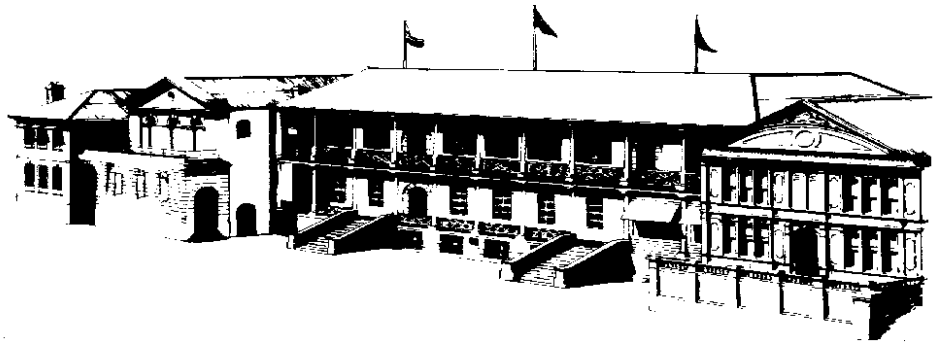
NEW SOUTH WALES



Legislative Council

PARLIAMENTARY DEBATES

(HANSARD)

FIFTY-FIRST PARLIAMENT
THIRD SESSION

OFFICIAL HANSARD

Wednesday, 24 June 1998

AUTHORISED BY
THE PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

Wednesday, 24 June 1998

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

The President offered the Prayers.

ASSENT TO BILLS

Assent to the following bills reported:

Crimes Legislation Amendment (Police and Public Safety) Bill
Local Government Amendment (Meetings) Bill
Police Service Amendment (Alcohol and Drug Testing) Bill

COMPANION ANIMALS BILL

DUTIES AMENDMENT (MANAGED INVESTMENTS) BILL

ROAD IMPROVEMENT (SPECIAL FUNDING) AMENDMENT BILL

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

BILL RETURNED

The following bill was returned from the Legislative Assembly without amendment:

Workplace Video Surveillance Bill

FAIR TRADING AMENDMENT BILL

HOME BUILDING AMENDMENT BILL

RESIDENTIAL TENANCIES AMENDMENT BILL

RETIREMENT VILLAGES AMENDMENT BILL

LOCAL GOVERNMENT AMENDMENT (PARKING AND WHEEL CLAMPING) BILL

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

PETITION

Conduct of Justice Vince Bruce

Petition praying that, in view of the absence of any clear procedure or protocol for the removal of a judicial officer under the Constitution Act, the Legislative Council agree to a conference of representatives of all parties and Independents of both Houses being held on Thursday, 25 June 1998, to decide on the process by which the Houses will consider the report of the Conduct Division of the Supreme Court concerning complaints against Justice Vince Bruce, and that the Legislative Council refrain from debating or voting on any motion regarding the report until after the conference has reported to both Houses, received from the **Hon. I. Cohen**, and read.

DE FACTO RELATIONSHIPS AMENDMENT BILL

Suspension of Standing and Sessional Orders

The Hon. ELISABETH KIRKBY [11.18 a.m.]: According to contingent notice I move:

That standing and sessional orders be suspended to allow the moving of a motion that general business notice of motion 45, relating to the De Facto Relationships Amendment Bill, be called on forthwith.

Many honourable members will be aware that it was originally my intention to move this contingent notice of motion on Thursday of last week which, if Government business had not intervened, would have been a private members' day. It was not possible for me to move that motion last week because Parliamentary Counsel had not finished amending the bill I submitted to him, which was based on a bill prepared by the Government some months ago. Unfortunately, Parliamentary Counsel did not give me the amended or correct copy of the bill until yesterday. I attempted to inform all honourable members of the contents of my private member's bill. As this is my last day as a member of this Parliament, I request that the House give me the opportunity to speak to the bill. Honourable members are aware of what the procedure will be. The second reading of this bill will not come to a vote today. If the motion is accepted, I will be allowed only to make my second reading speech and then debate on the bill will be adjourned.

After that, as a private member's bill it will take its place on the notice paper. I also point out that the bringing on of a contingent notice of motion on a day that is being devoted to Government

business is not unique. This procedure has been used on occasion by other crossbench members, such as Reverend the Hon. F. J. Nile and the Hon. A. G. Corbett. I am not attempting to do anything unduly spectacular or dramatic. I am merely using the forms of the House in a way that other members of this House have used them and in accordance with the standing orders of the House.

Reverend the Hon. F. J. NILE [11.20 a.m.]: The moving of this contingent motion makes a mockery of the procedures of the House. As previously announced by the Hon. Elisabeth Kirkby to the media, the honourable member seeks to suspend standing orders so as to introduce the De Facto Relationships Amendment Bill. The member has waited 17 years to introduce a supposedly urgent bill to allegedly correct a serious injustice, on the day that she is resigning from Parliament. This House cannot and must not be party to a deliberate attempt to have a last hurrah, a theatrical departure from this House by the Hon. Elisabeth Kirkby on behalf of the Australian Democrats. Members agreed to forgo private members' day to assist the Government to complete its heavy legislative program before the House rises for the winter recess and to deal with most serious matters, such as a motion to expel a respected member of this House and a motion to dismiss a Supreme Court judge.

This contingent motion seeks to take precedence over 44 private members' motions concerning important bills and economic and social issues. The so-called merits of this same sex bill can be explained and debated another day by another member, but not today. The bill may be introduced at a future date by another member under the normal procedures: as a private member's bill on a private member's day when it reaches the top of the list. As the honourable member has raised the purpose of the bill, it must be noted that this bill is a Trojan horse. The real agenda is to clear the main obstacles to the legalisation and to recognition of same-sex marriages so that homosexuals do not, as they say, continue to live in sin—which makes a mockery of marriage. The claim that this bill will rectify an injustice is false, because anyone can make a will and leave their property to any person or organisation.

The Hon. Jan Burnswoods: On a point of order. The member is clearly debating the bill, not the motion to suspend standing orders.

The PRESIDENT: Order! I uphold the point of order. Reverend the Hon. F. J. Nile will confine his remarks to the motion to suspend standing and sessional orders.

Reverend the Hon. F. J. NILE: On behalf of the Christian Democratic Party, Christian churches and the Muslim and Jewish communities, I oppose the urgency motion to introduce this bill and will call for a division.

The Hon. R. S. L. JONES [11.23 a.m.]: I strongly support the motion that has been moved by the Hon. Elisabeth Kirkby on her last day as a member of Parliament. Reverend the Hon. F. J. Nile is being most unChristian in his attitude towards the Hon. Elisabeth Kirkby and to the legislation.

[*Interruption from gallery*]

The PRESIDENT: Order! Members of the public in the gallery who interrupt the proceedings will be removed.

The Hon. R. S. L. JONES: This motion relates to an important piece of legislation that should have been passed by this Parliament many years ago. Tony Blair is showing real leadership in England. We do not see any real leadership in this Parliament, but it is about time we did. The Government should ensure that this legislation is enacted. I very strongly support the motion of the Hon. Elisabeth Kirkby. It does not make a mockery of the procedures of this House. It is part of the procedures of this House to use a contingent notice of motion to introduce a bill.

The Hon. FRANCA ARENA [11.24 a.m.]: I oppose the motion. Last week the Leader of the House, the Treasurer, told a crossbenchers' meeting that private members' day would be abolished for the remainder of the session to deal with important Government legislation. He also told us that when we resume in September the House will have two private members' days.

The Hon. Dr B. P. V. Pezzutti: Really?

The Hon. FRANCA ARENA: Yes, that is what we were told and that is what we expect to happen. The Hon. Elisabeth Kirkby has made a great contribution to this Parliament during the past 17 years. But, with all due respect, so have other members who have been members of this Parliament for 17 years and will probably leave after the next session. The honourable member's grandstanding—and I do not use that word in a nasty way—to introduce a bill which has no urgency while 45 members' motions and private members' bills, which we agreed to defer until September because of important Government legislation, remain on the notice paper, is completely unacceptable. I will vote

against this motion because honourable members should be fair to all sections of the community. Members have been waiting three or four years to debate their private members' bill. With all due respect to the Hon. Elisabeth Kirkby, who is retiring today, another Democrat who will take the honourable member's place can move to introduce the bill in September.

The Hon. A. G. CORBETT [11.26 a.m.]: It is up to the Government to allow a private member to introduce legislation in Government time. Every member who is given the opportunity has the right to represent his or her constituents and to ultimately have legislation debated, but it must first be introduced. I do not believe we should use the gag in this House to censure a member.

The Hon. J. F. Ryan: It is not a gag.

The Hon. A. G. CORBETT: It is a gag if members oppose the Government's allowing a member to represent her constituents by introducing a bill in Government business time. If the Government allows the Hon. Elisabeth Kirkby to do so, then I support it.

The Hon. I. COHEN [11.27 a.m.]: On behalf of the Greens I support the Hon. Elisabeth Kirkby's motion to introduce the De Facto Relationships Amendment Bill. The Government demanded that private members' day be rescinded at this time. It was put forward as a strong suggestion, acknowledging the pressure of having to deal with legislative business. I understand that Parliament may be resuming in July to debate further Government legislation.

With a few days remaining in this sitting, the Hon. Elisabeth Kirkby is correct in introducing the bill today. Its introduction will allow the honourable member to speak on a very important matter—a matter with which I agree—though the House will not debate it further at this time. When members continually use the mechanisms of Parliament to disagree with issues, they are opposing the substance of the issue, not the process. The Hon. Elisabeth Kirkby should be given respect on her last day in Parliament. The Greens support her motion to introduce the bill.

The Hon. J. S. TINGLE [11.28 a.m.]: I have agonised over this matter. I will support the Hon. Elisabeth Kirkby's motion to introduce the bill but I am utterly opposed to the bill and what it proposes. Cutting through the arguments that have been raised today, the only way to resolve the matter is to hear the Hon. Elisabeth Kirkby. As the honourable member said, we will not debate the bill today. How can we make a final judgment unless we hear the honourable member? I am opposed to the bill but I support the motion to introduce it.

The Hon. ELISABETH KIRKBY [11.30 a.m.], in reply: I will attempt to be brief. The reason I did not introduce the bill earlier in my parliamentary career is that during the 1980s, particularly in the lead-up to the 1988 election, I was given to understand that the coalition Opposition would introduce a bill in these terms upon election to government. That did not happen: throughout the time of the coalition Government from 1988 to 1995 such a bill was not introduced. There was a written promise from the Australian Labor Party Opposition that it would introduce such a bill if it were elected to government. It was elected to government in 1995: three years have elapsed and it has still not introduced such a bill. I gave both the coalition and Labor Party an opportunity to keep promises that they made prior to an election.

A similar bill was introduced by my colleague Senator Sid Spindler from Victoria in 1995 before he retired from the Senate. The bill is to be reintroduced to the Senate by another of my party colleagues, Senator Andrew Bartlett from Queensland. My colleague in Western Australia, the Hon. Helen Hodgson, will introduce a similar bill in the Legislative Council of Western Australia. The move to introduce a bill of this nature is not Australian Democrats policy alone. Honourable members will be aware that a member of the Labor Party, Mr Anthony Albanese, gave notice last week that he would introduce a similar bill into the House of Representatives.

It was suggested by way of interjection that I was taking this action only to get my name in the newspapers and to get my face on television tonight. That is absolute rubbish. Mr President, you and other honourable members are aware that two very large rallies on this issue were held outside Parliament House. Last Wednesday in the pouring rain nearly 3,000 people stood outside Parliament House and I received publicity standing in front of them on that occasion, as I did on previous occasions. I too stood in the pouring rain, and that was shown on television. So it is ridiculous to suggest that I need this opportunity to get my face on television.

I assure honourable members that I have other far more urgent issues to talk to television and radio commentators about in the next few days, than this piece of legislation. In order to save the time of the

House I will say no more at this time. The whole matter can be decided very quickly if I am given the opportunity to speak to my bill. Everybody will thus be able to understand its content in greater detail, to canvass its provisions with their constituencies over a considerable period, and to debate it fully.

The Hon. Dr B. P. V. Pezzutti: On a point of order. Mr President, while I might agree with the substance of the Hon. Elisabeth Kirkby's bill, she is meant to be arguing why the bill should take precedence over Government business. After negotiations, the Opposition and the crossbenchers have agreed that private members' bills will not take precedence during this period in which there is great activity to get Government legislation through.

The PRESIDENT: Order! What is your point of order?

The Hon. Dr B. P. V. Pezzutti: The honourable member is arguing the case for the bill, rather than arguing the case for interrupting other business of the House.

The PRESIDENT: Order! As the Hon. Elisabeth Kirkby has finished speaking it is unnecessary to rule on the point of order.

Question—That standing and sessional orders be suspended—put.

The House divided.

Ayes, 21

Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Obeid
Mr Cohen	Mr Primrose
Mr Corbett	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	*Tellers,*
Mr Kelly	Mrs Isaksen
Ms Kirkby	Mr Manson

Noes, 19

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Forsythe	Dr Pezzutti
Mr Gallacher	Mr Ryan
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	*Tellers,*
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Question so resolved in the affirmative.

Motion agreed to.

The Hon. ELISABETH KIRKBY [11.42 a.m.]: I move:

> That general business notice of motion No. 45, relating to the De Facto Relationships Amendment Bill, be called on forthwith.

It is not my intention to take up further time of the House. However, it should be obvious from the vote on the last division that crossbench members support the Government in seeking to give me the right to speak on this bill. Therefore, I hope there will not be a further division.

Reverend the Hon. F. J. NILE [11.42 a.m.]: I oppose the bill being brought on and strongly object to the use of the word "gag". This is not a gag because the bill could be debated at any time under the procedures of the House. The Christian Democratic Party will vote against the motion and will call for a division.

Question—That the bill be called on—put.

The House divided.

Ayes, 21

Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Obeid
Mr Cohen	Mr Primrose
Mr Corbett	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	*Tellers,*
Mr Kelly	Mrs Isaksen
Ms Kirkby	Mr Manson

Noes, 19

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Forsythe	Dr Pezzutti
Mr Gallacher	Mr Ryan
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	*Tellers,*
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Question so resolved in the affirmative.

Motion agreed to.

Introduction

The Hon. ELISABETH KIRKBY [11.50 a.m.]: I move:

> That leave be given to bring in a bill for an Act to amend the De Facto Relationships Act 1984 to extend the provisions of that Act so that they apply to parties to certain domestic relationships other than de facto relationships; and to amend certain Acts that confer rights or impose obligations with regard to spouses or de facto spouses.

I seek this leave so that the bill can be tabled and that its content will become known to the people of New South Wales. Tabling of the bill will ensure that those who oppose the bill will understand in full its provisions. That will ensure that Reverend the Hon. F. J. Nile, and others who have already indicated in no uncertain manner that they intend to oppose it, cannot misrepresent it simply by making statements either through his newspaper, other newspapers or other forms of media. Avoidance of misrepresentation can only be achieved if the full provisions of the bill are in the public domain. That is why I seek leave to have the bill in full, with all amendments to it and their implications, in the public domain. Then people can debate the bill. When further debate takes place in this Chamber in the next session of Parliament to begin in September, members of this House will not be precluded from putting forward their views. This procedure will enable further debate in this Chamber before this House is prorogued. With an election to be held early in 1999, it is highly likely that the House will be prorogued at the end of the spring session prior to this House rising for Christmas. Those are the reasons that I seek leave to introduce the bill. I trust that, without any further delay, leave will be granted.

The PRESIDENT: Order! The Chair knows what is sought by the Hon. Elisabeth Kirkby and is not assisted by the constant barrage of advice emanating from the Opposition benches. If the honourable member seeks to do something that is procedurally incorrect, the Chair will prevent that.

