and Europe, where the changes in exchange rates now make it very much cheaper for people from those parts of the world to holiday in Australia. Indeed, the whole of the Asian region, not only Australia, is very much more cost attractive to tourists from North America and Europe. The fact of the matter is that other parts of Australia that do not have an accommodation levy are suffering more severely from the Asian financial crisis than the Sydney central business district. Of course, we all hope that in due course that problem will be overcome and not only that tourists from North America and Europe visit Australia in increasing numbers but Asian tourists will also flock here. I would suggest that Sydney provides the best holiday destination not only in the Asia-Pacific region but in the world.

The Hon. J. M. SAMIOS: I ask a supplementary question. As the Asian meltdown, so to speak, occurred several months ago, and in view of the Treasurer's analysis that we must look to tourists from North America and Europe, what initiatives have been put in place since the meltdown to attract those tourists?

The Hon. M. R. EGAN: As I said when last year's budget was handed down, each and every year the Government spends not hundreds of millions of dollars but billions of dollars to make this city one of the most attractive tourist destinations in the world. Those funds are spent to make our harbour the most magnificent in the world, and to provide tourist facilities such as the extensions to the Exhibition Centre and the Convention Centre at Darling Harbour. I think that allocation is about \$50 million. Each and every year the Government spends tens of millions of dollars on tourist promotion, both within Australia and overseas; and, of course, we are providing the greatest Olympic Games the world will ever see. That will do more for tourism in New South Wales and throughout Australia than any

other single thing we could do. The Hon. J. M. Samios agrees with me; he is sitting there, nodding his head in agreement. I thank him for his intelligent response, notwithstanding that all the other galahs are shaking their heads.

INDUSTRIAL RELATIONS CONSULTATIVE COMMITTEE

The Hon P. T. PRIMROSE: Will the Attorney General, and Minister for Industrial Relations inform the House of the Government's consultations with industrial relations organisations in New South Wales, and in particular the concerns of the small business community?

The Hon. J. W. SHAW: One thing the Government has done in respect of industrial relations in New South Wales is to consult with the stakeholders, both before and after the passage of the legislation. The Government has set up an industrial relations consultative committee to fulfil its commitment to establish a formalised structure of liaison between government, employers and the Labor Council. That body has met regularly during the past six months or so to discuss all significant industrial relations questions, particularly those relating to legislative change. Honourable members will appreciate that the IRCC has been based on the model used in 1995 for the development of the Industrial Relations Act 1996. Its primary function is to provide a forum for discussion and review of the New South Wales industrial relations system. I doubt that anyone would contend that it is not a representative body. It is: it has broad representation from employers and unions, and other members include the New South Wales Anti-Discrimination Board and the Australia Centre for Industrial Relations Research and Training, which, I understand, is based at the University of Sydney.

The committee has met three times, with the last quarterly meeting concluding on 1 April. Such were the responses from industrial organisations that it met on two occasions in March and April. Submissions have been creative and informative for the Government. One point of particular interest emerges from the response of the Small Business Combined Association of New South Wales. It is interesting to observe how a small business body is responding to the Government's industrial relations policy. The SBCA is an umbrella association representing a wide variety of owner-operated businesses in New South Wales. The principal object of the association is to promote and sustain an environment that maximises the opportunities for small business owners to profitably provide goods and services for their own benefit and for the benefit

of the community. I want to refer briefly to the association's submission and comments about the New South Wales industrial relations system developed by this Government. The small business association said:

Overall, the New South Wales Industrial Relations Act 1996 has been relatively well received and appears to be operating reasonably well. Particular areas of improvement over the 1991 Industrial Relations Act include:

- * plain English drafting has made it easier to read than the 1991 Act
- * it has removed the need for splinter awards
- * approval times for enterprise agreements have been cut dramatically

I must say in all fairness that the submission goes on to raise a series of concerns about particular areas of the 1996 Act and its operations, as one would expect. It is perfectly predictable that an interest group would have both points of commendation and of constructive criticism for future evolution of the industrial relations model. But in relation to claims for unfair dismissals it is noteworthy that the SBCA notes that the Government has taken some positive steps to provide employer relief in this area. It can be seen through those excerpts from the Small Business Combined Association of New South Wales submission that the small business community sees some positive benefits flowing from the New South Wales Industrial Relations Act 1996.

That proposition might be of comfort to the crossbenchers who essentially voted with the Government to support the thrust of the Government's model during its passage through this House—although there were differences of opinion on marginal matters and various divisions in respect of which the Government did not necessarily succeed. I believe it is of comfort, both to the Government and to those who supported its model, to know that there is substantial support from small business for the way that the Government is approaching industrial relations in this State.

SMOKING RELATED DEATHS

Reverend the Hon. F. J. NILE: I ask the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, a question without notice. Is it a fact that the decline in the number of smokers in the community has stopped for the first time since surveys began tracking smoking addiction more than 20 years ago? Is it a fact that more people will die from tobacco-related causes than

from breast cancer, melanoma, diabetes, suicide, road deaths, leukemia, cirrhosis, falls, AIDS, murder, narcotics, drowning and maternal deaths during childbirth combined? If this is true, why has the Carr Government virtually destroyed the New South Wales Quit campaign by reducing its budget to pre-1983 levels, the equivalent of less than 25¢ a year per adult, and the staff of the New South Wales Quit campaign office to only four employees in the compared with 22 in Victoria? What does the Government plan to do to turn this trend around?

The Hon. R. D. DYER: Clearly, Reverend the Hon. F. J. Nile raises a matter of public importance, which I will refer to my colleague the Minister for Health and obtain a response as soon as possible.

SYDNEY COVE DEVELOPMENT

The Hon. JENNIFER GARDINER: My question without notice is to the Minister for Public Works and Services. Further to your answer last week about the proposed Sydney Cove improvements, do your plans involve any encroachments by the proposed retail outlets on historic First Fleet Park? Will the "expanded retail premises" under sections of the railway concourse interrupt views from George and/or Alfred Streets? Have discussions been held with representatives of transport unions to ensure that the proposals meet occupational health and safety requirements? If so, were the outcomes of these discussions satisfactory? If not, why not? Do the plans involve an increase or decrease in the number and accessibility of public amenities? Will you provide details of these?

The Hon. R. D. DYER: The position is that late last year the Government endorsed a strategic plan and a master plan for government-owned land at Circular Quay. The endorsement of that strategy has provided the Government with a long-term vision for what is undoubtedly a very important precinct. I have said in recent times—and it is true—that Circular Quay is the gateway not only to Sydney but, I am sure it could justly be described, to Australia as well. The strategy will enable any future development and management of the precinct to be evaluated in terms of a government-endorsed framework.

As the Minister for Public Works and Services, I have the responsibility to implement the strategy until December 2000. The first stage of the project implementation includes the carrying out of backlog maintenance works on the wharves, the removal of non-essential Sydney Ferry accommodation from the wharves, the removal of

the majority of the retail activity from the wharves, the revitalisation of the retail area under the Cahill Expressway and the implementation in that connection of an appropriate retail mix, and the construction of new accommodation under the Cahill Expressway in what, using an architectural term, is described as pods. In the lead-up to 2000, with the integration of the works to which I have referred, clearly the public can expect a more efficient and presentable facility at Circular Quay, which, as I said, is the gateway to Sydney and, for that matter, to Australia.

In regard to the retail facilities on the wharves, honourable members will appreciate that at the moment there are two retail facilities on each wharf, each with an approximate area of about 200 square metres. In addition, at the moment there are ticket machines down the centre of the wharves. When one takes those factors into account and aggregates them, in effect, one can appreciate that, particularly at busy times of the day, very serious pedestrian congestion occurs on the wharves—not to speak of the unsightly character and the run-down appearance of the wharves. I have said that the Government will permit one smaller retail facility to remain on each of the five wharves, having an area of no more than 45 square metres. The purpose of that is, firstly, to free up the wharves and create a better appearance, and, secondly, not to leave the wharves so deserted, particularly late at night, that people feel threatened for their personal safety. It is much better that people are about and buying something from a retail concession, albeit one reduced in size.

