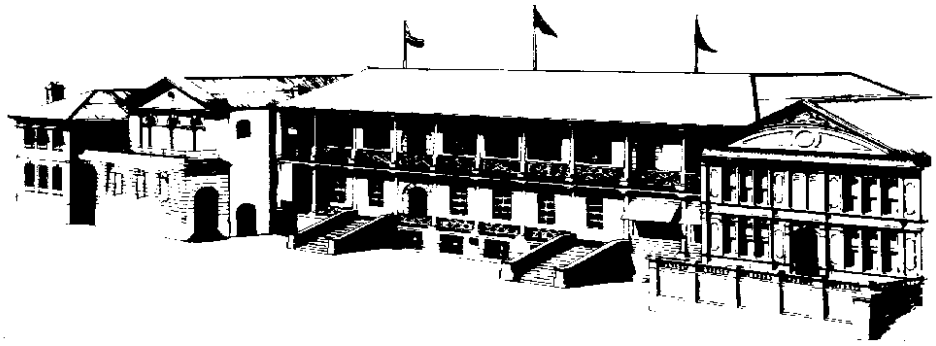
NEW SOUTH WALES



Legislative Council

PARLIAMENTARY DEBATES

(HANSARD)

FIFTY-FIRST PARLIAMENT
THIRD SESSION

OFFICIAL HANSARD

Tuesday, 2 June 1998

AUTHORISED BY
THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

Tuesday, 2 June 1998

The President (The Hon. Max Frederick Willis) took the chair at 2.30 p.m.

The President offered the Prayers.

ASSENT TO BILLS

Assent to the following bills reported:

Parliamentary Contributory Superannuation Legislation Amendment Bill
Farm Debt Mediation Bill
St Andrew's College Bill

CONDUCT OF JUSTICE VINCE BRUCE

The PRESIDENT: I report to the House the receipt of correspondence dated 28 May 1998 from Holman Webb Solicitors, who represent Justice Vince Bruce. The correspondence reads:

Dear Mr President

THE HONOURABLE JUSTICE VINCE BRUCE

We act for the Honourable Justice Vince Bruce.

His Honour has provided us with a copy of your letter dated 27 May, 1998. In that letter you relay to him that the House has granted him leave to attend at the Bar of the House on 3 June, 1998 to show cause why he should not be removed from office on the grounds set out in the Report of the Conduct Division of the Judicial Commission of New South Wales ("The Conduct Division Report").

On 25 May, 1998, His Honour commenced proceedings in the Court of Appeal in which proceedings he has challenged the legal validity of the Conduct Division Report. The Court of Appeal has agreed to hear the matter urgently on a final basis, and has set the matter down for hearing at 10.15 a.m. on 2 June, 1998. Given the complexity of the matter, and the gravity of its subject matter, it is likely that the Court of Appeal will reserve its judgment.

If the decision of the Court of Appeal is in His Honour's favour, then there is no valid Conduct Commission Report before the House, and the Parliament would have no power to consider the removal of His Honour from office. This is as s41(1) of the Judicial Officers Act 1986 makes the tabling of a valid Conduct Division Report a condition precedent to the exercise of the power of the Parliament to remove a judge of the Supreme Court from office.

In the circumstances, His Honour respectfully requests the House to defer the grant of leave to him to attend at the Bar of the House pending determination of his proceedings in the Court of Appeal.

Yours faithfully
HOLMAN WEBB

D'Arcy A Kelly

A further letter, dated 29 May 1998, reads:

Dear Mr President

THE HONOURABLE JUSTICE VINCE BRUCE

Thank you for your letter of today's date.

We are instructed to inform you His Honour or his legal representative is willing to appear at the Bar of the House at the date and time appointed in your letter to His Honour dated 27 May 1998.

In so doing, however, we are instructed His Honour reiterates his request as contained in our letter to you of yesterday's date.

To obviate any misunderstanding as to the Court of Appeal proceedings we enclose, for your information, copy of Summons by which those proceedings were commenced. The proceedings have been adjourned by the Court of Appeal for hearing on Tuesday, 2 June 1998.

Yours faithfully
HOLMAN WEBB

D'Arcy A Kelly

PETITIONS

Central Coast Crime

Petition praying that, because of the increase in the incidence of crime on the central coast, courts impose tougher penalties and that adequate policing be made available to the region, received from the **Hon. M. J. Gallacher**.

Methadone Clinics

Petition expressing concern at the location of methadone clinics in residential and commercial areas and the growing number of private hospitals and clinics operating as methadone clinics, and praying that relevant legislation be amended to allow methadone clinics to be located only on Department of Health or area health service property or in or immediately adjacent to a public hospital, received from the **Hon. M. J. Gallacher**.

BUSINESS OF THE HOUSE

Suspension of standing and sessional orders, by leave, agreed to.

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

That the sessional order relating to questions be varied for today's sitting to allow questions to commence at 5.30 p.m. or later as indicated by the Leader of the Government.

CONDUCT OF JUSTICE VINCE BRUCE

The Hon. R. S. L. JONES: I seek the leave of the House to move a motion to suspend standing and sessional orders to allow the consideration forthwith of the motion, notice of which was given by me today for the next sitting day, relating to the attendance of Justice Vince Bruce at the bar of the House.

Leave not granted.

DARLING HARBOUR AUTHORITY AMENDMENT AND REPEAL BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading), on behalf of the Hon. M. R. Egan [2.47 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This bill marks another significant milestone in the ongoing evolution of one of Sydney's premier entertainment, leisure, recreation, business and lifestyle precincts. It was only ten years ago that Darling Harbour was officially opened and since that time it has grown to be Sydney's third most popular tourist destination. It is a testament to the work of the Darling Harbour Authority that it has been able to achieve these magnificent results—transforming a derelict and rotting part of Sydney into the jewel of the harbour city that it is today. And as everybody in this House is well aware, the Darling Harbour story only became possible through the great vision of Neville Wran and the delivery skills of Laurie Brereton. However, the development of the Darling Harbour precinct is now substantially complete and thus there is little justification for the continuation of its strong development consent powers.

The objects of this bill are twofold. Firstly, it provides for the provisions of the Environmental Planning and Assessment Act to apply to the Darling Harbour Authority development area with the Minister for Urban Affairs and Planning becoming the development consent authority. In transforming Darling Harbour from its state as an abandoned railway goods yard into the world-class waterfront development it is today it was necessary for the Darling Harbour Authority to have extensive planning and development consent powers over its own site. However, as I have already pointed out, it is now no longer necessary for these powers to reside with the Darling Harbour Authority. Indeed, all development at Darling Harbour, including that being undertaken at present, will be complete within the next 18 months. This bill gives effect to these practical considerations and brings Darling Harbour into line with planning arrangements for other development projects such as Homebush Bay and the city west precinct. It is anticipated that the provisions of this bill relating to DHA's planning powers will be proclaimed to take effect on the same day as the provisions of the Environmental Planning and Assessment Amendment Act 1997, namely 1 July.

The second outcome of this bill is to make provision for the repeal of the Darling Harbour Authority Act 1984 so as to dissolve the Darling Harbour Authority. This is in line with the Government's decision to consolidate all planning authorities and planning powers around Sydney's valuable harbour foreshore. Through the introduction of this bill and the Sydney Cove Amendment Bill which is being introduced by the Minister for Urban Affairs and Planning the Government will put in place a clear planning approval system and will provide a coherent and consolidated process for the overview the city's foreshore from Garden Island in the east to Blackwattle Bay in the west. Whilst the bill puts in place a process to dissolve the Darling Harbour Authority this will be done by a sunset clause which will not take effect before 1 January 2001. The reason for this provision is that the authority will be needed in the interim to manage the second largest Olympic precinct. The bill also contains a number of amendments to other Acts consequential on these changes to the Darling Harbour Authority Act 1984.

Darling Harbour today stands as a powerful testament to the vision and commitment of delivering large-scale projects by Labor Governments. Throughout this century, the people of New South Wales have come to know that if anything grand needs to be built in this State, if any major project needs to be undertaken, if vision is required, it will be done by a Labor Government. The Sydney Harbour Bridge and the Snowy Mountains Scheme—built by Labor; the Opera House and the harbour tunnel—Labor; the new Sydney showground (built in record time) and our magnificent Olympic construction program—Labor; and of course Darling Harbour—all done by Labor.

When Neville Wran announced the decision to redevelop Darling Harbour the area was little more than an unused tram depot, woolstore, derelict wharves and a railway goods yard. And when Darling Harbour officially opened in 1988 it was the first time in 150 years that this strip of prime waterfront property had been accessible to the people of New South Wales. In the last ten years, of course, the people of New South Wales have embraced Neville Wran's vision heart and soul. More than 150 million people have visited Darling Harbour since it was opened on 16 January, 1988 and last year Darling Harbour had 15.2 million visitors. Since its opening Darling Harbour has always been a place of the people and hosts more than 700 separate events each year.

However, under the previous Liberal/National Government Darling Harbour was left to atrophy. But that is really no surprise because it opposed its creation. Under its reign there were no new developments or attractions undertaken at Darling Harbour. This Government has not been so shortsighted. We have approved many new developments at Darling Harbour which will ensure that it remains a focal point of Sydney's social life well into the next century. And as a backbencher in the Wran Government I was a strong supporter of the development of Darling Harbour. It has been a source of great pride to me to be able to complete his and Laurie Brereton's legacy. New developments at Darling Harbour that have been undertaken since 1995 include:

- the world's largest cinema screen in the IMAX theatre;
- the Darling Walk entertainment complex which contains Sega World;

- a $60 million refurbishment of the harbourside shopping complex;
- a $57 million expansion to the convention and exhibition centre to provide a new 1,000 seat auditorium and a new 1,000 person banquet room;
- an expansion of the Sydney aquarium; and
- the building of the new Cockle Bay wharf development.

Part of the Darling Park development on the eastern side of Darling Harbour will contain restaurants and cafes owned by some of Australia's best restauranteurs. However, Darling Harbour is not just a place for people. It also brings real economic benefits to this State. Darling Harbour employs almost 4,000 people and the Sydney Convention and Exhibition Centre alone contributes more than $200 million to the economy each year. And Darling Harbour will play a key role during the Sydney 2000 Olympic Games when it will be the biggest Olympic precinct outside of Homebush Bay. Five Olympic sports will be held at Darling Harbour. They are volleyball in the entertainment centre, wrestling, judo and boxing in the exhibition centre and weightlifting in the convention centre.

The redevelopment of Darling Harbour broke new ground in urban development and renewal. It was a model of public and private sector co-operation that has been copied right around the world. The transformation of the formally derelict site demanded a powerful single task force approach which would not have been possible under normal planning mechanisms. However, whilst the success of Darling Harbour and the Darling Harbour Authority has been nothing short of phenomenal, this bill recognises the need for a more integrated planning approach to the whole of the Sydney Harbour foreshore for the next century. Finally I would like to thank all those who have served so ably on the Darling Harbour Board since my time as Minister: Gerry Gleeson, Michael Eyers, David Richmond, Sam Fiszman, Helen Lynch, Nene King, Peter Anderson, Rhoda Roberts and Helen Wright. I would also like to congratulate Alan Marsh personally, and his staff, for the great work they have done over the last three years. And they still have much to do before 2001 both for Sydney and the Olympic Games. In that respect I commend this bill to the House.

The Hon. PATRICIA FORSYTHE [2.48 p.m.]: The Opposition does not oppose this legislation, because the reduction of quangos generally is a good thing, and because specifically the Opposition supports as a matter of principle the consolidation of the various authorities that deal with planning issues on Sydney's foreshores. In 1993 the then Minister for Planning identified at least six consent authorities in the central Sydney area and established a commission of inquiry to examine the broader issues of planning in the central Sydney area. Although the principal focus of that inquiry was the role of the central Sydney planning committee, the Minister at the time, the Hon. Robert Webster, identified the Darling Harbour Authority as one of the authorities whose role should be examined. So in many ways the legislation has its origins in the work initiated by the Hon. Robert Webster.

A key part of the bill is the repeal of the Darling Harbour Authority Act. I note that this will not occur until 1 January 2001, after the 2000 Olympics. Darling Harbour will be the second venue for the Olympics and Paralympics and therefore it is appropriate that changes in its role do not commence until after the Olympics. Having said that the Opposition does not oppose the legislation, I cannot allow the second reading speech of the Minister for the Olympics to go without comment—and I suspect that the incorporated second reading speech in this House was in identical terms. There was so much humbug and rewriting of history to suit the Labor Party by the Minister for the Olympics that I wish to put a few facts on the record. The only way that Labor Party members can ensure a satisfactory place in history for themselves is to rewrite it to suit them. The Minister said in his second reading speech:

. . . if vision is required, it will be done only by a Labor government.

It is no wonder that the Minister did not include the monorail on his list of great achievements of the Labor Party, because there is nothing visionary about that monstrosity that is part of the Darling Harbour development. He included the Opera House on the list, but it took the coalition Government to get that construction right. He mentioned the Olympics, but the Sydney Olympics were also a coalition vision.

The Minister described Darling Harbour as Neville Wran's vision—taking what he described as a derelict collection of wharves and railway lines and turning them into the Darling Harbour that we know today. The Labor Party was in government from 1976 to 1988, in a period that coincided exactly with other foreshore and disused dockland developments across the world—in Vancouver, Boston, San Francisco, London, Singapore, New York and Baltimore. People who have visited Baltimore will have noted the similarity between the facade facing the harbour at Darling Harbour and that at Baltimore.

The Minister claimed that the only people who ever did anything for Darling Harbour were members of the Labor Party. He claimed that under the Liberal-National Government Darling Harbour was left to atrophy. That is just not so: it is simply a misrepresentation of the years from 1988 to 1995. The Minister said that the current level of visitors to Darling Harbour is 15.2 million a year, about 1.3 million a month. Yet in 1990, not long after Darling

Harbour was opened in 1988, there were an average of one million visitors a month. Under the coalition there was a strong program to attract tourists and visitors to Sydney. If there were any complaints at the time they were because of the building, the design and the program of development at Darling Harbour.

The commercial retail sector of Darling Harbour was one of the first developments. This was considered to be the wrong order of development, compared with developments in Boston and London. The first thing to be done in recreating a dockland area is to put in place the residential component—which was the last component added at Darling Harbour. People should first be brought to the area and then retail developments undertaken. People do not change their shopping patterns and their way of doing things. That was discovered at Darling Harbour in the early 1990s. It was all well and good to have the high quality retail shops and restaurants, but without people coming to the area it was impossible for those developments to be an instant success. With the development of the residential sections immediately behind Darling Harbour, such as the Goldsbrough Mort development, which was approved under the coalition, and the Pyrmont-city west area, we are now getting it right and Darling Harbour is much stronger today than it was in the early 1990s.

The Minister's claims that the coalition left Darling Harbour to die are not correct. While it was appropriate to construct the convention centre and to develop the area as a central focus, the residential developments were needed up front. The Minister said that under the coalition reign no new developments or attractions were undertaken at Darling Harbour. The 1990 annual report of the Darling Harbour Authority shows that at that time the corn exchange, Darling Park, Darling Wharf, Paddy's Markets and the early stages of the Goldsbrough Mort development were under construction. By 1993 the Ibis Hotel could have been added. The Minister just got it wrong, and I will not let his remarks go unchallenged. In 1993 the Darling Harbour Authority board undertook its master plan review, and its report for the year ended 1994 stated:

> In 1993, the Darling Harbour Authority Board decided it was time to take stock, review developments to date and to plan for completion of development at Darling Harbour by the year 2000.

All the things the Minister for the Olympics referred to were visions of the coalition, which were about working for the year 2000, having the developments in place and possibly being able to end the role of the authority after the Olympics. The report went on to state:

> The timing of this Master Plan Review proved fortuitous in terms of:
>
> • Sydney winning the bid for the Year 2000 Olympics—

and other developments at the time. The Minister's suggestion that nothing happened at Darling Harbour under the coalition is simply wrong. I am happy to acknowledge the work of the existing board, as the Minister did, but it would have been to the Minister's credit had he referred to the work of previous Darling Harbour boards. I note in particular the work of James Graham, the chairman under the coalition. The trend is the right way: we should get rid of the excessive number of authorities that have a hand in determining Sydney foreshore development. We recognise that this is a step forward by placing all approvals in the hands of the Minister; and we may wish to say more about this in future.

The Hon. ELISABETH KIRKBY [2.59 p.m.]: I support the Darling Harbour Authority Amendment and Repeal Bill. The bill is part of the Government's proposal to consolidate all Sydney foreshore planning authorities and planning powers. The Minister for the Olympics has alleged that Darling Harbour is Sydney's third most popular tourist destination, which surprised me. He said that the Darling Harbour Authority has been able to achieve these magnificent results by transforming a derelict and rotting part of Sydney into the jewel of the harbour city. Perhaps the Minister for the Olympics has been too busy at Homebush Bay to see what has happened at Darling Harbour. If it is Sydney's third most popular tourist destination, why has it constantly lost money? It is still not paying its way.

In the lead-up to the bicentennial celebrations, when the Darling Harbour complex was being built—long before this Government came to office—great concern was expressed about the blow-out in costs, the deals that were done between the then Minister for Public Works and various contractors, and the amount of money the contractors managed to extract from the then Government. Darling Harbour has created an enormous debt and there have always been problems in relation to its management. It is certainly not the shining success a Cabinet member in another place might like to suggest. It is laudable that the planning of Sydney's foreshores should be the responsibility of one authority. However, the success of the proposal will depend on how the Minister responsible exercises his power.

I am perturbed about what has happened with east Circular Quay, and I am not the only person in this State who is concerned about it. I am also extremely disturbed about what has happened in city west and the way that public and community amenities in Pyrmont have been literally bulldozed to allow for the development of high-rise luxury units. This development has totally destroyed the face of Pyrmont and has left little open space for leisure activities for the people who will live in the area, particularly those with children. Children have nowhere to play except the foreshore, which has been paved and landscaped with a few palm trees. However, the area is not suitable for children because it is too close to the Star City casino complex.

Most parents would not wish their children to play near casino complexes because, regrettably, they attract undesirable people, crime figures, compulsive gamblers and others who behave in an inappropriate manner. East Circular Quay has energised and revived public interest and scrutiny in harbour use, public access and amenities. I have received a copy of a letter addressed to the Minister for Urban Affairs and Planning from the Save East Circular Quay Committee. The committee is in favour of the changes made by this legislation and it believes that changes to east Circular Quay during the past decade reveal only too clearly that current community consultation does not work. The committee stated in its letter:

> Notifications under the E.P. & A. Act and other cognate instruments invariably fail to evoke serious grass-roots responses. Exhibitions, displays and ideas quests have likewise proved ineffective in achieving significant input at community level.
>
> In the light of this committee's experiences at East Circular Quay, we strongly advocate the establishment of a community-based advisory committee, resourced by government but holding the degree of autonomy sufficient to allow for independent non-political input into issues associated with harbour-front land.
>
> Such an advisory committee should be established as an early priority, to ensure that adequate community input is available to you as Minister during your period as development consent authority and beyond.
>
> On behalf of the general public the Save East Circular Quay Committee would also expect government to give an undertaking that due process, by way of public notification and exhibition of all development proposals and applications, will be carried out at all times.
>
> There are many methods (particularly involving computer graphics simulation) of achieving a complete understanding by the general public of design proposals. The committee deserves an appropriate explanatory mechanism in all cases. The disaster at East Circular Quay may have been avoided if, for example, a computer graphics simulation of the proposal, including a walk-through at the viewpoint of a pedestrian approaching from the ferry wharves, had been part of the public exhibition of the development application. The Committee considers the harbour-front lands to be of such critical importance that computer-aided illustrative methods should become mandatory requirements, by regulation if necessary.

The bill gives the Minister for Urban Affairs and Planning total control. I hope he will conduct true community consultation and therefore avoid disasters such as Pyrmont and east Circular Quay. I believe a similar disaster exists at Finger Wharf, Woolloomooloo. I refer to the blocks of apartments planned for the left-hand side of Woolloomooloo Cove. The adjacent arenas have blocked off that entire area for public use. Through the efforts of Jack Mundey and others low-cost housing at Woolloomooloo was preserved. However, as a result of the inappropriate behaviour of some children in the area it has been suggested that public housing will be taken away from the current residents. Therefore, the residents of Woolloomooloo will be only those on very high incomes—not normal, middle-salary incomes but millionaire incomes—because the price of the apartments starts at $2.95 million, well beyond the means of the average person.

It is necessary to repeal the Darling Harbour Authority and to have more centralised planning for all harbour foreshores, but problems will still exist, particularly if the Government is determined to turn Sydney harbour into a replica of New York and Rio de Janeiro, where only the wealthy can afford to live on the harbourfront and people live in undesirable conditions on the streets. I support the legislation. I hope the Minister will assure the Save East Circular Quay Committee that there will be true community consultation about any further developments.

Reverend the Hon. F. J. NILE [3.10 p.m.]: The Christian Democratic Party supports the Darling Harbour Authority Amendment and Repeal Bill. This legislation will help to bring about efficiency in the administration of Darling Harbour and ultimately will lead to the amalgamation of such authorities, to avoid duplication and to achieve more efficiency in government expenditure. This bill is the first in a two-step program to amend the Darling Harbour Authority Act 1984 so that the Darling Harbour Authority ceases to have environmental planning functions with respect to land in the Darling Harbour development area. Those functions are to be exercised instead by the Minister administering the Environmental Planning and Assessment Act 1979.

The second step in the program is to repeal the Darling Harbour Authority Act and dissolve the Darling Harbour Authority, with the assets and functions of the authority to be transferred to such other body as the Minister administering the Act determines. The long-term aim of the Government is to amalgamate a number of such authorities, including the authority covering The Rocks, thus providing for more efficiency in the functioning of such authorities and efficiency in the spending the taxpayers' dollars.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.11 p.m.], in reply: I thank honourable members for their support for the bill, which I commend to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

SYDNEY COVE REDEVELOPMENT AUTHORITY AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading), on behalf of the Hon. M. R. Egan [3.13 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 1997 the Minister for Urban Affairs and Planning sponsored the Sydney City waterfront forum to begin the long overdue task of reforming the administration, planning and regulation of land-use activity and development in and around Sydney Harbour. The forum was attended by approximately 190 people representing all levels of government, the commercial and business sectors, harbour contractors, the harbour users, the tourism industry and a range of interest groups and individuals, ranging from peak environment groups through to the development industry.

Despite Sydney Harbour's grand history, that forum was the first time that all stakeholders with a role to play in managing our harbour had been brought together to work together to identify future strategies to better manage our harbour environment. The forum recognised the value of our harbour to our city and to our nation; its dual role as an economic driver and playground of a great international city; its unrivalled aesthetic beauty; and the delightful mix of uses and activities that makes this harbour unique in the world. To understand the many roles the waterfront plays in the life of our city, it is useful to quickly recount some important facts.

- There are at least 15 government authorities that have a management role in the harbour, ranging across all three tiers of government.

- There are more than 20 separate Acts or regulations that determine what can and cannot be done on the waterfront.

- Each day more than 112,000 visitors come to Sydney, drawn by our majestic harbour, golden beaches and friendly culture. This in turn drives the tourism sector, which contributes $15 billion a year to the State's economy and provides jobs for 186,000 people.

- There are more than 5,600 hotel and service apartment rooms on or near the waterfront. In addition there are 2,570 rooms either under construction or on the drawing board.

- Sydney is Australia's premier international convention city. Since 1993 more than 100 major events have been attracted to Sydney. These conventions and events have contributed more than $500 million to the State's economy.

- Sydney's waterfront and harbour is the home of large commercial shipping industry, the commercial leisure cruise industry, a world-class ferry service and the New South Wales water police.

- But most importantly, the harbour is seen as the symbol of an Olympic city—the most enduring and attractive image of the Sydney 2000 Games.

Of the many recommendations that came out of that forum, the one that received the most overwhelming support was the need to begin to rationalise the number of authorities with a role in determining development for the foreshore of Sydney Harbour, particularly from Garden Island in the east to Blackwattle Bay in the west. This bill plays a part in that process.

When combined with:

- the Darling Harbour Authority Amendment and Repeal Bill, which was introduced by my colleague the Minister for the Olympics earlier this day;

- our State environmental planning policy which will nominate sites of State significance around the harbour;

- the 117 directions which will issue to local government authorities having a jurisdiction over harbour foreshore land; and

- our amendments to the Environmental Planning and Assessment Act adopted by this Parliament last year and to come into force on 1 July this year

this bill will ensure that we have a consistent planning framework for our harbour for the first time since Lachlan Macquarie. The Sydney Cove Redevelopment Authority Act currently empowers the Sydney Cove Redevelopment Authority to own and develop the land within its development area. The authority grants consents under that Act for such development. The Act specifically excludes the operation of parts 3 and 4 of the Environmental Planning and Assessment Act from the development area. This means that no planning controls imposed under the Environmental Planning and Assessment Act apply to development within the authority's development area. The amendments in this bill will enable the

Minister to make environmental planning instruments under the Environmental Planning and Assessment Act to control development within the Sydney Cove development area.

The bill also deems the authority's current planning scheme to have the same effect as if it were an environmental planning instrument. The bill provides that all development in the authority's development area requires development consent under the Environmental Planning and Assessment Act, unless an environmental planning instrument to the contrary applies. The consent authority will be the Minister for Urban Affairs and Planning as the Minister administering the Sydney Cove Redevelopment Authority Act. Any application which has been lodged with the authority but has not been fully determined when this bill comes into force will be determined by the Minister not the authority under the provisions of the Sydney Cove Redevelopment Authority Act, as if it had not been amended. In conclusion I would like to thank all of those individuals who have participated with the Government in progressing this important reform.

It is worth noting that since the announcement of the proposed amalgamations of the Sydney Cove Authority, the City West Development Corporation, and, at a later date, the Darling Harbour Authority, there has been nothing but universal praise for something that was long overdue. Whilst, in itself, this bill is but a small component of the required changes, it is nonetheless a very significant step in our move towards a more rational regime to protect Sydney Harbour. I commend the bill to the House.

The Hon. PATRICIA FORSYTHE [3.13 p.m.]: The Opposition does not oppose this bill. Indeed, I would make much the same comments as I made regarding the Darling Harbour Authority Amendment and Repeal Bill, which this Chamber just dealt with. The Opposition believes it is important that there be consolidation of planning powers with respect to land on Sydney's foreshore. This legislation is a step in the right direction. I note that the second reading speech of the Minister for Urban Affairs and Planning was far less excessive than that of the Minister for the Olympics.

Perhaps that was a recognition that the vision for the Sydney Cove Authority was initially that of the coalition back in the Askin days. The Minister certainly was not as tempted as the Minister for the Olympics was to give a lengthy account of the work of the Sydney Cove Redevelopment Authority. To some extent that is a pity, because over the years the authority has served the area well. This legislation will mean that the authority will cease to have environmental planning functions with respect to land in the Sydney Cove development area. Currently the Sydney Cove Redevelopment Authority may own and develop land within its area, and may grant consent for development.

At present, planning controls under the Environmental Planning and Assessment Act do not apply to developments under the control of the authority. This bill will give the Minister power to make planning instruments under the Environmental Planning and Assessment Act and to determine developments in the Sydney Cove Redevelopment Authority area. So this will be one less authority in charge of Sydney's foreshore. Having said that, I note that the bill will put more power in the hands of the Minister. As the Hon. Elisabeth Kirkby said in relation to the Darling Harbour Authority Amendment and Repeal Bill, this transfer of power puts significant responsibility on the Minister.

I do not believe a single person who looked at some developments around the Sydney foreshore would fail to have some concern. Anyone standing on land under the control of the Sydney Cove Redevelopment Authority and looking across to east Circular Quay would express concern about developments in that area. I for one am on record as saying that I am not certain whether a government should spend millions of dollars to pull down that east Circular Quay building. That proposal is of great concern to me, particularly in view of the letters that I receive from carers of people with a disability. The money required to demolish that building would be better spent in other areas of government responsibility, such as child protection. I wonder at some of the planning decisions reached.

The Government does not have a good record with respect to development of Sydney foreshores. The Hon. Elisabeth Kirkby made a number of comments about proposals such as the Finger Wharf and others involving property around Pyrmont. Such developments rightly cause much community concern about the Carr Government's direction on Sydney foreshores planning. On the other hand, the bill before the House is a step in the right direction. It is about eliminating another of the consent authorities. The number of these administrative bodies has got out of hand. The Minister's second reading speech rightly drew attention to the number of authorities able to make decisions on Sydney foreshores that impact on all of us.

The Hon. R. S. L. JONES [3.17 p.m.]: The Carr Government indicated in March that it would seize planning control over the foreshore from the heads to the upper reaches of the Parramatta River to halt Federal Government plans to sell off prime Sydney Harbour sites and to strip local councils of planning powers for key foreshore land. The Carr Government indicated also that it would amalgamate the three major city authorities responsible for the inner harbour—the Sydney Cove Redevelopment Authority, the City West Development Corporation and the Darling Harbour Authority—into a new and powerful Sydney Harbour Foreshores Authority, which will be headed by the renowned Mr Gerry

Gleeson. This amalgamation should reduce overlap and duplication between agencies and make life easier for stakeholders, who will then have to approach and deal with only one agency. It will also put greater emphasis on strategic planning, and provide better accountability and fuller public participation in final decisions.

The bill will transfer environmental planning functions with respect to land in the Sydney Cove development area from the Sydney Cove Redevelopment Authority to the Minister for Urban Affairs and Planning. Of course, the bill just dealt with by the House—the Darling Harbour Authority Amendment and Repeal Bill—will transfer the planning powers of the Darling Harbour Authority to the Minister for Urban Affairs and Planning. However, these bills will not establish a single foreshore land management authority. The Government merely intends to develop a State environmental planning policy that will nominate sites of State significance around the harbour; it will not establish a single authority until 2001. It argues that a new body is needed to manage the second largest Olympic precinct—city west and The Rocks—until that time.

As a result, I and other crossbench members are concerned that the method of implementing the proposed changes, the timetable for implementation, and the role and participation of the public in the process are not clear. Indeed, we are concerned what role, if any, the public would play in the development of the State environmental planning policy and in decisions made by the Minister, when the State environmental planning policy will come into force, how long it will apply, and if and when it will be replaced with a more consultative instrument. Environmental groups are of the opinion that removing the exclusion from the Environmental Planning and Assessment Act for the areas under these authorities and bringing them under a State environmental planning policy would seriously limit public input to development consents.

In order to address those concerns, the Minister is to give an undertaking that the State environmental planning policy will be in place in a matter of weeks, that it will be only an interim measure, and that it will be replaced by a regional environmental plan to be developed by the middle of next year. While the making of a State environmental planning policy is not an open process and does not provide for public participation, it is quicker than a regional environmental plan, and it is needed in order to nominate sites of State significance around the harbour, especially defence lands. Also, the State environmental planning policy will merely nominate the areas and make the Minister the consent authority for them under the Environmental Planning and Assessment Act. Therefore the areas will be subject to part 4 of that Act, and significant developments will be advertised developments. I put on record the following comments made by the Save East Circular Quay Committee:

> The example of the East Circular Quay has revealed that the current community consultative processes (notifications under the EP&A Act) do not work.
>
> SECQC strongly advocates the establishment of a community-based advisory committee, resourced by government but holding a degree of autonomy sufficient to allow for independent non-political input into issues associated with harbour-front land, as an early priority.

The Save East Circular Quay Committee also urges the Government to give an undertaking that due process, by way of public notification and exhibition of all development proposals and applications, will be carried out at all times. I support the legislation.

The Hon. ELISABETH KIRKBY [3.20 p.m.]: I support the Sydney Cove Redevelopment Authority Amendment Bill. Again, planning powers will be consolidated in the hands of the Minister for Urban Affairs and Planning. The Government and the Opposition herald the rationalisation of the number of planning and consent authorities as the reason for the legislation. I agree that 15 government authorities across three tiers of government, all involved in regulation, makes life complicated—especially for developers who are in a hurry. However, the public has a right to be suspicious of this Government's motives. Many community organisations are calling for greater community input into the future appearance of Sydney Harbour and its foreshores. During my contribution to the second reading debate of the Darling Harbour Authority Amendment and Repeal Bill I said that disgraceful planning decisions, such as the east Circular Quay development, have energised the public.