The Hon. ELISABETH KIRKBY: I have moved that leave be given to bring in the bill, and I have given a full explanation for doing so. I leave the matter in the hands of the House.

Reverend the Hon. F. J. NILE [11.53 a.m.]: Mr President, I ask that you clarify the motion that has been moved. I understand the next motion would have been to have the bill printed.

The PRESIDENT: Order! The motion is that leave be granted to bring in a bill to amend the Act.

Reverend the Hon. F. J. NILE: As previously stated, we oppose the motion. As other honourable members have said, the Government has decided to allow this bill to come on. It seems that 16 of the 42 members of this House have made that decision. I would inform Government members that we have now moved from procedural motions to considering a motion dealing specifically with the bill. I implore members on both sides of the House to consider how they vote from this point on. The earlier motions were procedural. We are now dealing with the bill, as has been explained by the Hon. Elisabeth Kirkby. We oppose it.

Question—That leave be given to bring in the bill—put.

The House divided.

Ayes, 21

Dr Burgmann	Mr Macdonald
Ms Burnswoods	Mr Obeid
Mr Cohen	Mr Primrose
Mr Corbett	Ms Saffin
Mr Dyer	Mr Shaw
Mr Egan	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	*Tellers,*
Mr Kelly	Mrs Isaksen
Ms Kirkby	Mr Manson

Noes, 19

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Forsythe	Dr Pezzutti
Mr Gallacher	Mr Ryan
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	*Tellers,*
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Question so resolved in the affirmative.

Motion agreed to.

Bill introduced.

First Reading

The Hon. ELISABETH KIRKBY [12.01 p.m.]: I move:

> That this bill be now read a first time.

The House divided.

Ayes, 20

Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mr Shaw
Mr Dyer	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	
Mr Kelly	*Tellers,*
Ms Kirkby	Mrs Isaksen
Mr Macdonald	Mr Manson

Noes, 19

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Forsythe	Dr Pezzutti
Mr Gallacher	Mr Ryan
Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	*Tellers,*
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Pair

Mr Egan	Mrs Chadwick

Question so resolved in the affirmative.

Motion agreed to.

Bill read a first time.

Printing

The Hon. ELISABETH KIRKBY [12.07 p.m.]: I move:

That this bill be now printed.

Reverend the Hon. F. J. NILE [12.07 p.m.]: The Hon. Elisabeth Kirkby's staff have distributed copies of the bill, with all amendments, to all members of the House. There is no need to further delay the House by voting to print the bill. I understand that this is not a Government bill, but a private member's bill. Therefore, Government members should vote according to their conscience. I urge them to consider that as we now come to the substance of the bill. The House will now vote to print the bill and give it the official status and authority of a bill printed by the Parliament.

Question—That this bill be now printed—put.

The House divided.

Ayes, 20

Dr Burgmann	Mr Obeid
Ms Burnswoods	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mr Shaw
Mr Dyer	Ms Tebbutt
Mr Johnson	Mr Tingle
Mr Jones	Mr Vaughan
Mr Kaldis	
Mr Kelly	*Tellers,*
Ms Kirkby	Mrs Isaksen
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Noes, 19

Mrs Arena	Mrs Nile
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Miss Gardiner	Mr Samios
Mr Gay	Mrs Sham-Ho
Dr Goldsmith	Mr Rowland Smith
Mr Hannaford	*Tellers,*
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Pair

Mr Egan	Mrs Chadwick

Question so resolved in the affirmative.

Motion agreed to.

Bill printed.

Second Reading

The Hon. ELISABETH KIRKBY [12:12 p.m.]: I move:

That this bill be now read a second time.

The De Facto Relationships Amendment Bill is not so much about sexuality as human rights. Although this will be my last day as a member of Parliament, my successor, Dr Arthur Chesterfield-Evans, has given me a commitment to continue to sponsor the legislation, and to continue with the struggle for sensible law reform. The bill does not confer any additional rights on people of the same gender who choose to live together and who decide they wish to

leave property, shares, life insurance or superannuation to another person of the same gender when it can be established that they had a relationship of considerable duration. The bill does not confer any additional rights on people of the same sex who cohabit. However, it imposes certain obligations, which should be fully considered by those entering such a relationship. The bill will not change the legal definition of marriage.

It appears that some opponents of the legislation are incapable of imagining a shared and significant relationship that does not include sexual relations. I am sure all honourable members would be aware of people of different genders who live in long-term relationships, but who may not have had sexual relations for many years. The legislation makes no judgment about who may or may not have sexual relations with whom. Indeed, it is nobody's business. It is not the business of this Parliament whether consenting adults engage in sexual relations. The legislation recognises that consenting sex between adults in private is and has been legal for many years in New South Wales. The bill is not about promoting either homosexuality or paedophilia.

Laws recognising domestic relationships already operate in the Australian Capital Territory. It is now time to introduce similar legislation in New South Wales, as promised by this Government. It may not have been a core promise, but it was made in writing. The bill is about freedom of choice and is fairly straightforward. It seeks to clarify how and to whom people may leave their worldly goods and other benefits. We live in a vastly different world today from the world in which property laws were drafted by our forebears—in some cases, up to 500 years ago. Working people are now compelled by law to have superannuation to provide for their retirement and for the benefit of those with whom they share their lives. Considerable sums of money are acquired in this manner. People acquire shares as part of salary packages and by determining that such investment options are sensible. They acquire property, mainly through sheer hard work in business, or by inheritance, and frequently with a longstanding partner.

As a child I can remember men and women who came back from the First World War, many of whom had lost their partners, fiancés and mates. Their experiences did not enable them to adjust easily. For some, the possibility of another relationship with someone of another gender was never realised. For some there could be no other relationship available to them. Nurses, soldiers, mariners, teachers and police lead lives that do not always make it possible to settle down. Shift work and essential mobility do not always make it possible to settle down in the conventional sense. After living through the Second World War, as an adult making first-hand observations of how relationships develop I believe it is time to add a new dimension to how we legally recognise relationships in 1998. It is not only time, it is the right thing to do.

If one does not enter a conventional relationship and benefit from the support enjoyed by some people under that circumstance, one can find that life has passed one by, and that both financial and emotional support must be derived from other quarters. I am aware of women, in particular, who have lost loved ones through war and never formed another relationship with anyone, except another woman.

Companionship and economic necessity have long been a primary reason for cohabitation. As affordable housing in cities such as Sydney continues to grow beyond the reach of so many people, more and more people will enter into such relationships. I am aware of many men who found themselves in similar circumstances, yet they have never been questioned about their sexuality. There is no shortage of stockmen, graziers, soldiers and boundary riders who, as older men, have chosen to cohabit with another of the same sex; men who, through mateship alone, have chosen to stay together as partners for life.

I cannot believe that members of the National Party do not know of men who live in those circumstances. Only yesterday a veteran rang me and told me he had been with his partner for 37 years. His partner, also a veteran of World War One, had recently had a stroke and he was looking after him, but he had no legal rights so far as his partner was concerned. He has no legal rights over the hospitalisation of his partner because the law does not recognise the relationship. The partner may not be allowed to see him or even participate in decisions about treatment. If the partner is incapacitated, he does not automatically become the responsible person, able to make decisions on behalf of his incapacitated partner. A same sex partner is not automatically appointed to make those decisions, but a heterosexual partner is.

When a heterosexual person dies, his or her partner has certain rights. Lesbians and gay men involved in relationships do not have those rights. If a heterosexual spouse or de facto dies without a valid will, the property in his or her estate will be distributed under the laws of intestacy. Family

members of that couple receive shares of the estate and a surviving spouse is entitled to a significant portion of the estate or of the matrimonial home, but these provisions do not apply to a surviving lesbian or gay partner.

The New South Wales Family Provision Act 1992 allows lesbians and gay men to challenge the distribution, but only if they can satisfy dependency and cohabitation tests. These requirements do not apply to heterosexuals. If a heterosexual couple end a relationship, disputes about the distribution of property can be resolved under the Family Law Act if they are married or if there is a child of the relationship, or under the De Facto Relationship Act if the couple is not legally married but have lived together for at least two years.

But for lesbian or gay couples this forum is not available. They are forced to pursue their rights in the Equity Division of the Supreme Court of New South Wales. This process is expensive and much more difficult than the proceedings afforded to heterosexual couples. Moreover, when a heterosexual relationship breaks up, the couple have access to counselling services that form part of the dispute resolution process. Lesbian and gay couples do not. This bill is about financial responsibility; it is about managing one's affairs and about letting people decide to whom to leave their worldly goods—perhaps to those who have supported them over the years—without challenge from those who previously may have shown little or no interest in their well-being.

In these days of increasing nursing home fees I can imagine how angry I would be if family members with whom I had, by choice, little or no association for many years, lodged a claim on my estate, even if it was my express wish that my chosen partner was to be my beneficiary. I would be very angry if a long-lost relation was able to claim my estate and then squander the proceeds, perhaps at Star City Casino in New South Wales, particularly if my nominated partner needed adequate health care and a place to live for years after my death. Imagine if my chosen partner's health declined after my death and the partner needed to enter a nursing home—after supporting me throughout my life and through good times and bad, possibly for 30 or more years—but did not have the money to do so.

I am afraid it is common knowledge that when an estate is divided up we are assured of seeing either the best or worst in our blood relations. Frequently it is the worst in people than manifests itself under such circumstances. Thirty years of caring and sharing can be tossed aside by greedy or ignorant relatives as they squabble over the remnants of an estate. They may even decide to take the earthly remains to another State for burial or cremation and the partner might have no power to stop them.

There is a difference between homosexual identity and homosexual activity, and this difference is recognised and acknowledged by all churches in Australia. For centuries organised religions have had adherents and believers who have lived in exclusively male or female orders and practised celibacy, although some have left these orders to live in the broader community and lived with others of the same sex whilst choosing to remain unmarried. Some in our society would seek to punish people living in same sex relationships simply for asking for the same rights that are currently enjoyed by people living in what are accepted as conventional relationships. No extra rights are being sought by people living in same sex relationships.

On my last day as New South Wales parliamentary Leader of the Australian Democrats, I will not be stared down by the likes of One Nation and the shock jocks who supply members of that party with the oxygen of publicity. This legislation is essentially about the freedom to choose how to bequeath one's money and I hope that the Alan Joneses and John Laws of this world will examine it closely and see fit to comment favourably on it. Money is something that those people understand. I hope other honourable members will not be similarly stared down. I ask that they carefully consider the bill and debate the issues thoughtfully and with compassion. Examine the legislation carefully, think and then blink.

I am grateful to the Gay and Lesbian Rights Lobby for its faith in my political party and for recognising that it is prepared to stand up for basic human rights. I thank the Gay and Lesbian Rights Lobby for the assistance it has given me in preparing the bill. In conclusion, I sincerely hope that the Parliament will analyse this legislation and exercise compassion in granting equality to same sex relationships. Many people have dreamed of that equality for so many years and I ask honourable members who may be inclined to vote against this bill to remember the quote from T. E. Lawrence in *Lawrence of Arabia*:

> All men dream, but not equally.
>
> For the dreamers of the night awaken to find it was merely their vanity.
>
> But the dreamers of the day are the dangerous ones, for they dream with their eyes open and they make things happen.

I am proud to have served the Australian Democrats for the past 17 years. I am proud that we are the voice of reason and the true third force for sensible change in Australian politics. I beg all honourable members, whether they are in the Liberal Party, the Labor Party or the National Party, not to let the extremism of One Nation take away the democratic rights of everyone in our community.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

THOROUGHBRED RACING BOARD AMENDMENT BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [12.27 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 1996 the Government introduced legislation to establish the New South Wales Thoroughbred Racing Board as a representative body to take over responsibility from the Australian Jockey Club for the control and regulation of the thoroughbred racing industry in this State. The board was appointed in October 1996 and assumed its responsibilities as the controlling authority for thoroughbred racing in New South Wales on 1 July 1997. It would be fair to say that the Thoroughbred Racing Board has been an outstanding success and has been well received by the racing industry.

The legislative package before the House is the result of an approach to the Government by the Thoroughbred Racing Board seeking clarification of its powers and protections in hearing certain matters in the course of its functions as the controlling body of thoroughbred racing. In this regard, the board had concerns as to whether it had the power to hear evidence at inquiries in public and whether matters raised at inquiries, together with findings subsequently published, would be privileged from defamation action. In addition, the board sought the power to examine witnesses in inquiries on oath. These important questions arose following an application to the board by former bookmaker Mr Robert Waterhouse to have his lifetime warning-off from racecourses reviewed.

Honourable members would no doubt recall the infamous Fine Cotton ring-in scandal back in August 1984 where the better performed horse Bold Personality was substituted for Fine Cotton in a race at the Eagle Farm racecourse in Brisbane. Although this incident occurred in Queensland, there was substantial betting on the race in this State. Consequently, the then controlling authority in New South Wales, the Australian Jockey Club, initiated its own inquiry into the matter and subsequently found a number of persons to have had prior knowledge of the ring-in. One of Sydney's leading bookmakers at the time, Robert Waterhouse, was one of those persons warned-off racecourses for life by the Australian Jockey Club.

Honourable members may be interested to know that it is said that the power of a controlling body of racing to warn a person off a racecourse has its origins in 1666 during the reign of Charles II. Apparently Charles II had his own racing stables at Newmarket and controlled thoroughbred racing himself. If any person was found to be cheating or guilty of fraud in racing or betting, he was excluded from the court by the king and warned-off Newmarket Heath. Gradually this principle of warning-off was extended to other places where racing was conducted and by the early part of this century the term "warned-off Newmarket Heath" was said to mean "undesirable on the turf and unfit to associate with the gentlemen of the turf".

A warning-off, which in effect represents a worldwide ban from racecourses for an indefinite period, is not a punishment as such, but rather, is a necessary measure taken to protect the racing industry and the public interest in racing from fraudulent and corrupt practices. The Waterhouse case is not the first time that a controlling body of racing has conducted an inquiry with the view to reviewing a warning-off order. Once the racing appeal process has been exhausted no further right of appeal exists and it has traditionally been the case that the controlling bodies of racing have the power to inquire into and review a warning-off. The Crown Solicitor has advised that he is of the opinion that it would not be unreasonable to accede to the Thoroughbred Racing Board's request to ensure that board members, witnesses giving evidence to the board and lawyers appearing before the board in a public inquiry have appropriate protections from defamation action.

The legislation before the House will place beyond doubt the Thoroughbred Racing Board's discretion to conduct inquiries in public and to have protection from defamation action in respect of such proceedings. The Government has taken on board representations from the Thoroughbred Racing Board that it should be empowered to examine witnesses on oath at inquiries and is now satisfied that the board should be given this power to enable it to properly administer the thoroughbred racing industry. Some consideration was given to restricting this power to occasions when the board was presided over by a legal practitioner. However, as the board is constituted by way of representatives from the various race clubs and industry bodies, occasions may arise when there is no legally qualified person serving on the board. Accordingly, the Government was satisfied that there should be no restrictions on the board's power to administer the oath and the bill reflects this position.

The proposed legislation will also make a minor variation to the present appeal procedures for the thoroughbred racing industry. At present, thoroughbred racing industry appeals are heard in the first instance by the appeal panel constituted under the Thoroughbred Racing Board Act. A further right of appeal then exists to the independent Racing Appeals Tribunal. As the Thoroughbred Racing Board is responsible for appointing the appeal panel, it has been suggested that there could be a perceived conflict of interest in the appeal panel hearing appeals against decisions of the board itself, as opposed to appeals against decisions taken by the stewards. It is recognised that it would only be on rare occasions that the board would itself, rather than the stewards, impose a penalty and while I believe that the integrity of the appeal panel is beyond reproach, I have taken on board the Thoroughbred Racing Board's argument of public and industry perception.