I am advised by the Government Architect, Mr Chris Johnson, that views from Alfred Street through to the water will be enhanced as a result of the plans the Government has in place. First Fleet Park is part of the master plan, and there are plans on the drawing board for it. At this stage I have made no announcement about First Fleet Park, only about the five wharves. I am continuing negotiations with the Council of the City of Sydney in regard to what is to happen at First Fleet Park. What I would like to do, among other things, is to remove some of the overgrown shrubbery so that the vista from Alfred Street and nearby areas to the water can be opened up and people can enjoy the water views. At the moment that park is rather overgrown. Views to the water are obstructed and it is desirable that they be opened up. I can assure the House that the Government has plans, both already announced and to be announced, that will vastly improve the current run-down and somewhat dilapidated appearance of the wharves and the general area of Circular Quay.

FOOD INDUSTRY DEVELOPMENT

The Hon. Dr MEREDITH BURGMANN: My question is to the Treasurer, and Minister for State Development. What role is the Government playing in the development of the food industry?

The Hon. M. R. EGAN: I thank the Hon. Dr Meredith Burgmann for her question. As honourable members will be aware, the Government recognises the importance and value of the food industry, which in fact is the largest sector of the non-service economy in Australia. The New South Wales food industry—that is, the State's food producers, processors and wholesalers—has an annual turnover of some \$17 billion and employs about 50,000 people.

Asia has become a significant market for food exports, and since 1991 exports from Australia to that region have more than doubled. Between 1996 and 1997 about \$2.5 billion worth of food from New South Wales was exported to Asia. Despite the recent economic crisis in Asia the Government is confident there is still great potential to export food to that region, especially to Japan, which has the lowest level of food self-sufficiency of all industrialised nations. The Japanese have to import some 60 percent of their food. The Government has been assisting New South Wales companies to enter and develop export markets in Asia by supporting their participation at the Foodex 98 Exhibition in Tokyo. That exhibition, as the Hon. D. F. Moppett is aware, is held annually and is the largest food and beverage exhibition in Asia. It attracts exhibitors from around 50 countries and is attended by up to 90,000 trade visitors. Japan remains Australia's largest Asian export market, taking 34 per cent of our total food exports between 1996 and 1997, and 54 per cent of our meat exports.

Although Japan takes 34 per cent of Australia's total food exports, Australia accounts for only 6 per cent of Japan's total food imports. It is obvious that there is great room for improvement and great scope for additional exports of Australian foods, particularly to Japan. This year 15 New South Wales companies—mostly small and medium-size companies—exhibited on a special New South Wales stand at the Foodex exhibition. I am pleased to report that the stand, particularly the natural and organic products on display, attracted very strong interest. Initial indications on performance of the New South Wales companies at Foodex are very encouraging. Direct sales at the exhibition exceeded \$1.1 million.

The Australian sales in the 12 months following last year's Foodex are estimated to have exceeded \$400 million. The New South Wales Government is committed to expanding our food industry. As I have told the House before, the Government has set up the New South Wales food industry forum, chaired by the Premier. Members of the forum include prominent food industry representatives. The Government has also implemented the Pro Food New South Wales program, which identifies new products and food-growing areas and provides assistance to industry entering new markets. The Government will continue to look at new ways in which food exports can be increased and, in the process, more jobs can be secured for regional and rural New South Wales.

If honourable members have further questions, I suggest they put them on notice.

Questions without notice concluded.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report on the Fisheries Management Amendment (Advisory Bodies) Act 1996

Debate resumed from 17 September 1997.

The Hon. Dr B. P. V. PEZZUTTI [5.02 p.m.]: This report was ordered to be printed on 11 July 1997. When addressing the legislation Ms Staunton, the former committee chairman, made the following comment to Dr Glaister:

... given what appears to be the prevailing unhappiness in the industry, which you may not agree with but seems to be self evident in the tenor of submissions, both as between the various sectors of the industry and as between the Department of Fisheries and various sectors of the industry, one of the worst things that could be done is simply to hit the industry with regulations by gazettal without consultation. I am interested in whether you see there is any need for consultation about the regulations.

Ms Staunton pointed out that the only reason the committee held an inquiry into the Act was that there was such concern amongst industry bodies about the nature of the Act itself. Page 6 of the report states:

The Minister accepted Dr Glaister's report and the *Fisheries Management Amendment (Advisory Bodies) Act 1996* was enacted in December 1996. This Act abolished the Commercial Fishing Advisory Council and the Recreational Fishing Advisory Council and provided for the establishment of Ministerial Advisory Councils and Management Advisory Committees in accordance with the associated Regulations.

A degree of industry unrest, particularly in the commercial sector, arising from the abolition of the Commercial Fishing Advisory Council, led to the reference from the Legislative Council for this inquiry into the newly created advisory bodies structure.

The review by Dr Glaister was initiated by Bob Martin. The question has been asked whether Ernie Page retired three months ago but nobody noticed. As a result of the tabling of this report and one other report on fisheries I commented at the time of the most recent ministerial shuffle, "Carr forgot to sack Martin." The release of the amended ministerial list highlighted a crucial omission—Mr Bob Martin remained as Minister for Fisheries. At the time I said, "The fact that Bob Martin remains a Minister is one of the greatest jokes the Carr Ministry has produced . . . Being on the State Development Committee's Inquiry into *Fisheries Management* has made me abundantly aware of Mr Martin's incompetence." It is important to note that the legislation came before the House to establish these bodies but prior to full establishment the gazettal of certain regulations was required. At the time of the committee hearings Ms Staunton commented:

It seems on any realistic reading of the legislation that it simply cannot proceed. One point made today and in the submissions we received about this particular aspect of our inquiry [the fisheries representative bodies] is the industry's perception about being consulted and being involved, and how important the industry thinks that is. We have also been told—and I have to say that it has a certain attraction—that this Committee should have the regulations before it can proceed to deal with this part of its inquiry to finality.

She went on to ask Dr Glaister on a number of occasions, "Where are the regulations?" On one occasion she said:

I recall, because I was physically present when this bill came before the Legislative Council last December, that there was some discussion that the legislation should not proceed at that point until such matters as the regulations had been dealt with, and that the Act could not be proclaimed until this Committee's inquiry into the whole advisory bodies process was completed. However, that view did not prevail. Regardless of that, I find it difficult to understand how you can operate this legislation without regulations.

Dr Glaister kept promising the committee chairman—Ms Staunton, now resigned—that he would produce the regulations. The interim report regarding consultation leading up to those matters, tabled by Ms Staunton, contains a long quotation on that aspect. The committee tried to get those regulations in order to discuss them and determine whether consultation had taken place. The committee found that Dr Glaister had promised to get those reports to the committee. He said that the regulations were supposed to be gazetted on Friday, 21 February, but in fact the committee had to delay its

report. The committee chairman wrote that the report could not be tabled simply because the committee could not see the regulations until late June. The committee had to keep putting off the tabling of the report so that it could view the regulations and obtain comments from the various players. On 13 February the chairman of the time asked the director-general, Dr Glaister:

How long will this state of limbo continue, given the legal and practical difficulties that it is clearly creating?

Dr Glaister said:

I understand that the advisory committee regulations will be available Friday week.

He was talking about some time in late February. The chairman then asked:

With consultation or to be gazetted?

Dr Glaister replied:

For gazettal.

The chairman said:

So there is not to be any consultation about the regulations before they are gazetted, given your long standing commitment to consultation.

Dr Glaister said:

No. It is necessary to get the management advisory committee regulations in place so that the elections for the management advisory committees can occur as soon as possible. The intent of the regulations is to allow for the preparation of management plans for each of those fisheries as soon as possible.

Page 25 of the report states:

Following the receipt of this evidence, the draft *MAC Regulations* were released for public comment before being gazetted on 2 May 1997.

That shows the incompetence of this Minister and his department. The report continues:

And as of 4 July 1997 the *Advisory Council Regulations* had not even been gazetted.

That is another demonstration of the incompetence of the Minister, with legislation being rushed through this Parliament in December 1996. Even as late as 4 July, in spite of the absolute necessity to have regulations before the Act could be promulgated, the committee when reporting to the Parliament never had a copy of the regulations. The chairman, the Hon. Patricia Staunton, resigned, stated that at page 25 of the report.

The heart of the issue was the replacement under the Act of the Commercial Fishing Advisory Council and the Recreational Fishing Advisory Council with a new series of bodies. A major concern was that the previous Commercial Fishing Advisory Council had been starved of funds because the Minister directed the department that it was no longer to collect funds which would support its operation. Then the Minister refused any support for or continued meeting with CFAC three or four months before he officially abolished it.