There is great merit in the proposal of the Save East Circular Quay Committee that a community-based advisory committee be established to facilitate non-political input into issues concerning the harbour and its foreshores. One has only to remember the public outcry and intense interest not only over east Circular Quay but also over Pyrmont, Strickland House, Cockatoo Island and all the harbourside land owned by the Commonwealth Government to realise that Sydneysiders care passionately about their harbour. Many citizens who are not closely entwined in the political process display a considerable amount of vision. They are

more than capable of visualising how our harbour should look 10, 25, 50 and 200 years into the future—not just at the next election. They are frightened to think what atrocities our planners and political leaders will permit next. I support the call of the Save East Circular Quay Committee for the establishment of a community-based advisory committee to ensure that there is true community input for the Minister to consider.

As a recently appointed patron of the Friends of Cockatoo Island, I am well aware of the vision that members of our community concerned with the future of Sydney Harbour can apply and the valuable watchdog role that such organisations perform. In 1995 the Friends of Cockatoo Island, in conjunction with the students of the landscape architecture faculty of the University of New South Wales, entirely on their own initiative, embarked on an international design competition to provide the kind of direction that is currently so lacking from governments with regard to the future of Cockatoo Island. So diverse was the result that the judges of the competition wisely chose to regard the prize-winning entries as a set of ideas. The same sort of approach should be taken with regard to Strickland House, which currently sits decaying and unused. The Government could be making several thousand dollars a week in bookings for functions and wedding receptions, money that could be used to ensure that this wonderful old house does not crumble away. How long will it be before the Government makes a decision about the future of Cockatoo Island and Strickland House?

I am well aware that the Minister for Urban Affairs and Planning has little regard for the opinions of the Australian Democrats when it comes to matters of planning. That is a pity because this city would be far more aesthetically pleasing if he listened. I urge the Minister to seriously consider the establishment of a community-based advisory committee. The Australian Democrats believe that if people are supplied with adequate and accurate information they are more than capable of producing a reasonable outcome.

This is not a novel approach. It is called participatory democracy—a form of government that, given the mess we have witnessed so far with regard to harbour planning decisions, is a concept that will be increasingly demanded by the public, which is reasonable and proper. Recently a most appalling item appeared in the press—it was true; it was not a cartoon or satirisation—which depicted a young man, a tourist wearing a backpack, going up to two people at Circular Quay and saying, "Please, can you tell me where the Opera House is?" The Opera House is currently obliterated by the toast rack, which is the most terrible indictment of what has already been allowed to happen on the harbour foreshore.

I am amazed by the remarks made in another place by the Minister for the Olympics. I am equally amazed by remarks made by the Minister for Urban Affairs and Planning, the honourable member for Moorebank. In his second reading speech he spoke about Sydney having a world-class ferry service. I am not quite certain who wrote his speech for him; it was fairly flowery in its language. It referred to our golden beaches and our majestic harbour—the Government has dragged out all the adjectives. However, one cannot call the ferry service between Sydney Cove and Manly a world-class service because it is almost impossible to return home to Manly by ferry after 9.00 p.m. If people go to Manly, particularly in the summer, they have to ensure they finish their walk along the beach or their visit to one of the restaurants in a great hurry so they are able to catch a ferry back to Sydney Cove. Regrettably, we do not have a world-class ferry service. Perhaps it would be a good idea if the Minister or his advisers visited other cities—such as Paris, London or Venice—where ferries are used all the time to see what happens there. If Sydney had a ferry service linked with other transport—such as buses and trains—people who live along the Parramatta River and around Sydney Harbour would use public transport and not clog the roads with their cars. I support the legislation. I hope the Minister will consider the proposal to establish a community-based consultative committee.

The Hon. I. COHEN [3.27 p.m.]: As a Green I support the Sydney Cove Redevelopment Authority Amendment Bill. The Greens are comfortable with a clear and pro-active planning process for the foreshores of Sydney Harbour. Sydney Harbour has a long history of poor planning decisions being made about a wide range of prime foreshore land, including the land currently within the Sydney Cove Authority land. Currently that land is not subject to either part 3 or part 4 of the Environmental Planning and Assessment Act 1979. That means that the normal public access to development applications and the environmental impact statement process do not apply to developments within these areas at this stage. The bill amends the Sydney Cove Redevelopment Act to allow the Minister to make environmental planning instruments to apply to development within the Sydney Cove area. All previous regional environmental plans, local environmental plans or deemed environmental plans will not apply to land within the Sydney Cove area. They may be later amended to specifically apply to

the Sydney Cove area, which will require ministerial consent.

The Minister for Urban Affairs and Planning intends to implement a State environmental planning policy—SEPP—later this year to co-ordinate planning for the foreshores of Sydney Harbour. This SEPP will also apply to a number of key sites around the harbour, including Federal Government properties, as previously announced by the Minister. These sites will be declared as sites of State significance and the Minister for Urban Affairs and Planning will be the consent authority for development proposed on this land. The Minister is committed to making this SEPP an interim measure which will be replaced by a regional environment plan for these lands. Under part 3 division 3 of the Environmental Planning and Assessment Act 1979 the Minister is required to carry out consultation with local councils, public authorities and the general public.

The public will be able to inspect the draft plan and make submissions, which will be duly considered, and the Minister can accept amendments to the plan. After the east Circular Quay debacle, it is clear that the people of Sydney want public scrutiny of foreshore development and public participation in the planning process. I have a copy of a letter from the Save East Circular Quay Committee, which has called for the establishment of a community-based advisory committee to allow for independent, non-political input into issues associated with harbourfront land. That is a reasonable request.

The Greens would support an advisory committee process but believe the committee should include representatives from the environment movement and heritage groups. The Greens congratulate the Minister on his initiative to establish a consistent planning framework for the Sydney Harbour foreshore. We are pleased to note that the Minister is committed to public participation and has given an assurance that the State environmental planning policy is an interim measure only and will be superseded by the regional environment plan for Sydney foreshores. In a letter dated 1 June 1998 Hazel Dunstan, honorary secretary of the Save East Circular Quay Committee, stated:

> In the light of this committee's experiences at East Circular Quay, we strongly advocate the establishment of a community-based advisory committee, resourced by government but holding the degree of autonomy sufficient to allow for independent non-political input into issues associated with harbour-front land.

Organisations such as the Save East Circular Quay Committee play a vital role in planning the foreshores of Sydney Harbour for the benefit of those who live in Sydney and for Australians generally.

Reverend the Hon. F. J. NILE [3.31 p.m.]: The Christian Democratic Party is pleased to support the Sydney Cove Redevelopment Authority Amendment Bill, which is the second in a series of bills. The object of the bill is to amend the Sydney Cove Redevelopment Authority Act 1968 so that the Sydney Cove Redevelopment Authority ceases to have environmental planning functions with respect to land in the Sydney Cove development area, those functions to be exercised instead by the Minister administering the Environmental Planning and Assessment Act 1979. We have been blessed with Sydney Harbour and its surrounding areas, and it is vital to have a co-ordinated and consistent plan for the area.

Currently at least 15 government authorities are involved in the management of the harbour, across all three tiers of government. The east Circular Quay building is a disgrace and, as I have said previously, there is a need for an urgent solution. I am aware that it would cost millions of dollars to relocate the development, but the building is an eyesore and blocks the views of the Opera House. It is tragic that the relevant authorities at the time supported such a development. I hope that the legislation will prevent the recurrence of such a tragedy. Sydney Harbour is an important tourist destination. It is also important that the four million or so people who live in the greater Sydney area are able to enjoy its beauty and have access to it.

The foreshores of Sydney Harbour should not be surrounded by towers, as is the case in many other countries. In South America, skyscrapers virtually overshadow coastal foreshores and beach areas. More than 20 separate Acts or regulations determine what can and cannot be done on the waterfront. It may seem that Sydney Harbour has been strangled with red tape. However, it is encouraging that more than 112,000 visitors per day are drawn to the beauty of Sydney's harbour, its golden beaches and its relaxed atmosphere. Our tourism sector contributes $15 billion a year to the State's economy and provides jobs for more than 186,000 people.

I am concerned that our old harbour ferries are not being utilised. San Francisco and a number of other tourist destinations around the world have spent a lot of time restoring historical railway and tramway carriages, which tourists find very

attractive. As one travels over the Glebe Island Bridge it is tragic to see the rusting and rotting ferries tied up. They may not be efficient in rapidly moving commuters to work, but the old ferries, which are open to the air and the sea spray, are most attractive to overseas tourists, who have the time to enjoy and experience the waves and the rocking of the ferries as they cross Sydney Harbour. I urge the Government, in the countdown to the Olympic Games, to make the restoration of our old ferries a priority. The cost of restoration would not be a loss to the State but a profit, particularly when one considers the number of overseas tourists who would take the time and the opportunity to enjoy them.

More than 5,600 hotels and serviced apartments are now located on or near the waterfront. They provide accommodation for overseas tourists as well as travellers from country New South Wales and other parts of Australia. In addition, 2,570 rooms are either under construction or are on the drawing board. The rapid advancement of the building program has raised concerns about the monitoring process to ensure that harbour views are not blocked and that the beauty of the harbour is not undermined. I am proud to have been born in Kings Cross, to have lived all my life in the Sydney area, and to have worked all my life in the Sydney area prior to entering Parliament. I have always felt a great sense of pride in Sydney Harbour. It is one of the most beautiful harbours in the world, if not the most beautiful. I support the bill.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [3.38 p.m.], in reply: I thank honourable members for their support for the bill. I understand from the office of the Minister for Urban Affairs and Planning that concerns have been raised by some members about the State environmental planning policy—SEPP. I would like to assure those members that the SEPP, to the extent that it will apply to the area from Garden Island to Blackwattle Bay, will be replaced with a regional environmental plan—REP—which has more detailed planning controls. The REP process will involve extensive public consultation. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

AGRICULTURAL INDUSTRY SERVICES BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [3.40 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This bill facilitates the establishment of legal entities, called committees in the bill, to provide a range of services to agricultural industries. Such services include market services, the conduct of information and education activities, disease control and eradication, the promotion and supervision of quality assurance schemes, and the management of compensation schemes. At present these functions are carried out by a variety of boards and committees constituted in various ways. These include:

- marketing boards and committees, such as the Rice Marketing Board, constituted under the Marketing of Primary Products Act 1983;

- multifunction boards and committees constituted under various individual Acts such as the Poultry Meat Industry Act 1986; and

- limited compensation and disease control schemes conducted under such Acts as the Cattle Compensation Act 1951.

A common feature of many of these boards and committees is their power to levy compulsory charges on members of the agricultural industry which they serve. With changing times and attitudes in many agricultural industries, many of the functions of such boards and committees, particularly central government imposed compulsory functions, are seen as outmoded and no longer in the best interests of either the industry concerned or the broader community. This, together with the Government's ongoing policy of reviewing legislation to ensure compliance with national competition policy and regulatory best practice guidelines have, in recent times, seen the repeal of some of the legislation constituting agricultural boards and committees. For example, the Dried Fruits Act 1939 which constituted the New South Wales Dried Fruits Board was repealed in 1997. While the Government's commitment to national competition policy requires a review of legislation, the competition principles agreement recognises that restrictions on competition are justified in some circumstances.

In broad terms, restrictions on competition, which boards and committees in the agricultural sector often represent, will be justified where the benefits of the restrictions to the community as a whole outweigh the costs. There must be a net public benefit resulting from the restriction. The continuation of some agricultural industry committees is seen as necessary and desirable and many would meet a net public benefit test under competition policy. This is particularly so where the board or committee exists to address market failures causing "spill over" effects between those in the sector. Such market failures can result where industry has underspent on such services as research, the provision of marketing information and, of particular importance, disease control. However, it is considered that, rather than continue the multiplicity of different structures under which such boards and committees presently operate, regulatory best practice requires that all should, in time, be brought within one regulatory regime.

The bill allows this to be done. It provides a shell which, as well as allowing new committees to be formed, will permit existing boards and committees to be reconstituted. I should emphasise, however, that the bill does not itself transfer these boards and committees to its jurisdiction: it merely provides the vehicle by which it may be done. It is considered that all committees providing services in the agricultural sector should comply with some basic principles which are embodied in the bill. These include the principles: firstly, that the committee should belong to the industry which it serves, but it should be subject to adequate supervision by government to ensure that its functions are being properly exercised; and, secondly, that the members of the industry should have adequate powers of direction and control of the committee, including the power to control the levy of compulsory charges on members.

Another fundamental feature of the bill is the requirement that the establishment of committees comply with national competition policy. All committees constituted under the bill will be subject to two overriding principles. Firstly, the formation of the committee will be subject to a transparent competition policy review. Secondly, the committee will have a limited life and its continuation will also be subject to a transparent competition policy review. Under the bill, a committee will be established by the making of a foundation regulation in accordance with the requirements of the Subordinate Legislation Act 1989. The committee will come into existence on the day on which the foundation regulation takes effect. Having a committee constituted by means of a regulation achieves three things. Firstly, it ensures that unless exempted under the terms of the Subordinate Legislation Act, the making of a foundation regulation will require the preparation of a regulatory impact statement in the ordinary way. However, in addition, the bill specifically requires that this regulatory impact statement must contain an assessment of the regulation carried out in accordance with the competition principles agreement.

Secondly, like all other regulations, the regulation will be reviewed every five years; a committee will thus be subject to regular review to ensure that its objects remain current and appropriate and that its continued existence is justified. Thirdly, and most importantly, it ensures that the constitution of the committee is subject to the scrutiny of this Parliament, since a foundation regulation under the bill will be subject to the normal disallowance procedure. When it comes to winding up a committee, again the members are in control. While the bill provides for the winding up of a committee to be initiated in a number of different ways, it is crucial to the concept of accountability to members that the members must be able, if they believe that a committee has outlived its usefulness, to initiate the winding up of the committee. The bill achieves this. The members may request the Minister to direct the taking of a poll on the question of whether the committee should be wound up. If a poll is held and at least half the votes cast support the winding up, with at least half the members casting a vote, the committee will be wound up. When the winding up is complete any assets of the committee, which, of course, belong to the members, will be dealt with as the Governor, on the recommendation of the Minister, directs.

This provision has been drafted so as to confer the necessary flexibility to ensure that any remaining assets are dealt with in the most equitable way. It is the intention that, as far as possible, the assets will be returned to the members, but the provision recognises that there are circumstances where this may be either impossible or inappropriate. For example, if the amount involved is relatively small and the number of members is large it may be uneconomic to distribute the assets among the members. Similarly, there may be circumstances where a hard and fast rule would result in inequities. It may be, for example, that the assets have largely been contributed by a particular segment of the members and to divide those assets between all current members would be unfair to those members and result in windfall gains to others. The provision for the Governor to determine the manner of distribution of assets on winding up will ensure that justice is done.

The bill contains many innovative features which, while ensuring necessary public interest constraints, are primarily designed to encourage primary producers to utilise its provisions to form committees to enable them collectively to better meet the challenges facing agriculture into the twenty-first century. The bill represents part of the continuing process of the modernisation of legislation relating to agriculture in the State and I am confident that it will prove extremely popular with industry. I commend the bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [3.40 p.m.]: The Opposition has much pleasure in supporting this legislation. Opposition members have some concerns about it, but we understand that the Government will address those concerns in the Committee stage. I thank the Government, the Department of Agriculture and the Minister's advisers for their co-operation in these matters. This legislation will enable all those committees functioning under current commodity legislation to be brought under one piece of legislation, and enable the establishment of those legal entities.

Those committees, whether they be marketing boards or other boards, have various functions, including collecting levies and making decisions about marketing on behalf of the commodity groups that they represent. They have an important function in the administration of agricultural commodities in this State. The bringing of all those committees under one regulatory regime—the Agricultural Industry Services Act—is a good move that should be supported. If we have different requirements and different clauses in each piece of commodity legislation we run the risk of having inconsistencies throughout the industry. This good piece of legislation tidies up those inconsistencies and brings all these provisions under one bill.

The committee should belong to the industry it serves but it should be subject to adequate supervision by government to ensure that its functions are being properly exercised. The members of the industry should have adequate powers of direction and control of the committee, including the power to control the levy of compulsory charges on members. The establishment of the committee must comply with national competition policy and all committees constituted under the bill will be subject to two overriding principles. First, the formation of the committee will be subject to a transparent competition policy review and, second, the

committee will have a limited life and its continuation will be subject to a transparent competition policy review. It is intended that the committees established under the proposed Act will replace all the various boards, committees and other bodies constituted under the other commodity Acts administered by the Minister for Agriculture.

The bill also identifies circumstances under which the affairs of such a committee may be wound up. Members may request that the Minister direct the taking of a poll on the question as to whether a committee should be wound up. If a poll is held and at least half the votes cast support the winding up, with at least half the members casting a vote, the committee will be wound up. I referred earlier to some concerns that the Opposition has in relation to this bill. Before I refer to those concerns I indicate that this piece of legislation is important for one reason: it is enabling legislation that will allow the imposition of a special levy on producers and the collection of that levy for the administration of the ovine Johne's disease national program.

Honourable members would be aware that this important program is being undertaken by all States, in particular New South Wales. Unfortunately, the disease originated in New South Wales, which has by far the largest number of affected properties and flocks. It is incumbent on us to do the job properly in this State. It is imperative that we do the job properly to enable access to a number of other States that have already closed their borders to New South Wales sheep. This legislation will enable the collection of that levy from primary producers—sheep producers in New South Wales—so that funds are available for the administration of the program.

Leaving aside the bill for a moment, the eventual eradication of ovine Johne's disease is something that I hold dear to my heart. Clearly, far too much inaction over many years has enabled this disease to develop—certainly not at a rapid rate because it not that sort of infectious disease—at a rate that has presented a problem for rural lands protection boards in the southern highlands, the tablelands and southern areas, including the Riverina. This disease will affect us badly in the future if we do not support its eradication. I remind honourable members that it took 27 years to eradicate brucellosis and tuberculosis in cattle. It may well take 20 years to eradicate ovine Johne's disease in our sheep flock. If we do not have the willpower and we do not provide sufficient financial resources to undertake this task, it is likely that the whole program will not succeed.

Farmers whose stock is affected by the disease should receive compensation. They carry an enormous burden for sheep producers in New South Wales and indeed in Australia by having to eradicate the disease and quarantine stock. I have not been able to persuade my Federal or State colleagues in relation to that matter, but I remind the House that in January 1997 the Victorian Government and the Minister for Agriculture in that State provided $1 million in funding to eradicate the disease in 26 flocks in Victoria. That did not get rid of the problem but it was a good commitment by that Government. I would like to see a similar commitment by this State Government to compensate farmers who have to eradicate this disease. In correspondence to me the New South Wales Farmers Association addressed its concerns in relation to this legislation. I will not waste the time of the House going through that correspondence because the Government will address those concerns. I once again thank all those involved for their co-operation. I may make some comments in relation to those matters in Committee.

The Hon. ELISABETH KIRKBY [3.49 p.m.]: On behalf of the Australian Democrats I support the Agricultural Industry Services Bill. I have consulted at some length with and received correspondence from the New South Wales Farmers Association on this legislation. Following discussions with the Government that resulted in changes to the original legislation, the association is more confident that the legislation will be of value across the agricultural sector. In a letter dated 28 May the association stated:

> . . . the Minister entered into negotiations with us, and we have agreed to support the Bill based on the changes that have been made.

In that letter the association also pointed out its concerns. The first was that the legislation could be used to transfer the cost of government services to industry. The association stated in its letter:

> We . . . believe that the proposed amendment to clause 4(5)a on page 15, plus the commitment by the Minister on this issue in his second-reading speech go as close as we can to reaching a desired outcome on this matter.

The second concern of the New South Wales Farmers Association was that the majority of committee members should be elected from constituents rather than be appointed by the Minister. It believed the money being expended would be industry money and, therefore, constituents should have some control over the committee. In response to this request the Minister agreed to insert a new clause 6(3) on page 7, to provide that the

majority of the committee will be elected from constituents rather than be appointed by the Minister. The association further requested that those committee members should be grower constituents, with "grower" defined in the Act. That request was not supported by the Minister, for technical reasons—specifically, that a scheme under this Act may be established by traders or processors who would not support growers being appointed to their committee.

The New South Wales Farmers Association also raised the issue that if traders or processors established a scheme, the impact of any levy would most likely flow on to the growers, and, therefore, they should have some say. In the end, the association decided to accept the amendment proposed by the Minister without the inclusion of the word "grower". Perhaps the association was forced into that position because its concern was valid and its request to have growers on the committee, with or without traders and processors, was reasonable. I hope that the association's failure to secure that amendment will not result in growers being in an unsatisfactory position at some time in the future.

The association stated that if it was clear that a proposal to have traders only on the committee would have a financial impact on growers, then Parliament should take the opportunity to disallow such a proposal. That presumes that a regulation to establish a committee under the Act would lie on the table of both Houses. The association gave an example of fruit agents at Flemington markets who decided to impose on themselves a levy of $1 per box to raise money to promote the markets. Those agents would be the constituents under the Act and would elect a majority of members to the committee to manage the levy funds. It is highly likely that in such a situation the agents would simply transfer the cost of the levy to fruit growers in a reduced price.

In that situation the fruit growers, who would not have a say on the committee, would not be able to debate the levy but would still have to pay. As growers make the least profit from agricultural enterprises, I fully share their concerns. The association's policy director stated in the letter that there is no fail-safe way to get around the problem by means of legislation. Perhaps the Minister will address these concerns in his reply for the benefit of the industry. The final matter raised by the New South Wales Farmers Association was the ownership of assets in the event of the winding up of a committee. The association stated:

> We believe that the amendment that the Minister has agreed to (21(5) on P 23) covers this issue as well as possible, recognising that if there was only a minimal amount of assets to distribute, it could be impractical to divide them up among levy-payers.

The association finally stated:

> Overall, the association is now prepared to support the legislation, recognising as we do that for programs such as the proposed OJD eradication program—

which was mentioned by the shadow minister and Deputy Leader of the Opposition, the Hon. R. T. M. Bull—

> it is necessary for the sheep industry to have some means available to raise funds from industry.

The Deputy Leader of the Opposition said that there had been inaction by previous governments in regard to the threat of ovine Johne's disease. There has also been inaction over the past two years while growers have begged the Minister to do something about the eradication of ovine Johne's disease. There is no doubt that the Government has been dragging its feet. After all, it did not take long to introduce footrot control. I do not know why it has taken so long to introduce and implement measures to assist in the control of ovine Johne's disease. Not only is the control of that disease important, but there is still concern about bovine Johne's disease within the dairy industry, which may be debated in the next piece of legislation.

A levy needs to be imposed on both dairy farmers and sheep farmers to ensure that proper control measures and methods of eradication are implemented. It is possible under the present legislation to raise money from industry by means of a levy. It is very sad, and maybe cynical, to compare the raising of money to assist farmers whose stock may be affected by either bovine Johne's disease or ovine Johne's disease with the funding by the Commonwealth and State governments of $24 million to relocate a football team to the central coast. The amount of $24 million can be found for a football club, but all that the State Government can find to assist farmers whose livelihood may be totally threatened by ovine Johne's disease is $1 million.

Honourable members should reflect on that, particularly as recent statistics show that far more people visit libraries and museums than attend sporting fixtures. I am not saying we should not have sporting fixtures, but with all the other calls on Federal and State government funds, it is sick that they have provided $24 million to relocate a football team. I would go so far as to say that it is obscene.

However, it has happened, and the Bears will be very happy. I wish similar concern was shown for farmers.

The Hon. D. J. Gay: The Bears are getting twice as much as the farmers per annum.

The Hon. ELISABETH KIRKBY: I am not denying that; in fact, I am trying to emphasise it. It is appalling, and I cannot understand where we are coming from.

The Hon. M. J. Gallacher: The Western Suburbs club got another $10 million.

The Hon. ELISABETH KIRKBY: That makes it even worse. It is appalling when we need money for child care, carers, health, community care, the hospital system and schools. We should not be supporting sporting fixtures or sporting teams to that extent when the money given to agriculture in particular is so piddling. I support the legislation.

Reverend the Hon. F. J. NILE [4.01 p.m.]: The Christian Democratic Party supports the Agricultural Industry Services Bill. The bill will create one Act under which a range of services can be provided to agricultural industries, and thereby allow the eventual repeal of a number of existing Acts and orders that currently provide for such services and are under review in line with competition policy and best-practice regulation guidelines. The New South Wales Farmers Association expressed concerns in a letter to the shadow minister for agriculture, the Deputy Leader of the Opposition, dated 28 May 1998.

The letter acknowledged that the association had received co-operation from the Minister for Agriculture, and Minister for Land and Water Conservation and that the Government would move amendments to meet the association's concerns. The amendments will provide that committees will deliver benefits to their proposed constituents; that constituents be represented on committees—an amendment which will render clause 6 consistent with Government amendment 2—that industry members have majority representation on committees; and that there be an orderly distribution of assets in the event that a committee is wound up. The Christian Democratic Party is pleased to support the bill and congratulates the Minister on his ability to achieve that degree of co-operation.

The Hon. R. D. DYER (Minister for Public Works and Services) [4.02 p.m.], in reply: I thank the Deputy Leader of the Opposition and others who spoke in the debate for their support of this measure. I shall refer the comments made by the Hon. Elisabeth Kirkby to my colleague the Minister for Agriculture, and Minister for Land and Water Conservation for consideration. I foreshadow—as Reverend the Hon. F. J. Nile said—that the Government intends to move amendments in Committee which take account of concerns expressed by members of the Opposition in another place and concerns expressed by the New South Wales Farmers Association. The general effect of the amendments is as stated by Reverend the Hon. F. J. Nile, though I shall outline their purposes in a little more detail in Committee. I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Part 1

The Hon. R. D. DYER (Minister for Public Works and Services) [4.05 p.m.], by leave: I move Government amendments Nos 1 to 5 in globo:

No. 1 Page 5, clause 4. Insert after line 23:

(a) the Minister is satisfied that the establishment of the committee's proposed constituents, and

No. 2 Page 6, clause 6, line 34. Omit "(if any)".

No. 3 Page 7, clause 6, line 1. Omit "there are to be elected members and".

No. 4 Page 7, clause 6. Insert after line 19:

(3) More than half of the members of the committee are to be members elected from among the committee's constituents.

No. 5 Page 15, clause 21. Insert after line 34:

(5) In making a recommendation referred to in subsection (4):

(a) the Minister must first consider whether it would be fair and practicable for those assets, or any part of them, to be returned to persons who are, or who have recently been, constituents of the committee and, if so, must recommend accordingly, and

(b) in relation to any assets remaining after the provisions of paragraph (a) have been complied with, the Minister must then consider whether there is any other organisation having the same general objects as those of the committee and, if so, must recommend that those remaining assets be transferred to that organisation or, if there is more than one such

organisation, to each of those organisations in such proportions as the Minister considers appropriate, and

(c) in relation to any assets remaining after the provisions of paragraphs (a) and (b) have been complied with, the Minister must then consider how best those remaining assets can be dealt with in the public interest and must recommend accordingly.

(6) In considering the matters referred to in subsection (5)(a), (b) and (c), the Minister must consult with the members of the committee.

As I said when I replied to the second reading debate, these amendments have been drafted to take account of concerns expressed by Opposition members and by the New South Wales Farmers Association. The association has indicated that it supports each amendment as drafted. The first amendment provides that committees are established to deliver benefits—I emphasise that word—to their constituents. Amendments 2 and 3—amendment 3 is consequential upon amendment 2—require that industry committees include elected members.

The fourth amendment provides that the industry is adequately represented on an industry committee. This is to be achieved by ensuring that the majority of industry committee members are elected from the committee's industry constituents. Finally, amendment 5 provides that there is to be an orderly distribution of assets in the event that a committee is wound up and that unspent industry contributions are retained by the industry for uses similar to those for which they were originally levied. With those short comments I commend the amendments to the Committee.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [4.08 p.m.]: The Opposition supports the Government amendments, which meet concerns that have been raised about the legislation, as documented by the Hon. Elisabeth Kirkby from the Australian Democrats. The first amendment overcomes the potential for a transfer of the cost of government services to agriculture. Concerns were expressed that residual assets of an industry program could be taken by the Government despite the fact that the assets were clearly paid for by the industry. The amendments prevent this from happening. The measure that provides for the composition of the committees recognises that a committee can operate only with a majority agreement of industry participants. The Government amendments meet the three concerns that Opposition and Independent members have expressed.

Amendments agreed to.

Part as amended agreed to.

Bill reported from Committee with amendments and passed through remaining stages.

REAL PROPERTY AMENDMENT BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [4.13 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The aim of this bill is to reform the law of conveyancing by providing a much-needed new mechanism to facilitate the extinguishment of certain obsolete restrictive covenants recorded in the Torrens Title Register. The bill provides the Registrar General with the power to remove a restrictive covenant from title, firstly, in response to an appropriate application and, secondly, in certain carefully defined circumstances. The proposed legislation is the product of the recommendations made by a consultative committee set up by the predecessor of the Hon. Richard Amery, MP, as the Minister for Land and Water Conservation, the Hon. Kim Yeadon, MP, for the purpose of investigating options for the removal of obsolete restrictive covenants from title. The committee was made up of representatives from the Law Society, the Association of Property Conveyancers, the Department of Fair Trading, the Institution of Surveyors, the Department of Urban Affairs and Planning, the Attorney General's Department and the Land Titles Office.

The legislation will allow persons who own land burdened by a restrictive covenant to lodge an application for extinguishment with the Registrar General if the covenant in question is 12 years old and it is of a type that is likely to lose its value over time. A covenant will only be extinguished pursuant to this power once certain procedural safeguards have been observed. Such safeguards are intended to ensure that the persons benefited by a covenant are notified of an application for extinguishment so that they may lodge a caveat to prevent the registration of the application and, if necessary, support their interest in court. The second method for extinguishment will only apply in defined circumstances where the Registrar General can be sure that a relevant covenant is of no practical value or has lost any practical application.

In order to understand the need for reform of the law of restrictive covenants it is necessary to appreciate something of their legal nature and the manner in which they are used. A restrictive covenant is a legally enforceable promise or agreement restricting the uses to which land may be put. The validity of a covenant as an interest in land which will bind successors in title depends on compliance with certain complex rules of law and equity. For example, in equity a restrictive covenant will not bind the successors in title to the original covenantor unless the covenant is wholly restrictive in character and does not impose any positive obligation, such as an obligation to construct a building or expend money. Section

88 of the Conveyancing Act 1919 requires the instrument creating a covenant to set out the land burdened by the covenant and the land benefited by the covenant. The owner of benefited land may sue to enforce a covenant against the burdened owner. A restrictive covenant may be noted in the Torrens Title Register when it is created by, or properly referred to, in a registered dealing or plan.

Three of the most common types of restrictive covenants noted in the Torrens register relate to exoneration of the owner of benefited land from liability for fencing costs, restricting the nature of construction through forbidding the use of all but a certain category of building materials and a prohibition on the erection on any building of less than a certain value. Such covenants were often created as part of a new subdivision either to protect the interests of the developer who retained part of the land being subdivided or to promote the general benefit of the owners through preserving or enhancing the amenity of the area. They are still used, although latterly council planning instruments have tended to usurp their role to some extent.

These three types of restrictive covenant will be subject to extinguishment by application under the proposed scheme because they are by nature the types of covenant which are most likely to become obsolete over time. For example, 12 years after creation of a covenant restricting permissible building materials the restriction is likely to have become more burdensome by preventing the use of new types of building materials which may not have been in use when the covenant was created. In addition once all the houses in a subdivision are built and the character of the area is established the benefit flowing from being able to control the materials used for subsequent building is not as great as it once was. Fencing covenants are also likely to lose their value over time because they commonly protect a developer from making a contribution to the cost of erecting dividing fences, but only while the developer remains an adjoining owner.

Most covenants relating to a required value of structures are expressed in pounds and are clearly no longer relevant. More modern examples of such covenants would be rendered useless by the effect of inflation over 12 years. This measure is much needed and will be welcomed by those involved in conveyancing because the existing methods of releasing and removing restrictive covenants from title have proved to be inadequate in many circumstances. The owner of land burdened by an obsolete restrictive covenant usually has two alternatives for removal. The first is a request lodged with the Registrar General for the removal of the covenant from the register. Such requests must be signed by all those persons who have the right to join in a release of the relevant covenant. In practice it is often very difficult to obtain these signatures as the class of persons who must sign the request may be large, for example, all of the registered owners of an interest in the relevant subdivision.

Alternatively, if the covenant specifies a class of persons who may sign a release it may be difficult to ascertain who falls within this class according to the law. The second alternative is an application for release made to the Supreme Court pursuant to section 89 of the Conveyancing Act 1919. However, due to the narrowness of the grounds for removal and the conservative approach adopted by the Supreme Court in interpreting section 89 such applications are rarely successful, particularly if they are opposed. Even if successful, such court proceedings usually prove to be costly and time consuming.