The proposed legislation will therefore provide for a right of appeal against decisions taken by the Thoroughbred Racing Board to the Racing Appeals Tribunal direct. As the tribunal will be the first and only avenue of appeal in such cases, the

prescribed minimum penalties which will be subject to this new appeal process will be lower than those applying to other appeals which are firstly heard by the appeal panel. An appropriate amendment will be made to the regulation to achieve this purpose. The bill before the House has been developed in close consultation with the Thoroughbred Racing Board and it will only assist the board in its controlling and regulatory functions. This of course will be of significant benefit to the racing industry, which is entering an exciting new era with the impending privatisation of the TAB. I commend the bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [12.28 p.m.]: The Opposition has pleasure in supporting the amendments to the Thoroughbred Racing Board Act. Honourable members will recall that the Opposition had a great deal of input in the formulation of the Thoroughbred Racing Board, which was established to take over the administration of racing in this State following the Temby report recommendations in November 1995. The subsequent enactment of the Thoroughbred Racing Board Act 1996 enabled the establishment of that board.

This significant step in racing in New South Wales has brought all thoroughbred racing clubs—provincial and country clubs, the Sydney Turf Club and the Australian Jockey Club—under one organisation. An important function of the Thoroughbred Racing Board is to regulate and promote racing in New South Wales and to take it forward. This significant move has coincided with the TAB privatisation. A important facet of the privatisation has been the reduction in tax on wagering from 52 per cent to 28.2 per cent, which has been overlooked in the euphoria about the price of TAB shares and the future of the TAB as a company. I could talk at length about that aspect but it is outside the leave of the bill.

The reduction in tax will enable the racing industry to compete more favourably with racing in other States, which is a most satisfactory outcome. Over time the industry will receive an increasing amount of dividend from the TAB. Having control of all these matters will enable the TRB to promote racing, to take it forward and to make decisions about the number of meetings, programming, prize money and other issues important to the future of racing. The amendments are basically a tidying up of the legislation. The TRB approached the Government to seek clarification about its powers and protection in hearing certain matters and to vary the appeal process for participants in the thoroughbred racing industry.

The Thoroughbred Racing Board had doubts about whether it had the power to hear evidence under oath and in public and whether the evidence and findings of the board in such matters would be privileged from defamation action. These questions arose following an application by the former bookmaker Mr Robert Waterhouse to the TRB to review his lifetime warning-off from racecourses. The penalty was applied by the AJC, the then controlling authority, after Mr Waterhouse had been found to have prior knowledge of the infamous Fine Cotton ring-in in 1984. The Crown Solicitor advised the Government that it would not be unreasonable to accede to the board's request to ensure that board members, witnesses giving evidence to the board and lawyers appearing before the board in a public inquiry have appropriate protection from defamation action.

These matters have been addressed in the legislation. The TRB will have discretion in deciding whether to conduct its inquiries in public or in private. The bill will also amend the Thoroughbred Racing Board Act 1996 and the Racing Appeals Tribunal Act 1983 to provide a right of direct appeal to the Racing Appeals Tribunal from certain decisions of the board and to remove the present right of appeal from such decisions to the appeals panel. It will also amend the Defamation Act 1974 to clarify that certain defences, including absolute privilege, are available in defamation actions that concern publications in the course of proceedings with respect to inquiries conducted by the board and reports published in respect of such inquiries. The TRB also sought clarification from the Government about the taking of evidence under oath and its ability to administer the oath to witnesses giving evidence.

That was not acceded to by the Government in the first instance, but following negotiations with the board and lobbying by the Opposition on behalf of the board the Government acceded to the inclusion of a clause to allow the board to take evidence under oath. These small measures are important to the TRB's ability to conduct hearings in a manner that will protect it from actions for defamation. The bill will allow the board to take evidence under oath and to make decisions about whether its proceedings are decided in public or in private. The Opposition has much pleasure in supporting the bill.

The Hon. Dr MEREDITH BURGMANN [12.35 p.m.]: I support this legislation. The Deputy Leader of the Opposition has just alluded to one of the most important parts of the bill. New subsection 19(1B) states:

In conducting an inquiry, the Board may examine any witness on oath or affirmation, or by use of a statutory declaration.

At one stage during the drawing up of this legislation it was considered that the need for a witness to be on oath or affirmation was not necessary, the argument being that it is not required in other sporting bodies, such as the rugby league judiciary. The rugby league judiciary and the Thoroughbred Racing Board hear vastly different cases. At a recent meeting of the rugby league judiciary I heard a lawyer say on the phone, "I will plead guilty to the elbow but not the language." The sort of case that comes before the rugby league judiciary does not involve corruption or veracity of evidence.

The Thoroughbred Racing Board is often required to investigate cases of corruption, an issue that is very important in the industry. This legislation is part of the Government's measures to root out corruption. I have received professional advice on the thoroughbred racing industry from Roelof Smilde, a man who has done a lot to root out corruption in the industry. As a result of his representations to me I lobbied the Minister to ensure that the new section was included in the bill. This bill will help clean up the industry, and all the horses of New South Wales are in the Minister's debt.

The Hon. R. D. DYER (Minister for Public Works and Services) [12.37 p.m.], in reply: I thank the Deputy Leader of the Opposition and also the Hon. Dr Meredith Burgmann for their contributions to this debate and for their support for the bill. As I indicated in my second reading speech, the New South Wales Thoroughbred Racing Board has been an outstanding success, and this bill can only assist the board in its controlling and regulatory functions. My colleague the Minister for Gaming and Racing has recently been informed by the TRB that the final few controlling functions remaining with the Australian Jockey Club, such as industry insurance and horse registration, will be transferred to the board on 1 July 1998. The Minister will shortly issue an order in the gazette to give effect to the transfer of those functions.

I should clarify one matter that has received coverage in the press in recent times, and that is the accusation that the Government did not transfer sufficient powers from the AJC committee to the TRB to enable the board to properly undertake its functions. I stress that the existing powers conferred on the board by the Thoroughbred Racing Board Act 1996 to inquire into matters are no different from those applying to the former controlling authority for the thoroughbred racing industry, the AJC committee.

Protections afforded to the Australian Jockey Club committee under the Australian Jockey Club Act 1873 and the Defamation Act 1974 applied only when it heard industry appeals. Similar protections are provided to the appeals panel established under the Thoroughbred Racing Board Act. Similarly, when hearing appeals the Australian Jockey Club had the powers of a royal commission to administer the oath and compel witnesses to appear and give evidence. These powers have also been provided to the appeals panel constituted under the Thoroughbred Racing Board Act. The bill now provides the board with the power to administer the oath when conducting inquiries. However, it should be seen as the granting of an additional power to the board rather than correcting an omission from the original Act, as it has been incorrectly reported in the press. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

ENERGY SERVICES CORPORATIONS AMENDMENT (TRANSGRID CORPORATISATION) BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services), on behalf of the Hon. J. W. Shaw [12.41 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 deals with the corporatisation of the Electricity Transmission Authority as a statutory State-owned corporation under the State Owned Corporations Act 1989. The authority will be corporatised under the corporate name, TransGrid. This initiative is a further significant milestone for New South Wales in reforming the electricity industry and satisfying the Government's broader national competition policy reform obligations. The Electricity Transmission Authority was established on 1 February 1995 pursuant to the Electricity Transmission Authority Act 1994. Prior to this date, electricity transmission was the responsibility of the Electricity Commission of New South Wales, which at that time traded as Pacific Power.

The Electricity Transmission Authority is currently the principal provider of high voltage electricity transmission services in New South Wales, managing 74 substations and switching stations and approximately 11,500 kilometres of lines. This transmission network interconnects with the transmission network operated by the Snowy Mountains

Hydro-Electric Authority, Victoria and South Australia, forming a major component of one of the most extensive transmission networks in the world. In March 1996 a major reform was initiated by the Government by corporatising six energy distributors and two new electricity generators as energy services corporations under the Energy Services Corporations Act.

These entities were established with the objective of operating as independent, commercially viable organisations capable of competing in the State and national electricity markets. Since this reform process was commenced the energy services corporations have achieved substantial efficiency gains from which the whole State has benefited. As a result of these reforms New South Wales households now enjoy the cheapest power available in any Australian State. An average household in New South Wales pays more than $100 per year less for electricity than a similar household in Victoria. And a local small business pays between 25 per cent and 40 per cent less than its Victorian counterparts—an average saving of about $3,400 per year.

The net effect of the Government's reform process is that by the turn of the century New South Wales consumers will, on average, enjoy electricity price reductions of more than 20 per cent. Meanwhile, on all measures, the standard of service to customers and the reliability of supply have improved considerably. Another important milestone in the reform process was the establishment of the Sustainable Energy Development Authority, with a mandate to promote the adoption of economically efficient sustainable energy technology. The Sustainable Energy Development Authority has already achieved a reduction in emissions of over half a million tonnes annually and put in place programs which will deliver further savings at an accelerated rate.

A critical element of the framework introduced in 1996 was the establishment of an effective wholesale market for electricity. The Electricity Supply Act 1995 enabled the establishment of this interim State electricity market, pending the creation of the national electricity market. Under the Electricity Supply Act, TransGrid was appointed as the New South Wales market and system operator. In this role TransGrid has been responsible for establishing market rules and procedures, maintaining system security and operating the market.

TransGrid has performed this role with distinction and has succeeded in opening up the wholesale electricity market to new participants. This contribution to the State, in addition to the management of transmission infrastructure, has been the foundation on which electricity sector reform has been able to progress. Since late last year, following passage of the Electricity Legislation Amendment (Wholesale Electricity Market) Act, TransGrid has also taken New South Wales a step closer to integration with the national electricity market by successfully establishing competitive trading arrangements between New South Wales and Victoria. This is an important step towards the establishment of a fully integrated national electricity market, scheduled to commence later this year. However, upon commencement of the national electricity market TransGrid will cease to perform the role of market and system operator.

In the national electricity market this role will be performed by the National Electricity Market Management Company, known as NEMMCO. TransGrid may provide certain services to NEMMCO under contract. The national electricity market will be facilitated by legislation in all participating jurisdictions. In New South Wales that legislation is the National Electricity (New South Wales) Act 1997, which was passed by the Parliament in May last year. That Act applies the lead legislation passed by the South Australian Parliament in 1996 known as the National Electricity (South Australia) Act. That lead legislation contains the national electricity law in a schedule and provides the legislative basis for the national electricity code which underpins the operation of the national electricity market.

The code is a detailed and comprehensive regime which contains the rules for operation of the electricity trading market by NEMMCO; NEMMCO's responsibilities in relation to the security of the interconnected power system; connection and access arrangements to networks and network planning; pricing for access to and use of components of the electricity network; metering; and administration of the code through enforcement, dispute resolution and a code change mechanism by the code administrator, NECA.

In addition to providing for NEMMCO to take over the role of market and system operator, the code makes other changes which have a profound impact on TransGrid as well as other Network Service Providers. Under the code TransGrid will be a transmission network service provider. Its revenue from operation of its transmission network will continue to be regulated as a monopoly provider of network services. Further, the code will effectively end TransGrid's role in controlling all new transmission investment. In its place are transparent and consultative processes designed to provide rigour and discipline on all network service providers so that the necessary capital investments are provided at least cost to consumers. Key elements of the new framework are a number of protocols established by the code. The most important of these include:

1. The removal of restrictions on entry to new transmission network service providers.

2. The negotiation of connection agreements between a transmission network service provider and its customers.

3. The availability of all technical data on the transmission network assets and operations.

4. The publication of an annual planning review by transmission network providers, which is subject to consumer review and objection.

5. The annual publication by NEMMCO of a statement of opportunities for interregional network investments that can be used by any current market participant or a new entrant, to frame competitive investment solutions,

6. Competitive tendering by NEMMCO for ancillary services.

In short, upon commencement of the national electricity market TransGrid's regulatory responsibilities will be eliminated, it will have to operate in a commercial manner and compete for provision of new network infrastructure. It is against this background that TransGrid is to be corporatised.

I now turn to the detail of the bill and its major features. The Electricity Transmission Authority will be dissolved and corporatised as an "energy transmission operator" under the Energy Services Corporations Act. This will bring TransGrid within the same structural and reporting framework as the two existing classes of energy services corporations—"electricity

generators" and "energy distributors". Within the bill are clear statements of the principal objectives and functions of an energy transmission operator. These provisions are designed to recognise the important and unique nature of TransGrid's operations in New South Wales, while at the same time being consistent with the broader objectives set by the Government for all energy services corporations. The corporatised TransGrid will also have the same corporate governance arrangements as all other energy services corporations. These arrangements have been designed to ensure clear and effective communication between the shareholders and the board of directors, to facilitate competitive neutrality and to ensure that the board and management of TransGrid have sufficient autonomy to operate effectively in a competitive environment and pursue the objectives outlined in this bill.

The shares in TransGrid will be held by the Treasurer and one other eligible Minister on behalf of the State. These shareholding Ministers will have rights commensurate with those of shareholders in a Corporations Law company. The relationship between the board of directors and the shareholders will focus on the future success of TransGrid as a network service provider in a competitive national electricity market. It is presently intended that TransGrid will be corporatised following commencement of the national electricity market, anticipated for later this year. However, the bill has been drafted to give the Government the option of corporatising TransGrid in advance of the commencement of the national electricity market. This will enable the Government to corporatise TransGrid early if the Government determines that TransGrid would benefit from being given the opportunity to prepare for transition to a fully competitive national electricity market as a corporatised entity.

Consistent with the corporatisation objectives of separating operational and regulatory functions, TransGrid will not have a broader regulatory role following corporatisation, even if it is corporatised before commencement of the national electricity market. If TransGrid is corporatised prior to commencement of the national electricity market, the bill establishes interim arrangements for the seamless transfer of the New South Wales market and system operator function to another eligible entity. This will ensure the continued safe and efficient operation of the State electricity market until commencement of the national electricity market, whether or not TransGrid is corporatised prior to this date. In conclusion, I reiterate the Government's ongoing commitment to the electricity reform of which this bill forms another important element. I commend this bill to the House.

The Hon. J. H. JOBLING [12.42 p.m.]: I am sure honourable members will read the interesting speech by the Minister. The Opposition does not oppose the bill, which will allow corporatisation of the Electricity Transmission Authority and change its name to TransGrid. This process will form part of the reform of the New South Wales electricity industry prior to the commencement of the national electricity market. The Electricity Transmission Authority manages approximately 11,500 kilometres of transmission lines and 73 substations throughout New South Wales which interconnect with the networks operated by the Snowy Mountains Hydro-Electric Authority, and those of South Australia and Victoria.

Since late last year TransGrid has established competitive trading arrangements between New South Wales and Victoria, the start of the integrated national electricity market which the Government promised would commence later this year. We will watch with interest to see precisely when this will occur. Upon the commencement of the national electricity market TransGrid will stop performing the role of market and system operator. This task will then be carried out by NEMMCO, the National Electricity Market Management Company.

The code governing the operation of NEMMCO was detailed in the National Electricity (New South Wales) Act 1997. That same code also laid the foundation for TransGrid to become the transmission network service provider—in effect, a monopoly provider of network services. However, the new framework establishes a number of important protocols, including the removal of restrictions on entry to new transmission network service providers. Without doubt this can only be a good move for the industry and New South Wales electricity consumers, opening up the industry to competition and eventually providing cost benefits to consumers.

The Minister for Public Works and Services, who now has carriage of the bill, to his surprise, may be able to tell me whether any jobs will be lost as a result of the corporatisation process. The Opposition is greatly concerned about the future employment of people now employed in the industry. I ask the Minister to provide a detailed answer, in his reply to the second reading debate, on how many jobs will be lost from TransGrid in the next two years as a result of industry reforms and natural attrition.