The Minister had absolutely no feeling for or responsibility to the Acts of Parliament he administered. He unlawfully, in my view and in the view of the committee, wiped out CFAC and RFAC; he unlawfully withheld proper funds from the operation of CFAC and RFAC because he did not like the advice he was getting. At the Minister's instigation Dr Glaister reviewed those bodies. How much consultation did Dr Glaister have? Wide consultation, according to Dr Glaister. However, through this report evidence can be found that nobody was consulted. I have the transcripts of evidence from the small inquiry which was part of the major inquiry into fisheries. Mr Roberts, an oyster farmer representing the Seafood Industry Council, a peak body of the fishing industry in this State, came before the committee. Mr Roberts was asked:

What consultations did you have with Dr Glaister before he wrote this report in January 1996?

Mr Roberts replied, "None." He was asked:

What consultation have you had with Dr Glaister since the publication of this report to the Minister in January 1996?

Mr Roberts said:

The New South Wales Seafood Industry Council has had zero consultation with Dr Glaister. NSW Fisheries has observer status on the council but since the changes that came about last year it has not come to any of its meetings.

Not only did Dr Glaister not have any consultation with CFAC but he even withdrew his own observer from CFAC, so he could never know what the peak industry council of fisheries in New South Wales was doing, talking about or concerned with. He did not want to talk to people. From his office—removed from the fishing industry, with double glazed windows and airconditioning—he could hear the din. He did not have to go out onto the street to hear it. He did not need the Commercial Fisheries Advisory Council or the Seafood Industry Council to tell him that he was on the wrong track. He did not want to hear it officially.

Dr Glaister talked to nobody so he could not advise the Minister officially what he had found out. Dr Glaister did not send anybody along to the Seafood Industry Council meetings. The Minister officially did not want to know what the whole of the industry, both recreational and commercial, was talking about or what the environmental groups were talking about. He did not want to hear any of that, so that he could say, "I have not been advised." He is a dill.

The Hon. Ann Symonds: Who is a dill?

The Hon. Dr B. P. V. PEZZUTTI: Bob Martin, the Minister for Fisheries.

The Hon. Ann Symonds: That is unparliamentary.

The Hon. Dr B. P. V. PEZZUTTI: Is it? It is probably the truth, though.

The Hon. Ann Symonds: If the Hon. Virginia Chadwick were here she would object.

The Hon. Dr B. P. V. PEZZUTTI: Would she object? I do not hear anybody on that side, any of my friends from—

The Hon. R. D. Dyer: On a point of order. Recently the President ruled that I was out of order when I referred to the Hon. Dr B. P. V. Pezzutti as a boofhead, on the grounds that not only is the Hon. Dr B. P. V. Pezzutti presumably not a boofhead but that it is an unparliamentary expression. I ask you to rule whether the term "dill" is unparliamentary when used of a Minister of the Crown. I well recall that when the President ruled on my use of the term "boofhead" he expressed the view that it implied a lack of intelligence. I suggest that the term "dill" also implies a lack of intelligence and may well be equally as insulting and unparliamentary as "boofhead".

The DEPUTY-PRESIDENT (The Hon. Helen Sham-Ho): Order! It is disrespectful and unparliamentary to call a Minister of the Crown a dill. The Hon. Dr B. P. V. Pezzutti will withdraw that word.

The Hon. Dr B. P. V. PEZZUTTI: I will withdraw that word and replace it with a couple of words. The Minister is a disgrace; he is intellectually challenged; he does not take advice from his department; he does not seek advice from his own industry; and he is failing the people of New South Wales. They are not my words, but they are evident from all the reports. These are tabled documents and I will now quote from them.

The Hon. Jennifer Gardiner: Endorsed by the Australian Labor Party.

The Hon. Dr B. P. V. PEZZUTTI: What the Hon. Patricia Staunton said about the Minister and his department is worse than I have just said, and she was the chairman of the committee.

The Hon. Jennifer Gardiner: She put them in the report.

The Hon. Dr B. P. V. PEZZUTTI: They are even in the report. The Hon. J. R. Johnson signed off the report. I noticed that none of the colleagues of the Hon. Ann Symonds leapt to the Minister's defence but I suppose the Minister for Public Works and Services, as a good member of the same faction and as a member of the Government had to do his duty. Nevertheless, he should still hear what the report says about the Minister for Fisheries, what the recreational fishing industry is saying, what commercial fishermen are saying, what environmentalists are saying and what everybody in this State is saying about him. The Minister is a disgrace, partly because he is intellectually challenged.

The Seafood Industry Council has on its membership a representative from each and every part of the seafood industry chain. At page 10 of the evidence of Mr Roberts on 13 February the chairman said:

Having read your submission and listening to your evidence, it would be fair to say that there seems to be a fairly sorry impasse between your organisation and the Department of Fisheries concerning both advice and representation on the respective bodies?

The chairman further stated:

What has caused the difficulty between your organisation and the Department of Fisheries?

Mr Roberts replied:

At the moment there seems to be a total intolerance of any other opinion, whether minor or major, within New South Wales Fisheries. I would go so far as to say that there is almost an attitude that if you are not 100 per cent with me that means that you are 100 per cent against me; you are the enemy and we have to destroy you.

The chairman of the Seafood Industry Council was talking about the Department of Fisheries and the Minister. One could not get a more condemning attitude than that of a Minister who is at war—a take-no-prisoners war—with his own constituency. The Minister's responsibility is not so much to manage the industry, but rather to manage the

resource. The Minister for Public Works and Services might regard that as a more telling comment about the Minister than the statement I made earlier which he challenged. Mr John Andrew Connor, Executive Officer of the Nature Conservation Council, stated:

The Nature Conservation Council had a useful discussion with the Director of Fisheries on 6 January. For the first time he met with representatives of the Nature Conservation Council and discussed possible representation. At that meeting he indicated that he only at this stage intended conservation representation on the management advisory committees for commercial fisheries and not at the advisory level until the process of preparing plans of management for each of those fisheries.

Only after Mr Connor presented his report on the review to the Minister did the Minister deign to talk to the Nature Conservation Council. Was it consulted beforehand? No, not at all. The former chairman of the Standing Committee on State Development, the Hon. Patricia Staunton, who has resigned, said:

I appreciate that the advisory bodies bill was proclaimed earlier this year and I have taken on board the views you have expressed about input under the new legislation.

What input, if any, did the Nature Conservation Council have of any advisory nature into the previous advisory committee system? Mr Connor said:

Off the top of my head, I cannot answer your question. I did not think that there was any structured process along that line, but I will supply the committee with any information that exists. Certainly there has been involvement in the policy area for some time. The Nature Conservation Council and the environment movement were involved, under the previous government, in the passage of the 1994 Fisheries Management Bill.

The previous Government and the Nature Conservation Council were heavily involved in that consultation process for the 1994 bill, but the present Minister and the department did not have consultation with Dr Glaister and the Nature Conservation Council prior to the establishment of the review, which resulted in the drafting of the 1996 Act. The chairman also asked Mr Connor:

... do you believe that it would be advisable for this Committee, if it were so minded, to recommend to the Minister that specific provisions be put into the legislation to ensure conservation representation on the advisory committee system into fisheries?

Mr CONNOR: Yes. I have been privy to some correspondence from the Minister to both the Hon. R. S. L. Jones and the Hon. I. Cohen in which the Minister seemed to indicate a preparedness to do so. The passage of time must have cooled his commitment to that. I am not 100 per cent sure of how that process went; but to answer your question, yes.

In other words they support the idea, but it is perfectly obvious that the Minister did not support it in the legislation or regulations that followed. He certainly had cooled his commitment, so the Nature Conservation Council cannot trust him either. Later the chairman asked Mr Connor:

You say here that in your conversation with the Director of Fisheries:

The Director of Fisheries offered conservationists a seat on each of the eight commercial fishery Management Advisory Committees (MACs). The Director did not offer conservationist representation on key ministerial advisory councils at this stage . . . Given that there is nothing in this Act about the composition of the management advisory committees in terms of how many people and where they will come from and regulations have not yet been provided for, it seems to me yet again either you are being told or you are aware that the Nature Conservation Council will be included on the committees?

Mr Connor said:

Clearly the Act leaves that discretion.

The chairman made it clear:

The Act is silent on this issue.