I will now briefly outline the main requirements for the proposed application for extinguishment of a restrictive covenant. Such an application may be lodged with the Registrar General if the covenant in question is at least 12 years old, of a type that is likely to lose any practical value for the owner of an interest in the land benefited by the covenant after 12 years and it is a building materials covenant, a fencing covenant or a value of structures covenant. If only part of a covenant satisfies these criteria an application may be made in relation to that part only.

Safeguards are proposed which will protect the rights of those who own an interest in a restrictive covenant. The proposed legislation sets up a mechanism for benefited owners to be notified of an application for extinguishment of a covenant. It is envisaged that the Registrar General will either attempt to give notice to all benefited owners or receive evidence by statutory declaration that all benefited owners have been served with an appropriate notice. For two years after the commencement of the legislation a period of notice of at least three months will be required. Thereafter the period of notice required will be at least one month.

The service of notice will provide an opportunity for an owner of land benefited by a covenant or a person with a right arising out of a covenant to lodge a caveat against the application. The availability of a caveat mechanism will allow the person with an interest under a covenant to prevent the Registrar General from granting an application for extinguishment at any time up until the period of notice has expired. The lodgment of a caveat, which currently attracts a fee of $55, will provide a simple and inexpensive method of preventing an application from being recorded.

The amendments provide that the right to lodge a caveat will be lost once the period of notice has expired. This will allow an applicant, by the end of the notice period, to be sure of how many benefited owners have caveated before deciding whether to lodge a request for a lapsing notice to be prepared for each caveat. A limit on the time available to caveat will prevent a caveator from unfairly delaying the recording of an application. It would be unfair for an applicant to be faced with a succession of caveats lodged by different caveators, each lodged before the previous caveat has lapsed.

Once a caveat has been lodged against an application the applicant may take advantage of the existing caveat lapsing procedure to call upon the caveator to decide within twenty-one days either to allow the caveat to lapse or to seek a court order preserving the caveat and the relevant covenant. It is intended that such an order may be obtained from the Supreme Court if it is shown that a caveator who claims the benefit of a restrictive covenant has an interest which amounts to an equitable interest over the burdened land. If a caveator's claim is based on a right found in a covenant to extinguish the covenant or consent to extinguishment then the existence of that right must also be proved, at least on a preliminary basis, before an order extending the caveat may be obtained. The power of the Supreme Court to suspend the lapsing procedure and extend the operation of a caveat is already provided by section 74K of the Real Property Act.

The existing prohibition against abuse of the lapsing procedure through repeated requests for the lapse of the same caveat will apply in relation to all valid caveats against extinguishment applications. An appropriate application may be granted by the Registrar General and recorded in the register once the notice period has expired, subject to any relevant caveat, and the lodgment of evidence necessary to prove service of such notice. A second more discretionary power is proposed which would allow the Registrar General to extinguish a restrictive covenant in whole or in part and record such extinguishment

in the Torrens register where the Registrar General is satisfied that the relevant covenant is of no practical application or value. The Registrar General regularly encounters instances where following the registration of a plan at the Land Titles Office it is patently clear that restrictive covenant notifications on relevant titles can no longer retain any practical value for the owner of the land expressed to be benefited by the covenant.

For example, in situations where all of the land benefited and burdened by a covenant has been consolidated into one parcel, the new owner of the relevant land would not receive any practical benefit from the restrictive covenants which had previously benefited part of the land. Conversely, where a plan of subdivision is lodged for registration it is counterproductive for a notification of a fencing covenant burdening the relevant land to be carried forward and noted on the titles of all the new lots in the subdivision. It may only be appropriate for the fencing covenant to be noted on the titles to the lots on the boundary of the subdivision.

The proposed scheme is designed to achieve a fairer balance between the interests of those who benefit from covenants and those whose lands are burdened by them. The conditions which must be met before the Registrar General may exercise the proposed powers are intended to allow the beneficiaries of a relevant covenant to have a reasonable period to enjoy the benefit of the covenant without allowing the burden of an obsolete covenant to apply forever to the detriment of the community. This legislation will help in the quick, cheap and effective removal of restrictions which have run their course and are now more of a nuisance value. At the same time safeguards are provided to ensure that valid claims against the removal of valuable rights can be enforced in the courts. I commend the bill to the House.

The Hon. D. F. MOPPETT [4.13 p.m.]: The Real Property Amendment Bill is one of a sequence of bills that have been introduced in recent years in an effort to improve and modernise the practices of the Land Titles Office. The Opposition will not oppose the bill; indeed, it welcomes it because it is a practical measure that has the support of interested groups. I understand that in formulating the measures in the bill that expedite in certain circumstances the removal of restrictive covenants, a number of organisations were consulted, including the Law Society of New South Wales, the Association of Public Conveyancers, representatives of the Department of Fair Trading, the Institute of Surveyors, the Department of Urban Affairs and Planning, the Attorney General's Department and the Land Titles Office, which has been deeply involved.

The bill seeks to overcome the burden that restrictive covenants place on land titles when, after a lapse of time, they become anachronistic and inappropriate to modern practice. At present these restrictive covenants can be removed but the processes are cumbersome and expensive. Two methods are available. The first is by application to the Registrar General, but under the existing provisions these applications can encounter major difficulties and are often unproductive. The second is by application to the Supreme Court, though all honourable members would realise that that is an expensive process that may be beyond the means of many people.

This bill overcomes these difficulties by empowering the Registrar General to extinguish certain restrictive covenants, especially where they are no longer of any practical value. This applies only to covenants involving building materials, fencing and the value of structures, and then only where the structures have been in existence for 12 years or more. This will alleviate concern that this may be a short cut to overcome covenants that have been genuinely put in place and are still relevant. An illustration of past restrictive covenants that were put in place on properties in good faith was the requirement to use slate roofing. Shortly after the war that was considered reasonable to maintain a certain building standard. Small supplies of slate are available from Wales when it is necessary to maintain buildings of great historic value, but slate is an expensive medium and much of the slate that is used is recovered from buildings that have been demolished. It is inappropriate for that covenant to remain without review as a long-term requirement.

There was also a common requirement 12 years ago to build in brick or stone, which may have been appropriate at the time. However, it is no longer appropriate, particularly as the purchase of stone poses an insurmountable difficulty for property owners whose properties are subject to this covenant. An example was given in another place whereby land in the Blue Mountains was subject to a covenant that structures erected there must be in timber. In view of the bush fires that have raged over the Blue Mountains, even in recent times, that also would be seen as inappropriate.

Another anomaly that sometimes arises is that the value of an improvement is specified in a covenant. Obviously, to reflect what is seen at the time as a minimum standard for development on a property, and to ensure that a development is sympathetic with other developments and in accordance with the value of property in the area, some covenants are written in what are now outmoded terms. Some even use terminology such as pounds, shillings and pence, and stipulate values as low as the equivalent of £200, which these days would probably only erect a dog kennel. I have studied the bill, and I have been assured that persons who benefit from a protected covenant will be notified when these procedures are to be invoked to the advantage of those who wish to extinguish the caveats. However, it is important that anyone who may be adversely affected is notified, so that a

person who has strong feelings about extinguishment of a covenant may object to that proposal.

It has come to my notice also—and it is very much to my satisfaction—that useful covenants, such as building height restrictions, are not affected or jeopardised in any way by this bill. In many Sydney areas it is not uncommon for covenants to be placed on developments. That is not so in Quambone or Coonamble, where there is no great fear about high-rise buildings obstructing views. However, such covenants are jealously regarded in other parts of New South Wales, and certainly in the area in which I lived in my youth, the leafy suburb of Vaucluse. That whole area has a pleasing, sloping aspect, and people there are extremely concerned about the possibility of high buildings being erected on any property that is sold. It would be wrong if such covenants on building heights could be whisked away in a procedure that in a sense is initiated by an applicant but might not give full consideration to the interests of people on surrounding properties. I think I covered this point in earlier remarks, but for such people I should reiterate that my understanding is that building height restrictions are not covered by this bill.

It is also reassuring that this legislation will not impair the rights of people who, under the Environmental Planning and Assessment Act, believe the lifting of these caveats would jeopardise them, particularly where their objection, for instance, is sustainable because of the anachronistic nature of the lifting of the covenant. Those people will still be able to take action under the provisions of that Act to protect what they regard as their interests. This legislation serves a good purpose in making redress available to people who are unduly burdened by covenants that may have been put in place ages ago but which no longer apply. This legislation will make their lot much easier while not jeopardising in any way the rights and protections of which we should be conscious. So the Opposition will facilitate the passage of the bill through this House this afternoon.

The Hon. R. D. DYER (Minister for Public Works and Services) [4.23 p.m.], in reply: I thank the Hon. D. F. Moppett for his support for, and comments regarding the merits of, the bill, which I am happy to commend to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

DAIRY INDUSTRY AMENDMENT (TRADE PRACTICES EXEMPTION) BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [4.25 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 1997 the Government undertook a review of the Dairy Industry Act 1979 under which the Dairy Industry Corporation is constituted and which regulates the New South Wales dairy industry. The review was undertaken to meet the Government's obligations under the competition principles agreement, which forms a part of national competition policy, to which the Government is committed. The report of the review, which I released on 19 May, contained a number of recommendations, however only three of these would require legislative change. The primary recommendation of the majority of the review group was that the current pricing and supply management arrangements for milk should remain in place, subject to further review by July 2003. The Government accepts this recommendation and in consequence the present bill is before the House today.

Before I deal with the bill, it is helpful in understanding the possible impact of any interference with the existing pricing and supply management arrangements to examine briefly the history behind the Dairy Industry Act and the importance to the State of the current New South Wales dairy industry. Ownership of all milk produced in New South wales is formally vested in the Dairy Corporation. In order to ensure that the Dairy Corporation has sufficient milk to meet demand it issues milk quotas to farmers. The quota is a contract between the corporation and the farmer to deliver each week a set quantity of milk. Ninety-five per cent of New South Wales dairy farmers hold quotas, which are tradeable through a quota exchange.

Farmers are restricted to supply designated milk factories, which act as the corporation's processing and selling agents. The corporation sets the gross price to producers and the processing input prices for liquid milk. The New South Wales pasture based system of milk production is highly seasonal: a cow produces her maximum level of milk six weeks after calving, and farmers co-ordinate breeding with pasture growth in order to maximise output and minimise costs. As a result, milk yields peak in October-November and are relatively low in the winter months. However, although milk production is seasonal, consumer demand for fresh milk is relatively stable.

It was because of this need to ensure a stable supply of fresh milk to consumers that the present price setting and supply management arrangements were originally put in place. These arrangements are designed to ensure that the seasonal surpluses and deficiencies in supply of fresh milk, which were a common feature of the industry prior to the orderly marketing arrangements being put in place, do not occur. The Government believes that at the present time this objective far outweighs any theoretical advantages that might be gained from a deregulation of the industry.

While economic theory might suggest that price setting and supply management arrangements are a bad thing, in fact even national competition policy recognises that such practices are justified where the benefits of restrictions to the community outweigh the costs. This is referred to in terms of competition policy as a net public benefit. The competition principles agreement, to which New South Wales is a party, provides specifically for regard to be had to considerations other than strictly economic criteria in assessing whether, on balance, there is a net benefit to the community resulting from the conduct under consideration. The question of assessing the relative benefits of conduct which might be seen as contrary to competition policy is largely a matter for the Government. The House of Representatives Standing Committee on Financial Institutions and Public Administration recognised this when it said:

> In a sense . . . the whole process of competition policy reform is a public interest one. In making decisions on competition policy reform, governments are acting in the broad public interest as they see it. The importance of a factor always will depend on the circumstances of a particular case.
>
> Competition is to be implemented to the extent that the benefits to be realised from competition outweigh the costs.

In the case of the New South Wales dairy industry the Government faced a difficult decision in considering its attitude to the continuation of the pricing and supply management arrangements. But, at the end of the day, the lack of any assured benefits to consumers from deregulation, and the risk to regional economies, both farmers and downstream processors, meant that the Government was not persuaded that a net public benefit would result from the deregulation of the industry at this time.

So, it might be asked: what would be the risks to regional economies if the dairy industry were to be totally deregulated? The New South Wales dairy industry is the fifth largest rural industry in the State, with the value of milk production at the farm gate in 1996-97 being $430 million. The total value of dairy production in the State at the wholesale level is around $1.4 billion. In 1995-96 the State dairy industry comprised 1,853 dairy farms. There were, in the same period, nine companies operating receival or processing factories, 75 dairy product factories, and 210 milk distribution depots. The Government believes that much of this milk production, distribution and processing structure would be at risk if the industry were to be deregulated in an ad hoc fashion and without any time for appropriate adjustments to be made. The potential adverse impact on employment prospects in all levels of the industry could be devastating, particularly on a local and regional level.

Notwithstanding the valuable work done by the review group in attempting to assess the economic consequences of the present pricing and supply management arrangements, and the likely consequences of the removal of such arrangements, the Government is of the view that the benefits which flow to the State economy, as a whole, from such arrangements outweigh the expected minimal price advantage which might flow to consumers with the removal of such arrangements. The Government is not persuaded that a net public benefit would result from the deregulation of this stable and efficient industry. In 1979, the year in which the present Dairy Industry Act was passed, the then Minister for Agriculture said:

> The Government's objective is to establish a solid base of prosperity in all the dairy industry, based on equity for all. I see the establishment of a single, unified dairy industry across the whole state as the major achievement . . .

Having achieved this objective, the Government does not believe that the dismantling of the stable, regulated industry structure, and the public benefits that flow from it and which could not otherwise be achieved, will result in a net public benefit to the people of New South Wales. Accordingly, the Government has decided to support the majority recommendation of the review group and to allow the present pricing and supply management arrangements for milk to continue for a further five years. The Government will, however, review its decision before 2003 if one of either two circumstances should occur. These are:

> Firstly, if there is any significant change in market conditions which may have an adverse impact on the New South Wales industry (for example any early deregulation of the current market milk arrangements in Victoria); or
>
> Secondly, if the Commonwealth Government should decide, as a consequence of the New South Wales Government's decision, to withhold a significant and ongoing component of the payments to which the State is entitled under the relevant agreement relating to the implementation of competition policy.

Not that I believe that any withholding of such competition grants would be justified. Social welfare and equity considerations, together with matters of economic and regional development, including employment, are matters which the competition principles agreement specifically provide may be taken into account when the benefits of a particular course of conduct having competition policy implications are to be balanced against the costs of that conduct. It is precisely on these grounds that the Government has made the decision that it has in relation to the New South Wales dairy industry.

However, although the course proposed by the Government can be justified, in my view, in terms of competition policy, it may be that certain of the actions which may be allowed under the Dairy Industry Act would be seen as restrictive trade practices in the terms of the Commonwealth Trade Practices Act. Such actions are presently authorised under the terms of a regulation made in 1996. The protection afforded by the regulation will however expire on 21 July this year and cannot be renewed by regulation. Section 51 of the Commonwealth Act provides that anything that is authorised by a State Act is to be disregarded in deciding whether a person has contravened part 4 of the Commonwealth Act, which relates to restrictive trade practices. The thing that is authorised under the State Act will not be a restrictive trade practice within the terms of the Commonwealth Act. This is the purpose of the bill. It continues the protection from the Trade Practices Act which is presently provided by the regulation. The protection will, however, expire on 21 July 2003. The bill has a sunset clause which will ensure that this happens.

It is the Government's intention that prior to the expiry of the protection offered by the bill there will be a further review of the dairy industry and a decision will be made at that time whether or not the pricing and supply management arrangements for milk will be permitted to continue beyond that date. In the meantime the Government will keep the situation under review and will, as I have said, reconsider its decision if there is any significant change in market conditions which may have an adverse impact on the New South Wales industry.

While the Government's decision may be a disappointment to those who argued for the deregulation of the industry, I am sure that it will be seen by the majority of consumers and dairy industry people alike as a necessary step to ensure the continuation of the stable and efficient dairy industry which we have in this State. The Government's decision is one made on sound economic grounds and is consistent with competition policy principles. I commend the bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [4.26 p.m.]: The Opposition supports this bill, which will allow milk quotas to survive in New South Wales for another five years. The Opposition has been on the record for more than 12 months supporting dairy farmers being allowed to continue to operate in their regulated environment and to continue to have milk quotas for their whole milk. This is a critical issue for dairy farmers because without the whole milk market their livelihoods would be at risk, given that the premium for whole milk is some 20¢ higher than the price obtainable for manufacturing milk, that is, milk that is used in the making of cheese and other by-products of milk. So it was important that dairy farmers continue to have that protection.

I took it upon myself, as shadow minister for agriculture, to write to the inquiry set up to review the dairy industry and indicate my position and that of the Opposition. That position is that the quota arrangements should continue. I received an appropriate acknowledgment from the inquiry. I would like to think that my submission and that of the Opposition had some influence on the outcome of the inquiry. However, we still do not know what the inquiry actually recommended because the Government is keeping the recommendations to itself. I have a hunch that the inquiry might have recommended that there be some deregulation over a number of years. However, we are not to know that; all we know is that the Government had the right to decide to accept the recommendations of the inquiry, to not accept the recommendations of the inquiry, or to make whatever decision it wished. Of course, the Government has arrived at the decision that milk quotas and the present quota system should continue.

I would like to raise one or two issues. The first is that the inquiry concluded its report about the end of November last year. The report has been with the Minister since then until a few weeks ago, when the final decision was made. In other words, the Minister had the report for six months but did not make a decision, regardless of the livelihoods of dairy farmers and the concerns that dairy farmers have had for that period of time. To fail to make a decision for six months was an instance of justice delayed being justice denied in respect of the livelihoods of dairy farmers. I am yet to hear an apology from the Government or the Minister on why they let the industry hang out to dry for six months instead of making a decision last December.

Quite frankly, government does not finish at the end of November, when this House goes into recess for three or four months. Quite clearly, a decision could have been made by Cabinet at one of its December meetings; it could have been made at one of its January or February meetings. That was the expectation of the industry. But, for some extraordinary reason the Government and the Minister delayed and prevaricated on this issue for six months. Every dairy farmer in New South Wales would have been in a state of anxiety during that time, wondering whether their livelihoods would be destroyed or whether they would survive. I welcomed the decision that was finally made. In fact, I issued a press release welcoming it. I am sure that every member of this House welcomed it.

However, it is a clayton's decision because it is conditional on two aspects. First, it is conditional on market conditions not changing. Perhaps a Government member could explain precisely what that means. One would assume that market conditions will change over the next five years. Reading between the lines, I take it that a decision by the Victorian Government—which is presently holding an inquiry—to regulate over the next five years will change market conditions in relation to whole milk and will allow the Minister or the Government to welsh on this five-year agreement. Second, the decision is conditional on whether the Commonwealth Government punishes or penalises the New South Wales Government for not delivering on Hilmer reform or denies it further funding.

All honourable members know that some funding is available to States that can deliver on Hilmer reform. One would assume that if the New South Wales Government has not delivered on Hilmer reform it may be denied further funding from the Commonwealth Government, which would put at risk the five-year agreement. In other words, if the State is penalised by the Commonwealth, one would assume that the State will not honour the five-year agreement to the milk industry. Again it is up to the Government to explain exactly what it means.

A decision to allow the quota system to continue for the next five years, conditional on two important aspects that are quite likely not to be met, means that New South Wales dairy farmers will still worry about whether the Commonwealth Government will welsh on its agreement and announcement. The Opposition supports the

legislation as it believes it is important to allow the dairy farmer quota system to continue without attracting the provisions of part 4 of the Trade Practices Act, which would not allow these arrangements to continue. The legislation needs to be put in place—as was done two years ago to allow the industry protection while this inquiry took place—for the next five years for the industry to continue with its quota system. I hope that the Government will assure the House that the conditions it has placed on this decision will not be triggered at the earliest opportunity, and that a change in market conditions will not simply tear up the decision that has been reached. I hope the Government will also assure the House that if the Commonwealth Government does not deliver on all the funding that is available to those States that have delivered on Hilmer reform the decision will not be welshed on.

New South Wales dairy farmers deliver a high-quality product at a very competitive price. Consumers of the product do not complain about its quality or price. This important issue reminds us that Hilmer reform means economic rationalism. I subscribe to the general philosophy of Hilmer reform. One must consider each industry and each issue individually and make decisions based on the merits of each case. The real merit in arguing Hilmer reform is whether there will be a public benefit. Obviously, there is no public benefit in destroying the mechanism of the quota system which is available on whole milk in New South Wales. For that reason, the Government has done the right thing. I hope the Government will release the report that was prepared by the Hilmer review committee as it should be available for all to see. I hope the Minister addresses three issues in his reply: When will the report be released? Will the Government comment on the conditions that have been placed on this decision and the likelihood of those conditions either being met or not met? Will the quota system announcement be terminated?

The Hon. I. COHEN [4.35 p.m.]: The New South Wales Greens support the Dairy Industry Amendment (Trade Practices Exemption) Bill. We believe that it has been found, upon review, that deregulation does not serve either consumers or dairy farmers well. The Greens congratulate the Minister for Agriculture on his support for a more balanced approach to competitiveness. The Minister stated that social welfare and equity considerations, together with matters of economic and regional development, including employment, are matters which the competition principles agreement specifically provides may be taken into account when the benefits of a particular course of conduct having competition policy implications are to be balanced against the costs of that conduct. No-one should mistake the Greens support for this bill for their more general support for the current practices of the dairy industry in general. However, the Greens recognise that industries only address inadequate and damaging industry practices if they are actively encouraged to do so.

Waste reduction and drainage of flood plain lands—that is, wetlands—are two areas of concern to the Greens in relation to New South Wales dairy industry practices. The State Waste Advisory Council has received the dairy industry waste reduction paper. The Nature Conservation Council has produced a report to dispute some of the central claims made by the dairy industry waste reduction paper. Waste can be tackled effectively in three major ways: reduction, re-use and recycling. Bulk milk dispensing has proven to be successful in reducing waste. Frilich, a company which distributes bulk dispensing systems, has sold more than 6,000 bulk dispensing systems throughout Germany. Both the German and Austrian armies use the bulk milk system. In Sweden and Holland bulk milk is distributed throughout the school system, and in England bulk milk is used in the catering trade.

With regard to waste re-use, the industry has not made a commitment to the concept of refillables. In South Australia a deposit on refillables ensures a return rate of between 84 and 97 per cent. Trippage rates for refillables were found to be between 25 and 27 trips per glass container. Similar rates of return were catalogued in Germany. In England the dairy industry federation indicates that the trippage rate in rural areas is approximately 60 trips per container. The United States uses polycarbonate bottles, which make, on average, 100 trips per container. Some people claim that consumers will not participate in a refillable program, a claim that is dubious and disputed by the current participation rates in South Australia. In Western Australia 34,000 people signed a petition calling for the return of the refillable container. A survey of consumer attitudes towards packaging found that the majority of people in South Australia believe that the beverage container legislation is effective in reducing litter and that refillables are a superior form of packaging. Local governments and waste services are currently finding that their recycling infrastructure and an adequate market have not kept pace with consumer participation in kerbside recycling schemes.

It is apparent that refillables would be a success in New South Wales, based on its current participation in recycling and the experience in South Australia. A successful refillable strategy

requires effective community consultation, education and advertising. People should be consulted about the features they are looking for in a refillable service, the advantages of using refillables, clear marking of packaging and effective services. The economics of refillables have been misrepresented by the industry, which claims refillables will cost more than 4¢ per litre than one-way containers. However, the dairy industry federation of Leicester found that refillable glass containers cost 7.5p over a number of trips, which compares with 4.5p per pint for plastic and 3p to 5p per pint for paper cartons. Refillable glass containers are cheaper when considered on the basis of one trip. On average, refillables involve 25 to 27 trips, making them a far better economic prospect in relation to trip costs alone. When the reduction in production costs and waste disposal fees are factored in, refillables are a far better economic prospect. One-way packaging has seen a corresponding decrease in employment, whereas the refillable industry has an estimated potential of 3,000 jobs for New South Wales.

The New South Wales Government has a self-imposed legislative target of a 60 per cent reduction in per capita waste by the year 2000. Unless the New South Wales Government requires industries such as the dairy industry to implement waste reduction strategies rather than carry out superficial waste audits, no real change in industry practices will occur. As one of the largest and most prolific suppliers of waste, the dairy industry should have been targeted as a priority by the New South Wales Government and given incentives to change its practices. The dairy industry waste position paper is a triumph of apathy and self-interest, and should be completely overhauled by the waste service if the New South Wales Government has any intention to deliver on its legislative target. The problem area for the New South Wales dairy industry is flood plain drainage. Much of New South Wales dairy farming occurs on flood plain lands adjacent to major coastal rivers. An ad hoc system of drains, floodgates, weirs and other structures impeding tidal flow have locked salt water out of coastal wetlands, resulting in wholesale reduction of the salt marsh, mangroves and wetland communities that were the engine rooms of coastal bird, fish and crustacean populations.

Farmers, including dairy farmers, are required to maintain these drains under the outmoded Drainage Act 1939. However, the Protection of the Environment Operations Act 1997 makes the pollution of waterways an offence. Dairy farmers and other cultivators of flood plain land are caught between a rock and a hard place. Under outdated legislation they are required to dig drains that result in acid sulphate run-off from their properties discharging into waterways. This inappropriate situation has been brought to the attention of the Minister for the Environment, the Minister for Land and Water Conservation, and their relevant departments. Every time it rains, acid run-off discharges into coastal rivers, killing fish and causing long-term stress on the riverine environment. Farmers are potentially liable under current legislation. The New South Wales Government needs to address both waste reduction and acid drainage as they relate to the dairy industry. The bill is supported by the Greens, but the dairy industry obviously needs more guidance to prepare an adequate waste reduction strategy. A legislative solution is needed to solve the problem of coastal drainage.

The Hon. A. B. KELLY [4.42 p.m.]: I support the Dairy Industry Amendment (Trade Practices Exemption) Bill. I congratulate the Premier, the Minister for Agriculture and the Government on listening to the dairy industry. The bill has received support from the industry. George Davey of the Dairy Corporation said:

> This is a great result and the decision recognises the significant investment that has been made by farmers and processors throughout New South Wales to make the dairy industry what it is today. It is a vote of confidence by the Government in the New South Wales dairy industry.

Reg Smith, President of the New South Wales Dairy Farmers Association, said that it was a fantastic result for the New South Wales dairy industry. The decision to maintain regulation will protect regional jobs and assist regional development, and was strongly supported by a number of groups, including the Australian Labor Party Caucus and rural policy committee. In the past two months the New South Wales rural policy committee wrote to Richard Amery urging that this course of action be taken. He quoted the New South Wales rural policy committee's policy, which was reaffirmed in Muswellbrook last weekend, which states:

> The Conference calls on the Carr Government to reject Hilmer recommendations on National Competition Policy Reform because of the devastating effect on rural and regional communities unless it can be clearly shown that they are of benefit to those communities.

Most people in country New South Wales would adhere to those policies. The decision will allow dairy farmers to plan for the future with greater certainty. However, the national competition council may penalise the New South Wales Government by cutting national competition payments. I ask members of the National Party to encourage their Federal counterparts not to penalise New South Wales for this very good decision.

The Hon. R. T. M. Bull: What happens if they do?

The Hon. A. B. KELLY: The Deputy Leader of the Opposition has commented numerous times on why the decision took so long. Pro-competition forces in the bureaucracy sought to delay the decision for 12 months in the hope that there would be a change of government and the coalition would then support deregulation. However, it is my hope that by delaying the decision by five years a new economic theory may arise and the national competition policy will not be on the rise, but rather on the wane. Had the New South Wales Government not taken this stand against senseless deregulation, 550 dairy farmers would have lost their jobs, with disastrous flow-on impacts on their families and communities. By deciding to retain the current regulation, the Government has not only saved 550 jobs, but it has offered security to the 1,800 dairy farmers and the 12,000 people who are employed directly in the dairy industry.

The Dairy Farmers Association estimated that deregulation of farm-gate supply would have led to a 25 per cent reduction in farmers' incomes and up to a 30 per cent reduction in productivity. Despite these potentially drastic cuts, there was no guarantee that deregulation would have any benefits for consumers, with most of the gains to swell the profit margins of large retailers. New South Wales dairy farmers are notoriously hardworking and dedicated. In fact, dairy farmers are probably the hardest working of all farming families. They put in long hours, not just during cropping or harvesting times, but every day of the year. Cows do not have Saturdays and Sundays off or work to seasons. New South Wales already has the lowest priced milk to consumers, and farmers receive the best returns for their efforts.

Throughout the lengthy national competition review process, all sectors of the industry provided an enormous input. More than 1,300 people attended regional meetings on national competition issues, and all sectors of the industry stood together to support the regulated system. Jim Forsyth, Chairman of the New South Wales Milk and Dairy Products Association, and Chairman of the New South Wales Dairy Industry Conference, was a member of the national competition review committee. He was very pleased for the dairy farmers of New South Wales who, in turn, should be very appreciative of the support shown by the New South Wales Government by its decision. Mr Forsyth called on other States to follow the lead set by New South Wales.

The New South Wales dairy industry is the first to undergo national competition policy review, and the result should set the benchmark for other States. The Federal Government has threatened to withhold funding from States as a means of forcing broad-scale regulation, regardless of the cost to the community. The New South Wales decision to stand by its dairy industry was made in the best interests of the State. I call on the Federal Government to respect these interests and not to retaliate against New South Wales by cutting funding to this State. New South Wales should not be punished for supporting its dairy farmers and farming communities. I call on all honourable members to support the bill.

The Hon. ELISABETH KIRKBY [4.48 p.m]: I, too, support the Dairy Industry Amendment (Trade Practices Exemption) Bill. The background to the bill is that a review group was set up to provide specific exemption from part 4 of the Commonwealth Trade Practices Act for the continuation of price setting and supply management arrangements for milk under the Dairy Industry Act 1979 until 2003. The principal majority recommendation of the review group was that the price setting and supply management arrangements for milk should continue. The review group was not able to demonstrate definitely that deregulation of the farm-gate price would lead to a significant reduction in retail prices due to the possibility that some of the margin currently received by farmers would be captured by processors and retailers and would not be passed onto consumers. This most certainly would have happened, and in fact it will happen unless we approve this legislation.

From listening to country radio I know that major retailers have made it clear that they will buy milk in bulk from only two sources in New South Wales. Major retailers—supermarkets such as Coles and Woolworths—control 60 per cent of the milk market. The New South Wales milk industry has suffered badly as a result of economic rationalism and restructuring. Many dairies have already shut down, in particular dairies in the Hunter region. It is sad to drive through towns such as Dungog and see milk factories boarded up with broken windows. The flow-on effect of dairies closing in towns such as Dungog has meant that many families have had to leave and turn to other industries elsewhere. It has also exacerbated the flow of young people to the cities, a trend that appears to be increasing.

Competition policy may be a fine theory in principle, but in reality rural jobs have been lost in their thousands, and the domino effect has seen the

closure of schools, banks, hospitals and the provision of medical services. Such simple decisions, or apparently simple decisions, see the loss of machinery sales yards and workshops, services and all the people who provide them—not just the families operating dairies across the State but the tanker drivers and their families and dairy factory workers and their families. How long will it be before we import bulk milk from New Zealand simply because it is cheaper? It sounds absurd but it may be that, because of economic rationalism, one day this will become a reality. In this case at least this legislation can be justified under the national competition policy because the benefits of restrictions to the community outweigh the overall cost of further job losses in rural New South Wales dairying districts

As I said earlier, supermarket suppliers of milk will benefit, but for the miserable couple of cents per litre that may be saved by the consumer many more dairy farmers in New South Wales will go to the wall. Small businesses, such as service stations and newsagents, who rely on those few cents—as do farmers—to keep their businesses afloat would also suffer further declines in patronage and profits. These days petrol stations probably make more money selling groceries, milk and soft drinks than they do selling fuel. All those people would face difficulties and further jobs could be lost. In my opinion, another five years breathing space is justified. My research assistant, Simon Disney, who began his varied career as a dairy herd manager and later worked as a tanker driver and a wholesale milk vendor delivering to supermarkets, schools, shops and hospitals, knows about and has seen the considerable job losses in this industry and the devastating effects restructuring has had over the years.