TransGrid will have to operate in a commercial environment and compete for the provision of new network infrastructure. The corporatised TransGrid will also have the same corporate governance arrangements as all other energy service corporations. The legislation has been drafted to allow the Government to corporatise TransGrid in advance of the commencement of the national electricity market. I hope—the Minister may be able to confirm this—that there will not be another delay in the starting date of the national market. The Opposition supports the legislation and urges the Government to continue the reform of the electricity industry in this State by ensuring that the privatisation of the industry takes place as soon as possible. The State stands to lose a great deal of money and associated jobs if the Minister cannot convince his party that privatisation is imperative. The Opposition supports the bill.

The Hon. I. COHEN [12.46 p.m.]: The Greens are opposed to the Energy Services Corporations Amendment (TransGrid Corporatisation) Bill, which repeals the Electricity Commission Authority Act 1994 and all regulations made under the authority of that Act. The bill paves the way for privatisation of TransGrid at a later stage. The proposed privatisation has limited the ability of the Government to accept a number of suggested improvements to the bill. The Government will have to negotiate the privatisation not only within the Australian Labor Party but also within the wider community of New South Wales. The sooner it accepts that it does not have a mandate from the majority of its own party, let alone the community, the better it will be for New South Wales.

The bill will corporatise the Electricity Transmission Authority, which will be renamed TransGrid. Corporatisation of the authority is one more step in the direction of privatisation of the electricity industry. It is an extra nail in the privatisation coffin. Ron Phillips, Deputy Leader of the Opposition in the other place, has no doubt that the bill is a stepping stone to privatisation. He stated in his speech on the second reading of the bill on 4 June 1998, "This bill takes another step in the privatisation of the electricity industry." Our Federal colleagues the Australian Greens have a policy on privatisation. The policy document "Finance, Debt Management and Inflation" under the subheading "Reducing Budget Deficits and Public Debts" states:

> There should be no privatisation of essential government business enterprises such as water, electricity, transport, roads and communication.

The New South Wales Greens are vehemently opposed to privatisation. In October 1997 we placed an A3-size advertisement in the "Metro" supplement of the *Sydney Morning Herald* outlining our reasons for opposing privatisation of electricity. They include:

- Power bills will rise
- Under public ownership, NSW residential consumers have the lowest power bills of any mainland state
- In Victoria, where electricity has been privatised, domestic prices have risen over the last five years
- Under privatisation, consumers who are considered "uneconomic", such as rural and low-income earners are likely to be hardest hit by price rises
- Since privatisation in Victoria, consumers have reported many more power surges and blackouts, as the private companies have cut back on maintenance. These surges and blackouts have damaged computers and spoiled refrigerated food
- People's lives and emergency services have been put at risk by blackouts. Even AFL football matches have had to be abandoned!
- The reason private investors will spend $25 billion on buying the electricity is because they expect to make **more** than $25 billion out of us—the consumers.

The Greens believe that privatisation threatens jobs. Thousands of jobs in the power industry have already been lost due to deregulation. More jobs are likely to go, even without privatisation, but with privatisation many more jobs will go and more quickly. The Government wants to sack coalminers and power workers but does not want to take the blame. It prefers to hand the industry over to private companies to do the dirty work, just like Rio Tinto at the Hunter Valley No. 1 colliery. The Greens believe that privatisation also threatens the environment. More than 90 per cent of New South Wales electricity comes from burning coal, which generates huge amounts of greenhouse gases. A privatised electricity industry will want to maximise profits by encouraging wasteful consumption.

Recently the Texan owner of a privatised Victorian company said he aimed to double household electricity consumption. This will mean even more greenhouse gases and pollution, and even higher power bills. Under public ownership New South Wales has established world-leading regulations to reduce greenhouse emissions and to protect the environment. This State is now starting to see the beginnings of a renewable energy industry, and for the first time publicly-owned energy utilities are offering clean, energy-efficient services as an alternative to selling more power.

Privatised electricity companies can be expected to undermine these initiatives. They are more powerful than publicly owned utilities. Those who invest in coal-fired power stations will not be too interested in promoting renewable energy and energy efficiency. Privatised companies will have very little interest in researching and developing cleaner energy options. The Greens believe that privatisation threatens the economy. The people of New South Wales pay for their electricity assets—the power stations, wires and poles. Selling them will mean a permanent loss of these community-owned assets and will be a significant transfer of public wealth to the private sector for a short-term cash flow to offer carrots to electors at the 1999 election. Premier Bob Carr and Treasurer Michael Egan want to use the proceeds from the sale to retire State budget debt and for priority public needs. These needs could and should be met in other ways.

The electricity industry, through dividends and taxes, already provides the New South Wales Government with more than $937 million a year. This is one way to pay for more schools, hospitals and public works. Another way to finance schools,

hospitals and the like without going into more debt is simply to retire the State's debt over a slightly longer period. As cashed-up foreign power companies are the ones most likely to buy the industry, as they did in Victoria, there will be a permanent drain on the State's economy as billions of dollars of future dividends flow overseas. It is quite clear that there is overwhelming argument for the Greens to oppose this bill.

In the meantime the Greens have a number of concerns about the bill. Although the Act has gone part of the way towards implementing ecologically sustainable development—ESD—and some measure of environmental controls, it has not been possible to include some practical measures over the management of easements, nor has it been considered necessary to include relevant reporting mechanisms which govern other arms of the New South Wales electricity business.

In relation to ESD, under the Energy Services Corporations Act 1995 TransGrid will be an energy transmission operator and, as such, required to protect the environment by conducting its operations in compliance with the principles of ESD as contained within section 6(2) of the Protection of the Environment Administration Act 1991. As the Greens have stated in the past, we believe that this definition, though having served New South Wales well in the past seven years, needs to be updated to be consistent with the principles of ESD as declared at the Rio conference.

The definition used in the Local Government Act, as amended by the Local Government Amendment (Ecologically Sustainable Development) Act 1997, is a more appropriate definition for New South Wales. It would be a relatively simple procedure to amend the Protection of the Environment Administration Act 1991, which would subsequently update the definition of ESD in 45 other Acts that regulate agencies and processes that have the potential to impact upon the environment of New South Wales. Any government that professes to have a commitment to implementing ESD as part of its environmental agenda should update this definition as a matter of urgency.

One of the most important concerns about this bill is the lack of clear guidelines for the management of easements. TransGrid will be operating more than 11,500 kilometres of high voltage electricity lines across New South Wales. The easements are between 45 metres and 70 metres wide and, despite routine maintenance, there is little or no management of the easements for a wide range of environmental concerns.

The Greens have two concerns, namely, the clearing and maintenance of easements and noxious weeds and the use of control agents such as pesticides. Regarding clearing and maintenance, the provisions of the Native Vegetation Conservation Act and the Threatened Species Conservation Act apply to TransGrid easements and TransGrid, as a corporate entity, will be required to prepare an environmental impact statement for new easements. However, the ongoing process of maintaining easements is not subject to review or public scrutiny.

Property owners are required, as are public authorities, to control weed species under the Noxious Weeds Act 1993 to prevent the spread of weeds to adjacent land. Many farmers and conservationists are aware of the problems created by noxious weeds on public land and despair of a statewide solution to management of easements, and road and rail corridors. A number of statewide consultation programs currently implement plans of management of specific issues on a regional basis. The water reform process, the native vegetation process and the rural fires management planning process are a number that spring to mind.

It is obvious that, as a significant manager of land in New South Wales and, in particular, a manager of land which by its nature is narrow and therefore intersects a number of habitats, properties—including national parks—and ecosystems, TransGrid should be required to manage this land in a manner that is accountable to the community of New South Wales. It has the potential to significantly impact a number of serious land management issues, such as fire management, noxious weed management and pesticide use and, as such, should be required to prepare plans of management and to consult the community on the provisions of those plans.

I have an ongoing dilemma on the north coast with electricity authorities and their clearing of valuable coastal littoral rainforests which are adjacent to a nature reserve or, in some circumstances, are in a nature reserve, to allow powerlines to operate safely. This significant clearing is often done in a heavy-handed manner by subcontractors to the authority and, as a resident, I have failed to have any impact—and I am sure that environmentalists throughout the State also have had that experience.

The Hon. D. J. Gay: Why don't you go and talk to them?

The Hon. I. COHEN: I have talked to them and they refuse to be more circumspect in their

clearing activities. They refuse to bury the lines in the ground.

The Hon. D. J. Gay: The subcontractors to Great Southern Energy have been excellent.

The Hon. I. COHEN: Unfortunately, my experience is not the same in the northern areas. It is even more important, if this asset is to be sold, for the future owner-operator of TransGrid to be required to demonstrate that it will manage the asset in a publicly accountable manner. Apart from the significant environmental impact, there is a social component to transmission lines. In light of equivocal evidence about the health effects on humans and animals of living adjacent to high voltage powerlines, I would have thought it was reasonable to apply a buffer zone to transmission lines. TransGrid has indicated, through the Minister's office, that, in general, easements vary from 45 metres for a 132kV transmission line up to 70 metres for a 500kV transmission line.

There was no indication that this was a rule of thumb adopted by TransGrid to provide for a certain level of exposure suitable for adults, children or stock. The Gibbs report suggested prudent avoidance, while some researchers have suggested links to childhood cancers. I would like to see a clear commitment from the Government that prior to privatisation both the environmental and social responsibilities of an asset owner such as TransGrid are not available for auction to the highest bidder but are fundamental requirements by which all future operation should be constrained.

The Government cannot divest itself of its public responsibilities as easily as it divests itself of public assets. Such responsibilities should not be left to private sector organisations, which must operate to maximise profits. The community needs to have a role in the management and planning of current and future assets of a transmission operator such as TransGrid.

A further issue with this legislation is that TransGrid, as a transmission operator, is not subject to schedule 2 of the Electricity Supply Act 1995, which applies only to energy retailers and distributors. The New South Wales Greens wanted in this bill provisions equivalent to those contained within schedule 2 to the Electricity Supply Act 1995, or alternatively to make TransGrid, as an energy transmission operator—as opposed to a retailer or distributor—subject to those provisions. The provisions relate to licence holders preparing strategies to progress energy efficiency and demand management strategies, and strategies for purchasing energy from sustainable sources, including consideration of co-generation, purchasing of renewable energy, buy-back schemes from grid-connected solar cells on buildings, and remote area power systems.

The bill also contains provisions requiring the holders of a licence to prepare and publish annual reports in relation to, first, the implementation of its demand management strategies; second, the carbon dioxide emissions arising from the production of electricity supplied by it, as measured in accordance with a methodology approved by the Minister after consultation with the Environment Protection Authority; third, its performance in meeting the minimum standards of service required under its standard form customer supply contracts; and, fourth, the sources of the electricity supplied by it, and the quantity of electricity supplied from those sources as proportions of the total electricity supplied by it.

The schedule stipulates that the Minister must impose conditions on licence holders, including a condition requiring the holder of the licence, before expanding its distribution system or the capacity of its distribution system, to carry out investigations—being investigations to ascertain whether it would be cost-effective to avoid or postpone the expansion by implementing demand management strategies—in circumstances in which it would be reasonable to expect that it would be cost-effective to avoid or postpone the expansion by implementing such strategies; and a condition requiring the holder of the licence to prepare and publish annual reports in relation to the investigations carried out by it as referred to above.

The strategies referred to in the provision must be based on the principle of achieving the reduction of greenhouse gas emissions from electricity supplied to customers in New South Wales as the electricity sector's contribution to achieving the target of reducing greenhouse gas emissions, as agreed in the national greenhouse response strategy 1992 and the intergovernmental agreement on the environment, or as determined by the Council of Australian Governments, and must be arrived at by negotiation with the Minister, including independent verification of emissions. A report on each audit prepared by the Environment Protection Authority must be made publicly available at the offices of the Environment Protection Authority and must be tabled in each House of Parliament.

The New South Wales Greens have looked at the relevant sections of the national electricity code, sections 5.6.2 and 5.6.5, and do not agree with the

advice from the Minister's office that these requirements are at all similar. These sections do not require transmission operators such as TransGrid to annually publish reports on implementation of demand management strategies, emissions reductions or standards of service. It does not require the operator to audit its performance in those key areas, nor does it require the operator to table those reports before the New South Wales Parliament.

In short, the Greens oppose the Energy Services Corporations Amendment (TransGrid Corporatisation) Bill for two main reasons. First, the bill is one step towards privatisation of a public asset and, second, the bill is a step that is being taken with complete disregard for the environmental and social checks and balances that are needed for responsible management of these significant public assets on an environmentally sustainable footing.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [1.03 p.m.], in reply: I thank honourable members for their contributions to the debate. I commend the bill to the House.

Motion agreed to.

Bill read a second time and committed.

[*The Chairman left the chair at 1.04 p.m. The Committee resumed at 2.35 p.m.*]

Schedule 1

The Hon. I. COHEN [2.35 p.m.]: I move the Greens amendment circulated in my name:

Page 4, schedule 1[4]. Insert after line 23:

(3) Without limiting subsection (1)(b), in implementing the principal objectives set out in subsection (1), an energy transmission operator has the special objective of minimising the environmental impact on land of activities authorised by easements for transmission facilities created in favour of the energy transmission authority. In implementing this special objective, the transmission operator is bound by all relevant laws (such as those concerning native vegetation, soil conservation and easement management) applying at the time.

The Greens amendment requires energy transmission operators to minimise the environmental impact on land of activities authorised by easements for transmission facilities, as a special objective of the Energy Services Corporations Amendment (TransGrid Corporatisation) Bill. The management of easements through private property and Crown lands such as national parks is a significant issue. Radial utilities such as road, rail, water and electricity should be required to comprehensively manage transmission operators' assets for weeds, pest species, vegetation, and pesticide use as they have the potential to impact on a large number of land-holders across the State.

Land-holders who have easements running through their properties should be actively encouraged to participate in the management planning process, as should conservationists. The Greens are committed to applying native vegetation conservation, erosion, and weed and pest species laws in a cohesive manner across New South Wales. To achieve this special objective, the Greens expect that TransGrid will need to implement a comprehensive management plan for easements in New South Wales. I commend the amendment to the Committee.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.36 p.m.]: The Government will support the amendment moved by the Hon. I. Cohen. It gives the corporatised TransGrid a special objective of minimising the environmental impact on land of activities authorised by easements for transmission facilities and reinforces the fact that TransGrid will be bound by all relevant laws in relation to easement management.

The Hon. J. H. JOBLING [2.36 p.m.]: After consideration, the Opposition does not oppose the amendment but expresses concern about its future potential use and its effect on the ability of transmission operators to build a transmission line. I accept without question that transmission operators should and would be bound by the relevant laws at the time of such construction. However, if the amendment is designed to also apply to easement management plans under the Native Vegetation Conservation Act—as I understand to be the position—I express my concern about where this step may lead in the future and about the problems that may arise for any person in TransGrid trying to develop a transmission line.

The Opposition agrees that transmission operators should be bound by the relevant laws. I have no problem with the wording of the amendment down to "created in favour of the energy transmission authority". However, the words subsequent to "In implementing this special objective" describe not so much a special objective but an objective. The Opposition does not oppose the amendment but expresses its concerns about the way it may be used in the future.

Amendment agreed to.

Schedule as amended agreed to.