It is important that the Nature Conservation Council had not worked out that it had been duded at that stage. The next witness the committee heard from was Mr Baker, who was appointed by the Minister as the chairman of the Commercial Fishing Advisory Council, the new system set up by the Minister, appointed by the Minister, before the Act was proclaimed and before the regulations that allowed him to so act were put in place. The Hon. Patricia Staunton could not work out how the Minister could do that, she thought he must have been acting *ultra vires*, in other words outside the law.

The Hon. D. J. Gay: Patricia Staunton is not here any more.

The Hon. Dr B. P. V. PEZZUTTI: No, the Hon. Patricia Staunton resigned, which was sad. It is also sad to know that the Hon. Ann Symonds is going. She is another feisty person who has tried to keep her party honest.

The Hon. Jennifer Gardiner: Shaw, Symonds and Staunton, all gone.

The Hon. Dr B. P. V. PEZZUTTI: Shaw, Symonds and Staunton—all the S's have gone. In February Mr Baker astonished the committee when he said that he had seen the regulations, whereas the committee had not seen them. When asked whether he thought his appointment was political Mr Baker

said that there was a need for conservation representation on each advisory body. The Minister had put Mr Baker in charge of the council. Mr Baker said:

. . . I believe that the person representing the conservation side of it needs to know a lot about Australian fish and fish populations because it is different to most other fish populations around the world.

When asked whether he also recognised the need for regional representation he said:

How on earth can I know what is going on unless I have regional people to advise me on the council.

He knew that the regional people would not be represented. Dr Oleh Volodymir Harasymiw attended the committee as chairman of the Four Ports Management Committee in Batemans Bay, a major fishing centre. In his opening statement to the committee he said:

Unfortunately, at that stage the present Minister initiated, through Dr John Glaister, a review of the consultation process with New South Wales Fisheries. The CFAC restructuring sub-committee met with Dr Glaister, and I must say that that meeting was not worth having. At the time of that meeting it was quite clear that minds had been made up and the consultation process between CFAC and the director had collapsed entirely, and that there were preconceived notions about what should be done in terms of consultations.

Mrs Deanna McElligott of New South Wales Fisheries at the fish markets, together with Dr Glaister, Mr Diplock, Mr O'Connor and Mr Dunn, gave evidence to the committee. The committee asked Mrs McElligott, whose role was that of fisheries manager, about consultation. In response to a question from the chairman about consultation, Dr Glaister said:

The executive and staff of New South Wales Fisheries are totally committed to consultation. Today we are here to discuss the consultation process, and in particular . . .

He then went on and on about his commitment to consultation. The Hon. Patricia Staunton stopped Dr Glaister to ask what that had to do with advisory bodies. He said that he was giving the committee an example of the consultation process. The committee then had to listen carefully, again for almost three-quarters of an hour. The Hon. Patricia Staunton then said:

Dr Glaister, before you go any further, you are straying beyond the Committee's terms of reference. Whilst I am mindful that you want us to hear those examples, they are also very contentious issues which have yet to be grappled with by the Committee as part of its wider inquiry. I have given you considerable licence in making comments already today which have nothing to do with the particular matter before us, that is,

advisory bodies. This afternoon the Committee is constrained to the Fisheries Management Amendment (Advisory Bodies) Act.

Nothing Dr Glaister said up to that point was consistent with the issue before the committee. The chairman then asked about the regulations being enacted. She was at great pains to point out to Dr Glaister the problems with the new Commercial Fishery Advisory Council and Recreational Fishery Advisory Council. Dr Glaister said:

The regulations for the management advisory committees have been drafted or are being drafted.

So even he did not know. He continued:

The regulations for the advisory bodies have not yet been drafted.

However, that morning the committee knew that the Minister had appointed the chairman and members of the Commercial Fishery Advisory Council because they had had a meeting, and had appointed the chairman and members of the Recreational Fishery Advisory Council because they had had a meeting and been paid for their attendance. Dr Glaister was careful to say that the regulation, which would give the Minister the power to appoint the councils, had not been drafted. The chairman, who was quite distressed, said:

How long will this state of limbo continue, given the legal and practical difficulties that it is clearly creating?

Dr Glaister said:

I understand that the management advisory committee regulations will be available Friday week.

The chairman then asked, "With consultation or to be gazetted?" Dr Glaister replied, "For gazettal." That statement was not the truth because the committee did not see the regulation, even vaguely, until well after May. The regulation governing the management advisory committees did not appear until well after the report was tabled. I think that is substantially correct. Indeed, the committee said that the management advisory committees regulation had been released for comment and the advisory council regulation had not been gazetted as at 4 July. The committee was unimpressed by Dr Glaister's performance on this and subsequent occasions. I am sure the Hon. I. Cohen will say much the same thing in this regard. The chairman then said:

So there is not to be any consultation about the regulations before they are gazetted, given your long standing commitment to consultation.

That is a clear statement by the then chairman, the Hon. Patricia Staunton, resigned. What did Dr Glaister say? He said:

No. It is necessary to get the management advisory committee regulations in place so that the elections for the management advisory committees can occur as soon as possible.

It is April 1998 and an election still has not been held. What was the rush? The Government consulted to get the regulation right. If it had consulted to get it right the first time the industry would have had ownership of this idea. Therefore, the legislation has become unworkable, which we knew in February 1997. The Hon. Patricia Staunton was at pains to expose Dr Glaister and the department on this issue.

The Hon. D. J. Gay: It's probably why she left.

The Hon. Dr B. P. V. PEZZUTTI: Honourable members had to be there to see it. The Hon. Patricia Staunton was at her best in protecting the Parliament and the people of New South Wales. She made the bureaucracy and the government of the day accountable for their actions. I hope that all chairmen of committees will service the House in the same fashion as the Hon. Patricia Staunton. They are what has made the committee system in New South Wales work so well. I see a number of chairmen on the other side of the House. They are substantially meeting the standards that were set early in the piece and that are continuing. They are doing the job they were asked to do by the Parliament without fear or favour.

The Hon. B. H. Vaughan: I wish the honourable member would name them.

The Hon. Dr B. P. V. PEZZUTTI: The Hon. Dr Meredith Burgmann, the Hon. Ann Symonds—who has unfortunately resigned but has not yet left—the Hon. B. H. Vaughan and the Hon. A. B. Kelly are all doing a fine job. Reverend the Hon. F. J. Nile is fearlessly pursuing issues, as is the Hon. Jennifer Gardiner. They are all fearlessly pursuing responsible government in New South Wales and listening to the people. The committee process enables the little people to have their say in the Parliament. It enables them to come before the bar of the Parliament to make clear statements about what they think and to have those statements put on the public record. People want to appear before committees. They are protected by the Parliament and they take their responsibilities seriously. One only had to observe the demeanour of the fishers—the Hon. Patricia Staunton referred to them as fishermen although many women fishers appeared before the committee—to know that they approached

this matter with great care. They listened carefully and answered questions.

The department took the work of the committee seriously, as evidenced by the fact that Dr Glaister, Mr Dunn—who is in the gallery today—and a number of senior executives appeared before the committee on more than one occasion. Indeed, Dr Glaister returned on a number of occasions to answer questions and to support what he believed the process to be. However, on one occasion we found the department exceedingly wanting in terms of consultation on the Act, which had been rushed into the Parliament unnecessarily. We had been told that the Parliament had to pass the legislation, that the regulation would follow and that we would be able to knock out the regulation if we did not like it.

By that stage we had gone down the track fairly solidly and there was no way the crossbench would support knocking out the regulations—I shall come to the Minister's response to the report later. The inconvenience of unscrambling eggs was too difficult. As the Hon. Patricia Staunton had clearly said, we should have knocked out the whole of the legislation until it had been exposed for comment by and consultation with those who would be affected, including the stakeholders—the environmental movement; the whole of the fish chain, from catcher to marketer; the general community; and those who use the river and sea resources. Of course, fish are only one resource. There was not much consultation. It is important for me to go back a step further in relation to the Government's approach. What did the Premier say about the 1994 Act and CFAC?

The Hon. Ann Symonds: Which Premier?

The Hon. Dr B. P. V. PEZZUTTI: Premier Carr. The Hon. I. Cohen asked Dr Glaister:

In light of your comments on the review and comments on CFAC, does it not seem strange that you recommended in January 1996 that CFAC should be abandoned when, in the same month, the Premier's Department report on New South Wales Fisheries stated:

"CFAC appears to be the strongest, best organised, better funded and most vocal of these groups."