The Australian Democrats support this legislation and firmly believe that paying a cent or two more for a litre of milk is something that most reasonable city dwellers, even pensioners, will happily pay if it keeps dairying families on the farm and off the dole. Most dairying families are too proud to take the dole anyway, unless they absolutely have to take it. But as we hand over our extra cent or two next time we pay for a litre of milk and splash it over our cornflakes, we should spare a thought for the person who gets up three or four hours earlier than we do each morning to ensure that tomorrow's milk is in the refrigerator for us and our children. Their children will really thank us.

The Hon. R. S. L. JONES: [4.54 p.m.]: I am probably the only member in this House who opposes the legislation because I believe the dairy industry should be subject to competition policy. However, I understand why the Government has introduced this legislation. It is clearly aimed at getting country votes because the National Party is in disarray in some areas and its vote has now collapsed in Queensland. The Government is behaving like the National Party would do if it were in government—it is keeping in place these 550 jobs and it is not allowing the winds of competition to blow through the country. If there were proper competition within the dairy industry and it was not propped up artificially, which is what this legislation will do over the next five years, dairy farmers would have an opportunity to move into other industries. In my area, for example, we are surrounded by dairy farmers who are gradually moving to alternative crops which are providing a far greater return.

I have been trying to tell my neighbours what to do with their land in order to obtain a far higher return. The crops that they could plant would be ecologically sustainable, whereas dairy farms, in the main, are not. Most farms in my area have very few trees because they were cleared 60, 70 or 80 years ago and farmers have since provided very little in the way of habitat. If farmers turned to bush foods, for example, backhousia citriadora, they could obtain a far greater yield with that native plant than they could obtain with cows. I had hoped that the review would show that current pricing and supply management arrangements should not remain in place for the next five years. I believe that competition policy is healthy for all industries. All that the Government is doing is delaying the inevitable. Inevitably competition will blow through and farmers who are not efficient now will go to the wall anyway in three, four or five years time. So it would be appropriate for them to use this breathing space to move out of dairying whenever they can and into other crops which would provide a far better return.

In my area I have proved that dairy farmers can obtain a much better return if they plant crops. They will do far better in the long term. I encourage dairy farmers to use this breathing space to plant crops. Dozens of people on the land have written to me asking me about these crops. I have assisted them whenever I can and I have told them what sorts of plants and trees to grow. One Australian Democrat who wrote an abusive letter will not find out what those plants and trees are, but I will assist other people whenever I can to plant new crops which will provide them with a much higher yield. I do not support the legislation but I say to dairy farmers who are making a meagre living out of dairying in the main that they could make far more

money out of crops. The sooner they realise that the better. We must stop propping them up with artificial props such as this legislation. I hope that they realise that before too long and use their land for much better purposes.

The Hon. Dr B. P. V. PEZZUTTI: [4.59 p.m.]: I participate in this debate because this legislation is important for all those living on the north coast. Dairy farming is—and will remain—one of the largest primary industries on the north coast. The quality of products of milk producers on the north coast rivals that of all other producers in New South Wales in their percentage of butter fat and protein. I hope that situation prevails. I like to drink high-quality milk whenever I can. I know that other honourable members have referred to their pedigrees, but I come from two families of dairy farmers.

My grandfather had a dairy farm on which he raised 13 children in the Nambour-Pomona area. My other grandfather moved from New Italy to a farm at Nashua. My father and his brother also had a dairy farm. Those dairy farms, which were highly productive, supplied butter to England. Our manufactured milk and the quality of our cream were well known. Norco butter, which was the name on every table in the United Kingdom, was shipped to the United Kingdom in container loads. It was a mini-disaster when Britain entered the European Economic Community, because Australia was precluded from its market, and Doug Anthony advised the industry to get big or get out. At that time north coast dairy farmers were precluded from access to the fresh milk market in Sydney, which was exclusively serviced by a cartel based in the Hunter Valley and the Illawarra.

The Hon. J. R. Johnson: Don Day fixed that.

The Hon. Dr B. P. V. PEZZUTTI: I will get to that. When I was a student at Sydney Hospital I saw the demonstrations outside Parliament House, and north coast milk was being illegally marketed on the streets for a shilling a quart. At the time Sydney people were paying 1/3d for a quart of milk. But at a shilling a quart the north coast farmers would have made a substantial profit. In other words, because of the exclusion of the north coast dairy farmers, the people of Sydney were being denied the best quality and best priced milk. That situation was remedied by Don Day, the Minister for Agriculture under the Wran Government. He was the man who made Wran Premier—I do not know whether he regrets that now. But he certainly did a good job of opening up the Sydney market to the best quality product, that is, the product from the north coast.

North coast farmers had to buy quotas to sell into the Sydney market. Under the orderly marketing that existed at that time, and still exists today, they knew how much milk to produce for the fresh milk market and for manufacturing. There is a vast difference in the price the farmer receives for the two types of milk. The north coast processors are among the most reliable and high-quality milk producers throughout the year. If the dairy industry were deregulated tomorrow, we would face a huge flood of milk from Victoria during summer—Victoria processes a vast amount of milk, although only 10 per cent is for fresh milk consumption. However, in the winter it produces very little fresh milk. That cyclical supply would unsettle the whole marketing process.

At the end of five years, unless other changes occur, there will be deregulation and a need to sort out marketing in an orderly fashion, as has happened in New South Wales to date. We have undergone the process of the post-factory regulation, which has not resulted in enormous value to consumers at the supermarket or corner shop. The most recent changes have increased the price of milk at the supermarket but the milk producers have not received a cent extra. Three or four days ago I heard a senior executive of Dairy Farmers say on an ABC radio program that in the future there would be a decrease in the number of manufacturers—that is, the number of processors of both manufactured and fresh milk—and a decrease in the number of wholesalers. He said that Dairy Farmers had just lost its Woolworths contract but had picked up Coles and Bi Lo contracts, so there was no net loss. He made the point that the industry is going through a big change and the big sellers, the supermarkets, want to deal with a smaller number of high-volume producers, such as Norco and Dairy Farmers.

The Hon. J. R. Johnson: And Pauls Dairy Products?

The Hon. Dr B. P. V. PEZZUTTI: That has just been bought out by Italians.

The Hon. J. R. Johnson: Some of your mob.

The Hon. Dr B. P. V. PEZZUTTI: Yes. It is interesting to note that, according to the Dairy Farmers spokesman, some of the small co-operatives will not be able to survive more than one year. A lot of restructuring is still going on under pressure from the big processors because the buyers, the wholesalers or supermarkets, are large market forces

these days. For example, even though local people may remain loyal to a co-operative based at Kempsey for a time, they will not be able to buy the local product at the supermarket because its milk is bought nationally. As more people shop in large supermarkets, even in rural centres such as Kempsey, the amount of fresh milk able to be effectively marketed to consumers drops and the smaller producer goes under. We have seen large-scale restructuring on the north coast. Norco Co-op Ltd, which has traditionally been one of the big operators, is getting even bigger with the amalgamation of co-operatives and the take-over of other processors.

The Hon. J. R. Johnson: Like Foleys.

The Hon. Dr B. P. V. PEZZUTTI: That was a long time ago. I am concerned that an effective and efficient dairy farm on the north coast will face unreasonable competition unless it can work its way through this process over the next four years. I am interested in this competition policy. The Hon. Elisabeth Kirkby said that we could buy milk from New Zealand. New Zealand butter is sold on the north coast. When the previous Government deregulated certain industries, such as the egg industry, the Government bought out the quotas.

The Hon. J. R. Johnson: The Federal Government?

The Hon. Dr B. P. V. PEZZUTTI: No, the State Government, under Mr Greiner, deregulated the egg industry but bought out the quotas, which were the entry criteria for existing producers. After the quotas were bought out, it was then open slather with the usual controls on quality. The Government has two options here. It could either give notice that the process will come to an end in five years—which will mean that at the end of five years the quotas, which cost a considerable amount, will be worth nothing—or do what the Greiner Government did and buy out the quotas, and then have open slather. If that was done, the dairy farmers who had bought the fresh milk quotas might get their money back but there would not necessarily be reliable, high-quality provision of milk to the market.

During summer the north coast might face an onslaught from Victoria. Its industry produces buckets of milk in the summer but the production dries off in winter because there is no feed. The price of milk to the consumer would vary widely because of the unstable circumstance. The consumer would not be able to buy constant quality at a relatively constant price throughout the year. Milk is one of the high-quality food products available on the market. It is a prime source of calcium for women and of both essential amino acids and protein for children.

Australia has a high-quality milk production and marketing process. We are clean and green. Our market into Asia is stable and growing, and I hope that the current problems in Asia do not interfere with that. I would like much more research into, and government support for, production of high-quality cheeses. I am sick of buying camembert cheese that is made overseas. God knows where it is made and who checks that it does not contain some of the things that exist in Europe. I know that if it was made in Australia it would be much more reliable and probably much healthier. With those few words I welcome the amendment to the Act to allow another five years for the ongoing restructuring of the milk industry. I hope that we can find a solution which is equitable for farmers, producers, manufacturers and consumers.

Reverend the Hon. F. J. NILE [5.11 p.m.]: The Christian Democratic Party supports the Dairy Industry Amendment (Trade Practices Exemption) Bill. The object of the bill is to ensure that during the five-year period commencing on 21 July 1998 certain aspects of the current government milk marketing arrangements in New South Wales administered by the Dairy Corporation do not contravene part IV of the Trade Practices Act 1974 of the Commonwealth and the competition code of New South Wales. I am pleased that the bill has come before the House because the community was alarmed at the prospect that the government would not continue present marketing arrangements. According to some commentators, this would result in milk prices almost doubling, putting a lot of economic pressure on society, particularly families with children. The Government has shown leadership in this area. I acknowledge the present policies to ensure competition but I do not believe that we should blindly follow the path without being sure that there is a positive benefit. Having assessed the economic and social impacts, the Government has introduced this legislation.

Ownership of all milk produced in New South Wales is formally vested in the Dairy Corporation. To ensure that the Dairy Corporation has sufficient milk to meet demand, it issues milk quotas to farmers. The quota is a contract between the corporation and the farmer to deliver a set quantity of milk each week. In New South Wales 95 per cent of dairy farmers hold quotas, which are tradeable through a quota exchange. Farmers are restricted to supplying designated milk factories, which act as the corporation's processing and selling agents. The

corporation sets the gross price to producers and the processing input prices for liquid milk. This helps to provide stability to the dairy industry in this State. All members have been concerned about the number of farmers that have gone out of business in New South Wales because their farms have no longer been economic. Without the present marketing arrangements in place, the same thing could be happening in the dairy industry. In a chaotic marketing system dairy farmers would not have a guaranteed price for their products and would go broke.

The system of milk production is highly seasonal. At some times there is high milk production and at others, particularly in winter, milk yield is low. The Dairy Corporation is able to ensure a stable supply of fresh milk to consumers. That is why the present price setting and supply management arrangements were put in place. The Christian Democratic Party is pleased that the Government has shown commonsense in this matter. I note that the House of Representatives Standing Committee on Financial Institutions and Public Administration acknowledged:

> In a sense . . . the whole process of competition policy reform is a public interest one. In making decisions on competition policy reform, governments are acting in the broad public interest as they see it. The importance of a factor always will depend on the circumstances of a particular case. Competition is to be implemented to the extent that the benefits to be realised from competition outweigh the costs.

In this case the Government has made the right decision by continuing the current system. To do that it requires an exemption from the Trade Practices Act. The bill will help the dairy industry to continue being a successful part of New South Wales primary industry. The value of milk production at the farm gate in 1996-97 was $430 million. The total wholesale value of dairy production in the State is about $1.4 billion. In 1995-96 the State dairy industry comprised 1,853 dairy farms. The bill is important and will provide stability to the dairy industry in this State, and the Christian Democratic Party is pleased to support it.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.17 p.m.], in reply: I thank all members who have spoken in the debate, particularly those who have supported the bill. I shall respond briefly to comments made by the Deputy Leader of the Opposition. The report referred to is available through the Department of Agriculture or the office of my colleague the Minister for Agriculture, the Hon. Richard Amery. I am advised that delays in the decision are due to the Federal Government not guaranteeing national competition payments to New South Wales, which are in the order of up to $100 million. Perhaps the Deputy Leader of the Opposition will prevail on his Federal colleagues in this regard so that the delays are overcome. It would be absurd for the New South Wales Government not to revisit the decision if market movements were to leave New South Wales dairy farmers worse off. The New South Wales Government decision has been applauded by the dairy industry.

The Hon. R. T. M. Bull: And me.

The Hon. R. D. DYER: I am glad to know that. As to comments made in the second reading debate by the Hon. R. S. L. Jones, New South Wales conducted the review through an independent committee. The Government also applied a public interest test in making this decision. I am advised that all indications are that the price would rise under a deregulated environment. Deregulation at the farm gate would equal closure of approximately one-third of New South Wales dairy farmers' operations and would take around $80 million from the regional economy of this State.

The Hon. Dr B. P. V. Pezzutti: That is absolutely right.

The Hon. R. D. DYER: I am glad to know that on this occasion the Hon. Dr B. P. V. Pezzutti agrees with me. I hope that that agreement flows through to question time a little later. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

MINISTER FOR POLICE LICENSED PREMISES OWNERSHIP

The Clerk tabled, in accordance with the resolution adopted by the House on 27 May 1998, an advice from Mr Leslie Katz, SC, Solicitor General, regarding section 105A(4) of the Liquor Act 1982, dated 2 June 1998.

Ordered to be printed.

GAS PIPELINES ACCESS (NEW SOUTH WALES) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [5.21 p.m.]: I move:

> That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Gas Pipelines Access (New South Wales) Bill continues the reform of the natural gas industry in New South Wales begun by the Carr Government with the Gas Supply Act introduced in 1996. The Gas Supply Act 1996 established an interim third party access regime for the State's gas distribution systems, the first such regime in Australia. Gas pipelines are a natural monopoly, in that alternative pipelines connecting seller and buyer are usually not economically feasible. Consumers have therefore had little choice but to buy a "bundled" package of gas and gas transport services. Providing third party rights of access to gas pipelines promotes competition, provides choice for the consumers and lowers gas prices.

At the time of introduction of the Gas Supply Act 1996, New South Wales was participating in a national process under the Council of Australian Governments to develop a uniform, national regulatory framework for third party access. However, the slow progress at the national level, and the significant potential benefits to the State's gas consumers, led the Carr Government to a decision not to wait for a national access regime, but to implement an interim regime in New South Wales. The Carr Government's decision of 1996 has been vindicated by the fact that the national process took a further 18 months to arrive at an agreed position. In that time the Independent Pricing and Regulatory Tribunal has approved an access undertaking for the AGL distribution system in New South Wales. According to the tribunal, the approved AGL access undertaking will lead to large reductions in average prices for gas transportation for the State's large industrial and commercial gas users from $2.26 to $1.05 per gigajoule by 1999-2000—a fall of almost 60 per cent in real terms. There are indications that competition in gas supply is emerging which will result in further savings in their gas bills.

The Carr Government's decision to proceed with an interim access regime has also stimulated investment in the gas industry. An interstate pipeline linking Wodonga in Victoria to Wagga Wagga in New South Wales is being constructed. Another pipeline linking Longford in Victoria to Wilton in New South Wales is currently being considered jointly by BHP Petroleum and Westcoast Energy. The construction of these pipelines will allow New South Wales to source gas from Bass Strait, thereby reducing New South Wales' dependency on gas from the Cooper Basin. The New South Wales access regime, which was based on the 1996 draft version of the national code, has served its purpose as an interim measure. The national code has undergone significant refinements and improvements since 1996. With the endorsement of the national code by the Council of Australian Governments, it is appropriate that a national regime be now adopted.

The adoption of a national regime by all jurisdictions is the most effective way of promoting free and fair trade in gas between jurisdictions, which would be most beneficial to New South Wales, being the only mainland State without commercially viable reserves of natural gas. The access code is the key element of the national access regime. It contains principles which are to be uniformly applied in regulating third party access to natural gas transmission and distribution pipelines throughout Australia. It is designed to: provide a degree of certainty as to the terms and conditions of access to the services of specific gas infrastructure facilities; place obligations and responsibilities on pipeline operators and users; ensure that access to pipelines is provided on fair and reasonable terms; and preserve the flexibility for commercial negotiation.

A schedule to the code details the transmission and distribution pipelines that will be "covered" under the provisions of the code when it is given legal effect. The 1997 natural gas pipelines access agreement commits all jurisdictions to introduce legislation to apply the access law as enacted as schedules to the South Australian Act. All jurisdictions are in the process of introducing legislation to apply the same access law and code. The agreement requires reciprocal approval by the relevant Ministers of all other jurisdictions. The bill before the House has received such approval in accordance with the agreement.

I now turn to specific provisions of the bill. The purpose of the bill is: firstly, to provide an open and transparent process to facilitate third party access to natural gas pipelines in order to facilitate competition in the gas industry and provide choice to the consumers; secondly, to encourage investment in the industry and promote the efficient development and operation of a national natural gas market which will lower gas prices to the benefit of the New South Wales consumers; thirdly, to provide a right of access to transmission and distribution networks on fair and reasonable terms and conditions by safeguarding against excessive transportation prices and unfair and discriminatory access conditions; and, lastly, to encourage the development of an integrated pipeline network which will enhance competition and interstate trade in gas.

This will reduce New South Wales' dependency on gas from the Cooper Basin in South Australia. A national integrated pipeline network will enable New South Wales to source gas from other States, for example, from Bass Strait in Victoria. This will not only lead to lower gas prices but also enhance the security of gas supply to New South Wales. Part 2 of the bill identifies the persons and bodies with regulatory responsibility and decision-making powers in New South Wales under the access law. The bill provides for access to transmission pipelines in New South Wales to be regulated by the national regulator, the Australian Competition and Consumer Commission. Access to distribution pipelines in New South Wales will be regulated by the Independent Pricing and Regulatory Tribunal until the New South Wales Government decides to transfer this responsibility to the national regulator. For this reason schedule 1, clause 1.1, which provides a mechanism for the transfer of the regulation functions, will not be proclaimed until the Government decides on the date to transfer the regulatory functions to the national regulator.

The New South Wales Minister responsible for administering the Gas Pipelines Access (New South Wales) Act will retain the functions of agreeing to amendments to the law and the code even when the regulatory functions have been transferred to the national regulator. The Independent Pricing and Regulatory Tribunal, in carrying out its functions under the Gas Pipelines Access (New South Wales) Act, will not be subject to the control or direction of the Ministers administering either the Independent Pricing and Regulatory Tribunal Act or the Gas Pipelines Access (New South Wales) Act.

Part 3 of the bill confers the necessary functions and powers on the Commonwealth Minister and Commonwealth bodies. It also confers power on Ministers, regulators and appeal bodies of other jurisdictions in situations where regulation of a cross-border distribution system is vested in another jurisdiction. In

the interests of national consistency and cost-effectiveness, clause 16 confers criminal and civil jurisdiction for the purposes of the access law on the Federal Court. For the same reason, clause 18 applies the Commonwealth Administrative Decisions (Judicial Review) Act 1997 in relation to matters arising out of the access law.

Schedule 2 to the bill makes various savings and transitional provisions to carry forward AGL's access undertaking that has been approved by the tribunal under the interim New South Wales access regime. The provisions also bring forward access undertaking applications made to the tribunal, or any outstanding arbitrations. Schedule 2, clause 7 of the bill provides for a number of transmission pipelines owned and operated by AGL to continue to be classified as distribution pipelines for regulatory purposes on an interim basis. This will allow transitional issues to be worked through. The clause provides a mechanism for responsibility for the access regulation of these pipelines to be transferred to the national regulator at a date to be determined by the Government.

The national regime exempts parties from the payment of stamp duty for transactions made to comply with requirements to ring-fence, or legally separate, retail functions from transmission or distribution functions of a business. The stamp duty exemption ensures that the Government makes no windfall gains from the ring-fencing requirement. The Gas Industry Restructuring Amendment (Customer Contracts) Act 1997 currently exempts AGL Gas Networks Limited's ring-fencing arrangements from stamp duty. For reasons of consistency and competitive neutrality, Schedule 2, clause 9 provides for the same arrangements to apply to the network systems of Great Southern Energy and Albury Gas Company Ltd.

The New South Wales Government has been an active participant at the national level to bring about the national uniform gas pipelines access regime. The regime which this bill proposes to establish will, when implemented nationally: facilitate free and fair trade in gas within and between jurisdictions; encourage infrastructure investments and employment in New South Wales; provide choice to the customers; increase security of gas supply in New South Wales; and more importantly, lower gas prices which will make New South Wales industry more competitive, which in turn will generate more employment. I commend the bill to honourable members.

The Hon. J. H. JOBLING [5.22 p.m.]: The Opposition does not oppose the Gas Pipelines Access (New South Wales) Bill. It is a large bill, though it is simple and straightforward. It continues the reform of the natural gas industry in this State. This bill will establish third party access for the State's gas redistribution system, ending what has been a natural monopoly on the pipelines. It will promote competition and choice in the gas market. Eventually we hope it will mean a lower price for the consumers of natural gas.

The bill enacts national agreements which have already been enacted in South Australia. The report of the inquiry into access to the natural gas distribution networks of New South Wales by the Gas Council of New South Wales dated January 1996 noted that all gas consumers should eventually be able to choose their retail supplier of gas through open third party access to the transportation network. The Opposition clearly agrees with this concept. It has been a long-held conviction that all aspects of the energy industry should be reformed to facilitate competition and cost benefits for consumers.

The Australian Competition and Consumer Commission in particular has expressed concerns and has pushed for reforms to be extended into the production end of the industry. The Deputy Chairman of the ACCC, Allan Asher, in expressing concern, suggested that the gas reform process could founder if non-competitive production arrangements were not also addressed. Last year Mr Asher went further and said that competition reforms could actually increase gas prices, which is not what the bill aims to achieve.

Natural gas will be Australia's fastest growing energy source in the year 2030, with an average annual projected growth of about 3 per cent. Gas is forecast to raise its national primary energy share from about 18 per cent to more than 28 per cent. Real growth is expected across each gas market, namely, residential, commercial, industrial, power generation and transport. Industrial demand for gas should maintain a steady growth, with industrial gas consumption projected to be 111.4 petajoules, or 12 per cent of Australian industrial gas consumption, in 2025-30. That is a substantial increase. Residential gas use is projected to double, increasing to 31.8 petajoules in 2029-30 from only 15 petajoules in 1994-95.

Although New South Wales does not have its own gas source, it is imperative that measures such as those established by the bill are implemented so that greater competition in the gas industry can flow on as benefits to businesses and households. Investments in gas transmission pipelines are increasing, with more than 5,500 kilometres of pipelines currently under consideration for development in Australia. These proposed developments will expand Australia's network by 38 per cent, and will result in an integrated pipeline grid for eastern Australia. That is where the major growth is anticipated to occur.

Gas transportation takes place via large capacity transmission pipes and distribution or reticulation networks. At present gas is transported into New South Wales on the Moomba to Sydney pipeline and reticulated within the State on the distribution networks of AGL Gas Company, the Albury Gas Company and Wagga Wagga City Council. In New South Wales the pipeline network has routes under construction or consideration from

Longford in Victoria to Wilton in New South Wales, from Wodonga to Wagga Wagga and from Marsden to Dubbo. The completion of the Longford to Wilton pipeline will lead to the establishment of an interconnected gas grid, which will reduce New South Wales' dependence on gas from the Cooper Basin in South Australia. Some participants see the opening up of access to distribution as an end in itself. The 1996 report of the inquiry into access to the natural gas distribution networks of New South Wales by Tom Parry indicates that that is far from the truth. It states:

> Benefits just as great are likely to arise from true competition between sources of gas supply and the reduction of any rents earned in the transmission of gas.

Tom Parry suggests that the ability to access many gas supply fields will be the key to competition, and thus price reductions, rather than simple pipeline access. The absence of intrabasin and interbasin competition among gas producers is a cause of major concern. Evidence from North America and the United Kingdom suggests that competition at the gas production level is crucial to lowering gas prices for users. In the absence of complete vertical separation between network and retailing, the network owner must adequately ring-fence network activities from retail activities. As a minimum, this will require full accounting and management separation. The regulator will need to monitor ring-fencing and related party transactions.

Proposed developments interstate are of particular interest. I note it is said that in Victoria the process has begun for the sale of that State's $5 billion gas industry amid expectations that the market's current appetite for utilities will ensure bumper prices. The Government is looking to sell three pairs of gas businesses—each comprising a distributor to run the local gas delivery networks, and a gas retailer—plus a long-distance trunk pipeline business in the second half of the year. I wonder whether we will learn that the New South Wales Government is proposing a similar sale of the gas industry in this State, or will the Government treat the gas industry with the same inaction as it treats the electricity industry, watching assets and benefits held in the name of the people of New South Wales potentially withering on the vine?

Gas prices being charged in Sydney are of particular interest. Concerns have been expressed that the New South Wales code represents the lowest common denominator acceptable to the owners of the natural gas monopoly pipelines and the users of those systems. If this is so, one has to ask whether, in order to reach a compromise that is acceptable to all, the code leaves many items to the discretion of the regulator. Whilst this approach seems to deliver a national code, it puts substantial responsibility on the regulator. Therefore it remains to be seen whether the regulator has the capacity and resources, both in terms of quality and quantity, to effectively apply an ambiguous code. The New South Wales experience to date suggests that the challenges for regulating private companies are considerably greater than those of regulating government entities. To that end I refer to the McKinsey review of the Independent Pricing and Regulatory Tribunal, IPART, noting that it supports this view.

That leads one to inquire whether the New South Wales distribution tariffs for industrial customers remain unacceptably high. After the IPART reduction, the average New South Wales industrial customer will pay more than $1.40 per gigajoule to move gas through the New South Wales distribution system. In Victoria, with a similarly sized industrial market, the proposed average industrial tariff is less than 50¢ a gigajoule. The proposal has not been accepted by the regulators, and the rate may indeed yet be reduced. For the medium-sized industrial customer, the difference is a costly penalty of almost $500,000 per annum for using gas in New South Wales.

The question has been asked whether the disclosure of information on costs provided by the various monopolies to IPART and the market are accurate. Gas prices charged in Sydney at present are approximately 40 per cent higher than those in Victoria. The challenge for the New South Wales Government will be to ensure that New South Wales customers will have tariffs comparable to those charged in other States. I certainly hope that will come to pass. The Opposition will not oppose the bill.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [5.33 p.m.], in reply: I thank the honourable member for his contribution to the debate and for his support of the bill. The national third party access regime to be adopted by all jurisdictions is the most effective way, I am advised, of promoting free and fair trade in gas, both within and between jurisdictions. This will deliver to New South Wales significant economic benefits in terms of infrastructure investment, employment and security of gas supply. The competition that free and fair trade generates will provide New South Wales consumers with a choice of alternative gas suppliers.

I would place on record the Government's appreciation of the splendid work undertaken by the

Department of Energy in advancing the interests of New South Wales in the national gas reform process. In 1996 the efforts of the department resulted in the introduction of a third party access regime to distribution pipelines in New South Wales, the first such access regime in Australia. This bill, which provides for the adoption of the national code, will provide further benefits for New South Wales in terms of increased investment, increased employment, and lowered gas prices. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Pursuant to resolution business interrupted.

QUESTIONS WITHOUT NOTICE

UNFAIR DISMISSAL CLAIMS

The Hon. J. F. RYAN: I ask a question without notice of the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. In light of a New South Wales Chamber of Commerce survey indicating that almost 50 per cent of New South Wales businesses have been discouraged from employing more people because of the prospect of unfair dismissal claims, could the Attorney General confirm the Carr Government's support of unfair dismissal legislation? Will the Government take any action against suggestions by recruitment companies that unfair dismissal claims have reached epidemic proportions in the past 12 months?

The Hon. J. W. SHAW: Almost every liberal democracy throughout the world has unfair dismissal laws. Even at the zenith of her ideological zeal, Mrs Margaret Thatcher did not eliminate unfair dismissal remedies in the United Kingdom. Unfair dismissal laws are generally accepted as an appropriate safeguard for employees who may be the subject of oppressive conduct.

The Hon. Dr B. P. V. Pezzutti: But yours are unworkable.

The Hon. J. W. SHAW: The Hon. Dr B. P. V. Pezzutti says "But yours are unworkable." The fact is that New South Wales unfair dismissal laws are a virtual replica of the Federal laws that the Liberal Government implemented.

The Hon. Dr B. P. V. Pezzutti: They are not the same at all.

The Hon. J. W. SHAW: There is a certain irritation in dealing with ignorance, and a certain irritation in dealing with profound lack of knowledge and with people who speak in this place but do not know what they are talking about. Life is finite, and I have only a certain amount of patience. The fact is that the unfair dismissal laws in New South Wales are very much in parallel with the Federal equivalent. The New South Wales laws have a reasonable balance. I have no inhibition about defending the idea that an employee who has been unfairly dismissed, or alleges that he or she has been unfairly dismissed, should have some kind of redress. There are, of course, questions as to whether a particular statutory regime goes too far, is too prescriptive, or is too legalistic, but we in New South Wales have avoided those problems. We have an informal, non-legalistic, balanced unfair dismissal scheme, which I believe employers and employees in New South Wales broadly accept.

ADOPTION SEARCH SERVICES

The Hon. JAN BURNSWOODS: I address a question without notice to the Attorney General. What services are being provided by the Government to assist people in New South Wales separated by adoption or other State intervention such as foster care?

The Hon. J. W. SHAW: I thank the Hon. Jan Burnswoods for her question, which pinpoints a difficult issue of public policy. Since the commencement of the Adoption Information Act in 1991 the Registry of Births, Deaths and Marriages has provided specialised adoption services to assist the people of this State. The registry's adoptions unit is staffed by officers experienced in searching for information to assist clients affected by adoption or related family separation. Those services involve the location and provision of information to applicants within the parameters of the Adoption Information Act. These specialised services are provided by the registry in addition to its traditional responsibilities in relation to registering all new births, deaths and marriages in New South Wales and providing certificates to assist people to obtain a passport, driver's licence and the like. Around 3 per cent to 4 per cent of the registry's work relates to adoption services.

In conjunction with the Department of Community Services, and with the assistance of the consultant Mr Bruce Callaghan, of Callaghan and

Associates, my department has developed a request for tender for the provision of a specialised search service for people separated by adoption or other State intervention. The need for a specialist agency to assist in cases where adoption services become complex or difficult was considered by the recent Callaghan report on adoption search services. The report recommended the funding of a specialised non-government sector agency that would be accredited or contracted through a government department to provide such a service. The specialised search service is intended to cater for persons separated by adoption and other circumstances of State intervention such as foster care or State ward processes in circumstances where usual self-help search mechanisms have proved unsuccessful.

The creation of the specialised agency will enable an integrated approach to search services whereas at present different regimes apply to information concerning adoptions as opposed to information concerning people who have been placed in foster care or as State wards. A request for tender has been released, and I am advised that the period for tenders closed on 8 May 1998. I understand that the successful tenderer will be finalised by the end of July 1998.

The Registry of Births, Deaths and Marriages, as the expert office in records access and management, will accredit the agencies and individuals involved. The Government is concerned to ensure the integrated and efficient provision of information services to people who have been separated by State intervention. The current proposal to establish a specialised search agency is an indication of the Government's commitment to assist such people in accessing relevant information in accordance with the laws of this State.

PENALTIES FOR ALCOHOL SUPPLY

The Hon. JENNIFER GARDINER: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. Is it a fact that on 20 December last year an adult aged 19 was convicted of supplying alcohol to three minors after being apprehended at the Wagga Wagga bathing beach and was fined $550? Is it also a fact that on appeal a court in Sydney quashed the conviction under section 556A of the Crimes Act, thus ensuring that a conviction would not be recorded? Given the severe problems involving alcohol and minors in New South Wales, what steps will the Attorney take to ensure that penalties available to the courts reflect the seriousness of the crime?

The Hon. J. W. SHAW: I do not, of course, know of the particular case to which the Hon. Jennifer Gardiner refers; nor do I know whether the information provided by her is sufficient for me to research the case. However, I undertake to make inquiries and to provide whatever information I can about the matter.

WORKPLACE RELATIONS ACT

The Hon P. T. PRIMROSE: My question without notice is addressed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Minister outline to the House the damage that would be caused if the Federal Government acceded to calls from the National Farmers Federation to remove the no-disadvantage test from the Workplace Relations Act?