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

POLICE INTEGRITY COMMISSION AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.41 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 Government is proud to introduce the Police Integrity Commission Amendment Bill 1998. This is the next step in the Government's implementation of a wide range of measures recommended by the Royal Commission into the New South Wales Police Service. The introduction of this bill is a key part of the Government's implementation of recommendation 174 of the final report of the Royal Commission into the New South Wales Police Service. This recommendation, the final recommendation of the report, is for the appointment of an external strategic auditor upon engagement to the Police Integrity Commission to carry out a qualitative and strategic audit of the reform process, and to report to the PIC, which in turn should report to the Minister and the service. The royal commissioner clearly recognised the need to ensure that change in the Police Service was significant, far reaching and locked in place. That is why he made this final recommendation in relation to the reform of the Police Service—to ensure there was a process in place to monitor the implementation of reform and report on it over time.

This is one of the most significant of the many recommendations of the royal commission that this Government has implemented. Its implementation will help to ensure that the reform agenda being implemented by the Police Service stays on track. It will ensure accountability. This Government supports accountability in the Police Service's implementation of the reform process. The royal commission conceived of the audit as an arms-length external inquiry into the process of transformational change within the Police Service. The commission stated that the purpose would be to report on success and failures and to advise on measures to improve the reform process. The royal commission also expressed the view that the role of establishing and driving the audit process should be given to the Police Integrity Commission. It noted that whilst it is important that the PIC be able to focus uninterrupted on the detection and prevention of serious misconduct, its involvement in the oversight of the reform process is likely to enhance, rather than detract, from the performance of that key role.

The royal commission's recommendation envisages that the PIC will be responsible for settling the audit specifications, engaging the auditor, receiving reports from the auditor and reporting in turn to the service and Minister. The existing functions of the PIC as set out in the Police Integrity Commission Act 1996 authorise it to carry out audits of investigations conducted by the Police Service in so far as it is possible to establish a connection with police misconduct or circumstances that are conducive to police misconduct. This bill adds to the principal objects of the Act at section 3 to provide for the auditing and monitoring of particular aspects of the operations and procedures of the Police Service. The bill gives the PIC a mandate to conduct or commission an audit of the implementation of the reform process within the Police Service. Proposed section 14A clearly outlines the requirement for the Police Integrity Commission to engage an auditor to conduct the audit referred to by the royal commission at recommendation 174 and detailed at appendix 31 of the report.

Appendix 31 identified the 10 key reform areas to be addressed by the service and the audit will examine progress in these and related areas. This Government established the Royal Commission into the New South Wales Police Service. This Government has implemented or is implementing 219 of the royal commission's 222 recommendations. This Government has led and supported reform within the New South Wales Police Service to a degree never seen before in this State. This Government will ensure that the reform process does not stall and is happy to have an independent audit to ensure it. This Government also believes it is important that the public is kept informed. For this reason, this Government intends that the audit reports will be made publicly available. Of course, this will be subject to the recommendation of the PIC or Commissioner of Police in relation to any operationally sensitive material. In addition to the provisions in the bill which will facilitate the audit, a number of other amendments are being made to the Police Integrity Commission Act.

The first of these concerns the ability of the commission to engage appropriately qualified persons to undertake investigative and surveillance work. The commission needs to use investigators who have the training and experience received by police officers. In addition, it requires investigators who have the common law and statutory powers of a constable. However, the Police Integrity Commission Act, for obvious reasons, prevents the commission from engaging any current or former officer of the New South Wales Police Service. To date, the commission has met its need for investigators with police powers by engaging, on secondment, police officers from other jurisdictions. That is, they have seconded police officers from the police force of another State or from the Australian Federal Police. The Act currently provides that a commission investigator who is a seconded police officer may exercise all the functions, powers and responsibilities of a New South Wales police officer. The Act also exempts commission investigators and commission surveillance officers who are seconded police officers from permit requirements under the Firearms Act and the Prohibited Weapons Act similar to the way New South Wales police are exempt.

The engagement of police officers on secondment can cause some difficulties for the commission. Where it arranges a secondment from the police force of another State, it is required to meet considerable additional expenses for the period of the secondment. In addition, secondments are generally limited to a two-year period with the result that there is a significant turnover of investigators. Given that there is inevitably a lead time before a seconded police officer becomes fully operationally effective, this can have a disruptive effect on commission investigations. There is also a loss in corporate knowledge and expertise. For this reason, the bill extends the category of persons who may be employed as

commission investigators with the powers and responsibilities of police. It is, of course, recognised that the powers and responsibilities of a police officer cannot be given to anyone that the commission chooses to employ as an investigator. That is why the bill will only extend slightly the category of persons to whom these powers are available. It will include persons who have previously satisfactorily served as a police officer for a minimum of five years with another jurisdiction.

Furthermore, the proposed exemption from the permit requirements will only be extended to persons with appropriate training and experience. These provisions will enable the commission to engage on a permanent or contract basis persons with appropriate qualifications and experience to work as investigators with the required police powers. As well as enabling the commission to make significant cost savings, there should be improved continuity in the investigative work of the commission. Another amendment to the Act involves the need to ensure that certain reports prepared by the commission are kept confidential. The commission is required to provide integrity reports before appointments of certain senior officers are made under the Police Service Act. In addition, the commission is authorised to provide these reports in respect of other appointments. The information in these reports is often of a highly sensitive nature. The reports are provided for a very specific purpose only and should not be further disseminated without the approval of the commission.

The proposed amendment will have the effect of enabling the commission to direct that, where appropriate, the information provided in a report shall not be further disseminated. This is similar to the protection that was available to such documents when the Police Board was in existence. A further minor amendment made by the bill will enable the commission to collect information from the Casino Control Authority in the same manner as other law enforcement agencies. The bill will also make a minor addition to part 12 of the Act to ensure that matters relating to the conduct of any staff that may be engaged by the Inspector of the Police Integrity Commission are dealt with in the same manner as matters relating to the inspector. The Police Integrity Commission has played a vital role in the reform process to date. The amendments in this bill will enable the PIC to ensure that the fundamental building blocks of reform in the Police Service are in place and are kept in place. As I have indicated, this legislation is clear evidence of the Government's unambiguous commitment to reform of the New South Wales Police Service and the maintenance of an effective Police Integrity Commission. I commend the bill to the House.

The Hon. M. J. GALLACHER [2.41 p.m.]: I am pleased to lead for the Opposition on the Police Integrity Commission Amendment Bill. The Opposition is prepared to support the reform process within the New South Wales Police Service and the organisation entrusted with the role of protecting civilian oversight of the police, especially in respect of corruption or serious misconduct. The bill will provide for a special audit of the reform process within the Police Service to be arranged and overseen by the Police Integrity Commission over three years. The proposed legislation will enable the commission to ensure the confidentiality of its reports on proposed appointees to positions in the Police Service. The bill will enable approved former police officers—and the Parliament can be assured that police officers will be appointed from other jurisdictions—who are officers of the commission to have police powers and possess certain police equipment.

The bill makes several adjustments regarding the commission's relationship with the Casino Control Authority and also the PIC inspector's relationship with the Ombudsman and the Independent Commission Against Corruption. The bill also makes a number of other minor amendments. A number of provisions in the bill are procedural in giving Police Integrity Commission officers greater access to both power and resources. In the past 12 months, problems identified after the setting up of the commission have been brought before the Parliament to ensure proper and effective oversight of the Police Service. However, I wish to put on record a number of concerns that have arisen recently.

In May last year, shortly after the Police Integrity Commission was established, I expressed concern about the schedule of offences set out in the PIC legislation dealing with police impropriety that becomes the subject of investigation by the Police Integrity Commission. All allegations of corruption or serious misconduct should fall immediately under the charter of the Police Integrity Commission, and such allegations should be thoroughly and properly investigated. However, one offence in the category one offences schedule is of concern to me, other members of the Opposition and people outside this Chamber. Recently allegations were raised in the public arena by me and the media about the possibility of calls from within the Police Service to locations outside the Police Service being monitored and the process by which such calls are monitored.

It has been put on the public record that the Police Service has a responsibility to ensure that its phone facilities are not misused by people within the service. However, the concern relates specifically to people outside the Police Service who are identified and can become the subject of target specific monitoring. I can see that the Attorney General is becoming concerned because I am talking about the Police Service. Such monitoring relates to the category one offences that can be investigated by the Police Integrity Commission. The point about which I am concerned relates to information passed on or given to a person outside the Police Service by a member of the Police Service that relates to any part of the New South Wales Police Service, and states that the person involved can become the subject of a category one investigation.

Nothing in the Act determines that a member of Parliament is an authorised person to receive any information from members of the Police Service. A

member of Parliament is yet to be defined as an authorised person and, therefore, entitled to information within the service. Other members of the Opposition and I are concerned that the Police Integrity Commission could be used to try to identify sworn or unsworn members of the New South Wales Police Service who pass on information from within the Police Service to members of Parliament. The coalition is currently in opposition but in less than 12 months there will be a reversal of power and we will take our rightful place on the other side of this Chamber. Members of the incoming Labor Opposition will find themselves on the rough end of the pineapple in relation to this legislation.

No doubt, from time to time Police Service members will become concerned that the reform program under the Collins-led government will not be in the best interests of the service—although I cannot envisage such complaints because we have such a good program lined up. Any person who leaks information to the Leader of the Opposition, Mr Whelan—for he will surely replace Bob Carr once Labor is removed from office—can be the subject of a category one investigation and, therefore, found guilty of corruption or serious misconduct. The Government must give an unequivocal assurance to the Parliament and the people of New South Wales that the role of the Parliament will not be usurped by allowing the Police Integrity Commission to use the legislation to shut up shop within the Police Service so that there is no public accountability or debate about what is going on inside the service.

Certainly, there will be a special audit of the reform process, as set out in the legislation. That object is included only because the Government did away with the Police Board. There was no civilian oversight of the management of the Police Service, except this joke they call SCORPIO—sub-committee on response policing in operations—headed by former Minister for Police, Peter Anderson. With all due respect to Peter Anderson, if you look at most of the serious allegations that occurred at the royal commission, they actually occurred at a time when he was the Minister for Police. It is a bit of a farce having Peter Anderson in charge of SCORPIO given that he could not handle the problems when he was the Minister for Police.

The Government has rightly put in place some sort of provision for an audit of the reform process. It is not civilian oversight per se; it does not involve people outside the community. It involves people in the loop—the Police Integrity Commission. Knowing the integrity of Judge Urquhart and his staff at the Police Integrity Commission, the Opposition is pleased to support this legislation as it is a step in the right direction. We are sure that if there are any problems in the reform process within the service, Judge Urquhart will not only identify them but highlight them for the benefit of all honourable members and the people of New South Wales. The Opposition supports this legislation, but I again ask the Attorney General to consider the matters I have raised.

The Police Integrity Commission legislation can be used in a way that the Government did not intend it to be used—as a method of stymieing whistleblowers and anyone in the service who comes forward and reveals that there are problems within the service. Comments have been made about pinning people to a tree in Hyde Park and identifying people in the Police Service who leak information. There are people in the service who will not have confidence in the reform process. They will not have confidence in those who are leading the service today and they will call upon the Parliament, as it is the only mechanism available to them, to identify any problems that exist. They have an uninterrupted opportunity to ensure that any concerns they have about the New South Wales Police Service are aired publicly and in a forthright way.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2.52 p.m.], in reply: I thank the Opposition for its support for the bill. It is indicative of the Opposition's support that it chose its highest profile backbencher to deal with this matter. He is a future leader of the Liberal Party in this House and I will certainly take note of what he has said on these matters. I do not say that I will agree with them but I will certainly take them into account and give them the weight they deserve—and I do not say that in any cynical way. I am grateful for his support because this is good legislation. I was happy to support it through the processes of government. This is positive, reformist legislation for the Police Service and it is useful and valuable to have a bipartisan position on it. I have pleasure in commending the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PUBLIC SECTOR MANAGEMENT AMENDMENT BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [2. 54 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 Public Sector Management Amendment Bill is a package of four separate measures. These measures are substantially of an administrative or corrective nature. Overall these measures are purely reforms, what I may term good housekeeping, which will lead to greater flexibility in public employment administration. I do not propose to repeat all the detail of those amendments. However, I would like to highlight particular aspects of the measures which will have a significant impact. This bill provides for a special class of temporary public service employee to differentiate between temporary employees in departments and temporary employees in a political officeholder's office. It will overcome the difficulties associated with employing staff within a political officeholder's office for periods not exceeding four months. It will provide for a more appropriate means of employing staff which will allow the flexibility needed in addressing the special requirements of ministerial operations.

It will also recognise that the majority of staff employed to work within a political officeholder's office are employed from outside the public sector. The bill will give the Director-General of the Premier's Department the power to employ staff who work for a political officeholder; a political officeholder being Minister, Parliamentary Secretary and Leader of the Opposition. This power is separate from the employment powers for public servants and these staff will be classified as special temporary employees. It will create an ability to employ special temporary employees for a fixed period to, but not exceeding, the term of the political officeholder's own appointment. This will improve the attraction and retention aspects of working within a political officeholder's office and result in a reduction of administrative employment arrangements.

This bill will exclude the Industrial Relations Commission from exercising its jurisdiction with respect to industrial matters affecting special temporary employees working for a political officeholder. The nature of the employment of special temporary employees is such that their employment is for a limited period and is on a contract basis. This arrangement is similar to the present arrangements applying to the chief executive service and the senior executive service within New South Wales government employment. Special temporary employees services will be terminated at the date of a general election with the proviso that the Director-General of the Premier's Department has the discretion to retain their services beyond that date. The Director-General, Premier's Department, will retain the existing power to dispense with the services of staff at any time.

In the past staff from statutory authorities have been unable to be employed within Ministers' offices without being required to resign or take leave without pay. This arrangement was viewed as inequitable in comparison to public servants who retained a right of return to their previous substantive public service position. This bill will give the Director-General of the Premier's Department greater discretion in the employment arrangements of staff as it does not prevent the appointment or employment of staff to or in an office of a political officeholder in any other manner. Permanent public servants temporarily appointed to work in Ministers' offices will not be affected by these provisions, nor classified as special temporary employees.

Secondly, this bill provides a mechanism for the appointment of certain long-term temporary employees to permanent public service positions. Honourable members will be aware that there currently exists no satisfactory mechanism for the permanent appointment of a public sector employee who has been in continuous yet temporary employment for more than two years. This bill will provide for that to happen, subject to a number of important preconditions. Most importantly, the principle of merit selection is maintained by the requirement that only those temporary staff who were employed through some form of open merit selection can be recommended for permanent appointment. Reinforcing this is the further requirement that the duties of the permanent position are substantially similar to those which the person was initially appointed to.

There is also the requirement that there is ongoing work for the employee, and that temporary employees in positions funded by grants from industry are not eligible for appointment. This prevents the situation of appointments being made on the basis of industry funding, only to have the industry funding disappear for any reason, leaving the taxpayer funding an activity which might not be continued or have been even undertaken were it not for the initial industry funding. This provides for the public sector to be responsive to the needs of industry, while not exposing the taxpayer to the burden of supporting an activity after that activity has outlived its usefulness to the community. The bill extends the power of the Public Employment Office to make determinations with respect to the remuneration of public servants, so as to allow determinations with respect to the conditions and benefits of employment, including remuneration packaging, redundancy, and severance payments.

This change is necessary as the current Act only provides the Public Employment Office with power to set salaries, wages and other remuneration, but is silent on the issue of any separation or redundancy payments. This amendment makes it clear that the department head may determine conditions of employment, to the extent that these conditions are consistent with any determinations made by the Public Employment Office. This power will also extend to special temporary employees working for a Minister, Parliamentary Secretary or Leader or Leaders of the Opposition, which will enable working arrangements of these staff to be tailored to suit the special requirements which flow from servicing ministerial and parliamentary operations.