The Premier of New South Wales said that to the world through his department, not through a quiet little note. The report was prepared by Dr Gellatly, and signed and released by the Premier. Dr Glaister said, "What would you like me to say?" What would he say when faced with that bullet between his eyes? The Hon. I. Cohen asked:

Does it not seem a little inappropriate that you would seek to ban this organisation when the Premier's Department has stated that it is certainly a representative, well organised and vocal group?

Dr Glaister said:

The Premier's review took testimony from a large range of people, including CFAC members who obviously put a good case. The overall assessment of the consultation process that I undertook following that did not come to the same conclusion. The Premier's Department review was undertaken by two public servants from the Premier's Department who are basically interested in looking at the efficiency and effectiveness, in financial terms of the Department.

What else would they be interested in? What else should they be interested in? The Hon. I. Cohen asked:

As an expert, you did not see the expertise in this group? Mr George Baker, Chairman of the Advisory Council on Commercial Fishing—

the new one—

appeared before this Committee this morning. Would you consider him to be a more appropriate expert on matters pertaining to the fishing industry than those who were members of CFAC before him?

This member was politically appointed by the Minister, out of the blue and was not representative. Dr Glaister copped another one between the eyes and said, "That is a difficult question."

The Hon. D. J. Gay: It is not much of an answer, is it?

The Hon. Dr B. P. V. PEZZUTTI: It is not really much of an answer. The Hon. I. Cohen said:

You attended the first meeting of that advisory council, did you not?

Dr GLAISTER: Mr Baker is a respected industry figure from northern New South Wales. He is a member of the Board of the Sydney Fish Market and for quite a long time he has been involved in representative positions in a range of industry activities. Mr Baker would be as expert as anyone. The other point is that I think that seven out of the eight people on the Advisory Council on Commercial Fishing are from CFAC; they are former CFAC members.

That is a reasonable answer. I have the greatest respect for Mr George Baker. The Hon. I. Cohen asked:

So that your concept of Mr George Baker would fit your concept of expert for that panel?

Dr GLAISTER: What I am saying is that I cannot voice an opinion on the different levels of expertise between industry representatives.

The Act states that advisory bodies should comprise persons appointed as members of the Advisory Council, including an independent chairperson in accordance with recommendation 17 of the committee. The recommendation states:

That the Chairman of the Advisory Council on Fisheries Research be an independent person, with no direct or indirect pecuniary or other interest in fisheries.

That provision should apply also to the advisory council on commercial fishing. In other words, there should be no direct, commercial or pecuniary interest in fisheries. That would be consistent with all government bodies. I asked Dr Glaister the following question in relation to pecuniary interest:

The pecuniary interest issue is contained in paragraph 5 on page 9 of your review of January 1996. It states:

"Members of advisory councils, MACs and RFCCs should be required to disclose to the Minister the nature of any pecuniary interest which they, or their immediate family, have, which may be related to the functions of the body. The Minister should retain a register of such interests, and where he sees fit, to advise the Chairmen of the pecuniary interest of any members.

The Chairmen should have no interests.

He said:

Members should be required to declare such interest at the time when a subject arises in which they have such an interest.

As I pointed out to Dr Glaister at the time, the chair of the Minister's newly appointed Commercial Fisheries Advisory Council was a fisherman with a financial interest. The chairman of the committee interrupted in a sardonic manner and said, "He will tell you that that is interim." I asked Dr Glaister:

Is it interim? I must have missed that.

The Hon. D. J. Gay: Interim holding or interim chair?

The Hon. Dr B. P. V. PEZZUTTI: Interim chair. Dr Glaister said:

The answer is that this is a review I undertook and given the processes we have been through since then, not all recommendations have been taken up verbatim. If you want to call that interim, that is fine.

He continued:

Mr O'Connor would like to say a couple of things about pecuniary interests because I know it is something that has been talked about.

Dr Glaister flickpassed that issue Mr O'Connor, who said:

The answer is simply that those regulations, as John [Glaister] mentioned before, have not yet been drafted.

This person conducted the review and strongly recommended that the chairperson be independent. However, when the committee recommended that the bodies have an independent chairperson, what did the Minister reply? I shall refer to that issue when the continuing saga of this report is next before the House. The committee received a submission from Mr Ron Snape, who had been a member of the Commercial Fishing Advisory Council, which was established by the previous Minister and then inherited by the Hon. Bob Martin and dismissed by him illegally. Mr Snape said:

CFAC was under a heck of a lot of duress from changes within the department subsequent to the election and what CFAC considered to be vilification and undermining of the organisation from the word go. For instance, in the first 12 months we had a total of 40 minutes with the Minister.

In the first 12 months the Minister spoke to his Commercial Fishing Advisory Council for 40 minutes! He continued:

The Director of Fisheries had absolutely no consultation with the Commercial Fishing Advisory Council. We had two meetings and he did not attend. The previous director, Paul Crew, was absolutely brilliant to any political party, be it Liberal, Labor or whatever. He was a perfect bureaucrat. He communicated with industry up and down the coast, copped abuse and won industry over from not being managed to wanting to be managed because he had the nickname of "Trust Me, Trust Me", and, my God, he was a man like that.

The present director, I think, has the nickname of "Shaft Me, Shaft Me". That is just a comparison between the two. We lost a real person in New South Wales in Paul Crew. We have got a real problem with consultation with the Minister.

I think that probably says it all in terms of what the industry thought. The peak industry body representing the entire commercial fishing industry found it difficult to get access to the Minister. The chairman asked Mr Snape if he was familiar with the structure that has been incorporated into the Fisheries Management Amendment (Advisory Bodies) Act in relation to the establishment of advisory bodies generally. Mr Snape said:

I do not think anyone is really conversant with it because it has not circulated within industry.

In other words, the Act had not been circulated within the industry. He continued:

The first we knew about it was when it was coming before Parliament.

They heard about it when Bob Martin tabled it in the lower House—that is how 2,000 commercial

fishermen in New South Wales first heard about how their Act was to be changed and how they would be giving advice to the Minister and setting up their management advisory committees. That says a lot about the Minister's intention at that time. The Hon. I. Cohen asked Mr Snape if he was aware of the document entitled "Share Management Fisheries Review Committee: Report to the Minister for Fisheries the Hon. Bob Martin, MP", dated 20 August 1995, to which he replied yes. He was asked if he had seen the document and he agreed that he had. The Hon. I. Cohen advised Mr Snape that the document stated:

The Minister's direct responsibilities during this process are . . . This process requires the Minister to consult with CFAC and other industry representatives about which fisheries should become SMFs . . .

That is, share-managed fisheries. In other words, there was a requirement in the 1994 Act that the Minister consult CFAC before he made any changes, but this Act came along without any consultation with any advisory council. The Minister had unlawfully dismissed one advisory council and had not yet appointed another. The Minister was standing alone, using ministerial discretion—an emperor doing what he wanted, supported by a director-general who gave him the bullets. It was just short of outrageous. Is it any wonder that the fishermen were concerned? They are probably not the most well-educated people in industry, but that does not mean that they are not smart. They are certainly not what one might call people with high degrees who can easily read the ins and outs of legislation. No-one explained to them what was happening. No-one asked them whether the new regime would be effective; whether it would work for them and the industry. There were a great many problems with this whole process.

The next witness was Mr Alan Schumacher, Chairman of the Advisory Council on Recreational Fishing. He is one of the new chairmen appointed by the Minister—an appointment in respect of which no legislation and no regulations were in place. However, Mr Schumacher had no problems: he had attended two meetings with his body and he had been paid for attending both. He said that there had been no consultation. He stated that he had been the chairman of the former Recreational Fishing Advisory Council and he was just following along the same lines. Referring to the original council, he stated:

That has now been expanded to include the industry. It also allows the option for non-aligned fishermen, through advertisements in papers, to nominate and be appointed by the Minister.

The Minister made it very plain in his response to the committee that he did not propose to advertise for people who might express an interest in being appointed to one of the committees. He made it perfectly clear that he rejected the committee's recommendations in that regard. Mr Schumacher said that the Minister decides whether he wants advice. He stated:

. . . he decides he wants advice, he can select from whom he gets that advice.