The Hon. J. W. SHAW: One of the centrepieces of Federal industrial relations policy has been to maintain the idea that workers would not be disadvantaged under enterprise bargaining or Australian workplace agreement processes. Apparently, this has come under criticism from more conservative elements associated with the coalition. The coalition's proposal is dangerous; it does not bode well for the sort of equity Australia has had for many years in its labour market. The coalition's argument is that there ought to be more flexibility. That is a vogue word that really suggests the prospect of serious disadvantage and diminution of working standards, wages and conditions.

While the Federal system is simplifying awards, employers are simplifying pay. That means that employers are cashing out well-established conditions and loadings. However, even the Federal Government's employment advocate has been reported as saying that it is important to check that cashing out has been done fairly by the employer. Even though the employment advocate carries out the no-disadvantage test according to reports he concedes that he does not know whether cashing out will ultimately cut award pay and conditions. If the Federal Government were to follow the calls of the National Farmers Federation, employees would be forced—by their lack of bargaining power and the removal of the award safety net—to accept any pay and conditions that employers might offer. It has been reported that even the employment advocate does not take much account of what an employer sees as an employee's benefit. If the Federal Government were to follow the calls of the National Farmers Federation, what type of workplace reform would follow? It would create a further divide between those who have bargaining power and those who do not. Having regard to the debate about the

stevedoring industry, we have all seen what can occur when workers who have bargaining power are treated unfairly.

In New South Wales the level of scrutiny is set at a higher level, where an independent party, the Industrial Relations Commission, is empowered to approve an agreement only when the agreement does not, on balance, provide a net detriment to the employees who are to be covered. That system ensures that agreements are examined in detail. It is clear that the New South Wales legislation is delivering workplace reform to the State's enterprises in an efficient and workable manner. Outcomes to date suggest that the approval process is clear, transparent and equitable. The processing times for enterprise agreements in New South Wales suggest that the system is working efficiently, and anecdotal evidence indicates that the parties are comfortable with the approval process. Checks in the system, such as the no-net-detriment test and the obligation of the Industrial Relations Commission to consider the principles of the Anti-Discrimination Act 1977, ensure fairness in both the consultation process and outcomes from enterprise bargaining.

The Act is more concerned with achieving quality bargaining outcomes at both industry and enterprise levels, rather than being concerned with the form of industrial instrument in which the bargaining agreement is packaged. The Act provides a reasonable basis from which to commence bargaining, appropriate rights for unions to represent employees, and a proper degree of independent scrutiny by the commission. The New South Wales Government supports an industrial relations system that accommodates an appropriate bargaining outcome by which all parties benefit—unlike the Federal Government, which seems prepared to support enterprise bargaining only when the employers win and the employees lose.

PASSIVE SMOKING

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 New South Wales is ranked poorly by the Australian Medical Association when it comes to efforts to reduce smoking in our community, and that the New South Wales anti-smoking education program is the worst in Australia? Is it also a fact that local councils are having to set their own passive smoking regulations for public places such as restaurants, pubs and clubs due to State Government inaction to bring forward the implementation date of the Smoking Regulations Act? Will the Government take broader responsibility for passive smoking in our community by bringing forward to 1 January 1999 the implementation date for the Smoking Regulation Act? Will the Government also increase its efforts to educate the community about the health dangers related to smoking and passive smoking?

The Hon. R. D. DYER: By no means do I accept the premises contained in Reverend the Hon. F. J. Nile's question. However, I am in a position to give the House some information regarding measures that the Government has taken in relation to tobacco-related issues. The Public Health Amendment (Tobacco Advertising) Act 1998 will come into effect later this year, and I advise the House that the regulations are currently being drafted.

Once introduced, New South Wales will have the toughest restrictions on tobacco advertising in Australia. The Act covers a broad range of matters including tobacco advertising, storage and display of tobacco products, and sponsorship of sporting and cultural events. To ensure high levels of compliance and enforcement, an information and education campaign is planned by the Government for retailers and health services. The Smoking Regulation Act 1997 was passed in May last year in an attempt to protect the public from passive smoking in enclosed public spaces. The Act is based on an air quality standard yet to be defined by regulation. Venues that cannot meet this standard will be required to ban smoking. Individuals who fail to prevent smoking, or the spread of smoke, in establishments will face a penalty of up to $1,100. A body corporate will face a penalty of up to $5,500 for the same offence. The regulation to define the air quality standard is still being developed, and the Act will come into effect five years after that standard is defined.

Reverend the Hon. F. J. Nile: That is my concern. When will that happen? When will this standard commence?

The Hon. R. D. DYER: As I said, the regulation to define the standard is being drafted and the Act will come into effect five years after it is defined. During the five-year period the Department of Health will encourage venues to become voluntarily smoke free. The Act also requires that a State environmental planning policy be developed to promote the provision of outdoor areas or facilities by restaurants, cafes and other eating places. The Department of Urban Affairs and Planning is responsible for the development of the policy. I would also like to refer to initiatives to reduce illegal cigarette sales to minors. The Department of

Health is continuing to take action against retailers who sell cigarettes to people under 18 years of age, and has successfully worked with other departments and organisations to reduce illegal cigarette sales, which has led to increased compliance by retailers.

The department will continue to work with a range of agencies to reduce illegal cigarette sales, and will undertake research to evaluate the effectiveness of the sales to minors program. As a result of a High Court decision in 1997, New South Wales has ceased to issue tobacco licences. The Department of Health is currently considering a revised licensing system for retailers to support its public health legislation. Consultation is under way with Treasury about the administration of such a licensing system. If my colleague the Minister for Health is able to supply any further information in response to the honourable member's question, I shall certainly convey it to him.

WESTERN SYDNEY TIP DUMPING FEES

The Hon. Dr MARLENE GOLDSMITH: My question is addressed to the Attorney General, representing the Minister for the Environment. Will the Minister explain why charges for dumping rubbish at the Jacks Gully and Lynwood Park tips in Sydney's west have been increased? Is this not a further, underhanded attempt by the Carr Government to raise revenue by slugging residents and small business people, particularly those in the west, with yet another increase in charges?

The Hon. J. W. SHAW: I will certainly raise this issue with the Minister for the Environment and obtain a reply.

SYDNEY SHOWGROUND SAFETY INNOVATION AWARD

The Hon. Dr MEREDITH BURGMANN: My question without notice is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. It has been reported that WorkCover New South Wales and John Holland Construction and Engineering Pty Ltd have jointly won an award for safety practices at the showground site at Homebush Bay. Will the Minister inform the House of the reasons for the award?

The Hon. J. W. SHAW: WorkCover and John Holland Construction and Engineering Pty Ltd are to be congratulated on winning the inaugural safety innovation award of the Australian Institute of Building for the Sydney showground site. The showground was selected for a review of best practice in steel erection as part of WorkCover's year 2000 best practice program, a joint initiative for the New South Wales construction industry. Key personnel from John Holland and WorkCover planned for safety from the design stage through to training, risk assessment and control, and produced a number of practical safety innovations. As a result, the multimillion dollar project at Homebush Bay, which commenced in September 1996 and was completed in February this year, recorded a lost-time injury rate of only 4.9 per cent per one million hours worked.

This is a 90 per cent cut in the lost-time injury rate for the New South Wales construction industry, which, in 1996-97, stood at 52.3 per cent. Key areas identified as requiring risk control included falls from heights and the use of plant engaged in construction, such as cranes. As part of the program, a job safety analysis was carried out for each phase of the work to be performed. This breaks the plant activity into manageable stages, identifies the hazards associated with each stage, and ensures that appropriate controls and checks exist to eliminate or control the risks. Working at heights—and in the case of the showground site these were extreme—presents obvious health and safety problems. It also leads to inefficiencies, because access to the workplace is severely restricted.

To minimise the time workers were required to work at heights, the panels for the roof of the grandstand were modified at the design stage for assembly on the ground, then lifted into position with a 400-tonne mobile crane. Similarly, the six light masts for the show ring were fabricated off site and transported on a purpose-built support frame for assembly on site. The overall result was greater co-operation between the various contractors on site, as well as increases in productivity, safety and efficiency. Richard Pugh, the senior project manager with John Holland, commented that many contractors are still working with traditional approaches without enough recognition of the need to change. The belief that accidents and incidents are inevitable is unacceptable.

The showground site's best practice program concluded that cultural change in the industry was needed in a number of areas, including a greater appreciation of the benefits of the hazard, identification and risk assessment process; the benefits of co-operative planning and working to mutually agreed timetables; a much greater appreciation by designers of their role in occupational health and safety; and attention to appropriate training and education of management and workers. This project is an example of WorkCover's strategic industry-focused approach of

targeting hazardous work practices. The lessons learned will benefit the entire construction industry. Let us be generous, and let us acknowledge on all sides of this House that this has been a great project, achieved with a very high degree of occupational health and safety. It deserves the commendation of this House and the community.

COMMUNITY JUSTICE CENTRE MEDIATORS

The Hon. Dr B. P. V. PEZZUTTI: I ask the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading a question without notice. Is it a fact that community justice centre mediators are ministerial appointees, employed on a casual basis, and not covered by the Public Sector Management Act, an industrial award or a union? Is it also a fact that mediators are expected to fulfil all the obligations of government employees, including conducting themselves in accordance with the code of conduct of the Attorney General's Department, yet they have none of the usual rights of employees? Does this method of employment conflict with the Labor Government's stated position of defending workers' rights? Is the Government not in fact clearly exploiting these people?

The Hon. J. W. SHAW: From time to time I am pleased to approve the ministerial appointment of arbitrators in community justice centres. I am not presently aware of the particular terms and conditions of their engagement. I rather doubt that they are employees. I certainly deny any conflict of industrial relations policies in relation to these appointees. They have volunteered for the appointments and accepted them. I do not believe there can be any viable or appropriate suggestion of exploitation in relation to statutory office holders.

UNFAIR DISMISSAL CLAIMS

The Hon. A. B. MANSON: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. In light of comments in today's press, will the Minister clarify the status of New South Wales unfair dismissals jurisdiction?

The Hon. J. W. SHAW: I have seen the editorial in the *Daily Telegraph* which argues that firms cannot plan for market contingencies or downsize their work forces because of the existence of unfair dismissal laws. It argues, therefore, that businesses are in some way constrained in their operations. I do not accept that fundamental point. Today's editorial seems to highlight a popular misconception about the nature of an employer's rights when a business is restructured. The editorial argues that employers cannot reduce the number of employees, irrespective of market demands, because of unfair dismissal laws. I do not believe that is correct.

Unfair dismissal laws have nothing to do with businesses restructuring in response to market needs. If a business needs to downsize its work force the guiding principles which bind an employer are those which apply to redundancies. Those principles are laid down in both the industrial awards, whether they be Federal and State, and in the Employment Protection Act 1982. The provisions are transparent and well-established. Redundancy provisions usually provide for payments for workers who are losing their jobs, and a process for employers to follow. Commonly, there is a provision for consultation with the affected employees and their union, together with a sliding scale of severance payments based on the length of service of the employees and sometimes based upon the age of employees. A redundancy is a particular type of termination of employment.

Most redundancies occur where the employer determines that the business no longer requires a position to be performed by any employee and, therefore, dispenses with an employee's services due to changes in business needs rather than due to concerns with the performance of a particular employee. In contrast, an unfair dismissal action may be taken by an employee where he or she believes that the employer has harshly, unjustly or unreasonably terminated employment. The New South Wales Industrial Relations Act 1996 allows eligible applicants access to a system which attempts to balance the rights of employees with the legitimate concerns of employers. It addresses the needs of all parties for a fair, equitable and not overly legalistic system of unfair dismissal redress.

Ultimately, it is a matter for the New South Wales Industrial Relations Commission to determine whether, in all the circumstances, a dismissal was unfair and, therefore, what action, if any, it should take to rectify the situation. I note that in 1997 the total of unfair dismissal claims in New South Wales represented 0.2 per cent of the 2.33 million employees—far less of a burden than some critics would argue. A more reliable survey than those quoted in the *Daily Telegraph* is the recent Australian workplace industrial relations survey study, which found that only 6 per cent of small businesses indicated that they wanted changes to unfair dismissal laws.

Unfair dismissals was ranked fifth on a list of barriers to efficiency which small business would like to change. I also note that during the period between 1994-95 and 1996-97 the total number of small businesses in New South Wales increased by 18 per cent, and total employment in those businesses increased by 28 per cent. That information casts severe doubt on the mythology of unfair dismissals, and the supposed link between unfair dismissal laws and unemployment, and it reminds us that businesses should not make strategic decisions based on fear or inaccurate information.

WOMBARRA STORMWATER TUNNEL ENVIRONMENTAL IMPACT STATEMENT

The Hon. I. COHEN: Is the Minister for Public Works and Services, representing the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Minister for Transport, and Minister for Roads, aware of inadequacies in the Wombarra stormwater tunnel environmental impact statement? Is it true that no species impact statement was prepared for the rare and endangered sooty oyster catcher?

The Hon. R. D. DYER: I shall obtain from the appropriate Minister a suitable response to the honourable member's question.

KNIFE POSSESSION PENALTIES

The Hon. D. F. MOPPETT: My question without notice is directed to the Attorney General, representing the Minister for Police. Has there been a spate of knife crime in Bathurst over the last few weeks, including a hold-up at the Shell service station, an attempted hold-up of a grocer in Kepple Street and an incident where two young boys playing in a local park were threatened by men brandishing a knife? Does this demonstrate that the Government's knife laws are still not tough enough and are not deterring knife-related crimes?

The Hon. J. W. SHAW: I have the greatest respect for the honourable member's capacity for reasoning, but I think the suggested causation is a little simplistic in this case.

[*Interruption*]

I do not think that is being tough; I think that is being kind. I do not accept any link between the knife laws which this Government has enacted and the tragic events described by the honourable member. I am perfectly prepared to accept the assertions contained in the honourable member's question. If there has been a spate of knife crimes in Bathurst that is to be deplored and it is tragic, but I think to attribute blame to the laws which are significantly tougher than any laws that have existed in living memory in New South Wales about the possession or use of knives is, to reuse a word I used earlier, simplistic—a vogue term which means too simple by half.

GOVERNMENT SELECTED APPLICATION SYSTEMS PROGRAM

The Hon. A. B. KELLY: Will the Minister for Public Works and Services outline the benefits of the Government's selected application systems program—GSAS—for New South Wales government departments and authorities?

The Hon. R. D. DYER: The purpose of the Government's selected application system program, otherwise known as GSAS, is to reduce the variety of software packages used for the same applications in agencies resulting in substantial cost savings for the whole of government. The main benefits are, first, to reduce costs in the contractor selection process; second, to maximise the Government's purchasing power to achieve the best possible prices; third, to reduce time frames in the implementation of corporate systems; and, last but not least, to eliminate waste from purchases of inappropriate software packages.

The program eliminates the need for one-off tendering for business software by individual agencies. The tendering process can easily cost upwards of $100,000 per project. I am advised that in the initial 12 months of the program, at least 18 individual purchases under the GSAS contract for financial management systems were undertaken. This means that before any other factors are taken into account, a saving of $1.8 million can be attributed to the use of GSAS. In addition to this saving, as a result of the program limiting the number of different software programs available to government, costs of training staff are reduced and a skills base is developed.

Focused purchasing power in reduced acquisition costs and a smaller number of contractors on GSAS contracts have resulted. As New South Wales government agencies are able to share the cost of development, where a partial or total fit is possible, development costs are also reduced, further reducing our call on taxpayers' funds. All New South Wales government agencies which require a new, replacement or enhanced corporate system must utilise an appropriate GSAS panel contract where one is available.

However, where circumstances make it necessary to select an application outside the established contracts, this may be done by providing a business case to justify not using a GSAS product. Existing GSAS contracts include whole-of-government human resource and payroll packages, financial management packages, records management packages, electronic mail packages and, recently, added packages for integrated management and library management systems.

HUNTER REGION MEDIATOR TRAVEL COSTS

The Hon. J. H. JOBLING: My question without notice is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is it a fact that mediators in the Hunter region are expected to meet travel costs without reimbursement for any location that is more than 30 minutes or 100 kilometres from home because of budget restrictions? Is it also a fact that mediators are expected to travel throughout the Hunter, central and mid-north coast areas for mediations referred by courts and government or community agencies? What steps will the Attorney General take to rectify this situation?

The Hon. J. W. SHAW: I do not recall any submission being put to me by mediators in the Hunter region that they need further reimbursement for their travel. If such a submission were put to me I would obviously deal with it sympathetically and appropriately.

The Hon. J. H. Jobling: Are you going to wait until they apply? Otherwise you will not look at it.

The Hon. J. W. SHAW: Generally if statutory officers, employees or other people find a defect in the level of remuneration to them, they are not inhibited about submitting a case to the Minister or department that their remuneration package ought to be changed. I am simply saying I will look at any such submission in an objective and appropriate way.

TUSCULUM TRANSFER ANNIVERSARY CELEBRATION

The Hon. B. H. VAUGHAN: I direct my question without notice to the Minister for Public Works and Services, and I do so as a long-time resident of Potts Point. The Minister would be aware that this year marks the tenth anniversary of the transfer of the building Tusculum to the Royal Australian Institute of Architects. What benefits have resulted in the past 10 years from that transfer?

The Hon. R. D. DYER: I readily acknowledge that as a resident of Potts Point the Hon. B. H. Vaughan takes a close interest in the built environment of that locality. Last month I was pleased to represent the Premier at the Royal Australian Institute of Architects tenth anniversary celebration, called "Deliverance of Tusculum from Oblivion", and to formally launch Tusculum in its new role as the centre for the built environment. Before I attended the anniversary celebration on 8 May I researched the history of the building and found it fascinating how the institute came to occupy the premises. I was surprised to learn that although Tusculum was originally a two-storey Georgian-style suburban villa constructed between 1831 and 1836, the building underwent many later changes before it became a hospital in the 1930s.

Honourable members may be interested to know that when I was making my speech I referred to the fact that a portion of the building had been Edwardianised. I went on to say that although I am not a monarch or likely to have an architectural period named after me, if that were to happen I could say that the building had been Dyerised. I understand that Tusculum was in a terrible state of disrepair when the New South Wales Government resumed Tusculum from private owners through the Heritage Act on 15 April 1977. The Government then set about trying to find an appropriate tenant who would take a lease for 99 years. Following public consultation, the Wran Government signed an agreement to allow the institute to construct a new building, designed through the process of a design competition, to complement a restored and rejuvenated Tusculum.

The new building shows that adaptive re-use can be a springboard for understanding new architecture and presenting, in a modern and bold way, the work of this generation of architects. The involvement of architects now in broader scale planning and urban design, as well as in architectural buildings, is a very positive step forward. Finally, it may also be appropriate for this House to wish the institute a happy tenth anniversary at Tusculum and congratulate it on giving this building the new life it deserves. That new life is not only for meetings and internal uses; it also involves the interaction of the community and the public with the profession about architecture and urban design. This new awareness and sense of adventure is the undoubted benefit of Tusculum to the community.

BATTERY HEN WELFARE

The Hon. R. S. L. JONES: I ask the Minister for Public Works and Services, representing the Minister for Agriculture, whether it is a fact that there is no regulation to ensure that hen battery farms are adequately ventilated or cooled in summer and warmed in winter. What will the Minister do to ensure that at least minimum requirements are met for proper ventilation and heating of these appallingly cruel farms?

The Hon. R. D. DYER: I thank the Hon. R. S. L. Jones for his question to which I will obtain a suitable reply from my colleague the Minister for Agriculture.

PROTECTIVE COMMISSIONER Mr BRIAN PORTER

The Hon. C. J. S. LYNN: My question is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Is it a fact that the current Protective Commissioner, Mr Brian Porter, has been appointed to fill this role for a two-month period from 7 May to 7 July 1998? Is this due to the bungling in the selection process, which has caused delays in filling the position such that the existing commissioner must remain in the position for this further extension of time?

The Hon. J. W. SHAW: I do not believe that "bungling" is an apposite word or in any way justified. During the past three years due to selection processes a number of statutory officers have been appropriately appointed for short terms to facilitate the process of merit selection. I do not believe that anything other than that normal process is applicable in the case of Mr Porter.

ELECTRICAL SAFETY

The Hon. CARMEL TEBBUTT: My question without notice is to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. What is the Department of Fair Trading doing to inform and educate consumers, traders and workers about electrical safety?

The Hon. J. W. SHAW: It is good to see new members of this House vigorously asking probing questions of Ministers and raising issues of general public concern. The Hon. Carmel Tebbutt has raised a matter of serious concern which demands a proper answer. Last year 17 fatalities occurred as a result of electrical accidents in New South Wales—an increase from 1996 when the fatalities from electrical accidents reached a record low of seven. Obviously that statistic fluctuates. Until last year the trend for electrical accidents showed an encouraging annual decline from the worst years of the 1970s. In the 1970s approximately 40 people were killed each year in electricity-related accidents. I do not say any of this to encourage complacency but, historically, we have turned around that trend.

The declining trend augurs well for the future, especially taking into consideration that over the past 25 years there has been a significant increase in population and electricity usage. The encouraging trend is the result of a concerted approach by governments to the prevention of electrical accidents and the promotion of electrical safety. Safer electrical products, better work practices in the electrical industry and sensible new laws have all played their part. However, the increase in fatalities in 1997 shows that we must never be complacent. The Department of Fair Trading is committed to making consumers aware of the inherent dangers of electrical products. Safe and sensible use of electricity and electrical products will help save lives.

Product safety is a basic consumer right and the safety and standards branch of the Department of Fair Trading plays a key role in ensuring that electrical products available to New South Wales consumers can be used with confidence. Because of the dangers associated with electrical products, comprehensive safety obligations are placed on traders regarding products they supply. Common household appliances must meet safety standards before they are sold. If they do then the Department of Fair Trading will certify them. The department monitors electrical accident and fire data, investigates complaints, conducts marketplace surveys, assists in the development of safety standards for products and installations, and provides advice to improve safety awareness.

This year the department published a handbook for consumers and tradespeople called the "Electrical Safety Guide", which highlights the major causes of accidents associated with electricity and gives commonsense safety and accident prevention tips. The guide is available free from all 23 fair trading centres around the State. The "Electrical Safety Guide" stresses the danger of unlicensed people doing their own electrical wiring, the importance of licensed workers adopting safe work procedures which include a proper risk assessment, isolation and testing measures, and the use of safety equipment. The number of electrocutions in New South Wales since the early 1970s has halved thanks to better education and improved safety standards, and that of

course is a welcome development. But the 1997 electricity-related fatality figure is distressing. And so far this year there have been six deaths from electricity in New South Wales. The Government and the Department of Fair Trading are strongly committed to reducing the number of deaths from electricity through better education of consumers, households and employees.

COURT OF APPEAL DELAYS

The Hon. HELEN SHAM-HO: My question is addressed to the Attorney General. Is it a fact that about 25 per cent of cases awaiting hearing before the Court of Appeal have been waiting more than two years? Is it also a fact that it is doubtful that any other court in Australia has a similar backlog? Does the Attorney believe that the delay is acceptable? What steps is he taking to reduce the delay?

The Hon. J. W. SHAW: There are delays in the Court of Appeal. They are not really acceptable but they certainly have been reduced substantially since the coalition Government was in office, when parties needed to wait three years to get a case on in the Court of Appeal. By the appointment of acting judges and assiduous and appropriate procedural measures taken by presidents of the Court of Appeal that this Government has appointed the delays have been attacked. Justice Mahoney had some very impressive statistics showing improved throughput in the Court of Appeal. Justice Mason, now President of the Court of Appeal, is similarly attacking the delays.

The Government has put additional money into the Court of Appeal over and above anything that the coalition Government provided. In 1996 the Carr Government restored the program for 1996-97 and 1997-98 for the Court of Appeal. Some $5.8 million in additional funding was made available over those two years. The entire scheme is now more targeted than ever before. The previous Chief Justice expressed disquiet about delays in the Court of Appeal. He proposed that acting judges be used to reverse the trend. Consequently, the Government provided enhanced funding to the Supreme Court of some $1 million for additional acting judges in the 1996-97 financial year to be used to reduce delays in the Court of Appeal.

I am pleased to advise the House that last year's program had a positive impact on backlogs in the Court of Appeal. The pending caseload of old standard appeals, those commenced before 1 January 1995, was reduced from 315 in June 1996 to nil in June 1997. The overall delay for all cases in the Court of Appeal for the corresponding period was reduced from 36 months to 26.5 months, an improvement of 26 per cent. The Government does not believe that the situation in the Court of Appeal, or in the courts generally, is optimal: some people can wait too long for their case to be heard. I am not arguing that we have some ideal world in the court system or in the Court of Appeal, but we have done something positive: we have made additional resources available to the judiciary. We have been doing that in partnership with the judiciary and according to a strategic approach.

The benefits of the investments are beginning to show through. The old backlog of cases has been quarantined and acting judges are being used to target it. The new case management regime in the Supreme Court is ensuring that the new cases are on a tight management schedule driven by the judges. Our shared goals, as expressed in the new time standards introduced in the courts, allow both the Government and the judiciary to focus on the areas of greatest need.

The Government has delivered on its policy commitments and the ordinary litigant who seeks to exercise his or her rights in the courts is the beneficiary. It is pleasing that we have been able to attract some distinguished acting judges to the Court of Appeal. I single out Justice Ian Sheppard, who was a judge of the Supreme Court for many years and then a judge of the Federal Court. Because of the mandatory retiring age of 70 for the Federal Court he has accepted our invitation to act as a judge of the Court of Appeal. He is a distinguished jurist and I am pleased to have his services on the Court of Appeal.

The Court of Appeal is working hard and effectively. Someone said that it is the hardest-working court in Australia. I am not in a position to judge that but I have spoken to people who have gone from the New South Wales Court of Appeal to other courts and heard their accounts of the workload in the Court of Appeal over many years. I appreciate the efforts of the judges of the Court of Appeal in both hearing complex cases and producing learned, impressive judgments. New South Wales law reports are eloquent testimony to the fact that this State has an intellectually high-powered Court of Appeal. That is a credit to various governments over the years which appointed judges of such calibre to the court.

In short, I thank the Hon. Helen Sham-Ho for drawing attention to the delay in hearings before the Court of Appeal. There will always be some period of delay. I believe that I have made out a sufficient

case that the Government has taken positive and effective steps to alleviate the delays. It has actually improved the situation tangibly from the situation it inherited upon coming to government. But there is no room for complacency: more can be done, and I believe more will be done.

The Hon. R. D. DYER: If honourable members have further questions I suggest they be placed on notice.

SITHE ENERGIES COGENERATION PLANT RESOURCE ACCESS CHARGES

The Hon. R. D. DYER: On 28 April the Hon. I. Cohen asked the Treasurer a question relating to Sithe Energies cogeneration plant resource access charges. The Minister for Urban Affairs and Planning, and Minister for Housing has provided the following response:

> On the 27 May 1998, the Minister for Urban Affairs and Planning granted a deferred commencement consent to Sithe Energies Australia Pty Ltd for a cogeneration plant at Kurnell. The consent was granted on the condition that the plant utilise, for cooling water purposes, tertiary treated effluent. This development represents the largest industrial water reuse project in Australia and is a result of the Government's water reuse policy.

INTERNATIONAL OLYMPIC COMMITTEE CHAIRMANSHIP

The Hon. R. D. DYER: On 29 April the Hon. J. M. Samios asked the Treasurer a question relating to the chairmanship of the International Olympic Committee. The Minister for the Olympics has provided the following response:

> The Premier's statements are accurate. The IOC fully supports the current structure of SOCOG with the Minister for the Olympics, Michael Knight, also holding the position of President of SOCOG. The President of the IOC, Juan Samaranch, said the following in an interview with John Laws on 1 May 1998:
>
> > . . . the organising committee that you have now in New South Wales is representing what we want, private and public. And also, for us is very much important to have full links, to have an important bridge between the organising committee and the Government. And I think in the moment you have the right bridge. I think Minister Knight is doing an excellent job.
>
> This confirms what the Premier said.

M5 EAST FUNDING

The Hon. R. D. DYER: On 29 April the Hon. C. J. S. Lynn asked the Treasurer a question relating to M5 East funding. The Minister for Transport, and Minister for Roads has provided the following response:

> The M5 East will be funded from the urban roads budget. The contract for design and construction of the M5 East is still subject to tender. The final conditions under the tender are currently being negotiated to obtain the best deal for the people of NSW. The Government is committed to, and will deliver, a toll free M5 East.

TIBETAN HUMAN RIGHTS

The Hon. R. D. DYER: On 30 April the Hon. I. Cohen asked the Treasurer a question relating to Tibetan human rights. The Premier, Minister for the Arts, and Minister for Ethnic Affairs has provided the following response:

> The honourable member's question refers to the goodwill visit to Sydney from 4 May 1998 of three Chinese naval ships of the People's Liberation Army-Navy. Defence and Foreign Affairs matters fall within the executive and legislative powers of the Commonwealth Government. Protocol surrounding the entry of foreign naval vessels is administered and controlled by the Commonwealth Government and is not a matter over which the NSW Government has jurisdiction. I am advised that in this instance the three vessels sought and were granted diplomatic clearance from the Commonwealth Government for the four-day visit, which ended on 7 May 1998. The visit was part of an agreed program of developments in Australian/Chinese defence relations.
>
> The visit was one of international goodwill. Australia, like all countries which have diplomatic relations with China, accepts that Tibet is part of China. This position is consistent with Australia's recognition of the People's Republic of China in 1972. I am advised that the Australian Government has raised community concerns about the preservation of religious freedoms and cultural identity in Tibet with the Chinese Government, and will continue to do so in its bilateral dialogue on human rights. The NSW Government endorses the Commonwealth's position of supporting dialogue between China and the Dalai Lama, and welcoming his emphasis on the peaceful resolution of differences.

NEWCREST CADIA GOLDMINING

The Hon. R. D. DYER: On 28 April the Hon. Elisabeth Kirkby asked me a question about the Newcrest Cadia goldmining operation. The Minister for Mineral Resources, and Minister for Fisheries has provided the following response:

> (1) The concerns of the land-holders downstream of the Cadia goldmining operation are known to the Department of Mineral Resources, however, I have not received any representations indicating that they have been adversely affected by lack of water flow due to the operation.
>
> (2) The issue concerning the review of water flows in Cadiangullong Creek is a matter that is administered by the Department of Land and Water Conservation.
>
> (3) I am advised by my department that two incidents occurred during early 1997 when unseasonal heavy rains and

large runoff events resulted in the breach of two small sediment control dams and water turbidity. I am not aware of reports on persistent discolouration in the Cadiangullong Creek. As in answer (2) above, the matter concerning flows should be directed to the Minister for Land and Water Conservation.

(4) As the licensing associated with flow conditions is administered by the Department of Land and Water Conservation this question should also be referred to the Minister for Land and Water Conservation.

COMPANION ANIMALS EXPERIMENTATION

The Hon. R. D. DYER: On 29 April the Hon. R. S. L. Jones asked me a question relating to the supply of pound animals for research purposes. The Minister for Agriculture, and Minister for Land and Water Conservation has provided the following response:

(1) Proposals for future action regarding pound supply are being considered by Cabinet.

(2) Wyong Shire Council was fined $1,000 for the supply of surrendered animals in breach of the standards laid down under the Animal Research Act, 1985.

ICI CHEMICAL KLERAT

The Hon. J. W. SHAW: On 30 April the Hon. R. S. L. Jones asked a question about the chemical klerat. The Minister for the Environment has provided the following response:

I am informed of reports that the population of owls and other avian predators has allegedly declined through the use of a rodenticide product known as Klerat in Queensland sugar cane. Klerat is not registered or permitted for use in New South Wales and therefore it is illegal to use the product in this State. Regarding studies into the effects of Klerat, it should be noted that the National Registration Authority for Agricultural and Veterinary Chemicals has responsibility for assessing, registering and reviewing pesticides for use in Australia, including the use of Klerat in Queensland. I am advised that the registrant for Klerat, Crop Care Australasia, has instigated a detailed program of research, including field trials, to investigate the risks use of Klerat in sugar cane may present to owls and other predators. I understand the final results from this work were presented to the National Registration Authority in April 1998, and are currently being evaluated by Environment Australia for subsequent consideration by the National Registration Authority.

TOMAGO KOALA HABITAT

The Hon. J. W. SHAW: On 29 April the Hon. I. Cohen asked a question concerning Tomago koala habitat. The Minister for the Environment has provided the following response:

The NPWS has an ongoing research project on the impact of wildfire on koala populations, which includes the January 1994 fires in the Tomago Sandbed area. Results indicate that wildfire has a major and immediate impact on koalas. Post-fire recovery was found to be dependent upon recolonisation of rehabilitating habitat by koalas; a process which is adversely affected by habitat fragmentation. In early March 1998, the NPWS assisted the Native Animal Trust Fund during a post-fire koala rescue effort. The NPWS advises that although the disease and breeding status of the recently rescued koalas is interesting, such information is insufficient to measure population trends. A larger sample and repeated sampling would be required to measure population trends in light of a range of other threatening processes.