A further addition to the role of department heads is that they are responsible to their relevant Minister for the equitable management of staff within their department. This reinforces this Government's commitment to providing real achievements in the area of equal employment opportunity, as the additional requirement is supported by clearly identified accountability measures. There are no significant budget implications to this bill. In fact, if anything, it may provide for some administrative savings, although these are not likely to be large. This bill represents the Government's continuing commitment to the achievement of our goal to create a world-class public sector in New South Wales. I commend the bill to the House.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [2.55 p.m.]: The coalition does not oppose the Public Sector Management Amendment Bill. When this bill was introduced the Opposition was concerned as to the direction in which the Government was going. We recall the last occasion

on which a Labor Government faced defeat—on 27 March 1988—and how it launched lifeboats for the staff of ministerial officers. A number of those staff received senior appointments in the public sector and, amazingly, were immediately granted leave. But when Labor lost the election those ministerial staff were moved to other positions in the public sector. At that time I regarded it as a gross abuse of the system; and when this legislation was introduced I was concerned that the same arrangements would be made.

The structure of public sector appointments was changed markedly by the coalition when it came into office in 1988. I have received detailed briefings on this legislation and the shadow minister, Chris Hartcher, has advised me that the rorts perpetrated before 1988 are not included in this legislation. This bill arises as a result of the difficulties that the Government experienced with Ms Dertimanis, the former chief of staff of the former Minister for Community Services, the Hon. Ron Dyer. Because of problems encountered when seeking to have her removed from her position the Government was faced with legal proceedings which had to be settled. The details of that settlement are not known to us, but I am told that there was a tidy payout to Ms Dertimanis—about 16 weeks pay when she was entitled only to a few weeks' pay.

The Government determined that a new regime should be put in place to make it clear that, whilst ministerial staff were to be employed under the Public Sector Management Act, they were to be treated differently from other employees under that Act and there would be a different regime for their appointment and removal. One thing that was made clear to the staff of every member of the coalition was that they were temporary employees; that they were there only for as long as their Minister was in office; and that their appointment could be terminated on two weeks notice. That is the way it should be. As I understand this legislation, those staff will continue to be treated in that way. They are not to be treated as temporary employees with their term of appointment subject to renewal every four months.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [2.59 p.m.], in reply: I thank the Leader of the Opposition for his comments and I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

TRAFFIC AMENDMENT (PENALTIES AND DISQUALIFICATIONS) BILL

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.00 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 purpose of the bill is to make our roads safer by implementing new, increased penalties for certain serious traffic offences. Adoption of the legislation will give effect to new penalties which aim to reflect the safety implications of the offences, the decreases in real value of the fines since the current provisions were put in place, and increasing community concern about road safety issues, particularly where the driver behaviour is seen as highly irresponsible.

The new, increased penalties greatly enhance the deterrent effects of our road traffic penalties and improve road safety. All motorists will be informed in loud and clear terms that those who commit serious traffic offences can expect tough penalties and those who break the law repeatedly can expect even heavier penalties. These penalties were examined by the Interdepartmental Penalty Review Committee which was set up by the Premier and convened under my supervision.

The committee's membership included officers from the Roads and Traffic Authority, the New South Wales Police Service and the Attorney General's Department. Many of the penalties currently in place for serious traffic offences have not been reviewed for over a decade. The Government is strongly of the view that the risk that these offences pose to public safety are not adequately reflected in the current penalties for some serious traffic offences.

The road toll in New South Wales has fallen steadily over the term of this Government. However, there is a risk of complacency if the strategies for dealing with the deaths on our roads are not continually reviewed. More than 500 people still died on New South Wales roads last year—every one of those is a tragedy and we are committed to doing everything possible to further reduce the road toll. For example, drink-driving is still a major contributor to motor vehicle accidents and was seen as a major priority for review.

The bill deals first with negligent driving causing death or grievous bodily harm, which all members would agree is a most serious offence. Maximum court-imposed fines are increased and terms of imprisonment are lengthened for such offences. They will be made major offences under section 10A of the Traffic Act 1909, thereby invoking an automatic period of licence cancellation and limiting the application of section 556A of the Crimes Act 1990, which relates to the circumstances in which a court may decline to convict notwithstanding that an offence has been proved.

Speeding has been shown to be one of the major factors in crashes. Not only does speeding increase the likelihood of a crash, it also increases crash severity. High-level speeding is

viewed by the community as unacceptable driver behaviour. Roads and Traffic Authority statistics show that speeding is a factor in 38 per cent of fatal accidents. For the speeding offence at the top of the range, that is, speeding in excess of 45 kilometres per hour above the speed limit, the maximum court-imposed fine will increase from $2,200 to $3,300. Traffic infringement notice penalties will double.

For the next tier, speeding over 30 kilometres per hour but not more than 45 kilometres per hour above the speed limit, it is intended to increase the traffic infringement notice from $345 to $500 for light and mid-range vehicles, and from $517 to $800 for heavy vehicles. There is no change to the maximum court imposed penalty, currently $2,200. A mandatory licence cancellation period of one month will also be imposed. A similar cancellation period is already in place in Victoria. There is no change proposed for the penalty for speeding 0-30 kilometres per hour above the speed limit.

I now turn to offences related to alcohol and drugs which are factors in a very high proportion of crashes, particularly serious crashes. Clearly the community does not tolerate drink-driving, as shown by the wide acceptance of random breath testing. For prescribed concentration of alcohol—PCA—offences, it is proposed to at least double the maximum court-imposed fines. The minimum disqualification period for either a special-range or low-range PCA offence will rise from effectively zero to three months. All other minimum disqualification periods will also increase, typically doubling.

For example, a high-range PCA offence under the new regime of penalties will be subject to a maximum court-imposed fine of $3,300, a maximum term of imprisonment of 18 months and a minimum disqualification period of 12 months. There will be heavier penalties for repeat offenders. For drivers detected with a mid-range blood alcohol concentration of 0.08 per cent or more, it is also proposed to introduce an immediate licence suspension similar to the provision already in place for drivers detected with a high-range reading of 0.15 per cent or above.

These drink-drivers will not be allowed to drive before their court cases are heard. It is well known in the community that the legal limit is 0.05 per cent and these drivers would have been driving substantially above the legal limit. Swift action is clearly justified. Honourable members should note that the proposed increases for PCA offences would also apply to other drug and alcohol related offences which now attract the same penalties as PCA offences. Examples are: refuse a breath analysis test and wilfully alter the concentration of alcohol in the blood.

I now turn to the various forms of unlicensed driving for which increased penalties are proposed, particularly driving while disqualified, cancelled, suspended or refused by the Roads and Traffic Authority. These heavy penalties apply where a court or the RTA has explicitly informed a driver that he or she must not drive. Heavy penalties are clearly justified in these circumstances. The driver licensing system exists to ensure that those who drive on our roads achieve a minimum acceptable level of competence before they take to the roads unaccompanied.

Unlicensed drivers contribute to a disproportionately high level of accidents resulting in death or serious injury. For a driver who never bothered to obtain a licence, it is proposed to prohibit the person from obtaining a licence for three years. I turn now to failure to stop after an accident involving death or injury. This is highly irresponsible behaviour because the offender leaves the scene without giving assistance to other people involved, and attempts to avoid the possibility of a police officer laying serious charges against them.

It is proposed that the maximum court-imposed fines, maximum terms of imprisonment and minimum disqualification periods will be marked with due severity. There is a need for firm action and harsh penalties for people who repeatedly commit serious offences. The community has clearly displayed its views that such irresponsible driver behaviour is not acceptable. It is proposed to introduce a habitual offender scheme under which a driver would be declared a habitual offender if convicted of three serious offences in five years. Once declared, the driver would be disqualified from driving for five years unless the court orders any other period, which must not be shorter than two years.

The court is required to consider the total driving record of the offender and the special circumstances of the case. The offences included in the habitual offender scheme are all serious offences including offences in the Crimes Act such as dangerous driving and Traffic Act offences of high-range PCA and drug driving offences, extreme speeding over 45 kilometres per hour above the speed limit, driving while cancelled, disqualified, suspended or refused, driving without ever having held a licence, and other serious unsafe driving such as driving in a dangerous manner or menacing driving.

The scheme will provide for severe penalties, including the possibility of a gaol term, for those who drive while declared, and hence disqualified, under the habitual offender provisions. I intend to promulgate regulations to deal with a number of other initiatives recommended by the interdepartmental committee and to implement the traffic infringement notice increases I have referred to in this speech. This Government is committed to making all efforts possible to reduce the road toll in New South Wales. These initiatives are designed to deter serious driving offences that put at risk the lives of ordinary road users and to reflect the seriousness of the community's view of those who repeatedly breach our traffic laws. I commend the bill to the House.

The Hon. Dr MARLENE GOLDSMITH [3.02 p.m.]: I lead for the Opposition on the Traffic Amendment (Penalties and Disqualifications) Bill. This bill will increase the maximum fines and periods of imprisonment that may be imposed by a court on persons convicted of various traffic offences. The bill will also impose, or increase, automatic minimum periods of disqualification from driving arising from convictions for various traffic offences. The disqualification periods are set out in the bill. These measures, which were announced by the Minister for Roads in the other place, have been met with a fair amount of cynicism and have been labelled a revenue-generating measure.

On 23 February last year the Premier announced an interdepartmental review of the penalties for driving offences, and particularly those for unlicensed drivers. The recommendations of the review committee were contained in a report handed down in September 1997, and subsequent legislation introduced by the Minister for Roads mirrored the recommendations in the report. In 1996, 37,000 people were charged—of whom 35,00 were

convicted—with offences that would now attract the increased penalties. The Government collected $192 million from offences committed under the Traffic Act 1909. The question is whether these increased penalties, fines and imprisonment terms will deter people from breaking the law and make our roads safer. There is some argument that they will.

There is a likelihood that increased penalties will have an impact on the number of offences under the Traffic Act 1909, but only if the bill is widely publicised. If it is not, the bill will be nothing but a revenue-generating exercise. The Opposition is concerned about this legislation being used as a revenue-generating exercise, and that the money will simply be used to fill the government coffers rather than being spent to improve the increasingly parlous state of our roads, particularly country roads.

As a consequence, I give notice that in committee the Opposition will move an amendment to the effect that the increased revenue gained from the increases—that is the difference between the old level and new level of the penalties—will be hypothecated to the road safety black spots program, so that the money raised by this measure will be used to make our roads safer. I am informed that the Government will accept the amendment, and I thank it for that. It is an indication of the Government's sincerity that this is not a revenue-grabbing exercise and that it has a real concern to increase safety on our roads.

Were it not concerned to increase safety on our roads, the Government would be loathe to accept hypothecation. All politicians know that bureaucrats hate hypothecation and having to set aside revenue for particular programs and that it is not always easy to get such amendments past the bureaucrats. However, in this case hypothecation will provide greater accountability, greater safety on our roads, and a more genuine Government approach to road safety. Because the bill will increase safety on our roads, the Opposition will not oppose it, but we will move an amendment in Committee.

The Hon. ELISABETH KIRKBY [3.09 p.m.]: I support the Traffic Amendment (Penalties and Disqualifications) Bill. I am delighted to discover that at last Opposition members have seen sense by supporting the bill after intimating to the crossbenchers that they would not support it. According to the Government the bill will make our roads safer by implementing tougher penalties for certain serious traffic offences. Many serious offences under the Traffic Act 1909 had not been reviewed for more than 10 years, and in 1997 the Premier ordered a review of traffic penalties, to be carried out by an interdepartmental committee. It included officers from the Roads and Traffic Authority, the Police Service and the Attorney General's Department.

The offences covered by the review include speeding, alcohol and drug offences, unlicensed driving, negligent driving causing death or grievous bodily harm, and failure to stop after an accident. Statistics show that more than 500 people died on New South Wales roads last year and that speed was a factor in 38 per cent of fatalities.

The bill focuses on major offences under section 10A of the Traffic Act. The fine for top-of-the-range speeding offences—more than 45 kilometres an hour over the limit—will increase from $2,200 to $3,300. The fine for speeding 30 kilometres an hour to 45 kilometres an hour over the limit will increase from $345 to $500 if light and mid-range vehicles are involved, and from $517 to $800 if heavy vehicles are involved. A mandatory licence cancellation period of one month will also be imposed.

Fines and suspensions for prescribed concentration of alcohol offences will be increased. The minimum disqualification period for low-range PCA offences will rise from zero to three months. Fines for high-range PCA offences will increase to a maximum of $3,300 and the maximum term of imprisonment will increase to 18 months. The minimum disqualification period will be 12 months. Driving whilst disqualified or unlicensed will attract more severe penalties.

New section 10EA introduces an habitual offenders scheme. A person convicted of three serious offences in five years may be declared an habitual offender. Once declared, the driver will be disqualified from driving for a minimum of two years but the maximum disqualification may be for an unlimited period, extending in some cases to a life ban. Under the original bill, if the court made no order on the exact length of the ban, it would end after five years. The Government amendment accepted in the lower House has removed any restriction on the upper limit.

It is obvious that the Government is concerned about road safety and the number of accidents resulting in death and serious injury. Its response also shows the public that speeding, driving under the influence of drugs or alcohol and driving recklessly are serious offences. Many people in the western car culture do not appreciate how dangerous the motor vehicle really is. Death from motor

vehicle accidents is somehow accepted and those responsible are not seen as being as culpable as those causing accidental death by other means. The result of mixing alcohol or drugs with something as dangerous as the motor vehicle is often disastrous. Safer roads do not stop a person under the influence of alcohol driving at speed into oncoming traffic or running off the road into a pedestrian.

The Law Society has written to me to voice its opposition to the bill. The coalition originally branded the bill a revenue-raising exercise. The law society says that it will disadvantage poorer people by forcing fine defaulters into gaol. The Law Society doubts that increased penalties will have the effect desired by the Government. This raises the fundamental question of how seriously we view motor vehicle offences. Reckless indifference to human life is involved and it should be treated as such. Serious motor traffic offences should not be treated in the same way as parking offences. It has also been suggested that the bill should be referred to the Staysafe committee for evaluation. I would rather the committee spend its time looking at other ways to reduce the road toll rather than in considering the increased penalties introduced by the bill.

It is ironic that at a time when the bill is in the public arena and there has been public debate about it an amazing series of serious drink-driving offences have received media attention. I refer honourable members to the front page of the Wagga Wagga *Daily Advertiser* of 2 June 1998. It reported on a 46-year-old student in Wagga Wagga who admitted to drinking 120 stubbies of beer in three days. He faced at least his third drink-driving charge. This man pleaded guilty to a high-range PCA charge and driving without a licence. His blood alcohol reading was 0.235.

When this man was stopped and a blood alcohol reading was taken he said, "Oh, that's high." Then he admitted to the ridiculous amount of beer he had drunk in the previous three days. I do not know how he physically did it. He had consumed five cartons of beer in three days along with a further six stubbies of Victoria Bitter at a local hotel between 1.00 p.m. and 8.00 p.m. He had serious drink-driving matters on his record, one in 1991, one in 1995. It was also claimed that he had appeared in Sydney's Central Court in 1979 on another drink-driving matter

This man had an absolutely appalling record, but he apparently believed he could get away with consuming that much alcohol before driving and that he would get only a slap on the wrist if detected. Of course, the provisions we are debating were not in place on 2 June. The penalty imposed on this man shows how essential it is that the bill be passed. He was fined $450 and disqualified from driving for six months on the unlicensed driving charge; and on the PCA charge he was ordered to perform 180 hours of community service work and was disqualified from driving for three years.

This individual has an appalling driving record and he obviously has a serious alcohol problem. These are the types of drivers the bill is designed to deal with. The Law Society has said that people on low incomes will not be able to afford heavy penalties of $2,000 and $3,000, but how do they afford to buy all the alcohol in the first place? Anyone who spends so much on drink in such a short time can surely afford to pay the fine if he is stupid enough to drive afterwards.