Mr Schumacher's view was that the Minister was not there to manage the industry; the Minister was there to manage the resource, and therefore the Minister could seek advice from whatever quarter he chose. This caused concern to the chairman, my colleague the Hon. Patricia Staunton, who has since retired. She was concerned about whether a Minister should act in such a way and be not bound by the niceties of a proper appointment process: just appointing his mates. If he wants any advice he asks them for it but he does not have to take it. There is no openness and no accountability in the process. Mr Schumacher had not seen the little bit about pecuniary interests. He was, I believe, quite wrapped up in the industry. He said:

Can I point out that my submission to the department on the revamped ACoRF—

the Advisory Council on Recreational Fishing—

was that there should be an independent chairman who has no interest in recreational fishing.

He agreed with the appropriateness of not having a chairman who was independent. The committee next heard evidence from Dr Young. He appeared before the committee as a private individual, as he had just retired from the CSIRO. He believed that people on statutory advisory boards should be selected from a panel of people who could choose people of known expertise in the area and provide the Minister with a list of three or four appropriately qualified people from whom to choose—not someone the Minister suddenly chooses.

The Hon. D. J. Gay: It would be no good for Harry Woods.

The Hon. Dr B. P. V. PEZZUTTI: No good for Harry, and no good for Bob Martin either. Minister Martin's name was pulled out of a hat. He wanted to pull out of a hat the names of some people that he wanted on these advisory committees. Dr Young made it very clear that he took the view that people should be appointed by a panel appointed by the Minister. Certainly the panel could

be appointed by the Minister, but the Minister should then take the advice of the panel that he has selected. With one exception, no-one has been rejected by the panel for the Commonwealth Fisheries Advisory Council; they have all been accepted by the Minister. An inquiry into another matter made one person unsuitable; it was not because he was not a proper and qualified person to advise the Minister. That is why Dr Young made the comment that the members of these committees are not representative, that they are there to serve the Minister and to give proper advice to the Minister. Dr Young said:

I guess that my analogy with a board is that if you are on a board you have to do that. This is part of your legal duty and obligation. It is critical.

That is talking about giving advice to the Minister without fear or favour, giving advice to the Minister from an independent point of view, because the Minister is there to manage the resources on behalf of the people of New South Wales, not to play favourites. The Minister for Mineral Resources, and Minister for Fisheries, through this legislation and through the regulations he has put in place, is responsible for a war. He has caused fishermen to fight fishermen. He has caused concern. The main aim of putting this legislation in place was to have an election process, but it has not happened, and to have an advisory process, which has not operated. So the whole thing has been more and more problematical.

Honourable members can see from the words of Dr Young why the Minister went down the wrong track: because he wanted some yes people, because he wanted restrictive fisheries and he knew the Act favoured the share-managed fishery line. He wanted to go back to the previous century, in spite of the Premier of New South Wales promoting share management as the new way to go. The Premier saw it as the only way to go, holding it out as a beacon for the world to watch, but under the shadow of his toes the Minister was white-anting him and hauling down his beacon. Obviously there is more I need to say about this report, but it will have to wait for another day, because I have now run out of time. The committee then took evidence from Mr Keith Jones, Mr Horsch and Mr John Leslie Smith, who were there as secretary, treasurer and president of the New South Wales Recreational Fishing Federation.

Pursuant to resolution business interrupted.

SPECIAL ADJOURNMENT

Motion by the Hon. R. D. Dyer agreed to:

That this House at its rising today do adjourn until Tuesday, 28 April 1998, at 2.30 p.m.

ADJOURNMENT

The Hon. R. D. DYER (Minister for Public Works and Services) [6.02 p.m.]: I move:

That this House do now adjourn.

DEATH OF Mr CLIVE OSBORNE

The Hon. JENNIFER GARDINER [6.02 p.m.]: I wish to pay a tribute to the late Mr Clive Osborne, whose funeral I attended in Bathurst last week and who was the Country Party member and then the National Party member for Bathurst from 1967 to 1981. Clive Osborne was a much-loved parliamentary representative of the people of Bathurst and the Bathurst district. He had a remarkable record of community service in his district long before he became a candidate for parliamentary office in what was a Labor Party stronghold, the State seat encompassing Ben Chifley's home town of Bathurst, a seat that had been held since the depression, with only one parliamentary break, by the Labor Party member Mr Gus Kelly and had never been held by the Country Party. Clive was involved in everything from parents and citizens committees to pensioners organisations, to Legacy and the War Widows Guild of Australia—the latter two organisations continuing as great priorities throughout and beyond his parliamentary life. He was thus extraordinarily suitable to serve in this Parliament and was highly regarded across the party political spectrum.

I was at his electorate office in George Street, Bathurst, on the evening of the final count of ballot papers in the 1981 general election and in the days leading up to that night in what was a drawn-out and sensationally close count in a close seat. Last week in the Legislative Assembly the honourable member for Bathurst, Mr Mick Clough, took a break, so he said, from watching cricket on television to make some remarks about that 1981 election in which he was, after a redistribution which added Lithgow to the Bathurst electorate, pitted against the then sitting member for Bathurst, Clive Osborne, although in his speech last week Mr Clough did not see fit to refer to Clive Osborne by name.

Mr Clough lamented to the House that he received only 15 out of a batch of 150 absentee votes and he made out that it was because somebody, not from the ALP, had fooled around with the ballot boxes. The truth is that the Electoral Commission authorised the local constabulary to check the authenticity of the batch of ballot papers and that most of them were ruled out. The

honourable member for Bathurst also made an assertion about some supposed absentee votes from Parkes which never materialised—presumably because they never existed in the first place.

The circumstances of the count were so curious as far as the Country Party was concerned that the leader of the party, Leon Punch, asked, and the Electoral Commissioner agreed, to have the ballot boxes held in the Bathurst police lockup after each day's count—although the scrutineers certainly did not sleep with the ballot boxes, unlike the incident that Mick Clough referred to last week in relation to the 1976 election count in the seat of Blue Mountains, when he said that the scrutineers did sleep with the ballot boxes in the Lithgow police cells. Mr Clough also made some other ludicrous assertions about the 1981 election, and I refer to one in particular. He said that the Country Party had lodged an injunction to restrain the declaration of the poll. That is true. He said:

The declaration was deferred until the next Tuesday, by which time the Country Party had realised that if the matter went to the Court of Disputed Returns I would win, and win easily.

The honourable member neglected to inform the House that that poll was so close that had Clive Osborne received only 16 more votes he, not Mr Clough, would have been declared elected. The parliamentary record should be corrected. There was only one reason my party decided not to proceed with that Court of Disputed Returns case, despite having collected affidavits from electors showing they had wrongly been enrolled in the electorate of Castlereagh, for example, instead of the electorate in which they lived, namely Bathurst, and therefore knowing it had a very strong case.

The reason was that Clive Osborne had such a humble political philosophy that he decided not to sign a petition to the Court of Disputed Returns. He was uncomfortable with the idea that his electors would think he was a poor loser, notwithstanding the obvious doubt about the election result and the strength of the party's disputed returns case. That was the sort of person Clive Osborne was. There is every reason to believe that Clive Osborne and the National Country Party would have been successful in a petition to the court either to declare Clive the due victor or to have a fresh election ordered.

It ill behoves Mr Clough, especially in the week of Clive Osborne's death, to try to have the history books slur over the fact that in 1981 Mick Clough just scraped in. He may well have served in the Legislative Assembly at that time courtesy of the good grace of Clive Osborne. Mr Clough's contribution to the debate last week was as untimely

as it was disgraceful. As the count progressed in that close contest in 1981, day after day Clive Osborne's office door was obstructed by a clump of constituents awaiting the latest news of the count.

Despite Lithgow, an overwhelmingly Labor city, having been added to the electorate, Clive lifted his primary vote dramatically. Those people had been positively affected by Clive's assiduous solving of their problems, no matter how large or seemingly trifle. They actually cried on the streets of Bathurst when it looked as if he was no longer to be their local member. They cried again last week at the funeral of a man who was the epitome of a good local member, the type of parliamentarian who does not seek the limelight or get carried away with his own ego or aspirations, but who personified what representative parliamentary democracy should be all about. I pay tribute to Clive and express my condolences to his family.