In view of the current conservation values of the Tomago Sandbeds, NPWS is currently negotiating its transfer to NPWS managed reserves. The NPWS, Australian Koala Foundation and Port Stephens Shire Council are also currently finalising the Port Stephens Comprehensive Koala Plan of Management. This plan will set the framework for koala conservation in Port Stephens and will be used as a model across New South Wales. Koala habitat in the Port Stephens Shire has been mapped and management strategies are being developed. This plan recognises that responsibility for the conservation of the Port Stephens koala population lies with all landowners and managers in Port Stephens including NPWS, Hunter Water Corporation, council and the community.

FORMER DEPARTMENT OF COMMUNITY SERVICES DIRECTOR-GENERAL Ms HELEN BAUER

The Hon. J. W. SHAW: On 28 April the Hon. Patricia Forsythe asked a question concerning the Department of Community Services. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has provided the following response:

(1) Yes. However that sentence commences as follows: "Although the Minister always had the prerogative and the power to initiate 'removal action' to dispense with any department head within his portfolio . . . "

(2) Ms Bauer was removed from the position of Director General of the Department of Community Services but she continues to be employed by the New South Wales Government. The Minister is not required to divulge her reasons for replacing Ms Bauer—refer answer (1).

FORMER DEPARTMENT OF COMMUNITY SERVICES DIRECTOR-GENERAL Ms HELEN BAUER

The Hon. J. W. SHAW: On 29 April the Hon. Virginia Chadwick asked a question concerning the Department of Community Services. The Minister for Community Services, Minister for Ageing, Minister for Disability Services, and Minister for Women has provided the following response:

(1) No.

(2) No.

(3) No.

Questions without notice concluded.

CRIMES LEGISLATION AMENDMENT (POLICE AND PUBLIC SAFETY) BILL

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

PUBLIC AUTHORITIES (FINANCIAL ARRANGEMENTS) AMENDMENT BILL

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 1998-99

Copies of the Budget Speech, Budget Information, Budget Estimates Volumes 1 and 2, State Asset Acquisition Program, Budget Summary, Western Sydney Budget Statement and Social Justice Budget Statement tabled.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [6.30 p.m.]: I move:

> That the House take note of the Budget Estimates and related papers for the financial year 1998-99.

This year's Budget Speech, which I delivered in the Legislative Assembly not long ago, was a long speech; it took well over an hour.

Reverend the Hon. F. J. Nile: We want to hear you read it.

The Hon. M. R. EGAN: I am not going to read it all, but I urge honourable members to read the printed speech that I have tabled or to read tomorrow's galley proofs. I am pleased to report that as New South Wales prepares for the challenge and opportunities of the twenty-first century, it does so from a AAA financial foundation. Among the hundreds of national and state governments around the world, only a handful can claim a AAA credit rating. New South Wales is a member of that elite. As proud as I am of the contribution of Labor governments to that achievement, I also acknowledge that it is an achievement of all governments of all political colours over the last half century.

I can also proudly report that the Carr Government is the first government in the last 50 years, and probably ever, to have reduced the State's net financial liabilities, rather than add to them. But, as vital as it is, a AAA financial position is only part of our goal. The real challenge, the real goal, is to ensure that New South Wales is AAA in every way—AAA finances, AAA support for families, AAA hospitals, schools and public services, AAA infrastructure, AAA security in our streets and neighbourhoods, AAA support for our communities and country regions, AAA protection of our natural environment, and a AAA environment for new investment and new jobs.

This year's expenses for health and hospitals will total $6,633 million, an increase over last year's allocation of $426 million, and an increase of $1,342 million over the 1994 allocation. In addition to the $6,633 million for the annual running expenses of our health and hospital system, we are investing strongly in new health assets. This year we will invest $458 million in new health assets.

The Hon. Dr B. P. V. Pezzutti: Coffs Harbour?

The Hon. M. R. EGAN: Yes.

The Hon. Dr B. P. V. Pezzutti: You are promising that one again, are you?

The Hon. M. R. EGAN: No, it is already under construction, and this year it will be part of a further $356 million that will be spent on ongoing projects. As well, a number of new health initiatives will commence in 1998-99, with a total estimated cost of $235 million. Another vital $7 billion plus commitment in 1998-99 is to make sure that our children have the best possible start in life. For the education and training portfolio in 1998-99, we will invest $258 million in new assets, and will allocate $6,551 million for schools, educational and training operating expenses.

One of the most enduring truths of Australian government is that people in need can count on a Labor Government to get behind them. The facts speak for themselves. In 1994-95, the last budget before the Carr Government took office, the allocation for expenses in the community, aged and disability portfolio was $991 million. It is now $1,355 million, an increase of $364 million or almost 37 per cent. This includes an increase of $143 million in this budget—around 12 per cent higher than last year's allocation.

We have reduced public transport losses and dramatically improved services. Nevertheless, budget subsidies for public transport operations will still exceed $1,830 million in 1998-99. The roads

program for 1998-99 will total $2,085 million. In 1998-99 we will spend $44.6 million on tourism support and promotion. We will continue to increase our spending on police to make our streets and neighbourhoods safer. Last year's police budget included $70 million for the Guns Buy-Back scheme. Excluding the impact of these payments, the total expense allocation for the Police Service in 1998-99 is $82 million higher than for last year.

A total of $395 million will be allocated to the environment portfolio for annual expenses—more than double the allocation in 1994-95. A total of $1,206 million will be allocated to agriculture, forestry and land and water conservation. There are no new taxes or tax increases. On the contrary, taxes are coming down. New arrangements for funding of outstanding personal injury claims under the former third party motor vehicle accident schemes mean the Government will be able to phase out the $43 levy that motorists now pay on their motor vehicle registration every year. This levy raises about $126 million per annum, and 600,000 New South Wales families will be the first to benefit from 1 July this year. The 600,000 families that receive family allowance supplements and the 350,000 seniors will be eligible for that $43 exemption from 1 July, as will all of the State's farmers and primary producers.

The Hon. Virginia Chadwick: Which 1 July? This July or next July?

The Hon. M. R. EGAN: This July. Again, with the aim of putting families first, major concessions are being introduced to help first-time home buyers. For example, a couple earning up to $57,000 a year will be able to buy a $170,000 home and we will give them a stamp duty concession of $2,200. The total net cost of the tax concessions in this budget is $380 million over four years—$84 million in 1998-99, $68 million in 1999-2000, $108 million in 2000-2001 and $121 million in 2001-2002. The accrual operating surplus for 1998-1999 is estimated to be $1,966 million. On a cash, goods-for-service, basis, which is the old basis by which we calculated the budget result, the estimated budget result is a surplus of $45 million.

Three years ago I was given the task of repairing the damage of six years of high deficits, of finding the funds for the Olympics, and finding the funds to improve our services to the community. We set out to set things right, right from the start. And as a result, this budget delivers the big dividends. As we promised, it is a budget that puts families first; it is a Budget that bolsters our hospitals, our schools, our police; it is a budget that provides strong support for our great regions and country towns; it is a budget that positions New South Wales for more investment and more jobs; it is a secure budget, a family budget, a fair budget and, I believe, a far-sighted budget. And, like the three budgets before it, it is every inch a Labor budget. It is a Labor budget from top to toe.

Motion by the Hon. J. H. Jobling agreed to:

That this debate be adjourned until Tuesday, 16 June.

[*The President left the chair at 6.38 p.m. The House resumed at 8.15 p.m.*]

JOINT ESTIMATES COMMITTEES

Consideration of the Legislative Assembly's message of 28 May.

The Hon. R. D. DYER (Minister for Public Works and Services) [8.15 p.m.]: I move:

(1) That notwithstanding anything to the contrary in the standing orders, the following joint estimates committees be appointed:

Estimates Committee No. 1

1. Premier, Arts and Ethnic Affairs
2. Education and Training
3. Olympics
4. Treasury, State Development
5. The Legislature

Estimates Committee No. 2

1. Health, Aboriginal Affairs
2. Community Services, Ageing, Disability Services and Women
3. Agriculture, Land and Water Conservation
4. Mineral Resources, Fisheries
5. Regional Development and Rural Affairs

Estimates Committee No. 3

1. Police
2. Corrective Services, Energy, Tourism and Emergency Services
3. Attorney General, Industrial Relations and Fair Trading

Estimates Committee No. 4

1. Transport and Roads
2. Public Works and Services

3. Gaming and Racing

4. Sport and Recreation

Estimates Committee No. 5

1. Urban Affairs and Planning, Housing

2. Environment

3. Information Technology, Forestry and Ports

4. Local Government

(2) The budget estimates and related documents or any matter referred to in any budget paper or supporting or related document representing the amounts to be appropriated from the Consolidated Fund be referred to the committees for inquiry and report.

(3) 1. Each committee is to consist of nine members, comprising:

(a) Six members from the Legislative Assembly, being three from the Government nominated by the Leader of the House, two from the Opposition nominated by the Opposition leader and one Independent, nominated by the majority of Independent Members;

(b) Four members from the Legislative Council, being two from the Government nominated by the Government Whip, one from the Opposition nominated by the Opposition Whip and one member of the crossbench, nominated by a majority of crossbench members.

2. Nominations for Legislative Assembly members of the committees shall be made to the Clerk of the Legislative Assembly and nominations for Legislative Council members of the committees shall be made to the Clerk of the Legislative Council, within seven days of the passing of this resolution by both Houses.

3. (a) Government or Opposition members of the relevant House may be appointed to the committee from the same House as substitutes for a member of the committees for any matter before the committees, by notice in writing by the relevant Leader of the Government, Leader of the House, Leader of the Opposition, Government or Opposition Whips or Deputy Whips.

(b) Crossbench or Independent members may be appointed to the committees as substitutes for another crossbench or Independent member of the committees, provided they are of the same House as the member to be substituted, for any matter before the committees. Notice in writing of the substitute member, which is to be determined by agreement between the members themselves, can be made by any of the crossbench or Independent members provided that the others are in agreement.

(c) In the event that no crossbench or Independent member wishes to be appointed to a committee, the Leader of the Opposition or Opposition Whip or Deputy Whip can nominate a member from the same House to fill the position.

4. That the chair of a committee have a deliberative vote and in the event of an equality of votes a casting vote.

5. The chairs of the five estimates committees will be elected by the committee.

6. (a) The committee may from time to time appoint a Member to act as deputy chair and the member so appointed is to act as chair when the chair is not present at a meeting of a committee.

(b) In the event of absence of both the chair and the deputy chair, the committee is to elect a member to act as chair for that meeting.

7. The committees have power to send for and examine persons, papers, records and things.

8. The quorum of the committee is five members, provided that a member from each House is present.

9. The proceedings of the committees are open to the public and media unless otherwise ordered by a committee.

10. (a) The times, dates and places for meetings of each committee are to be set out in a schedule provided by the Clerks of both Houses to members of each committee.

(b) A committee may hold meetings supplementary to those set out in the schedule.

11. A committee may examine:

(a) each program area in the budget estimates and related documents by portfolio; and

(b) by portfolio, expenditure or income of any statutory body or corporation appointed, constituted or regulated under an Act of Parliament:

(i) which the Minister for the time being administers, and under which the statutory body or corporation is appointed, constituted or regulated; or

(ii) which is required to submit an annual report to the Parliament, either under the Act appointing, constituting or regulating the statutory body or corporation or under the Annual Reports (Statutory Bodies) Act 1984.

12. In an estimates committee:

(a) the Chair is to call-over each program area and declare the proposed expenditure open for examination;

(b) members may question Ministers, and through Ministers, officers of any department of Government, statutory body or corporation, relating to each program area, or where

possible, proposed income or expenditure or other relevant matter in each program area; and

(c) a question is to be proposed for each program area "That the amount be recommended".

13. (a) The time allocations for questions in each committee be three hours for each Minister's portfolio areas with total times for questions allocated in the following order:

30 minutes Opposition
30 minutes Government
30 minutes crossbench and Independent
30 minutes Government
30 minutes crossbench and Independent
30 minutes Opposition.

Any time allocated but not used by crossbench and Independent Members may be used by the Opposition.

(b) There must be a minimum of six questions asked and answers provided during each time block of 30 minutes allocated, unless time allocated is foregone.

(c) Time allocated to ask any question must be one minute maximum.

(d) Time allocated to reply by a Minister or Government official must not exceed four minutes.

(e) Time used for dissent from the chairman's rulings must be in open hearing, and not be deducted from the time block allocated for Opposition, crossbench or Independent member.

(f) Time for dissent argument shall be limited to 10 minutes and then a vote shall be taken forthwith.

(g) Such time used by dissent argument shall be additional to total hearing time allocated.

14. (a) Any Minister present to answer questions may have staff present to assist him or her during the hearing of evidence and may refer to those staff at any time.

(b) Any member of the committee may also have staff present to assist them during the hearing of evidence and may refer to those staff at any time.

15. A daily record of the proceedings of a committee is to be published by Hansard.

16. (a) Before an estimates committee hearing, members or substitute members of a committee may provide written questions to the clerk of the committee who will then distribute them to the relevant Minister and to members of the committee. Answers to these questions may be supplied in writing to the committee clerk prior to the hearing or tabled at a hearing.

(b) Nothing in this paragraph prevents a member from asking questions at an estimates committee hearing.

(c) Before and during an estimates committee hearing, any member of either the Legislative Assembly or Legislative Council may submit a written question to the clerk of the committee who will then distribute them to the relevant Minister and to the members of the committee.

17. Where a Minister indicates that a reply or supplementary information will be given in response to a question asked, a written answer must be lodged with the clerk of the committee within seven days. The clerk of the committee is to publish in an estimates committee questions and Answers Paper the information requested and the reply.

18. (1) A member who attended at an estimates hearing may lodge with the clerk, within 24 hours of a hearing, written questions on notice relating to matters unanswered or any other additional information required relating to matters referred to a committee.

(2) A written answer must be lodged with the clerk of the committee within seven days which will be published in an estimates committees questions and answers paper."

19. The report of each committee is to state whether the amounts of each program area in the estimates are recommended.

20. (1) The committees are to report to the Houses prior to the consideration by the Committee of the Whole House of the relevant bills, after which the committees will expire.

(2) Where a committee fails to report in the time required under subparagraph (1), the amount for each program area is deemed to be recommended by the committee.

21. The reports from the committees will be received by the Houses without debate and their consideration deferred until consideration of the Appropriation Bill and cognate bills.

22. In Committee of the Whole House when considering the amounts for each program area in the estimates and the corresponding clauses and schedules in the Appropriation Bill and cognate bills:

(a) the Chair is to put the question in respect of each corresponding committee report, "That the report of (name of the Committee) be adopted"; and

(b) any remaining clauses and schedules of the Appropriation Bill and cognate bills are to be considered as one question, "That the remaining clauses and schedules of the bills be agreed to".

23. At the conclusion of proceedings in Committee of the Whole, the Chair is to report to the House that the Committee has or has not adopted the reports from the estimates committees.

24. (a) If the House is not sitting when a Committee wishes to report to the House, the Committee is to present its report to the Clerk.

(b) A report presented to the Clerk is:

(i) on presentation, and for all purposes, deemed to have been laid before the House;

(ii) to be printed by authority of the Clerk;

(iii) for all purposes, deemed to be a document published by order or under the authority of the House; and

(iv) to be recorded in the Votes and Proceedings of the Legislative Assembly and Minutes of Proceedings of the Legislative Council.

25. The proceedings of the Committee may be recorded by video and audio recording equipment.

26. The Committee have leave to sit during the sittings or any adjournment of the House.

As the motion indicates, the Government takes the view that it should agree with the terms of the resolution conveyed to this House by the Legislative Assembly setting up the structure for joint estimates committees. The Government believes that in past years the joint estimates committees have worked well and that the ground rules for such committees set out in the Assembly's message are fair not only to the Government but also to the Opposition and crossbench members. I feel comfortable about saying that the Government is entitled to certain weighting of membership of joint estimates committees, such as chairmanship and a narrow majority of members represented on those committees. It is my understanding that the Opposition in this Chamber will move quite a number of amendments to the motion. The Government will agree with some of those amendments but will oppose most of them.

I think it best to state the Government's position up-front, rather than in reply, for reasons of clarity. First I repeat that the Government is committed to a joint estimates committee model. It proposes to accept some of the Opposition's more constructive suggestions. Although I cannot do so, a Government member will move one amendment to my motion. That will seek to insert after paragraph (3)23 a new subparagraph 24.

The Hon. J. H. Jobling: It might be a new subparagraph 25. The numbering is incidental.

The Hon. R. D. DYER: I am sure the House will be able to cope with any consequential renumbering. In any event, my advice at this stage is that it will be a new subparagraph 24, in these terms:

The Committees have leave to sit during the sittings or any adjournment of the House.

That is to facilitate dispatch of the business of the joint estimates committees.

The Hon. J. P. Hannaford: I agree.

The Hon. J. H. Jobling: The Opposition would support that.

The Hon. R. D. DYER: I am pleased to hear that the Leader of the Opposition and the Hon. J. H. Jobling appear to have no objection to that amendment. The Government will support Opposition amendments 1, 2 and 3, which reflect recent portfolio changes—for example, to portfolios such as emergency services and fair trading—and group those portfolios appropriately. The Government will oppose Opposition amendment 4. This year, for the very first time, the budget papers contain coverage of all general government-sector agencies. There is no other relevant documentation that is not published and included in the budget papers. I may not have been able to say that in previous years, but I am advised that I am entitled to say it this year, having regard to the greater and more general coverage contained in this year's budget papers. The Government will oppose Opposition amendment 5. As I said at the beginning of my remarks, the Government is firmly of the opinion that it should chair the estimates committees. I do not believe I need to develop that argument at any length—

The Hon. J. H. Jobling: Tell us about the numbers in the Legislative Assembly. Paragraph (3)1(a) of the motion deals with the numbers. Chairmanship is dealt with further down, with respect.

The Hon. R. D. DYER: On my feet I cannot necessarily sort out the sequence to which the Hon. J. H. Jobling refers. If there has been a change in numbering, the Government will have to take that into account. However, the substantive matter I am referring to is the chairmanship of committees. Therefore, I will simply state the Government's attitude to that substantive issue without worrying about the sequence in which it appears. The Government will not oppose Opposition amendment 6. It is of the opinion that the crossbench members in this House are perfectly capable of reaching an agreement about members who are most interested

in nominating for membership on particular committees. I am advised that the Government will not oppose Opposition amendments 7 and 8. I am advised further that the Government will not oppose Opposition amendments 12, 13 and 14.

As to Opposition amendment 15, while the Government supports the amendment to the extent that any time allocated but not used by the crossbench and Independent members may be used by the Opposition, it opposes paragraphs (b), (c) and (d) of the amendment. However, the Government will not oppose paragraphs (e), (f) and (g). The Government will oppose Opposition amendment 17, which the Government believes would create an unwieldy and unworkable situation.

There is no problem with advisers to members of the committee, other than Ministers, passing notes via the attendants; that has certainly been done many times in the past. However, the Government foresees a problem if there is to be a large collection of people at the tables, clogging up the proceedings. The Government does not want to be obstructive or to prevent Opposition or crossbench members having access to on-the-run briefings in terms of notes—

Reverend the Hon. F. J. Nile: Will they be at the table?

The Hon. R. D. DYER: I am not sure where the advisers will be. One would presume that if they are not at the table they will have to be positioned in close proximity to members. The Government's attitude is that advisers at the table would be unwieldy, unworkable and create physical crowding, which would be undesirable. Opposition amendment 18 will be opposed by the Government, although amendments 19 and 20 will not be opposed. Amendment 21 will be opposed on the grounds of expense and impracticality. Shortly stated, that is the attitude of the Government to the amendments proposed by the Opposition. As I have a right of reply, I am content with stating the matter in that form at this stage.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [8.30 p.m.]: My colleague the Hon. J. H. Jobling will move the Opposition amendments and speak to them in detail, so I will not take up the time of the House by dealing with them individually. As Leader of the Opposition it is appropriate that I indicate that the Opposition supports the concept of joint estimates committees. At times the upper House has insisted that it deal completely with estimates committees, but that has now changed. The approach of the Legislative Council to the role of committees and its relationship with the Legislative Assembly has matured.

The upper House now has general purpose committees, which are similar to the Senate estimates committees. Legislative Council general purpose committees sit throughout the year to consider expenditure and other matters. Their role in the development of the Legislative Council is important and unique. It is not inappropriate that there should be joint estimates committees, a matter upon which there has been experimentation in the past few years. The amendments to be moved by the Hon. J. H. Jobling are a statement of the position the coalition would be prepared to adopt when it is in government after the March 1999 election.

I would like to deal with the number of Legislative Assembly members who will sit on the joint estimates committees. Presently there are three Independent members, more than 40 coalition members and more than 49 Government members in the Legislative Assembly. The Government's proposal is that only one Opposition member and one Independent member from the Legislative Assembly will sit on the joint estimates committees. An amendment to be moved by the Hon. J. H. Jobling provides that one Independent member and two Opposition members from the Legislative Assembly will sit on the committees.

Presumably, therefore, when the Labor Party goes into opposition in March 1999, as the coalition anticipates it will, it is prepared to have one Labor member and one Independent member on the joint estimates committees even though, on projected boundaries, the Labor Party will have something like 40 members in the Legislative Assembly and there will be only two or three Independent members. I do not regard that as an appropriate apportionment. The Opposition proposal is not inappropriate; indeed, it is beneficent so far as the Independents are concerned.

I do not disagree that the appropriate approach in the majority of circumstances is that a Government member should chair the committees. Last year the Opposition was prepared to give chairmanship of committees to the Government, except in one instance. The Opposition supports the principle that committee chairmen should be elected by the committees, and that the Government is entitled to chair the committees, unless a Government chairman acts inappropriately and not in the spirit of parliamentary committees. If a chairman does not recognise the parliamentary role of committees and the bipartisan approach to committee operations, the Opposition should, in

conjunction with the crossbench members, nominate an alternative chairman from the Government side.

In the United Kingdom committees elect their chairmen, and it is not uncommon for Opposition members to chair committees. Committees there seek to work for the benefit of the Parliament and the people. That is not to say that the position will not change here. As this Parliament becomes more familiar with the operation of committees—we have had only a decade of experience with committees, and sometimes we move with snail-like pace in our maturity towards their use—the time may come when the chairmen of committees are elected by the committees, and Opposition members could be the chairman of committees.

The Hon. R. S. L. Jones: And the Senate, too?

The Hon. J. P. HANNAFORD: I have not considered the Senate experience recently. As a matter of principle the Opposition will advocate that the committees elect their chairman. All members of Parliament should be allowed to put questions on notice, although I note that the Government is opposed to that proposal. The structure of our estimates committees requires the Government to respond to those questions within seven days. I have advocated to my coalition colleagues, who have agreed, and I now advocate to the House, that during the estimates committees all members should be able to put on notice questions that relate to their electorates or their areas of interest. That is the appropriate way for members of Parliament to achieve appropriate levels of representation.

We have all witnessed members abusing the process by producing large numbers of questions, thereby bogging down the process of responding to questions. If that occurs, the process will have to be reviewed. However, I contend that in the estimates committees all members should have the opportunity to raise questions about the budget, and to expect answers. The Government said that it will oppose that Opposition amendment, but I ask the Government to reconsider. If the Government does not agree to that amendment it will undermine the role of members of Parliament. We should be able to ask questions about the budget as it relates to our electorates.

I ask members to look closely at the amendments to be moved by the Hon. J. H. Jobling, because they will improve our parliamentary system. The Opposition is happy to support the amendment to be moved by the Government. Perhaps the Legislative Council should sit while the estimates committees are deliberating. Our admirable Whips could negotiate appropriate arrangements for divisions whilst the House is sitting. It could lead to the practice adopted by the Senate whereby, whilst its estimates committees are sitting, it deals with non-controversial bills and members know there will be no divisions. I commend the Whips for making that suggestion. The Hon. Elisabeth Kirkby proposes an amendment which is not dissimilar to one of the Opposition amendments, and the Opposition will support it. I commend these changes to the House.

Reverend the Hon. F. J. NILE: [8.42 p.m.]: It is obvious that all honourable members support the proposal to establish joint estimates committees. The Leader of the Opposition said earlier that the Opposition will support the Government's motion. From my observation of joint estimates committees and upper House estimates committees, I favour the latter—the maintaining of upper House estimates committees. We should use our already established general purpose standing committees to review the budget. Basically, if this motion is agreed to we will have two sets of estimates committees—joint estimates committees and general purpose standing committees—and that is a duplication of effort. The Christian Democratic Party prefers to maintain the existing upper House general purpose standing committees, which emphasise the role of the Legislative Council as a House of review. That is why in the Federal Parliament estimates committees are established only in the Senate.

The Legislative Council, as a House of review, considers legislation introduced from the Treasury benches in the Legislative Assembly. That process will become confused if joint estimates committees are established. I have seen joint estimates committees in operation—and there is pressure to appoint joint estimates committees on this occasion—and I know that they tend to become political bunfights in which members of all parties seek to score political points. In the main, Opposition shadow ministers seek to score political points and the real purpose of estimates committees is lost. Estimates committees should be a venue in which we search for truth, facts and information, rather than try to score political points. That is the negative side of joint estimates committees. Will they really achieve their purpose in the long run?

The Christian Democratic Party supports the amendment to be moved by the Government and some of the amendments to be moved by the Hon. J. H. Jobling. I said to the Hon. J. H. Jobling that, as Opposition Whip, he could consult with crossbench members and work out a fair way of appointing crossbench members to various joint estimates

committees. However, the Hon. J. H. Jobling does not want that role, which is fair enough. The Clerk of the Legislative Council could negotiate those appointments but, as honourable members know, sometimes there is a degree of tension between crossbench members and it is not always easy to reach agreement. However, this area is not as controversial as some others.

A majority of crossbench members could impose their will on other crossbench members, which is what happened in this House when members were appointed to the committee inquiring into safe injecting rooms. We had a fairly bitter debate about that in this House. The Christian Democratic Party is disenchanted with the possibility of a majority of crossbench members being able to control all crossbench members. It is not easy to find a solution to that problem. If there is a disagreement and two crossbench members wish to serve on a committee, as has happened in the past, both names should go into a hat. We should not invite a show of strength by the use of numbers.

The Hon. J. H. Jobling: You could be involved in gambling for the first time.

Reverend the Hon. F. J. NILE: Names were drawn out of a hat for the apostles. That to me seems to be a fairer way of doing things. There may be only a few occasions when crossbench members are in conflict over a matter, but the majority of crossbench members should not be able to impose their will on the minority. That would be undemocratic. I have always accepted the principle that Government members should chair estimates committees. The Government has a mandate to govern and it should be allowed to do so. If the Government is happy for an Opposition member or a crossbench member to chair a committee, I would not oppose such a proposition, but that should be a concession that the Government makes. That process should not be imposed on the Government.

The Hon. ELISABETH KIRKBY: [8.47 p.m.]: Tonight will be the last time that I speak on behalf of the Australian Democrats in debate relating to estimate committees, and I wish to place on the record my views about why we have estimates committees. If estimates committees are to be of any value at all they must allow Opposition and crossbench members to examine in detail the Government's program for the year. If estimates committees do not permit the Opposition to do that, they are a total waste of public money. Before I looked at the budget papers tonight I was firmly of the opinion that estimates committees or joint estimates committees should not simply rubber-stamp what the Government is doing. Now that I have had an opportunity—albeit a limited opportunity between 6.30 and 8.50 this evening—to see how the budget has been presented this year, I am of the opinion that this year's budget figures, to put it in the vernacular, are all smoke and mirrors. It is impossible for anybody to ascertain what money is being spent in what area.

Having looked at the budget very carefully I have established that I would need a staff of 10 for at least three weeks to unravel the figures. The Opposition has asked for greater assistance in looking at those budget figures because they have been presented in an incomprehensible way. Without a careful and detailed analysis, we will have no opportunity to work out what the Government is doing in any department.

Therefore, if we are to go back to the system of having joint budget estimates, they have to be conducted in a way that allows the Opposition and the crossbenchers to ask detailed questions of the Ministers. It is a total anachronism that under the Westminster system our Parliament has budget committees that are controlled by the Government. During my Commonwealth Parliamentary Association tour about two or three years ago, I visited the Commonwealth country of Malaysia, where I lived for many years, and then went to the United Kingdom, where I consulted with table officers.

In Malaysia, which regrettably is hardly the epitome of democracy anymore, it was considered laughable and silly that the chair of our estimates committees was drawn from the Government benches. The purpose of estimates committees is to give Opposition members and shadow ministers the opportunity to ask detailed questions of Government Ministers. If a committee has a Government chair and majority, the Opposition will be denied that opportunity. In Great Britain under the Westminster system the chair of an estimates committee can be selected from the Opposition, the Government or a minority party.

In the Australian Senate, in many cases estimates committees are chaired by an Opposition member. In this Chamber we are facing a situation where the chair and the deputy chair will be Government members and questions will be controlled in such a way that the questioner will not be able to move away from line items in the budget. From my cursory glance of the budget papers, I would challenge anyone to know what the line items are—and that is extremely worrying. I have been a member of this Parliament for some considerable

time—although not as long as the Deputy-President, the Hon. J. R. Johnson—and in my 18 years' experience I have never seen a budget that has been couched in such amorphous terms as this year's budget. It may be clever politics and it may assist the Government to persuade people to re-elect it next year, but it is not in the best interests of the people. Therefore I intend to support the Opposition amendments. For a long time I have felt that it would not serve any useful purpose to have joint estimates committees under our system.

It would be expensive and take up a great deal of time and would not assist crossbenchers to ask detailed and penetrating questions of Ministers. I do not resile from that. I am delighted that we have had the opportunity to set up general purpose standing committees in this House that, whatever the result tonight, will continue to operate. They will be far more valuable than one week's exercise of a joint estimates committee of both Houses of Parliament. Therefore, although I will support the Opposition, I am happy to know that through the standing committees we will have the opportunity to examine the budget application in depth, to call witnesses and to do what I believe is the true job of an estimates committee. The Government's decision not to accept any of the Opposition's amendments is strange.

The Hon. J. H. Jobling: It is accepting some.

The Hon. ELISABETH KIRKBY: The Government is accepting some of the minor, unimportant amendments. At a crossbench meeting today presided over by the Minister for Public Works and Services we were informed that the most important Opposition amendments would not be accepted by the Government. I would have thought it was to the Government's advantage to accept them. If and when it is in opposition, it would be to the advantage of its shadow ministers to be able to closely question the Ministers of the day. Therefore it is difficult to understand why it should vote against these amendments. Obviously this is a power play between the Government and the Opposition.

It is necessary that we be able to discuss the budget in detail and are not tied to line items only. The crossbenchers, and maybe the Opposition, are well aware that under previous Government chairmen we were ruled out of order when we asked a perfectly legitimate question. The chairmen asked, "Which is the line item to which you refer?" When we suggested line item X, Y or Z, the committee chair said, "No." Because the Government had the majority on the committee we were not permitted to ask the question at the time or even put it in writing at a later date. I totally oppose this undemocratic process and I am perturbed that the Government appears to be returning to that process. I move:

That the motion be amended as follows:

Insert after paragraph (3)17:

18. (1) A member who attended at an estimates hearing may lodge with the clerk, within 24 hours of a hearing, written questions on notice relating to matters unanswered or any other additional information required relating to matters referred to a committee.

18. (2) A written answer must be lodged with the clerk of the committee within seven days which will be published in an estimates committees questions and answers paper.

As there are eight crossbenchers in this House and three in the other place, our ability to ask questions is limited; whereas all the Opposition and Government questions will be asked by one or other of those members. This is a reasonable amendment and I hope that the Government will accept it. I have been assured that the Opposition intends to accept it. Estimates committees cost an enormous amount of money, both in relation to the public servants who attend the estimates committees to support their Ministers and in relation to the public servants who answer in writing the questions placed on notice. I am told that it costs approximately $150 per question per day, which is not an inconsiderable amount of money. The Government should consider carefully the way in which joint estimates committees are managed and if they are not of any true value perhaps they should be abandoned totally.