A problem that has arisen for the coalition is the penalty imposed on a former Liberal Party member, a previous coalition Minister for Corrective Services, Michael Yabsley. As reflected in the media, that is regarded as a public scandal. He recorded a blood alcohol reading of 0.180. Yet because Michael Yabsley had only been in Lismore to visit his family and had been to a certain pub in the area, and stated he had stayed longer than intended, he was placed on a good behaviour bond and ordered to pay $80 court costs. This outraged other community members.

The Attorney General has now decided to investigate the matter and has sought a report from the police and the Director of Public Prosecutions. He has said that the sentence should be reviewed. I believe it should be reviewed after this legislation has been passed, and perhaps on review commonsense will prevail. Severe penalties are imposed on ordinary people, yet many wealthy and influential people do not receive severe penalties for driving under the influence—and seriously under the influence.

Lady McMahon escaped conviction for driving with a blood alcohol level of 0.13. She was placed on a $1,000 twelve-month good behaviour bond and no conviction was recorded against her. She did not even appear in court. She regarded it as so trivial that she holidayed in Perth and was represented in court by her legal advisers. Also, Susan Renouf was fined only $200 for failing to stop after crashing her black BMW into the back of a car at traffic lights at Double Bay. She had been returning home from a five-hour lunch. These high-profile women got off lightly for serious offences. In contrast, a young 35-year-old labourer pleaded guilty in Coffs Harbour

Local Court to a charge of driving with a blood alcohol level of 0.085. As was the case with Mr Yabsley, it was his first offence, he is unlikely to reoffend and he had an excellent driving record.

As a fencing contractor he depends on his driver's licence for his livelihood. He now has a permanent record for drink-driving, his licence will not be returned to him for 12 months and, even then, he will have a probationary licence. Yet his blood alcohol level was less than half that of Michael Yabsley! This man was fined $310, a large sum for a fencing contractor, and his licence has been suspended. To continue his work it is now necessary for his wife to drive him to nearby jobs with their one-year-old child strapped in the back of the car. If ever there is gross discrimination under the law, this is it.

A former Minister or an influential person receives a bond but the average working Australians have their licences suspended and livelihoods taken away. Even if these matters had not been raised through the media, I would still have supported the legislation because it is essential for people to realise that if they drink—and particularly to the extent of the man in Wagga Wagga—they simply must not drive. I support the legislation.

The Hon. I. COHEN [3.25 p.m.]: The Greens have a number of concerns with the Traffic Amendment (Penalties and Disqualifications) Bill. We remain unconvinced of the effectiveness of the bill in achieving its stated purpose and its potential for unintended social consequences on the community, courts and the Police Service. Our primary concern is that the bill will not achieve its stated purpose. The Law Society of New South Wales pointed out:

> The Bill is predicated on the premise that substantial increases in fines and licence suspension periods will reduce the road toll. There is no reliable evidence to show that this premise is correct.

It explains that there has been a reduction in drink- and drug-driving offences and their contribution to the road toll. The Law Society is right. Over the past 15 years New South Wales has successfully reduced its road toll to half the number of 1973. This is a trend and has been the result of a long and persistent effort to re-educate the driving community of New South Wales on what is acceptable and safe driving behaviour. Perhaps the most significant factor in reduction of drink- and drug-driving offences has been the certainty, since the introduction of random breath testing, that offenders will get caught.

So what are the lessons to be learned from the slow but significant reduction in the New South Wales road toll over the past 15 years? More important, what is the relationship between this bill and those lessons. First, the success of the strategy to reduce these offences has been a combination of persuasion and deterrence. We have increased the probability of people being caught, increased the consequences of being caught and made sure that punishment of those caught is both sure and swift, although obviously some exemptions have been made. During question time I referred to the lenient sentence imposed on Mr Michael Yabsley. Also, the front page of today's *Daily Telegraph* referred to the lenient sentence given to a member of the police force for quite a serious offence.

This bill provides for harsh penalties for repeat offenders. I do not support people who repeatedly choose to break the law, but that is the challenge: somehow we need to persuade repeat offenders—people with little or no regard for the law—not to continue to break the law and endanger the community. I cannot accept that merely ratcheting up the fines to exorbitant amounts will change the behaviour of these people. They do not care for the laws of the community and I remain unconvinced that once caught they will pay their fines; loss of their licence is no threat to these people. In New South Wales one in 25 drivers do not currently own a valid licence. If they default on payment, will these offenders be brought before the courts to impose a schedule of repayment? I expect so and I expect that there will be a high percentage of default payments on the court-imposed scheme as well.

An unintended consequence of this penalty scheme may be that the courts will be further clogged with penalty defaulters who have no intention of following the laws of the State, much less court orders. Paul Gibson, the member for Londonderry in the other place and Chairman of the Staysafe committee, has realised that there is a substantial body of evidence to support a smarter, not tougher, approach to habitual driving offenders. The Staysafe committee has expert knowledge of what works to change driving behaviour and what does not. The chairman's viewpoint is understandable, especially in the context of international experience. A prime example is what is termed the Scandinavian experience in which a series of draconian penalties were introduced to combat drink-driving and speeding. The problem with this system was that it was so draconian that police exercised their discretion and chose not to apply the law as outlined in the legislation.

There was a substantial increase in the number of people who were given a warning and in the number of people being charged at a tier lower than that of the offence for which they were actually caught. New South Wales has experienced problems with police not applying the strict letter of the law. One obvious example is the community perception that unless a motorist is exceeding the speed limit by at least 10 kilometres "you'll be alright". Many honourable members of this place may have experienced being pulled over for a certain infringement but being issued with a ticket for a lower tier offence. It happens. New South Wales police exercise discretion with regard to the current fine system, although they are strongly being encouraged not to do so. The scheme outlined in this bill may increase the prevalence of that sort of behaviour.

This discretionary application of the law sent a mixed message to the driving community of Scandinavia, and that community subsequently failed to respond to new laws in the intended manner. The Greens suspect that New South Wales will experience a similar trend. The Greens believe that the bill may not reach its target audience. That is why we argue that the bill should be sent to the Staysafe committee for review. Staysafe can review a range of alternatives against a background of national and international experience, and can report back to this Parliament.

One might ask: what alternatives exist? The New South Wales Law Society in its letter to the Minister refers to a range of alternatives, including ignition-disabling devices linked to alcohol and drug sensors, speed limiting devices, and increased visible police presence in road patrols. A range of alternatives have been considered in the United States, including the marking of licence plates of known offenders, impounding vehicles or confiscating the plates of the vehicles of offenders, having a graded, tiered penalty based on blood alcohol levels, and education measures.

The New South Wales Greens are not convinced that the penalty review committee, composed of six Roads and Traffic Authority representatives, one Attorney General representative and one police representative, is an open or community-driven process. The report that recommended those penalties has not been released to the public, nor have expert bodies been asked to make submissions or to comment on the final report.

The New South Wales program for solving the problem of drink-driving and drug-driving offenders has been working, and there has been a continual and significant reduction in these offences over the past 15 years. The New South Wales community needs to be informed of this positive response, and should be involved in debates about future initiatives to effect changes in driver behaviour. An open review of this legislation which involves the broader community, as well as relevant experts, and enables the Staysafe committee, with its technical expertise in this area, to review similar overseas experiences is the best way of dealing with this legislation. That is a process that has been supported by the Law Society of New South Wales. The President of the Law Society, Mr R. K. Heinrich, wrote to me on 22 June saying:

> I have already alerted you to my concerns that the increased penalties and disqualification periods proposed in the Traffic Amendment (Penalties and Disqualifications) Bill 1998 will do little to deter people from driving under the influence of alcohol and drugs, from speeding or from driving while unlicensed.
>
> It is the Law Society's view that Parliament should be seeking preventative solutions that will stop offending behaviour and reduce the road toll. Accordingly, I strongly recommend that the Staysafe Committee should have the opportunity to consider the Bill.
>
> I am writing to you, the Shadow Attorney General and other cross-bench Members of the Legislative Council urging that referral of the Traffic Amendment (Penalties and Disqualifications) Bill 1998 to the Staysafe Committee be supported.

It is obvious that there is quite a problem in the penalties being imposed for serious road offences. As was said by the Hon. Elisabeth Kirkby, there is a certain culture among car drivers, and cars are a weapon in the hands of those who have become unfit to drive through the ingestion of drugs or alcohol. Despite the carnage on our roads at the present time, there seems to be an acceptance of that by many sections of our society. We have a major problem with recidivist offenders and inadequate laws to deal with them. For the reasons I have stated, I move:

(1) That the question be amended by the omission of the words "now read a second time" with a view to inserting instead "referred to the Joint Standing Committee on Road Safety for inquiry and report"; and

(2) That the Committee report by 10 November 1998.

Amendment negatived.

Motion agreed to.

Bill read a second time.

In Committee

Clause 3

The Hon. Dr MARLENE GOLDSMITH [3.37 p.m.]: I move:

Page 2. Insert after line 9:

4 Use of proceeds from increased fines imposed under Act

(1) It is the wish of Parliament that the increased revenue arising from the increased level of fines imposed under the amendments made by this Act is to be used for the purpose of the road safety black spots program.

(2) The road safety black spots program is the program of road improvement works to remove or reduce traffic hazards that are a serious risk to the safety of road users.

(3) The increased revenue is taken to be the amount by which the total amount of fines imposed by courts for offences under the *Traffic Act 1909* during each financial year after the commencement of this Act exceeds the total amount of fines imposed by courts for those offences in the last financial year before that commencement.

As I have spoken to this matter during the second reading debate, I shall not go into great detail at this stage. The amendment simply reflects the view of the Opposition that if the bill is about road safety, obviously the increased revenue gained from the provisions of the bill should be hypothecated towards road safety, and in this case the road safety black spots program. The Opposition is of the view that some fines are inordinately high, and there may be concerns about that. On the other hand, at least if the extra revenue goes towards making our roads safer, the community will have an increased benefit from this legislation.

In passing it might be worthwhile mentioning that the amendment in particular and the bill as a whole deal only with the quantum of fines. They do not relate to the way in which magistrates deal with individuals before the courts. The case of Michael Yabsley is not a concern of the Opposition. The comments made by the Hon. Elisabeth Kirkby were unfair, considering that Michael Yabsley did not ask for special treatment in his case. It was quite unfair to blame him. If and when magistrates deal with high profile people differently from other people, that is indeed a serious problem for the law. But it is not a problem that is related to this bill; it needs to be dealt with under separate legislation. I commend the Opposition's amendment.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.40 p.m.]: The Government does not oppose the amendment.

Amendment agreed to.

Clause as amended agreed to.

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

DUTIES AMENDMENT (MANAGED INVESTMENTS) BILL

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.42 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 bill amends the Duties Act to remove any potential for ad valorem duty on the transfers of property to new trustees of a managed investment scheme as a consequence of the Commonwealth Managed Investments Bill. The Commonwealth Government has introduced to the Parliament the Managed Investments Bill, which puts into effect the recommendations of the collective investments review and the financial systems inquiry to change the management of these trusts to allow for a single responsible entity. The Managed Investments Bill has been passed by the Lower House of the Federal Parliament and is expected to pass through the Senate in late June. There will be a two-year transitional period during which existing schemes may be reorganised to satisfy the new requirements.

The advent of the Managed Investments Bill involves the implementation of a completely new regulatory regime, requiring operators to develop entirely new structures in order to comply with the legislation and, concurrently, extract the intended benefits for investors. Assets currently held in this type of fund total approximately $180 billion Australiawide. Consequently, most of these assets will be transferred in the restructuring to comply with the new law. Many of these transactions will have a potential exposure to duty. These include the amendment or replacement of scheme constitutions and the transfer of the legal title of property to the responsible entity. It would not be appropriate for ad valorem duty to be imposed on these transactions that occur primarily to comply with the changes to Commonwealth legislation. Failure to remove the potential for ad valorem duty would be criticised as an impediment to the Commonwealth's reforms.

The bill amends the Duties Act to impose nominal duty of $10 on a transfer of dutiable property to the responsible entity of a managed investment scheme where the transfer is solely to appoint a responsible entity to comply with the requirements of the new law. Consistent with existing policy in relation to nominal duties, the nominal duty of $10 will not apply to transfers of marketable securities quoted on the Australian Stock Exchange. Under the current provisions of the Duties

Act, instruments substituting or amending deeds governing these schemes may be liable to ad valorem duty. It is consistent with existing policy to provide relief from ad valorem duty for instruments amending provisions that govern these schemes. The bill amends the Act to enable duty of $10 to be imposed on any instrument which amends or substitutes provisions governing a managed investment scheme. I commend this bill to the House, and I table a summary of its provisions for the assistance of honourable members.

The Hon. J. M. SAMIOS [3.44 p.m.]: The bill flows from the recommendations of the Wallis inquiry into the financial industry and from the initiative taken by the Federal Government in introducing the Management Investment Bill, which I understand has been passed by the House of Representatives and is expected to pass through the Senate. The purpose of the bill, which is a good housekeeping measure, is to amend the Duties Act 1997 to provide that ad valorem duty is not chargeable in respect of the transfer of dutiable property to a responsible entity if the transfer was made for the purpose of complying with the new Commonwealth regulatory regime for certain investment schemes, and certain instruments that amend or vary an instrument that establishes a scheme subject to that regulatory regime. The duty proposed is a token concessional figure of $10. In essence, the bill provides for increasing efficiency and a reduction in litigation by merging a number of managed trusts—a recommendation flowing from the Wallis inquiry. As I indicated earlier, the bill is good housekeeping legislation and the Opposition supports it.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [3.46 p.m.], in reply: I thank the Hon. J. M. Samios for his contribution.

Motion agreed to.

Bill read a second time and passed through remaining stages.

LEGAL PROFESSION AMENDMENT (COSTS ASSESSMENT) BILL

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council), on behalf of the Hon. J. W. Shaw [3.46 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 principal purpose of the Legal Profession Amendment (Costs Assessment) Bill is to amend part 11 of the Legal Profession Act 1987 to: rationalise the financial administration of the costs assessment scheme; introduce a requirement that costs assessors provide limited reasons for their determinations; and provide a mechanism for a review of cost assessment determinations. Division 6 of part 11 of the Legal Profession Act establishes a scheme for the assessment of bills of costs issued by legal practitioners. The Legal Profession Act provides that an application may be made by a client to the proper officer of the Supreme court for the assessment of whole or part of a legal practitioner's bill of costs. Applications may also be made for cost assessment by a party who is required to pay party-party costs as a result of a court order. The Bar Council, Law Society Council or Legal Services Commissioner may also refer a matter for the purposes of investigating a complaint.

A costs assessor may, having regard to various criteria set out in the Act, issue a determination either confirming the bill of costs or substituting the amount of the costs with an amount that, in his or her opinion, is considered to be fair and reasonable. In addition to issuing a determination, the costs assessor may issue a certificate setting out the costs incurred by the assessor or the proper officer in undertaking an assessment. The Act provides that application fees and payments made in respect of the assessor's costs in conducting the assessment are received by the proper officer of the Supreme Court. These moneys are then paid to the credit of the statutory interest account. Money paid by way of remunerating cost assessors is recouped from the statutory interest account. However, the Act does not currently make independent provision for the administrative costs of the court to be recovered from parties to costs assessments or from the statutory interest account. This arrangement has posed practical difficulties in respect of the financial administration of the scheme. By way of addressing these problems it is proposed to amend the Act to provide for the scheme to be funded on a cost recovery basis and to provide for administrative costs associated with the scheme to be recouped.