WOODLAWN MEGA TIP

The Hon. I. COHEN [6.07 p.m.]: I would like to discuss the Woodlawn mega tip proposal. The people of Goulburn are appalled at the State Government's sell out on waste disposal. The problem is that Sydney cannot manage its waste effectively and the answer is to ship it out—out of sight, out of mind. The Goulburn Greens, the community and the council are utterly opposed to the development, which is a reflection of this Government's failure to address the issue of waste. Despite the rhetoric of the Waste Minimisation and Management Act of 1995, there will not be a reduction of 60 per cent in the waste generated by the year 2000. It just will not be seen any more, because it will be shipped west and buried. This is not a long-term, ecologically sustainable solution, however convenient it may seem. The people of Goulburn, in the local government area adjacent to the proposal, are justifiably very upset. They fear they will be suffering problems similar to those being suffered by the people of Castlereagh—contaminated air and ground water.

The Waste Minimisation and Management Act has not been successfully implemented. There are a number of areas of concern, including industry waste reduction plans, cradle-to-grave legislative power unused, and ineffective recycling of resources. Ineffective implementation has meant that regional New South Wales has been looked at as a logical dumping ground for the waste that Sydney can no longer deal with. The legislative target of 60 per cent reduction of waste will not be achieved, because this Government has not yet implemented the simple philosophy embodied within the

legislation: reduce, reuse, recycle. It is a travesty that the urban centre of the State with the most resources cannot deal with its own waste. It is a greater travesty that other catchments, other communities, are being asked to deal with the problem of Sydney's waste. This is a classic case of out of sight, out of mind.

The council and community of Goulburn are outraged. Together they have implemented not only the letter but the spirit of the Waste Minimisation and Management Act. There is higher than 90 per cent participation in the Goulburn city recycling program. Council has spent a minimum of \$350,000 on meeting the requirements of the Waste Minimisation and Management Act. This has included the preparation of a management plan and further design and earthworks at Goulburn waste depot. Council has achieved a substantial reduction in the annual volume of waste, and has been trialling green waste processing and has allocated further expenditure of \$80,000 this year to implement this waste reuse scheme. A major concern of the Goulburn Greens and the Goulburn City Council is the potential threat the Woodlawn megatip poses to the groundwater. The tip proposes to deal with 400,000 tonnes of waste per annum.

The community of Goulburn and the Goulburn Greens are petrified that the very reasons for closing the Castlereagh depot—perceived contamination of the groundwater, and the issue of air toxics so close to a residential community—will recur in their district. The United States Environment Protection Authority has identified landfills as a source of air toxics and has also found that liner systems, be they clay or plastic membranes, have not stood the test of time. Those toxic time bombs have allowed toxic leachate to permeate surrounding groundwater, soil and rocks. The leachate barriers preferred and recommended in the 1996 environmental guidelines for solid waste landfills by the New South Wales Environment Protection Authority do not provide any assurance or guarantee that leachate will not escape.

Contaminants that may be in the domestic waste—which sounds innocuous—include such nasties as sodium perborate, aromatic petroleum solvents, sodium hyperchlorite, oxalic acid, sodium peroxide, sodium carbonate, trisodium phosphate, potassium hydroxide, methylene chloride, sodium bisulphates, sodium oxalate, hydrochloric acid, chlorinate phenols, bleaches and chlorinated hydrocarbons. The Goulburn Greens are concerned that should the commitment of the Lidcombe liquid waste plant to processing solidified toxic waste by

incineration not go ahead, approval will probably be given to dump the solidified waste in an ordinary, non-hazardous landfill. That alternative comes from an environmental impact statement of 1997 commissioned by Kinhill Engineering for the Lidcombe residue processing plant.

Not only would Goulburn get the bulk of Sydney's waste, it would also get the most toxic portion of it. The New South Wales Greens share the concerns of the residents of Goulburn and their council. We would much prefer that the energy and resources that will be utilised in transporting 1,000 tonnes per day of putrescible waste to Woodlawn—including 80 to 120 tonnes per day of toxic waste—and the huge amount of money that will be paid to Collex Wastes go into a concerted effort to solve the waste problems of Sydney in an ecologically sustainable manner.

NATURE CONSERVATION COUNCIL IRRIGATION REPORT

The Hon. A. B. KELLY [6.12 p.m.]: On 27 March the *Sydney Morning Herald* ran a story entitled "Irrigators may have to cope with less water". This story blamed hefty financial and environmental costs of water use on New South Wales irrigators, citing a string of facts and figures that were believed to come from a consultant's report by industry analysts Hassall and Associates. Unfortunately, the journalist had been misled with regard to his sources. The report in question had a Hassall cover sheet and a Hassall footer, but the content had been substantially rewritten by a member of the Nature Conservation Council, the organisation that commissioned the report.

Many of the figures contained in the report were changed or interpreted in a way that lacked analytical rigour, and the original text of the executive summary had been replaced—perhaps without the knowledge of the executive of the Nature Conservation Council. The result was an unsound and inflammatory document that misrepresented Hassall's findings and the state of water resources in general. I take this opportunity to clarify a few of the misrepresentations and express my concern regarding their impact on water reform negotiations. I first point out that the report appears to be an isolated incident and I do not believe that it reflects the standard of work we have come to expect from the Nature Conservation Council. The major claim reported in the article was:

The NSW irrigation industry is a \$700 million per year burden on the taxpayer.

Hassall and Associates have categorically rejected this statement in their letter to the editor of the *Sydney Morning Herald*. The figure of \$700 million shows only one side of the balance sheet, the costs. It does not take into account any benefits of revenues generated by irrigation infrastructure. Nor does the construction of the figure take into account the basic fact that irrigation expenditure is historical in nature and has been made for a number of reasons—such as regional development, flood prevention and domestic water supply—that are not related to irrigation itself. If the costs of dams and public irrigation infrastructure are realistically constructed, the annual financial return on infrastructure assets is estimated to be between 130 per cent and 700 per cent, depending on the catchment area. The estimate takes into account the additional production resulting from irrigation and the flow-on economic benefits generated by irrigation.

Honourable members may recall that last week's *Sun-Herald* carried a photograph of Burrendong Dam, near my home, which is almost empty—at 2 per cent. The article noted that the dam supplies an \$870 million irrigation industry in the Macquarie Valley alone. By itself, that figure wipes out the \$700 million cost quoted in the earlier newspaper report. According to estimates from the New South Wales Irrigators Council, irrigated farming provides the State with \$2.1 billion in food and fibre and a further \$7 million worth of jobs and economic activity. The other major claim highlighted in the article was:

The decision by government not to recover the cost of water supply infrastructure is equivalent to Qantas not recovering the cost of its aeroplanes from travellers.

The consultants also categorically reject this claim, and with good reason—it is simply not true. If the analogy were applied correctly, it would be akin to Qantas passengers paying for the investment by Qantas in aircraft purchased and worn out prior to World War II plus the total operating costs of airports servicing the needs of all airlines and freight users. Such a concept is plainly unworkable. My biggest concern is that although the content of these claims can be systematically refuted, the damage may have already been done. The major issue with this irresponsible report is its ability to derail the crucial and complex process of water management reform in this State, with disastrous effects for the environment.

The responsible publishing of the original consultants' data could have contributed greatly to the quality and progress of water reform

negotiations. Instead, it has raised the ire of irrigators and others and has lowered the tone of the debate. The water reform process currently under way aims to achieve a better balance between the environment and other water uses. The negotiation of water sharing arrangements has been very delicate but, so far, surprisingly successful. Prior to the community negotiations on river flows and water quality many farmers simply did not believe that the water for environmental flows could be found without severely disadvantaging rural users. The achievements of the community negotiations disproved those beliefs and exceeded expectations. The challenge for water reform is to balance agricultural, domestic, recreational and commercial demands for water while maintaining basic river health and environmental flows. Our rivers are already degraded and are under increasing pressure from the ravages of drought. It is time to set aside our ideological hatchets and get serious about water reform before time runs out.

KINGSFORD LEGAL CENTRE

The Hon. HELEN SHAM-HO [6.17 p.m.]: This evening I pay credit to all the students and supporters who participated in a walkathon held last Saturday, 4 April, to raise funds to enable the Kingsford Legal Centre to continue its work. The walk was attended by more than 100 students and was followed by a students' barbecue and a band recital. The walkathon was enjoyable and was of great benefit. The Kingsford Legal Centre faces closure in June after the University of New South Wales law school cuts its funding. The centre must now raise a continual grant of \$200,000 in order to avoid closure. The dean of the University of New South Wales termed the walk a pilgrimage to save the centre, and students raised \$13,000 on the walkathon. I only wish they could raise more, because the centre needs funds to operate.