Nothing is gained by engaging in an exercise purporting to give members of Parliament a right to question the Government on estimates which then devolves into a situation where the estimates are just rubber-stamped. If that is to be the case, we should not have estimates committees at all because they will waste the time of members and table officers in both Houses. The estimates committees will serve no useful purpose if they are just rubber-stamped and do not afford members an opportunity to comment in detail. That is not in the best interests of the people of New South Wales.

The Hon. R. S. L. JONES [9.02 p.m.]: I welcome the motion because for some time I have believed that the Parliament should conduct joint estimates committees. The estimates committees of recent years have involved only Legislative Council members and, therefore, the questions of shadow ministers have not been as forceful when asked by other members on their behalf. All shadow ministers should be given an opportunity to question Ministers

on the budget. In the past I have felt uncomfortable that the honourable member for Manly, the honourable member for Bligh and the honourable member for Tamworth were not able to be involved in the process. Estimates are not a waste of time. In the past joint estimates committees were useful and some interesting and penetrating questions were asked; it was not a rubber-stamp process. Whether the chairman of an estimates committee was a Government member made little difference because the same questions were asked and the budgets were always approved regardless—though that may not happen in the future. The amendments moved by the Opposition will mean that each crossbench member will be able to ask 12 questions of each Minister, which will provide an opportunity to ask penetrating questions.

The Hon. J. H. Jobling: Or put them on notice.

The Hon. R. S. L. JONES: Or put them on notice. This is a good move and I shall support the Opposition's amendments. It should be open for the Chair to be elected, whether it be a Government Chair, an Opposition Chair, a crossbench Chair or an Independent Chair from the lower House. I also support the amendment moved by the Hon. Elisabeth Kirkby. I look forward to the estimates committees. Crossbench members have discussed already who will attend the estimates committees and I do not believe there will be any squabbles as to whom will attend which committee. In any case, by agreement members can swap with each other, so problems will not arise.

I hope honourable members will ask many questions and those who are unable to attend can request other members to ask questions on their behalf or put them on notice. Advisers and senior executive staff who attend will be paid regardless of whether they are here or at their offices. It will not cost any more money for them or for the Ministers. The only extra money may be in the printing and in Hansard's time. I do not think it will involve much more money because everyone is being paid, regardless of what they are doing on those days.

The Hon. DOROTHY ISAKSEN [9.04 p.m.]: I move:

That the motion be amended as follows:

Insert after paragraph (3)23:

24. The committees have leave to sit during the sittings or any adjournment of the House.

This amendment permits the Legislative Council to meet during the estimates committee meetings so it can deal with business of a non-controversial nature, such as the budget debate, which takes up many hours of this House, and second reading speeches. On previous occasions Parliament has adjourned for the winter recess before all honourable members have had an opportunity to speak to the budget debate. This amendment means that the House can sit on the Tuesday, Wednesday and Thursday while the estimates committees are taking place.

The Hon. FRANCA ARENA [9.06 p.m.]: I support the Opposition's amendments, which will make the estimates committees truly democratic. I have been a member of Parliament for 17 years. I have been the chair of one estimates committee and a member of a number of others. I have seen what has happened in the past: the Government has had the numbers and crunched the numbers. Members were unable to ask probing questions of Ministers. It has been said that Government members always ask dorothy dixers.

The Hon. J. H. Jobling: It was a total waste of time.

The Hon. FRANCA ARENA: It was an absolute waste of time. I support the amendments, at the risk of being called an Opposition lackey because I do not support the Government. The amendments are sensible and will give members an opportunity to understand the budget. Like the Hon. Elisabeth Kirkby, I had a brief look at this year's budget papers and unless one is Einstein I do not know how one is supposed to understand them. It will be extremely difficult and it is most important that members have an opportunity to ask questions and receive concise answers, not filibusters. It is also important that questions be asked on behalf of my crossbench colleagues who cannot attend the committee meetings because of the limited membership. I support the Opposition amendments and congratulate it on moving for the estimates committee process to be democratic.

The Hon. J. H. JOBLING [9.08 p.m.]: Without doubt the budget papers, consideration of the documentation and joint estimates committees are the most important matters that come before the Parliament. The budget is the statement of the Government's fiscal responsibility and policy. It displays to the public of New South Wales the budget estimates, the financial truism of them, and suggests that is the reason it is a good Government. This will be decided by the Parliament, by those who examine the budget documents, and by Opposition and crossbench members, who will have

the right to question—a special and inalienable right—and to test the veracity of the Government. The estimates committees are an important event in the parliamentary year and provide members with an opportunity to question why an issue has not been commented upon, why there is overexpenditure or why something has not been completed. It is imperative that there be joint estimates committees. It is proper that members of the Legislative Assembly and the Legislative Council have the right to jointly ask questions and for shadow ministers to put questions to Ministers and challenge their portfolios.

It is equally important that Independent members have the opportunity to question Ministers on budget allocations. I would be concerned that without joint estimates committees the Legislative Council and the Legislative Assembly would not have a proper opportunity to review, test and challenge the actions of the Government and the reason for those actions. To be so questioned is not easy for a Minister. I can well understand that a Minister would wish to protect himself or herself by restricting the opportunity or containing members of the Opposition or members on the crossbenches in their efforts to expose what they may believe is incorrect policy, inappropriate allocations of funds, or a wrong direction on the part of a Minister or the Government for the people of New South Wales.

As honourable members would be aware, I have circulated some 20 amendments to the motion moved by the Minister. At the outset might I indicate that the Opposition will agree with amendments moved by the Australian Democrats to insert new subparagraphs 18(1) and 18(2). The Opposition will support also the amendment moved by the Government Whip, the Hon. Dorothy Isaksen. That amendment seeks to enable the joint estimates committees to sit during the sittings of the House. There will be five major committees and some 20-odd drawdowns from those committees, and that will result in most members of both Houses committing at least three hours at a sitting of the committees to deal with matters. By leave, I move in globo amendments 1 to 21 circulated in the name of the Hon. J. P. Hannaford but which should have been circulated in my name:

That the motion be amended as follows:

No. 1 Paragraph (1), Estimates Committee No. 3. After "Tourism", insert "and Emergency Services".

No. 2 Paragraph (1), Estimates Committee No. 3. After "Industrial Relations" insert "and Fair Trading".

No. 3 Paragraph (1), Estimates Committee No. 3. Omit:

4. Fair Trading and Emergency Services

No. 4 Paragraph (2). After "related documents" insert "or any matter referred to in any budget paper or supporting or related document".

No. 5 Paragraph (3)1. Omit "nine members", insert instead "10 members".

No. 6 Paragraph (3)1(a). Omit the paragraph, insert instead:

(a) Six members from the Legislative Assembly, being three from the Government nominated by the Leader of the House, two from the Opposition nominated by the Opposition Leader and one Independent, nominated by the majority of Independent members;

No. 7 Paragraph (3)1(b). Omit "nominated by the Opposition Whip", where secondly occurring, insert instead "nominated by a majority of crossbench members."

No. 8 Paragraph (3)3(a). Omit "committees" where secondly occurring, insert instead "committee from the same House".

No. 9 Paragraph (3)3(c). After "can nominate a member", insert "from the same House".

No. 10 Paragraph (3)5. Omit all words after "will be", insert instead "elected by the committee".

No. 11 Paragraph (3)6(a). Omit the paragraph, insert instead:

(a) The committee may from time to time appoint a member to act as Deputy Chair and the member so appointed is to act as chair when the Chair is not present at a meeting of a committee.

No. 12 Paragraph (3)6(b). Omit all words after "the Deputy Chair," insert instead "the committee is to elect a member to act as Chair for that meeting".

No. 13 Paragraph (3)9. After "the public", insert "and media".

No. 14 Paragraph (3)13. Omit "30 minutes Opposition" where secondly occurring.

No. 15 Paragraph (3)13. Insert at the end "30 minutes Opposition".

No. 16 Paragraph (3)13. Insert at the end:

Any time allocated but not used by crossbench and Independent members may be used by the Opposition.

(b) There must be a minimum of six questions asked and answers provided during each

time block of 30 minutes allocated, unless time allocated is forgone.

(c) Time allocated to ask any question must be one minute maximum.

(d) Time allocated to reply by a Minister or Government official must not exceed four minutes.

(e) Time used for dissent from the chair's rulings must be in open hearing, and not be deducted from the time block allocated for Opposition, crossbench or Independent members.

(f) Time for dissent argument shall be limited to 10 minutes and then a vote shall be taken forthwith.

(g) Such time used by dissent argument shall be additional to total hearing time allocated.

No. 17 Paragraph (3)14. Insert at the end:

(b) Any member of the committee may also have staff present to assist them during the hearing of evidence and may refer to those staff at any time.

No. 18 Paragraph (3)16. Insert at the end:

(c) Before and during an estimates committee hearing, any member of either the Legislative Assembly or Legislative Council may submit a written question to the clerk of the committee, who will then distribute them to the relevant Minister and to the members of the committee.

No. 19 Paragraph (3)19(1). Omit "House", insert instead "Houses".

No. 20 Paragraph (3)20. Omit "House", insert instead "Houses".

No. 21 Insert after paragraph (3)23:

24. The proceedings of the committee may be recorded by video and audio recording equipment.

I wish to proceed to explain each amendment. At the appropriate time, the Opposition would seek that the question in respect of each amendment be put seriatim. The Government has indicated that it will accept a number of my amendments. Amendments 1, 2 and 3 quite clearly flow from the message received from the Legislative Assembly. They are moved bearing in mind that there are now 20 Ministers, not 21 Ministers. The purpose of amendment 3 is to omit item 4, Fair Trading and Emergency Services, which is now irrelevant. The next part of the Minister's motion that I would deal with is paragraph (2), which provides:

The budget estimates and related documents representing the amounts to be appropriated from the Consolidated Fund be referred to the committees for inquiry and report.

I draw to the attention of the House that in the past extraordinarily restrictive requirements have been imposed by various chairmen of the joint estimates committees. The budget estimates and related documents should include "any matter referred in any budget paper or supporting or related document". This is to provide fairness, to enable all members of both Houses who sit on the committees or wish to ask questions of committees to have the opportunity to do so. It is my view and contention that this amendment will broaden the base for questions relating to the budget, including matters such as forward estimates, and would not restrict the powers of the estimates committees to question the appropriate Minister or to apply the gag to a particular member. I believe the amendment is necessary to enable members to genuinely scrutinise estimates. I suggest it is the right of members of both Houses to have the opportunity to put to a Minister, following the tabling of the budget papers, questions relating to the budget and to ascertain information that they need.

Paragraph (3)1(a) of the motion proposes that there be five members from the Legislative Assembly, being three from the Government nominated by the Leader of the House, one from the Opposition, and one Independent member nominated by the Opposition Whip. It seems to me, given the number of members of the Legislative Assembly, and the balance of members between Government, Opposition and Independents, this is a totally inappropriate and unbalanced representation of views. If my mathematics is right, including Mr Speaker there are 51 members of the Australian Labor Party, 45 coalition members and three Independent members.

In my opinion it is not reasonable that only one member should represent 45 coalition members while one member represents three Independent members. Therefore my amendment proposes that there be six members of the Legislative Assembly, being three from the Government nominated by the Leader of the House, two from the Opposition nominated by the Leader of the Opposition, and one Independent nominated by the majority of the Independent members. The Independent and crossbench members should consider which of their members they wish to nominate for each committee and/or to change for each committee hearing. I believe that Independent and crossbench members have the right to do this, as do Government and Opposition members.

Amendment 7 refers to paragraph (3)1(b), which provides that each committee will comprise four members from the Legislative Council, being two from the Government, one from the Opposition and one from the crossbench. The Legislative Council has eight crossbench members. Those members should be able to meet and determine which crossbench member will represent them on each of the five committees and/or each of the ministries to be examined. The crossbench members should not be nominated by the Opposition Whip. If necessary the crossbench members may make nominations to the Clerk of the House or they may ask that, in the event that there be a four-all draw, someone determine who will represent them. However, I believe this is a matter that should concern the eight crossbench members. I suspect that when the Government considers the amendment at some length it may well accede to it.

I now turn to amendment 8, which refers to paragraph (3)3(a). The paragraph refers to "relevant House". Therefore it is important that the substitute member—if there is to be a substitute member—should be from the same House. I have difficulty understanding why the Government would have any objection to this amendment and, in fact, I believe it will agree to it. Amendment 9 relates to paragraph (3)3(c), which provides that, in the event that no crossbench or Independent member wishes to be appointed to a committee, the Leader of the Opposition, Opposition Whip or Deputy Whip can nominate a member to fill the position. The words "can nominate a member" are reasonable, but I believe that the member should be from the relevant House. The amendment ensures that the replacement member shall be a member of the same House. It would be grossly improper if such a replacement were to be a member of the other House. Again, I am led to believe that the Government will consider this amendment favourably and agree to it.

Amendment 10 refers to paragraph (3)5, which provides that the chairs of the five estimate committees will be nominated in writing to the Clerks by the Leader of the House in the Legislative Assembly. I believe this provision is an insult to this House and I cannot concur with it. I would hope that the House will choose to agree with the proposition as provided in the amendment. In the interests of ensuring that the committee is harmonious and the chairman is able to work amicably with committee members, the committee should elect its own chairman. I do not believe that election of the chairman should be perfunctorily determined by the Leader of the House in the Legislative Assembly. If the House decides to accept the establishment of joint estimates committees, it may well be that the Government will choose upper House members or lower House members to be chairmen of the committees. Each committee should elect its chairman.

Amendment 11 refers to paragraph (3)6(a), which provides that a chair may from time to time appoint another Government member to act as deputy chair. The committee should also appoint its deputy chairman for precisely the same reason that the committee should appoint its chairman. Undoubtedly, if one is correct so is the other. Amendment 12 refers to paragraph (3)6(b). The Government should not appoint the acting chair in the event of absence of both the chair and the deputy chair but, rather, the committee should elect who will act as chair for that meeting. Again I hope that the Government will choose to agree to that amendment.

Amendment 13 refers to paragraph (3)9. Clearly, the amendment will clarify the position of the media and its ability to be present. Again it is my understanding that the Government will agree to this amendment. Amendments 14 and 15 deal with paragraph (3)13. The amendments simply seek to amend the placement of the 30-minute blocks. The amendments will allow members of both the crossbench and the Opposition to maximise the opportunity for questions, which is important when dealing with joint estimates committees. I understand that the Government may choose to accept both those amendments.

I also believe that the Government may choose to agree to amendment 16, which refers to paragraph (3)13. The amendment will allow the Opposition the opportunity to utilise any time allocated but not used by members of the crossbench and Independent members. Amendment 16 relates to subparagraphs (a), (b), (c), (d), (e) and (f) of paragraph (3)13. The subparagraphs are imperative to ensure that the opportunity to ask questions is not estopped by the Government, that the Opposition is given half an hour to ask questions, and that the Government cannot filibuster out the questions and answers. I say this knowing full well that a coalition Government will happily accept this proposition as it allows the proper opportunity for questioning—

The Hon. Franca Arena: It is on the record, Mr Jobling.

The Hon. J. H. JOBLING: The Opposition believes it is right and proper that the Opposition and the crossbenchers have the opportunity to ask questions. If that right is removed, the whole process of estimates committees could be rendered a total

waste of time. The Opposition does not believe that should happen. The amendment will prevent filibustering, it will prevent the Minister wasting time, and it will prevent dissent from a chairman's ruling being used deliberately to stop questions being asked. The Government may agree to some parts, but it will have difficulty with others. Amendment 17 seeks to insert at the end of paragraph (3)14:

> (b) Any member of the Committee may also have staff present to assist them during the hearing of evidence and may refer to those staff at any time.

From time to time the Opposition and the crossbenchers will want to take advantage of their staff and researchers in exactly the same way as the Minister will. It is unfair to place the Opposition at a disadvantage. The amendment seeks to improve and expedite the questions. Amendment 18 seeks to insert at the end of paragraph (3)16:

> (c) Before and during an estimates committee hearing, any member of either the Legislative Assembly or Legislative Council may submit a written question to the clerk of the committee who will then distribute them to the relevant Minister and to the members of the committee.

This amendment will overcome the problem that may occur should a member, particularly a crossbench member, want to ask a specific question of a committee in which he or she may have a special interest, but which is not raised by the elected member or put to the relevant Minister. The amendment will overcome problems for crossbench members in both Houses, and may also overcome problems for Government members who wish to ask specific questions. I cannot see why the Government would have problems with this amendment. The amendment of the Hon. Elisabeth Kirkby quite clearly takes it one stage further, and also deals with a problem not covered by the amendment. The Opposition will support the amendment of the Hon. Elisabeth Kirkby. The Government will accept amendment 19, which relates to paragraph (3)19(1) and amendment 20, which relates to paragraph (3)20. Those amendments will omit the word "House" and insert instead the word "Houses". Amendment 21 seeks to insert after paragraph (3)23, a new subparagraph 24 which states:

> The proceedings of the committee may be recorded by video and audio recording equipment.

The Government will move an amendment to enable the estimates committees to sit during the sittings or any adjournment of the House, and the Opposition will agree to that amendment. I commend the Opposition amendments to the House. I hope that crossbench members will support them. I hope the Government will see the wisdom of the amendments both for the period it is in government and after March next year, when it is in opposition. I hope the Government will support the amendments.

The Hon. R. D. DYER (Minister for Public Works and Services) [9.34 p.m.], in reply: The Hon. J. H. Jobling has already said he would like the Opposition amendments to be put seriatim. I formally support that request and, in accordance with standing order 106, I request that the amendments be put seriatim. The Government supports the first sentence of Opposition amendment 16—which, if it were not for an omission, might be referred to as subparagraph (a)—but does not support subparagraphs (b) to (e). However, the Government supports subparagraphs (f) and (g).

The Hon. Elisabeth Kirkby was clearly incorrect when she stated, both at the crossbench meeting during the lunch hour today at which I presided and during the course of debate this evening, that Senate estimates committees of the Federal Parliament are chaired by Opposition members. Until my media secretary commenced working for me, he was a staffer for a now Opposition Senator. There are eight Federal estimates committees, all of which, I am sure, are chaired by Government members. All such committees comprise a 50 per cent Government membership.

The Hon. Patricia Forsythe: That does not mean they chair them.

The Hon. R. D. DYER: I am sure that Government members do chair them. Whether they do or not, I adopt what Reverend the Hon. F. J. Nile said. I reiterate that the Government should have the carriage of business and, as it has the mandate to govern, is entitled to chair such committees. The Government opposes Australian Democrats amendment to insert subparagraphs 18(1) and 18(2) to provide for a member who attended an estimates committee hearing to lodge with the clerk within 24 hours written questions on notice relating to unanswered matters or any other additional information required relating to matters referred to a committee.

The Hon. J. H. Jobling: That is what we did last year in estimates committees.

The Hon. R. D. DYER: The message from the Legislative Assembly that the House is considering provides the traditional facility for members to provide written questions to the Clerk of the committee before an estimates committee

hearing. A Minister can indicate that a reply or supplementary information will be given in response to a question, and a written response must be lodged with the Clerk of the committee within seven days. That is provided in paragraphs 16 and 17 of the message from the Legislative Assembly. I regard as somewhat oppressive that there should be a right, in addition, ex post facto so to speak, to lodge further questions, unlimited in number, which are to be responded to within seven days.

The Hon. Virginia Chadwick: You do not understand that the Government is not meant to enjoy estimates.

The Hon. R. D. DYER: I do not think anyone would suggest that governments are likely to enjoy estimates proceedings.

The Hon. Virginia Chadwick: So if you find it oppressive it is probably democratic.

The Hon. R. D. DYER: I should get to the end of this exercise undeterred by the unhelpful interjections of the Hon. Virginia Chadwick. It is inconvenient, oppressive and unduly onerous for the Government to have this obligation cast on it in addition to what I have already said is contained in the Legislative Assembly's message regarding questions submitted prior to estimates committee hearings and questions taken on notice by a Minister. There has to be some end to the assistance given in regard to these proceedings.

The Government clearly agrees with the amendment moved by the Hon. Dorothy Isaksen. I thank the Opposition for indicating that it supports that amendment. I do not believe there is any need to delay the House any longer. I announced initially which amendments the Government supports and which amendments it does not. Given that they are to be put seriatim, we can agree on a message to be sent back to the Legislative Assembly. We hope that this matter can then be sorted out and we can finally determine the ground rules for joint estimates committees and have fair procedures governing the procedures of such committees.

Reverend the Hon. F. J. NILE: [9.43 p.m.]: Earlier I made a general comment in relation to the establishment of joint estimates committees, but I now wish to speak specifically to the amendment moved by the Hon. Dorothy Isaksen, that the committees have leave to sit during the sittings or any adjournment of the House. After being given a copy of this amendment I made inquiries and established that there are some worrying aspects about it. First, I understand that this has never happened before. It will set a precedent in this House as committees will be able to sit while the House is sitting. Second, there has been no arrangement—there might be an arrangement that people are not aware of—as to how this will work.

We will have to have two teams of Hansard reporters, the first to cover estimates committees and the second to cover the House, which will entail contracting reporters at great expense to the Parliament. I also raise the question of quorums. I understand that 13 Government members will be appointed to estimates committees, which means that there will be very few Government members in the House, apart perhaps from the Minister. Visitors to the Legislative Council would see speakers making their speeches in an almost empty House. We have been given an assurance that only budget speeches will be made in this time and that there will be no divisions, but I believe that once the House is sitting any legitimate business that is brought before it would have to be dealt with.

If the Government suddenly decided that there was an emergency and that legislation had to be brought before the House there would be nothing to stop it from doing that, even though we have been given an assurance that only budget speeches will be made. Sometimes legislation has to be debated urgently—it could be legitimate legislation. We cannot be dogmatic and say that certain things will not happen when the House is sitting. That procedure would also make budget debate appear unimportant. Perhaps the word "debate" should be removed from the term "budget debate" and it should be referred to as budget speeches.

The Hon. Elisabeth Kirkby: It is the estimates committees that are important.

Reverend the Hon. F. J. NILE: Estimates committees and budget speeches are important. The Hon. Elisabeth Kirkby probably prepares the most detailed budget speech of all honourable members. Honourable members should be present in the Chamber to hear them. I know that Hansard records those speeches, but I believe it will undermine the importance and integrity of the House to have an empty House during the so-called budget debate. I know that there is a practical reason for the amendment: the Government wants to do two things at once, to avoid the problem of this House still sitting in the winter recess. I understand the Government's concern and I know that is why it moved this amendment. I place on the record the Christian Democratic Party's opposition, in principle, to that amendment.

The Hon. J. R. JOHNSON [9.47 p.m.]: Reverend the Hon. F. J. Nile said that the estimates committees have never sat while the House has been sitting. I well recall the House sitting when estimates committees were being held and all the undertakings given by the Government at the time were fulfilled. We dealt in the main with budget speeches; no other legislation was introduced at that time. If such legislation was introduced estimates committees were not kept in the dark. The estimates committees did not meet in Bourke, they met in the precincts of Parliament House and messages were sent to members to inform them that debate on another matter was taking place. The common courtesies that prevail between the Government, the Opposition, and crossbench members will prevail on this occasion.

Amendment No. 1 of the Hon. J. H. Jobling agreed to.

Amendment 2 of the Hon. J. H. Jobling agreed to.

Amendment 3 of the Hon. J. H. Jobling agreed to.

Amendment 4 of the Hon. J. H. Jobling agreed to.

Amendment 5 of the Hon. J. H. Jobling agreed to.

Amendment 6 of the Hon. J. H. Jobling agreed to.

Amendment 7 of the Hon. J. H. Jobling agreed to.

Amendment 8 of the Hon. J. H. Jobling agreed to.

Amendment 9 of the Hon. J. H. Jobling agreed to.

Amendment 10 of the Hon. J. H. Jobling agreed to.

Amendment 11 of the Hon. J. H. Jobling agreed to.

Amendment 12 of the Hon. J. H. Jobling agreed to.

Amendment 13 of the Hon. J. H. Jobling agreed to.

Amendment 14 of the Hon. J. H. Jobling agreed to.

Amendment 15 of the Hon. J. H. Jobling agreed to.

The Hon. J. H. JOBLING [9.52 p.m.]: To assist the House, I suggest that the words "Any time allocated but not used by crossbench and Independent members may be used by the Opposition." be treated at this time as subparagraph (a) of paragraph (3)13.

Subparagraph (a) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (b) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (c) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (d) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (e) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (f) in amendment 16 of the Hon. J. H. Jobling agreed to.

Subparagraph (g) in amendment 16 of the Hon. J. H. Jobling agreed to.

Amendment 17 of the Hon. J. H. Jobling agreed to.

Amendment 18 of the Hon. J. H. Jobling agreed to.

Amendment of the Hon. Elisabeth Kirkby agreed to.

Amendment 19 of the Hon. J. H. Jobling agreed to.

Amendment 20 of the Hon. J. H. Jobling agreed to.

Amendment 21 of the Hon. J. H. Jobling agreed to.

Amendment of the Hon. Dorothy Isaksen agreed to.

Motion as amended agreed to.

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

CONDUCT OF JUSTICE VINCE BRUCE

Suspension of standing and sessional orders, by leave, agreed to.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [9.56 p.m.]: I move:

> That the resolution adopted by the House on 27 May 1998, relating to the attendance of the Honourable Justice Vince Bruce at the Bar of the House, be amended as follows:
>
> No. 1 Paragraph 2. Omit "Wednesday, 3 June 1998, at 11.30 a.m." Insert instead "Tuesday, 16 June 1998, at 3.00 p.m."
>
> No. 2 Paragraph 4. Omit "by 2.30 p.m. on Tuesday, 2 June", insert instead "by 5.00 p.m. on Friday, 12 June 1998".

I have considered the request of the legal advisers of Justice Bruce to adjourn the appearance by His Honour before the House on Wednesday, 3 June. I would not generally agree to support such an adjournment. However, today the Court of Appeal heard the judge's application to challenge the decision of the Judicial Commission's Conduct Division. I have read the transcript this evening and, as I understand it, the Court of Appeal will sit at 10.00 a.m. tomorrow. There is a valid ground for granting an adjournment as the judge could say he needs to be in the precincts of the Court of Appeal during the conduct of his case, and that would create difficulties in regard to his appearance before this House.

I do not agree that this House should stay its hand until the Court of Appeal hearing has concluded. After all, the judge's side of the case has been presented in the media and, in principle, I do not see any problem about him presenting his side of the case to this House; although, of course, caution would need to be exercised in regard to adjudication of the matter before the courts have delivered a judgment on the challenge of the Judicial Commission decision.

So I seek to draw a clear distinction between the House hearing the judge or his legal representative present his case and the adjudicative function of the House in determining what should be done about the problem posed by the Judicial Commission report. I would not want to be taken as acquiescing in the proposition that this House should, for some indefinite or indeterminate period, stay its hand in dealing with this matter. Indeed, there is a public interest in this matter being dealt with expeditiously. It is possible that if the judge were not to succeed in the Court of Appeal, he could seek special leave to appeal to the High Court, and thus the possibility of the court hearings being protracted.

One simply cannot predict the length of time that this matter might take before the courts. The simple point that I am seeking to make is that I do not believe the House should indefinitely defer the invitation to the judge to present his case to this House. Nonetheless, I accept the practical difficulty and the possible prejudice to the judge in seeking to deal with both the matter in the Court of Appeal and the matter in this House tomorrow. It is for that reason that I have moved the motion, which I think accommodates procedural justice and deals with the various problems that have been raised on behalf of the judge and by members of the House with me informally.

The Hon. R. S. L. JONES [10.02 p.m.]: I am pleased that the Attorney General has at least seen fit to give Justice Vince Bruce two weeks for his case to be heard in the Court of Appeal. I received a letter today from D'Arcy Kelly of Holman Webb Solicitors acting on behalf of his honour. The letter has been distributed to other members of the Legislative Council. It states that the outcome of his honour's proceedings in the Court of Appeal will determine whether the report of the Conduct Division of the Judicial Commission, which was tabled in both Houses on 25 May 1998, is legally valid. If it is not, the Parliament would have no power to consider removing his honour from office by virtue of section 41(1) of the Judicial Officers Act 1986. The letter states that, given the important constitutional considerations that surround the circumstances and the gravity of the consequences that may flow to his honour, it is his honour's submission that the better course is for Parliament to defer its grant of leave to him pending the outcome of the proceedings in the Court of Appeal.

The Attorney General has moved that the matter be delayed for two weeks until the case has been heard, but he has not moved that the visit to this House of his honour be delayed until such time as judgments are handed down in the case. I believe it is important—and other members may feel the same—that all decisions be handed down first to determine whether Justice Bruce should come before the House, because if the report is not legally valid we will not have the power to consider removing his honour from office.

I believe that we should wait for the outcome of the appeal, and any other appeal, before considering whether we should remove his honour from office. I understand that on the day on which

he will speak to this House we will not necessarily determine his fate; he will tell us why he should not be removed by virtue of the report. But in one, two or three weeks, or even in four months, the report may no longer be legally valid. I do not think we should be precipitous in calling him before us if the report is found to be not legally valid. I hope the House will wait until the judgment has been handed down on whether the report is valid.

The Hon. ELISABETH KIRKBY [10.04 p.m.]: I support the motion moved by the Attorney General. It is perfectly reasonable to suggest that we defer further consideration of this matter from tomorrow until 16 June. However, I do not agree with my colleague the Hon. R. S. L. Jones that the matter should be deferred until all possible avenues of appeal have been exhausted. It is my understanding—having checked today with the office of the Attorney General—that there can be no appeal against a finding of the Conduct Division of the Judicial Commission.

If that is the case, I assume that, whatever happens in the Supreme Court tomorrow, Justice Bruce will be informed by the Supreme Court that it is not possible for him to appeal against the finding of the Conduct Division of the Judicial Commission. Knowing what has been happening over the past week and knowing the attitude of Justice Bruce in courting the utmost publicity—the matter has been readily seized upon by the media; and newspapers are read by people who have no understanding of the legal implications—I believe that it would be his intention to pursue this matter to the very end, appeal after appeal after appeal, even to the High Court of Australia. I do not believe that that is in the best interests of justice in this State.

I understand that at the moment Justice Bruce is merely preparing judgments that should have been prepared some time ago; he is not hearing cases. Therefore, he is adding to the workload of his fellow judicial officers. If the matter is going to be taken to the final court of appeal to which it can go, many months could elapse before any decision is reached. That is not proper. But it is totally and absolutely proper that a further two weeks delay be granted before the judge appears before the Parliament.

The Hon. FRANCA ARENA [10.07 p.m.]: I am waiting for the Clerk of the Parliaments, John Evans, to draft for me an amendment to the motion moved by the Attorney General to provide that the attendance of the judge will be delayed until such time as the court has made a decision and all his appeals have been exhausted. I hope that the amendment will be available soon. I think it is premature to set a date for the judge to appear before the House. All his appeals may not have been exhausted by then. It is a question of natural justice. It is often said that justice delayed is justice denied. But justice rushed is just as much justice denied.

Tonight the Attorney General used exactly the same words he used when setting up my commission of inquiry. I regret to say that I am very disappointed that the judge, who has pleaded sickness, should be treated like this. I put on record that I was absolutely dismayed this morning to hear the Premier of this State on the radio station 2UE 11 o'clock news. I have the tape in my room, and it is available from the media section of the library. The Premier said that the judge should be dismissed and that he is entitled to his opinion. The matter is sub judice: it is before the court.

The Premier is not above the law. He should not have said that; he should have let the due processes of the law continue. I am dismayed and want it put on record that the Premier should not have made such a comment. It is a disgrace. I support the words of Mr Tobias, QC, from the New South Wales Bar Association, who said that the Premier should wait until the court has made a decision. I would like to formally move my amendment if Mr Evans has it ready and I am sorry to delay the House a little longer.

The Hon. Jan Burnswoods: Do you know what your amendment is?

The Hon. FRANCA ARENA: What an inane interruption from the Hon. Jan Burnswoods. I can do without it. The poor woman knows she has lost her preselection but she should be a bit smarter with her remarks.

The Hon. Jan Burnswoods: What happened to you?

The Hon. FRANCA ARENA: I will be here longer than you are, that is for sure.

The Hon. Jan Burnswoods: Do you want to bet?

The Hon. FRANCA ARENA: Yes. Honourable members have received material from different lawyers. I have a letter from the lawyers Cashman and Partners, in Druitt Street, Sydney, who said that they are concerned to ensure that Parliament is aware of the serious adverse consequences for the litigants in the copper 7 litigation. Tonight I saw women being interviewed,

crying and asking how they will again face the whole court proceedings of this important case if Justice Bruce is removed from office. It has gone on for 2½ years, they are penniless, they do not have any more money, they are sick, and they are waiting for the judgment. The Judicial Commission has been in operation for 10 years, it is costing taxpayers more than $3 million each year, and it has done nothing.