The Kingsford Legal Centre does a great job. It is the only legal aid centre operating in the eastern suburbs and it services a broad and diverse population. The centre is staffed by a committed team of only five: a director, two solicitors and two administrative staff. It has between 25 and 28 volunteer solicitors. I worked as a volunteer for the Macquarie Legal Centre when I was practising law before entering Parliament. The services provided by legal centres are great; they provide a significant community service and legal education and also a focus for political education for law students.

The Kingsford Legal Centre, which provides a free service, has more than 3,000 clients and 400 ongoing cases a year. The main areas of legal

assistance include domestic violence, discrimination, credit and debt, family law, housing, wills and estates, immigration, social security, criminal law, accidents and injuries. Community education is another important service, and the centre has held 20 seminars on legal issues for social community workers, 20 sessions on legal issues for community groups, and eight seminars on legal issues for volunteer lawyers. It handles 100 media requests per year.

The legal centre has 75 students per year in its clinical legal experience course and 45 students in its intensive course and as a past social worker I know that those courses provide compulsory practical legal experience for social workers. Legal education dealing with human behaviour is important in putting the theoretical framework into context to have on-the-ground experience. Students must certainly know about community legal centres and law reform and have a comprehensive education.

I was sorry that the students were called upon to participate in this fundraising. I do not know how but I hope that somehow the Federal or State governments will come to the rescue, or that the university will have a change of heart and provide further funding. Without the continuing funding grant the legal centre will not be able to continue. I take this opportunity to wish the centre all the best. It does a marvellous job and I will do all I can to help it.

BURRUNG ASSESSMENT TRIBE

The Hon. R. S. L. JONES [6.22 p.m.]: I draw to the attention of the House the concerns of the Burrung Assessment Tribe about regional forest assessment in New South Wales. A representative states in a letter:

The regional forest assessment process in NSW intends to provide a comprehensive and representative reserve system that protects 15% of all forest types. This laudable aim is being compromised by misleading and inaccurate data available to the bodies that must decide the future of our forests, wildlife and water supplies.

For example, the forest typing maps—which are the basis for harvesting all timber in the state—are inaccurate. They appear to be both out of date and inaccurate when first drawn up from aerial photographs at least a decade ago. Photographically derived maps of this type need to be proved on the ground—and it is obvious to independent surveyors working in the forests that this has never been done. Many competent fauna surveyors assert that the maps bear little relation to what's actually there . . .

The gross inaccuracy of these maps mean that logging is taking place in rainforest and endangered species habitat.

Predictive and descriptive models like the Northern Study Area Negotiation Database (NSAND) are fatally flawed due to false baseline data. This means the current forest assessment and agreement processes—which hope to create peace and certainty in the forests—can do nothing of the kind.

Of major concern is the fact that endangered fauna species exist only in specific types of forest. These areas are incorrectly recorded, so fauna surveys are unlikely to find endangered species before logging operations incorrectly decimate their habitats. Koalas are particularly affected.

These maps were originally produced to describe types of merchantable timber and are heavily skewed to represent economic values; they were not designed to represent conservation values, yet are being used for this purpose, for which they were not intended. All State Forests NSW harvest plans are based on these incorrect maps. Major target timber species (such as Brush Box and Blackbutt) are heavily over-represented at the expense of other protected forest types. While inaccuracies of maps are supposed to be corrected during harvest operations, in practice this does not occur in relation to forest types. In many areas regeneration after logging has been almost non-existent and patches of rock, lantana and grass can be found in many places where forest is marked as being present. Hence the resource base is further overestimated.

Of great concern is the mistyping of Brush Box forest. To qualify as brush box type, an area must have at least 50% Brush Box canopy. Even if it contains a plethora of rainforest species such as Booyong, Coachwood, Carrabeen or even Red Cedar, an area may be classed as loggable Brush Box forest—by SFNSW. All scientific bodies would class such areas as *rainforest*. Furthermore, around half the "Brushbox" areas which have been surveyed on the mid-north coast contain *less than 50%* Brushbox canopy in any case, and must be regarded as misclassified rainforest. This means that rainforest logging has been continuing in NSW since it was technically banned in 1983.

It also means that many forest types which are under-represented in the reservation process—because not enough rare rainforest types can be found—are actually present, but misclassified as Brush Box (or even Moist Blackbutt) forest.

Mistyping also occurs throughout the northern region where rainforest is recorded as being present.

The NSAND database is also incorrect in such basic areas as elevation components. This means that even the altitudes recorded on maps generated using this system are out by as much as 100 metres—they disagree with the CMA maps upon which they are based! Combined with the forest typing inaccuracies, this renders the RACAC process not only inadequate, but totally misleading.

A related issue is the near-total lack of real consultation with local Aboriginal people. For instance, the CHUMA EIS for the mid-north coast of the state fails to mention *any* aboriginal sites whatsoever—despite previous discussions of sites in State Forests' own Mistake EIS and many submissions by the local Gumbayngirr tribe. The wishes of local Land Councils have been ignored and are not given plans prior to harvesting operations, despite repeated assurances to the contrary. After being informed of native title claims in State Forest Crown Land within the Gumbayngirr territory, SFNSW continues to log despite being informed that compensation for trees taken will be expected if the Gumbayngirr prevail in the courts. This completely ignores the issue of the true heritage values of Aboriginal sites.

Without massive on-ground verification none of the maps currently in use . . . can be considered representative of Australia's resources. The lack of accurate baseline data makes any true scientific assessment of timber, endangered species, water catchments, soil profiles or Aboriginal heritage values impossible.

DROUGHT RELIEF

Reverend the Hon. F. J. NILE [6.27 p.m.]: On behalf of farmers and others who have contacted me I draw to the attention of the House the serious and harmful effects of the drought in New South Wales. I have received letters from farmers in various outback and western areas of New South Wales. Mr Ron Stone, a well-known citizen formerly of Bourke, and many others believe the matter is so serious that this Parliament, in co-operation with community and church leaders, should call a special day of prayer for rain in New South Wales.

Recently I visited Dubbo, Gilgandra, Gunnedah, Narrabri, Walgett, Moree, Bourke and Wilcannia and they are as dry as dust. The people who live in those country centres are suffering. I attended various church services as a guest speaker and I was moved by emotion of the Ministers as they prayed for rain for their communities—particularly in the Dubbo Baptist Church. I also visited the Riverina area at Hay, Finley, Mildura, Narrandera, Griffith, Albury, Wagga Wagga, Goulburn and Yass, where even to a city dweller the drought is very obvious.

The drought has now gripped 72 per cent, that is nearly three-quarters, of the State, and sometimes the suffering of the country areas does not register with city people. Reports released today stated concern about Sydney's water supply: Warragamba Dam, Sydney's main supply, has dropped from 72 per cent of capacity to 59 per cent of capacity in 12 months. The entire region's supply has fallen 16 per cent. In his press release the Minister for Urban Affairs and Planning stated:

At this rate we are heading for a repeat of January 1995 when dam storage levels fell to 55.5 per cent and NSW was gripped by one of the worst droughts on record.

It has been suggested that perhaps by June water restrictions will be introduced into the Sydney metropolitan area. That suggestion emphasises the seriousness of the drought in country regions, if the Sydney supply is so dramatically affected. Avon Dam, south of Sydney, is the worst hit at 41 per cent of its capacity. I heard instructions on the radio and television about water restrictions which caused great concern to residents in the Shoalhaven. I live at Gerroa, on the southern border of the area where water restrictions apply. I realised how serious the drought is in New South Wales when serious water restrictions were placed on residents who live in the Shoalhaven area.

In response to the serious drought situation, the Government, through the Premier, announced a \$3.7 million emergency drought package for struggling farmers. Of that amount \$1 million is for grants to rural charities and \$2 million is to encourage farmers to improve water storage facilities. It is fairly obvious that that will not do very much for the immediate need of farmers to improve water storage facilities, which I support. Obviously that funding will be welcomed, but the effect of the drought in New South Wales is serious and more must be done. No doubt some farmers will be in a desperate plight and would appreciate support from charities. But the New South Wales Farmers Association was critical of the relief funding, calling it an "insult". The association's chairman stated:

Our initial response is stunned disbelief that they would insult agriculture by claiming they have put out a new drought package.

Motion agreed to.

**House adjourned at 6.30 p.m. until
Tuesday, 28 April 1998, at 2.30 p.m.**