The Hon. Virginia Chadwick: And the Hon. Helen Sham-Ho pointed out that there is a two-year delay in the Court of Appeal.

The PRESIDENT: Order! The Hon. Virginia Chadwick will cease interjecting.

The Hon. FRANCA ARENA: Justice Bruce had a terrible accident in 1988 and has been sick ever since. He has been in denial, which happens to a lot of us; we are sick and do not want to admit it. Somehow we think we are invincible. It is important that we should consider his situation. He says he is well now—and I accept his word—but we should give him a deferment of 12 months and see how he performs in that time. If he has really recovered and can give his judgments, it would be improper for the Parliament to dismiss him. If he feels he is too ill to perform and cannot handle his duties—and he should know—I am sure that he will be only too happy to resign. This is something we should consider very carefully.

In the *Australian Financial Review* the legal profession launched a campaign aimed at persuading the New South Wales Government to abandon the attempt to sack Justice Vince Bruce from the Supreme Court bench. Justice Yeldham went from one toilet to another and everybody knew it; it was reported to the Attorney General but nothing was done. The Government swept it under the carpet. Now this poor judge, who has been ill for years and unable to do his work, is treated in this manner, yet this is called justice. The Attorney said we should deal with the matter expeditiously. I love that word; it is really good. It just means to crush something. It is a tactic of the Labor Party when it has the numbers to just crush them. And this is the Left of the Labor Party, the high-principled Left; the people who go around and bleed all over the floor for the working class, for the poor and the people who have been wronged. Shame on you, Mr Attorney. I do not know what has happened to you.

Let us look at what Justice Bruce has done. He has been criticised by the majority of the Conduct Division of the Judicial Commission. The report was not even unanimous. Three judges decided he should be dismissed and one judge, the eminent Justice Mahoney, decided he should not be dismissed. It is a shocking shame that the judge should be treated in this way. Professor Tony Blackshield of Macquarie University, Professor George Winterton of the University of New South Wales and Michael Finnane, QC, warned yesterday that if the judge fails in court today, Parliament will be heading for a confrontation with the courts.

Where is the separation between the Parliament and the judiciary? It has been said that Justice Bruce could seek judicial review through the Court of Appeal of a parliamentary dismissal, a move that would be without precedent. If the Parliament moves to dismiss me, I will take it to every court in this land and in this world because I am not going to be crushed by anybody. My heart might have been broken but my spirit has not been crushed. I thank the Clerk for having so expeditiously prepared amendments for me. By leave, I move:

That the motion be amended by:

omitting from amendment No. 1 "Insert instead 'Tuesday, 16 June 1998, at 3.00 p.m.'";

omitting from amendment 2 ", insert instead 'by 5.00 p.m. on Friday, 12 June 1998.'";

That the resolution of the House of 27 May be amended by inserting after paragraph 3:

4. That the date and time for attendance at the Bar of the House be appointed by the President in consultation with the Honourable Justice Vince Bruce. The date of attendance must be after the Court of Appeal has given its decision in the case of Bruce v. Cole and Ors, No. 90377 of 1998, but within six sitting days from the date of the court's decision.

I think I have made my point, so I will not speak any further to my amendments.

The Hon. J. S. TINGLE [10.17 p.m.]: I support the amendment moved by the Attorney General. If this House is to be seen as administering some kind of justice, retributive or otherwise, we have to ensure that justice is done deliberately and with deliberation. I remind honourable members that the Judicial Commission did not recommend any particular course of action with regard to Justice Bruce; it merely suggested that the House might find something in its recommendations on which the House could act. While the court is dealing with a matter relating to this case it would be pre-emptive of the House to come to any kind of a conclusion. However, I take the point the Attorney has made that appeals could go on forever; but at the same

time, if justice is to be done, it has to be done slowly. I simply ask if we are rushing this through. What is the hurry?

Reverend the Hon. F. J. NILE [10.18 p.m.]: I support the amendment moved by the Hon. Franca Arena and the statement of the Hon. R. S. L. Jones that it does not relate simply to this appeal but to all appeals. An appeal may be made to the High Court and it would be even more serious for the House to discuss a matter while an appeal to the High Court is pending. That would almost be a slur on the High Court. I note from the copy of the summons filed for the Hon. Justice Vince Bruce that his honour is questioning the report itself. In claim 3 he sought a "declaration that the Purported Report is not a report of the Conduct Division of the Second Defendant." If that claim were upheld, there would not be a report to the House. In claim 4 Justice Bruce sought "An order that the Third Defendant be permanently restrained from laying or causing to be laid before the Houses of the Parliament of New South Wales the Purported Report." I thought the report was laid before the House.

The Hon. J. W. Shaw: Yes. But that application to the court was refused.

Reverend the Hon. F. J. NILE: Justice Bruce has appealed that decision. When the matter was first brought before this House I said that there can be no more serious matter for both Houses of Parliament to hear than a defence, if you like, by Justice Vince Bruce, a Supreme Court judge; possibly followed by a vote on whether to remove the judge. Nothing could be more serious in this Parliament. I understand there is no precedent for it. I am personally concerned about the effect that such a procedure would have on the independence of the judiciary of this State. We have received correspondence and other communications from people claiming that other judges have acted similarly, that on occasions they have delayed judgments and so on.

We might find that a number of judges have made errors or been slow to take action. Maybe complex cases take a long time to decide, and therefore the judge or judges who have been some time in reaching a decision have been doing their job by not making hasty decisions. There is controversy that some of Justice Bruce's decisions have been delayed for some time, and I accept that his motor vehicle accident in 1988 and other matters have seriously affected his health in the past, but there appears to have been some improvement in that respect. I understand that Justice Bruce has delivered 30 judgments in recent days. That is what has been reported, and I assume that report is accurate.

The Hon. Franca Arena suggests that the matter should be deferred for 12 months so that a proper assessment can be made of whether Justice Bruce has, as he now claims, overcome his health problems. It is certainly embarrassing to call a judge before the bar of the House. I imagine that Justice Bruce would feel strongly about his appearance here. We know it is not the intention of the House, but it could give the appearance that Justice Bruce has done something wrong. It is a question of efficiency rather than corruption.

The Hon. R. S. L. JONES [10.23 p.m.]: The amendment moved by the Hon. Franca Arena is in accordance with the motion I attempted to move this morning. It has the effect of allowing Justice Bruce to pursue his appeal and await its decision before this House proceeds to have Justice Bruce appear within six sitting days of the court's decision. It may be that Justice Bruce will not be brought before this Chamber if he is successful on appeal. As Reverend the Hon. F. J. Nile said, Justice Bruce may well appeal to the High Court, and it would be inappropriate for this House to interfere with any such appeal. Therefore I will support the amendment moved by the Hon. Franca Arena, and I think it important that the House accept it.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.24 p.m.]: The issues before the House are part of what is really an historical process for this Parliament, and it is indeed a difficult process. Today the Leader of the Opposition in the other place, together with the Leader of the National Party there, released a statement calling upon the Government to indicate to the Parliament the procedures that are to be followed in dealing with this matter, with a view to ensuring that all members of Parliament are able to hear Justice Bruce speak in his defence.

The purpose of that joint statement is to have the Government indicate exactly where we are going and what procedures are to be followed. It is clear to the community that the Government has no idea where it is going in its handling of this matter. As I said when this matter was being discussed last week, Justice Bruce is being asked to address this House. But is it intended, if this House carries a positive motion to that effect, that he will be required also to address the Legislative Assembly? We just do not know, and Justice Bruce does not know, what the Government, which controls the Legislative Assembly, expects of him. Or will Justice Bruce be asked to address the Parliament on only one

occasion, in which case we would have a joint sitting to hear him?

The Hon. J. W. Shaw: It is very confused.

The Hon. J. P. HANNAFORD: The whole of the process is confused. We are asking the Government to lay out a procedure for us. It has been suggested that the Opposition, together with crossbench members in the upper House, might lay out a procedure. I do not believe that would be appropriate. The community and the Parliament are entitled to expect leadership from the Premier and direction from the Government on how they intend to deal with this historic circumstance.

In relation to the amendment seeking the adjournment of the procedure set down for tomorrow, the Leader of the Opposition and the Leader of the National Party called upon the Government to indicate what it was going to do in this circumstance. We expressed the view that due consideration ought to be given to fairness of procedures for Justice Bruce and that it would not be fair for the Parliament to expect Justice Bruce to address the Parliament on this issue when court proceedings were pending which could have the effect of quashing the judicial commission's report.

The Government has advocated an adjournment of this matter for a specific period. The Hon. Franca Arena has advocated an adjournment until the Court of Appeal has made its decision. I indicate that the Opposition will support the Government's position. It is not inappropriate for the Parliament to adjourn the matter to a specific date and to review the matter on that date. If the court still has not handed down its decision at that time, we would expect the Government to again adjourn the matter until the court has brought down its decision. Any agreement to adjourn the matter to a specific date should not be inferred as a direction to the court that we demand a judgment by that time. I know that would not be the view of the Attorney General. It is inappropriate for the Parliament to give an instruction in that sense, or, even by implication, to instruct the courts as to when a judgment should be delivered.

By adjourning the matter to a particular date, this House would simply set a specific date on which the Parliament will reassess what has happened and what is occurring at that time. That is the purpose of adjourning the matter to a specified date. I understand, and completely agree with, the sentiment expressed by the Hon. Franca Arena that the House should not take a pre-emptive approach in placing a demand upon Justice Bruce to address the House until the court has made its decision. At the same time the House should allow Justice Bruce a reasonable time in which to prepare his submission. For example, the House will today adjourn the matter until 16 June—

Reverend the Hon. F. J. Nile: That is the Government's proposal.

The Hon. J. P. HANNAFORD: Yes, that is the Government's proposal. If the proposal is agreed to by the House, and if the court were to hand down its decision on 15 June, it might be considered unreasonable to expect the judge to prepare a response in 24 hours. Members of this House would be aware of the pressures placed on a person involved in litigation. It would be somewhat unreasonable to expect such a person to prepare a submission in 24 hours. However, I believe that the House and the Government will be reasonable in relation to this difficult issue. The appropriate test to be applied should involve fairness to Justice Bruce.

Reverend the Hon. F. J. Nile: The Hon. Franca Arena's amendment provides for that.

The Hon. J. P. HANNAFORD: By way of interjection Reverend the Hon. F. J. Nile indicates that the Hon. Franca Arena's amendment provides for fairness to Justice Bruce. The amendment provides for fairness, but it does not totally resolve the issue. It would not be wise for the Parliament to be seen to leave a matter as important as this totally unresolved. The public is entitled to expect that the Parliament will provide regular oversight and review of such matters. The issue of the removal of a judge is so important that it should not be allowed to remain, in a sense, in limbo. I believe that in this circumstance a specific date is appropriate. I therefore indicate to the Hon. Franca Arena that the Opposition is not able to support her amendment.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.32 p.m.], in reply: I thank the Opposition for its constructive approach to this difficult matter, which members of this House have approached in a disinterested and appropriate way. I particularly thank the Leader of the Opposition for his remarks. It is important that members of the House draw a distinction between the idea of hearing the judge's side of the case and actually adjudicating, by deliberative vote, on the fate of the judge. In my view the judge will not suffer any

prejudice by being heard at some reasonably proximate time. On the other hand, I would advocate that the House defer any decision on the matter until the courts have spoken. That might be quite some time, which is regrettable.

Although I have been, in a sense, pilloried by the Hon. Franca Arena for using the word "expeditious", the House is bound to decide this matter as expeditiously as is practicable. There are all kinds of constraints about procedural justice and the like, but I do not think that this House can be seen to be deferring matters indefinitely or adjourning matters to some indeterminate date. In short, I believe that the motion I have moved is appropriate in all the circumstances. I assure the House that my only concern is that the matter be dealt with procedurally, fairly and objectively, and I believe that the motion embodies those concepts.

Question—That the amendment be agreed to—put.

The House divided.

Ayes, 6

Mrs Arena
Mr Jones
Mrs Nile
Rev. Nile
Tellers,
Mr Cohen
Mr Tingle

Noes, 30

Mr Bull	Mr Manson
Dr Burgmann	Mr Moppett
Ms Burnswoods	Mr Obeid
Mrs Chadwick	Dr Pezzutti
Mr Corbett	Mr Primrose
Mr Dyer	Mr Ryan
Mrs Forsythe	Ms Saffin
Mr Gallacher	Mr Samios
Miss Gardiner	Mrs Sham-Ho
Dr Goldsmith	Mr Shaw
Mr Hannaford	Ms Tebbutt
Mr Johnson	Mr Vaughan
Mr Kersten	
Ms Kirkby	*Tellers,*
Mr Lynn	Mrs Isaksen
Mr Macdonald	Mr Jobling

Question so resolved in the negative.

Amendment negatived.

Motion agreed to.

LIQUOR AND REGISTERED CLUBS REGISTRATION AMENDMENT BILL

PERIODIC DETENTION OF PRISONERS AMENDMENT BILL

POLICE SERVICE AMENDMENT (ALCOHOL AND DRUG TESTING) BILL

Bills received and, by leave, read a first time.

JUDGES ' PENSIONS AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.44 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard.*

Leave granted

This bill provides for amendments to be made to the Judges' Pensions Act 1953 to enable persons entitled to pensions under the Act to commute part of their pensions to meet superannuation contributions surcharge liabilities arising under Commonwealth legislation when superannuation entitlements become payable; provide for subsequent reductions in pensions payable under the Act; and make other consequential amendments. Under the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997 and the Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997 of the Commonwealth, members of constitutionally protected superannuation funds are liable to pay a superannuation contributions surcharge of up to 15 per cent when they become entitled to a benefit from the fund concerned. The superannuation contributions surcharge is payable within three months of the member being notified of the liability.

The pension scheme under the Judges' Pensions Act 1953 is a constitutionally protected superannuation fund for the purposes of the Commonwealth Acts. The Judges' Pensions Act provides for payment of pensions to judges on retirement and for payment of pensions to their spouses or eligible children if a judge dies. It does not currently provide for the payment of lump sum type benefits. The amendments will enable the partial commutation of pensions for the purpose of payment of the superannuation contributions surcharge on the retirement or death of a member. Under the Commonwealth legislation, existing judges are exempt from the surcharge. It does, however, apply to judges appointed after the legislation came into effect on 7 December 1997, and it also applies to a number of other office holders who currently have access to a pension under the judges' pension scheme. These include the Director of Public Prosecutions, the Solicitor General and Masters of the Supreme Court.

Parliament has already legislated to address this matter for other unfunded State superannuation schemes in the Superannuation Legislation Further Amendment Act 1997, such as the parliamentary contribution superannuation scheme; State superannuation scheme; police superannuation scheme; State authorities superannuation scheme; and State authorities superannuation non-contributory superannuation scheme. The judges' pension scheme was not included in that amending Act as negotiations with the Commonwealth to exempt judges from the surcharge were still in progress at the time Parliament was considering the bill. I would now like to turn to the provisions of the bill. The bill will enable a retired judge or other person entitled to be paid a pension to elect to have part of the pension commuted for the purpose of payment of the superannuation contributions surcharge. A spouse or eligible child, who is entitled to a reversionary pension under the Act, may also make an election in respect of a liability of a judge who has died in office or a retired judge who died before the original time for making an election ended.

The bill provides that an election may relate to the whole or part of any such liability and must be made not later than two months after the liability arises, or within such further period as the Minister may allow. The bill also provides that a pension may be commuted only to the extent necessary to meet the liability for the superannuation contributions surcharge. The bill further provides that the Minister may only pay a lump sum on the election of a spouse or eligible child if satisfied that the lump sum will be applied towards payment of the liability concerned. If a lump sum is paid, the bill provides for the pension and any reversionary pensions payable to a spouse or eligible child under the Act to be reduced. The bill further provides for the reduced pension to be calculated in accordance with the regulations. Finally, the bill enables the Minister to delegate certain functions under proposed section 12 and contains a regulation-making power. The amendments proposed are essential to provide judges and other persons entitled to a pension or reversionary pension under the Act with a mechanism to pay the superannuation contributions surcharge from the benefit they are entitled to receive. I commend the bill to the House.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.44 p.m.]: The coalition does not oppose the Judges' Pensions Amendment Bill. The Federal legislation, for which the bill is an operational amendment, is an outrage. The bill is the epitome of absolute stupidity in relation to superannuation. The House will recall that the Federal Government announced that it would impose a 15 per cent surcharge on the lump sum pensions of those in the public arena who might seek to manipulate their pension investments. At that time the policy objective was to eventually encourage everyone to take a pension by imposing a 15 per cent surcharge as a taxation mechanism.

Judges in New South Wales are entitled only to a pension; they are not entitled to a lump sum payment. What did the boffins in Canberra do? They decided to require the actuaries to consider judges' pensions and calculate an ostensible figure that might represent the lump sums judges would receive if they took a lump sum instead of a pension. Having capitalised the judges' pension, the Federal Government then decided to impose a 15 per cent surcharge on the lump sum judges will not get, and require them to pay the 15 per cent tax on the lump sum they will not get, but Canberra still had to find out how it could get the tax. The Federal Government decided to ask the State governments to introduce legislation to allow judges to take a lump sum so that they could pay the tax. But judges are still going to get a pension. It is absurd!

The Hon. D. F. Moppett: High farce.

The Hon. J. P. HANNAFORD: It is high farce. Federal legislation has been enacted, and the States are now passing legislation to allow judges to commute part of their pensions to meet superannuation contributions and surcharge liabilities arising under Commonwealth legislation. This legislation highlights the farce of the Commonwealth's superannuation laws. I do not oppose the legislation. It is difficult to get judges to take an appointment. By and large, judges take up to a two-thirds salary cut when they are appointed.

As honourable members have heard me say time and again, superannuation today is part of the salary package. Judges are prepared to accept a two-thirds pay cut because they know that in at least 10 years, when the pension vests, they will have the pension. Depending upon which jurisdiction the judge is in, that pension can be calculated as a salary component. One is set off against the other. We are now taxing judges' pensions. Effectively, we will be further reducing judges' salaries and it will be all the more difficult to get them to take up appointments. The government and the Attorney General of the day will have to do a fundamental review of judges' salaries to ensure that they attract the most intellectually capable judges.

I now raise a matter that I know is not related to judges' pensions, but honourable members might allow me to draw a comparison between the salaries of members of Parliament and their superannuation. The Federal Government decided to change the rules relating to lump sum superannuation payments for members of Parliament. I am certain that not many members of Parliament know about this, but regulations have been circulated in Canberra for comment. Effectively, after 1 July next year, members of Parliament will not be able to take lump sum superannuation payments as part of their retirement package. As at 1 July next year the Federal Government will require the trustees of parliamentary superannuation schemes to calculate the ostensible lump sum value of pensions. The maximum amount that current members will be able

to take when they retire will be the amount as calculated on 1 July next year.

If members still continue as members of Parliament, their lump sum pension entitlements will grow but, after 1 July next year, that growth will be frozen and they will not be able to take a lump sum until they reach the age of 55. After next year's March election, any new members of Parliament in their mid-thirties, who have about 20 years service—the average life of a member of Parliament is about eight years—and who lose their seats will not be able to take a lump sum payment to enable them to re-establish themselves. Because of the munificence of the Federal Government members will no longer be able to take lump sum payments. Their pensions will be frozen and will not be able to be cashed in until members turn 55. I raised this matter because I thought it might be of interest to some honourable members. I point out that that is being done by regulation. We will wait to see what happens in the Senate.

I note that members of Parliament are forced only to make contributions to superannuation schemes. Under the regulations there are no exemptions for them in those circumstances. The original intention of the superannuation legislation and the regulations was to cover those instances where members voluntarily entered into a superannuation scheme with a view to maximising their early lump sum payments. It could be said that there are grounds for differentiating between mandatory schemes and voluntary schemes, but no doubt our Federal colleagues, who have great wisdom in this area, will take these matters into consideration. I raised these matters because they highlight the stupidity of the legislative arrangements applicable to judges' pensions. It could also be said that other matters that are being considered by the Government are just as stupid.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.55 p.m.], in reply: I thank the Opposition for its support for the bill.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ADJOURNMENT

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [10.55 p.m.]: I move:

That this House do now adjourn.

WORLD CUP SOCCER

The Hon. Franca ARENA: [10.55 p.m.]: Tonight I speak about an event that will commence on Wednesday, 10 June, in France—one of the most important sporting events in the world, if not the most important sporting event—the World Cup. Soccer, which is the most popular game in the world, has an enormous following in every country. The first World Cup took place in Uruguay in 1930. Because it took place shortly after the Wall Street crash and because of travel difficulties, only 13 nations accepted the invitation to participate. Only four nations from Europe—France, Belgium, Rumania and Yugoslavia—accepted the invitation and all except the Yugoslavs boarded the Italian liner *Conteverde* for the long voyage across the Atlantic. The time that it took to move one team from one continent to another made it difficult for the proper organisation of the World Cup. However, since then matches have been held every four years in different parts of the world.

The last World Cup, which took place in the United States in 1994, was won by Brazil. In 1990 the World Cup took place in Italy and was won by West Germany. In 1986 it took place in Mexico and was won by Argentina. In 1982 it took place in Spain and was won by Italy. In 1978 it took place in Argentina and was won by Argentina. I will not go through the history of the World Cup. Suffice it to say that it is an event of incredible importance for people all over the world. It is estimated that the various events will have a cumulative worldwide television audience of 37 billion people. Thirty-two teams will compete in the World Cup and a total of 643 qualifying games have been played involving 170 countries. Unfortunately, Australia was beaten by Iran in Melbourne last November and, therefore, failed to qualify. That is very sad for all those who love soccer because it would have been incredibly important for Australia to go to the World Cup final. We hope that will be possible in another four years time.

I pay tribute to David Hill for his excellent work in promoting soccer in Australia. For too long in Australia soccer has been regarded as a game for immigrants, but that is slowly changing and we have to thank people like David Hill, who has done so much in promoting soccer to the average Australian. The lovers of soccer will be able to watch the matches from 10 June to 12 July on the Special Broadcasting Service, which will broadcast 64 matches and more than 200 hours of soccer. Les Murray, Tracey Holmes and others will give us a first-class commentary. World Cup fever will be high all over the world, including in Australia. As I

said, we are talking about an international game played in all parts of the world—from Korea to Morocco, and from China to Bolivia. It is also becoming very popular in Australia, where families prefer to see their children training for a game which relies more on skill than on physical strength.

In Parliament House many people will be watching and discussing the matches. Groups of people support different teams. David Draper, our excellent catering manager, and many others will be barracking for England. Santiago Rodriquez and Mark Sheehan will barrack for Spain and George Ramos will barrack for Chile. The Italy versus Chile game, which will be played in the first week, will be interesting to watch. Stewart Little will be barracking for the Netherlands, Adriana Sammartano for Argentina and Carlos Andrade for Brazil. Italy has a big team of supporters: me, Maurice Rebecchi, Lucy McNeill, Stefan Petkov and others. It will be a wonderful time for us all. Even though the patriotic side of me would say, "Italy to win", on behalf of the Parliament I wish all the teams the very best. May the best team win! Soccer is a wonderful game and we can look forward to first-class matches.

NORTHERN RIVERS REGIONAL STRATEGY

The Hon. JANELLE SAFFIN [11.00 p.m.]: I recently participated in a successful forum convened by the Northern Rivers Regional Economic Development Organisation to discuss and gain more support for the second phase of the Northern Rivers Regional Strategy—NRRS—which has been driven by the Northern Rivers Regional Strategy Management Committee. The meeting was held in Grafton with the Minister for Urban Affairs and Planning, the Hon. Craig Knowles, as a guest, accompanied by the Minister for Regional Development, the Hon. Harry Woods, who is the local member.

To provide some background, the NRRS is a successful strategy that was launched by the Minister for Urban Affairs and Planning at Ballina in August 1995 and is being prepared as a joint venture between the Department of Urban Affairs and Planning, the Northern Rivers Regional Organisation of Councils and the Northern Rivers Regional Economic Development Organisation. The NRRS will be applied to the northern rivers region, which consists of 12 local government areas between Grafton and the Queensland border, which, as honourable members would know, is one of the fastest growing areas in New South Wales.

The strategy was originally funded by the Federal Government through the regional development program, which, sadly, has been discontinued. The strategy planning process is a response to regional concerns about the impacts associated with the rate of population growth, future economic development opportunities and environmental management issues within the region. The NRRS is a whole-of-government approach to integrate the major issues of land use planning, natural resources, economic development and infrastructure provision. It is the first time a strategy has been developed as a partnership between the private sector and local and State Government.

The NRRS is based upon the principles of sustainable development, recognising the economic, ecological, social and cultural aspects of sustainability. We often hear about competition across levels of government and the private sector, but this strategy has been a model of co-operation. It has involved a whole lot of groups and organisations, such as the North Coast Environmental Council and the North Coast Australian Business Chamber.

The first phase in developing the NRRS resulted in a document entitled "Framework for a Sustainable Future", which was placed on public exhibition from July to September 1997. The approaches proposed in the framework received strong community support. Positive responses were received from all sectors and interest groups in more than 130 detailed written submissions. The value of the NRRS planning process and the framework document has received national and international recognition. For example, the NRRS has been granted two awards by the New South Wales Royal Australian Planning Institute, recognising the benefits of this planning process for promoting community involvement and the innovative techniques that have been developed to disseminate information.

A final report prepared for phase one provides a set of strategic values based upon sustainability principles for guiding, planning and development decisions within the region, includes a work program for future work associated with the NRRS and summarises the results of the consultation process. The Northern Rivers Regional Strategy Management Committee considered the final report at a meeting in March 1998 and determined, firstly, that the sustainability principles be adopted by the strategy partners and promoted as a means of guiding future planning and development in the northern rivers and, secondly, that as the initial source of funds from the better cities program has now been exhausted further funding sources be identified.

That funding has also been sought to allow phase two of the NRRS to go ahead. The funding is critical to ensure the adoption of the proposed work program for phase two and to determine the strategy actions and monitoring approaches needed for the strategy to work. Some State and local government agencies within the region have acknowledged the importance of the ongoing development of the NRRS by providing a financial contribution for phase two. At that meeting in Grafton the Minister for Urban Affairs and Planning agreed to support the strategy and continue funding because it was a strategy that actually worked.

CATHOLIC ARCHBISHOP OF MELBOURNE, Dr GEORGE PELL

Reverend the Hon. F. J. NILE [11.05 p.m.]: I wish to put on the record the support of the Christian Democratic Party for the Catholic Archbishop of Melbourne, Dr George Pell, who experienced an embarrassing situation on Sunday, 31 May, when a group of homosexuals and others held a protest during a Mass service in St Patrick's Cathedral. Similar protests have occurred in England, when a group of homosexual men aggressively entered the pulpit of the Archbishop of Canterbury, Archbishop Carey, and interrupted a service, and in New York in a Catholic cathedral. Dr Pell, the Archbishop of Melbourne, deserves commendation for his strong stand. It is not an easy stand to take, and leads to controversy. The easy way is to compromise, but in this situation he stood firm. In a statement Archbishop Pell said:

> While I accept that people may hold views on the proper expression of their sexual life and identity which differ from the Church's teachings, I deeply regret that such people—who profess the Catholic faith—would choose to mount an ideological demonstration during Mass and especially at Communion time. This is inappropriate.

The Archbishop went on to say:

> Receiving the sacrament is the ultimate expression of our Catholic faith, an intensely personal matter between communicant and priest.
>
> It's not a question of refusing homosexuals or someone who is homosexually oriented. The rule is basically the same for everyone.
>
> If a person is actually engaged in—by public admission, at any given time—a practice contrary to Church teaching in a serious matter, then that person is not entitled to receive Holy Communion.
>
> This would apply, for example, to a married person openly living in adultery. Similarly, persons who openly declare themselves active homosexuals, take a position which makes it impossible for them to receive Holy Communion.
>
> Also, a person who is not a member of the Catholic Church has no right to Catholic communion, except in exceptional circumstances.

The Archbishop went on to explain the teachings of the church on this matter. He said:

> The Church's view on sexuality I have explained many times before. It is clear and unequivocal, and derives from natural moral law, which we believe is unchanging. Such moral law governs all people everywhere, in precisely the same way, regardless of the circumstances under which they live.
>
> However, this incident allows me to explain the centrality of the Catholic teaching on marriage and family. Our Judeo-Christian religious tradition allows men and women sexual expression within the bounds of family life, a sexuality which is life-giving. Homosexual acts are contrary to the natural law; they close the sexual act to the gift of life.

He further said:

> We have had these protests before. Probably they will be with us for quite a time yet. I will pray for the protesters. But they must realise that the Church's teaching on this matter cannot, will not, change.
>
> Although human weakness is universal and God's mercy infinite, the path to happiness and heaven for a Catholic does not lie in seeking to re-interpret what is right and wrong.

He concluded with these words:

> Rather, one should commit oneself, in good faith, to the Church and its teachings and work towards following these teachings as closely as possible.

These protestors have threatened to continue their protests on a regular basis at the Catholic cathedral in Melbourne, and I presume at other places as well. I support Archbishop Pell's statement that they are bringing an ideological protest into a sensitive area which will, in the long run, be counterproductive to the participants of those protests. There is a time and place for protests, and it is not within the Holy Communion service.

BYRON SHIRE COUNCIL BY-ELECTION

The Hon. I. COHEN [11.10 p.m.]: I congratulate newly elected Councillor Fast Buck$, who won the recent by-election in Byron Bay by a landslide. Fast Buck$ well out-polled his nearest candidate, who was a conservative, and swept around the field to become a member of Byron Shire Council. Fast Buck$ is the name he adopted some years ago—originally he was John Anderson. He has been working in the Byron community for many years. I am moved to discuss Fast Buck$ because disparaging comments have been made in this House about him. In 1987 he ran with me on a Radical Ratbag ticket but failed to be elected to

Byron council at that time. We officially ran as the Radical Ratbags.

The Hon. D. F. Moppett: What has changed?

The Hon. I. COHEN: We are now Green. We have matured. Fast Buck$ ran a fantastic campaign. With his characteristic Stetson hat, sunglasses and cowboy boots he swaggered through the town areas of Byron shire. He was the nemesis of many white shoe brigade developers who were attempting to take over the area. Fast Buck$ took on Alan Bond when Alan Bond was still a hero in the Australian community and won at North Ocean Shores. He highlighted the issues of corrupt development. Bond wanted to put into a wonderful wetland area a massive marina and develop the area in a way that would have radically changed—we are talking about radicals—the environment and the social amenity of the area.

This Byron shire identity also worked very hard, along with me. He was for a time the president of the Broken Head Protection Association and helped to stop the Club Med development at Broken Head and the Unsworth Labor Government's one-stop total destination tourist resort, which was also at Broken Head. It would have been a terrible blight on the environmental landscape. When Fast Buck$ was president of the Broken Head Protection Association he worked, as I did, against the so-called Cape Byron international academy, which was really a tourist resort robed in academia.

The Hon. D. F. Moppett: His name should be Jack Mundey.

The Hon. I. COHEN: In the local context his activities would be similar. He worked strongly against "Max Buttermouth", as he described Max Eastcott—whom I described in this House some time ago as the Christopher Skase of the north coast. He is now general manager at Margaret River, undertaking similar types of activities on behalf of developers.

Fast Buck$ could well be described as the Ralph Nader of the north coast. Despite the tongue-in-cheek theatrical attitude that he has taken, he has helped shape Byron shire over the years. He has held back some significantly ugly developments and developers. He has done this as a worker in the field of social justice and the environment. He has been a corruption fighter second to none in the north of New South Wales. National Party members will remember that he ran a vociferous campaign against the National Party on the north coast from about Grafton up with devastating results. He is political, he is a keen supporter of social justice issues, and his election is very timely for Byron shire. As he said after his election:

> All this has nothing to do with greenies versus rednecks; it is about installing an administration that has confidence and integrity, and which looks after all ratepayers, not just well-connected developers.

That is the story of Fast Buck$. He has made it to Byron Shire Council. He will continue to make a difference as Councillor Fast Buck$. I am very proud to be his friend and supporter. I appreciate that he has got the recognition in the community that he so justly deserves. After many years of hard work, as a councillor he will be in a position to continue his successful work against corruption in the community.

Motion agreed to.

House adjourned at 11.15 p.m.