Until recently, established case law provided that there was no duty upon costs assessors to provide reasons for decisions. However, in *Kennedy Miller Television v Stephen Lancken, the Nine Network Pty Limited*, which was handed down on 1 August last year, his honour Mr Justice Sperling held that cost assessors are required to provide reasons for costs assessment determinations upon request. Subsequent judgments have not supported the decision in Kennedy Miller, which has recently been the subject of an appeal. The judgment on appeal has been reserved and uncertainty remains amongst cost assessors as to their obligation under the Act to provide reasons for their determinations.

The proposed legislation is intended to clarify the responsibilities of costs assessors in this respect and to bring assessors into line with the government policy generally, whereby reasons should be provided for administrative decisions. The proposed amendments also provide for a review of determinations by costs assessors. Parties aggrieved by a costs assessment determination may, within 28 days of receiving the original certificate of determination, apply to the proper officer for a review of the determination. The review process, which is intended to be relatively informal in nature, will be carried out by two assessors of appropriate experience and expertise and be conducted along similar lines to that undertaken in the original assessment process. The review

panel will be able to vary the original assessment and will also be required to provide a short statement of reasons for their decisions.

The bill includes a number of other changes which are designed to improve the operation of the scheme. In addition, the bill provides for a regulation to be made to set the fair and reasonable costs for handling motor accident proceedings. A review of legal costs in this area is currently being undertaken by the Justice Research Centre, at the instigation of the Legislative Council's committee on law and justice. The regulation-making power will enable concerns regarding legal costs to be addressed, if such concerns are borne out by the review. I commend the bill to the House.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [3.48 p.m.]: The coalition will not oppose the Legal Profession Amendment (Costs Assessment) Bill, although I will seek to move amendments at the Committee stage in relation to one aspect of it. The Legal Profession Reform Act, when passed in 1994, introduced a complete reform of legal costs. It was aimed at ensuring that a successful party in litigation would not be out of pocket when the case was finally resolved. At that time people were familiar with the concept of solicitor-client costs and party-party costs. It was not unusual for a successful party in litigation to be able to recover only about 50 per cent of his or her costs. In fact, in those days a solicitor would have been regarded as negligent if he did not advise his clients that even if they won they would not get back all their legal costs, and if they were lucky they might get back 50 per cent of their costs.

As Attorney General I sought to reform the system by introducing reasonable legal costs and providing a ready mechanism for their recovery. Since the enactment of the legislation, we have experienced reasonable costs assessment, and I acknowledge that it has not been without difficulties. Experience is necessary to determine reasonable costs, but the intention was to move away from legislated scale costs. The scale was not a fair and reasonable indication of real costs incurred in litigation.

I have noticed in the *Law Society Journal* a call by one of its regular contributors for cost assessors to give reasons for their decisions. I congratulate the writer on the contribution. I note the Government has proposed a system of regulations so that supplementary information about decisions can be given. I urge the Government to be sparing in the regulations. If cost assessors have to provide detailed reasons for their decisions, the system will revert to the bad old days and will become bogged down. I am not certain whether the Attorney was ever a practising solicitor or whether he went straight to the Bar—

The Hon. J. W. Shaw: No, I was a solicitor.

The Hon. J. P. HANNAFORD: He will recall the bad old days of having to go through the burdensome procedure of taxing bills of cost, which was costly for clients. I have no problem with regulations that provide assistance to access reasons for decisions, but I urge the Attorney to be cautious. I know that a large number of people in the profession welcome the reforms—even though they openly opposed them originally—but there are still some who want to return to the bad old days. The Government proposes to introduce a new method of recovering costs, not from the statutory interest account but from a new fund based on costs assessment fees topped up from the budget. I have no difficulty with that concept.

Costs assessments are aimed at encouraging people to enter mediation and avoid statutory settlement of costs. Mediation does not always succeed and eventually there has to be some arbitration. If people had to pay the costs of arbitration they might be induced to achieve more effective mediation. The only matter on which I want make detailed comment is the Government's proposal to allow for regulations to fix fair and reasonable costs for legal services in any motor vehicle accident case. The Standing Committee on Law and Justice is reviewing legal costs in such cases, and the Justice Research Centre is undertaking an independent review of factors that contribute to increased costs under the Motor Accidents Scheme.

I have had the opportunity of speaking with Professor Wright about his work, and I await his final report. I have noted from time to time insurance industry suggestions that 80 per cent of cost increases is attributable to increased legal costs. I have never accepted that suggestion, and I look forward with interest to the results of the Justice Research Centre project to assess whether there is any basis for it. I have continually called for a review not just of legal costs of plaintiffs and defendants, but also related professional costs of private investigators and medical practitioners. I would be interested to know whether any proportion of legal costs is related to costs incurred by defence investigators when determining liability. I suspect that is a contributing factor.

Insurers claim that legal costs increase costs generally. I look forward to comment in the report about whether administration of the scheme by insurers contributes to increased costs. I remember having grave concern when I was the Attorney about the failure of insurers to actively pursue claim

mediation. After much persuasion they finally embarked upon pro-active claims management and introduced mediation systems, and that process was not without its difficulties. My view was that insurance companies were administering the scheme and, therefore, were equally responsible for minimising costs. Insurer responsibility to claimants had to be introduced. I will be interested to read in the research centre report whether insurers have embraced that responsibility and are equally pro-actively pursuing claims management practices to reduce costs.

If regulation of fair and reasonable costs assessment leads to re-introduction of scales of costs, plaintiffs potentially will not recover their full and reasonable costs. If that is to be a consequence of the legislation, I would be concerned about regulations. I have no problem with the plaintiff entering into a costs agreement envisaged by the legislation. The aim of the scheme is to encourage costs agreements so that informed plaintiffs can enter into them. An informed plaintiff should be able to enter into a costs agreement that provides a scale of costs higher than the regulated fees, so long as those costs are fair and reasonable.

The legislation provides for plaintiffs to enter into what is known as no-win no-fee agreements, with an uplift on fair and reasonable costs of up to 25 per cent. I have no difficulty in relation to those agreements. Informed plaintiffs should be able to enter into such agreements, notwithstanding the regulations. However, I raise a matter I believe to be of grave concern. Solicitors are entering into the no-win no-fee agreements when there is no doubt at all that liability is not in question. I regard as potential fraud a solicitor entering into a no-win no-fee agreement and seeking an uplift of 25 per cent of the fees where there is no doubt as to liability and there are no risks involved. The solicitor is effectively fraudulently taking more money from a plaintiff. I take the view also that the moment a defendant has entered—

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

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CONVICTED DRUG DEALER KHALED KHALED

The Hon. J. P. HANNAFORD: I direct my question without notice to the Attorney General. Is it a fact that convicted drug dealer Khaled Khaled, who pleaded guilty to six charges of supplying heroin, has had his prison sentence reduced to just nine months by Judge Joe Moore in Wollongong District Court? Is it also a fact that Khaled Khaled has been described as the main man in heroin distribution in Port Kembla and was originally sentenced to 33 months in gaol? Where does this leave the Government's policy of ensuring stiff sentences are served by drug dealers? What action will the Attorney General take to have this case reviewed?

The Hon. J. W. SHAW: I regret that I am unaware of the case to which the honourable member referred. But the honourable member's reference to the Government's policy about tough penalties on drug criminals is certainly correct. We happen to believe that it is for the courts to determine those penalties, subject to the parameters prescribed by the Legislature. Within that framework I will be happy to have the case referred and examined.

CONSTRUCTION INDUSTRY APPRENTICESHIPS

The Hon. A. B. MANSON: My question without notice is directed to the Minister for Public Works and Services. Given that the Department of Public Works and Services takes the lead in many construction industry matters, what action has it taken to recruit and employ apprentices within its operations?

The Hon. R. D. DYER: It is appropriate that the honourable member asked this question, given his long connection with the building industry in New South Wales. I know that he has a great knowledge of the industry and his expertise is well-recognised in that area. I am pleased to inform the House that the Department of Public Works and Services has begun to recruit a significant number of general trades apprentices compared with the small intake in recent years. This opportunity arose when the department retained five apprentices who completed their trade indentures in January 1998.

The department's newly created building group advertised for and interviewed 13 second- and third-year apprentices within the Sydney metropolitan area. This is in addition to the three apprentices—a painter and two second-year carpenters—the department placed in the Lake Macquarie district earlier this year. The Lake Macquarie community benefited further as the department used the services of the Hunter Valley training company to provide the apprentices.

Honourable members will appreciate that the potential number of apprentices is limited as the department must adhere to the Government's apprentice policy which allocates one apprentice per four tradespersons. A strategy to recruit more experienced apprentices has been developed to maximise opportunities across the community and to provide a balance across the department's building group.

A balance has also been sought by accepting apprentices from a broad range of age groups, including two apprentices in their late twenties. The majority of apprentice places are, of course, awarded to recent school leavers. The department is also proposing to recruit first-year replacements when the five current building trade apprentices complete their indentures this year. In view of the department's commitment to provide positions for Aboriginal apprentices, it has also sought applicants through the Premier's Department, the Office of the Director of Equal Opportunity in Public Employment and the Department of Urban Affairs and Planning, which has employed Aboriginal apprentices in various housing programs in recent years.

It is proposed that Aboriginal apprentices with an interest in relevant trades will be sought to fill some or all of the remaining metropolitan positions. Failing that, the department will be seeking assistance from a training company to fill any vacancies still open in the painting, electrical and plumbing trades. When all positions are filled, there will be a total of 21 apprentices employed by the department in 1999. Members would welcome this increase in apprentice numbers—an increase which is in sharp contrast to the policy direction of the Federal coalition Government on apprenticeships. Over the last two years the policies of the Federal Government have resulted in a fall in apprentice numbers of 5,000 across the country, despite Prime Minister Howard's election promise to promote apprenticeships. I assure the House that the New South Wales Government, unlike its Federal counterpart, will continue to promote apprenticeships in New South Wales.

I ask the Opposition, in a rhetorical sense, where is the Hon. Dr B. P. V. Pezzutti? Again, the honourable member is late for question time. It is a matter of grave concern to me that the Hon. Dr B. P. V. Pezzutti is persistently and consistently absent until much of question time has elapsed. The Opposition really ought to get its act together. I am concerned about the Hon. Dr B. P. V. Pezzutti. Recently I visited the far north coast of New South Wales. I was in Lismore, at the Southern Cross University, delivering a paper at that venue dealing with government procurement and the application of information technology to the construction industry. I am afraid that the Hon. Dr B. P. V. Pezzutti was nowhere to be seen in Lismore.

The Hon. J. H. Jobling: On a point of order. If the Minister wishes to make a personal attack on a member the standing orders are quite explicit and clear: it shall be done by way of substantive motion. Clearly, the Minister is not following those standing orders. I request that he do so.

The Hon. R. D. DYER: On the point of order. I do not take the view that this should be regarded as a personal attack.

The PRESIDENT: Order! I share that view. No point of order is involved.

The Hon. R. D. DYER: The Treasurer, the Hon. M. R. Egan, has often said in this House that whenever he visits Crookwell he cannot find the Hon. D. J. Gay. I make the complaint that the Hon. Dr B. P. V. Pezzutti was not in evidence when I was in Lismore.

TOTALIZATOR AGENCY BOARD SHARE ALLOCATION

The Hon. R. T. M. BULL: I address my question without notice to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is the Minister aware that an Avalon family applied for a total of 3,000 TAB shares and sent a cheque totalling $6,150, which was cashed on 18 June? However, after calling the TAB information service on 22 June members of that family were told that they had not been allocated any shares and that their names were not on the computer database. Will the Treasurer explain why the cheque was cashed when no shares were allocated? Will the Treasurer ensure that the money is repaid, with interest?

The Hon. M. R. EGAN: Approximately 750,000 people applied for and were allocated shares. Out of 750,000 applications I would expect there to be glitches. I assure the Deputy Leader of the Opposition that if the cheque was cashed they will get their shares.

The Hon. R. T. M. Bull: They are not on the register. They did not get any shares.

The Hon. M. R. EGAN: If their cheque was cashed they will get their shares. Simple as that. Fortunately, this is the only case I have heard of out of 750,000.

The Hon. R. T. M. Bull: This is not the same matter that was referred to you yesterday.

The Hon. M. R. EGAN: It was not referred to me. I read it in *Hansard* this morning.

The Hon. R. T. M. Bull: This is another one.

The Hon. M. R. EGAN: Then there are two cases, and they both come from Avalon. If their cheque was cashed they will get their shares. The Deputy Leader of the Opposition said that the family applied for 3,000 shares. Does the honourable member know the details?

The Hon. R. T. M. Bull: I will give you the details later.

The Hon. M. R. EGAN: How many people in the family applied?

The Hon. R. T. M. Bull: Three.

The Hon. M. R. EGAN: That means the family would have got 771 shares, and has made a good profit. I congratulate them. As honourable members would know, the retail price of the shares was $2.05. On the first day the shares opened at $2.16 and closed at $2.20. They increased to $2.28 last night and I am told they are currently trading at $2.33. So I can assure the Avalon family that they will make a profit on their shares.

The Hon. R. B. Rowland Smith: I bet more than that at the TAB every weekend.

The Hon. M. R. EGAN: But the Hon. R. B. Rowland Smith is a multimillionaire. This was a float for the ordinary people of New South Wales, not for the silvertails. By the way, how many shares did the Hon. R. B. Rowland Smith get?

The Hon. R. B. Rowland Smith: I got 257 lousy shares.

The Hon. M. R. EGAN: He should return them so that I can give them to a small investor who will appreciate them.

UNLICENSED MOTOR DEALERS

The Hon. E. M. OBEID: My question without notice is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. What action has the Government taken to protect consumers from unscrupulous and unlicensed motor dealers?

The Hon. J. W. SHAW: Buying a car under normal circumstances can present problems for consumers. But when consumers deal with unlicensed traders or backyard operators any risks are multiplied. The Motor Dealers Act 1974 requires anyone who is in the business of buying and selling motor vehicles to be licensed. The Act provides good consumer protection. Licensed dealers are required to provide buyers with a three-month or 5,000 kilometre warranty on cars less than 10 years old or that have travelled fewer than 160,000 kilometres, whichever falls first. If a dealer does not honour the warranty or there are any other difficulties associated with the purchase, the consumer has various options available, including formally laying a complaint with the Department of Fair Trading or lodging a claim through the Motor Dealer Disputes Committee.

Genuine private sales are also lawful, and are a popular method of selling and buying vehicles. However, the laws permitting the sale of private vehicles do not apply to people who as a business or as a source of profit engage in unlicensed trading activities. Those activities are illegal and undermine the rights of consumers and the reputation of legitimate licensed motor dealers. The problems associated with unlicensed car dealers are manifold. They often give false descriptions of the history of the vehicles, which may be unroadworthy or have an altered odometer reading. Unlicensed dealers cannot provide the statutory warranty. Buyers are often left with an expensive and dangerous lemon, with little access to redress and no protection if the vehicle has been stolen.

This Government takes a dim view of unlicensed motor dealings. My department is committed to combating those illegal practices, and has dedicated resources to an ongoing compliance and prosecution program. Prosecution begins with detection. Between July 1997 and March this year, Department of Fair Trading inspectors have carried out 1,861 defective vehicle and dealer record inspections, a 20 per cent increase compared with the same period the previous year. Since 1996 my department has initiated 31 prosecutions. In this financial year there have been 14 successful prosecutions against 13 people engaged in unlicensed dealing, with total penalties incurred exceeding $130,000. In one of those successful prosecutions a man from Peakhurst was ordered to pay almost $25,000 in fines, costs and compensation to his three victims after he was prosecuted by the Department of Fair Trading.

The Department of Fair Trading has also successfully been granted injunctions against the more recalcitrant unlicensed traders. Last month the New South Wales Supreme Court issued a lifelong injunction against a man from Lurnea who sold 90

motor vehicles from an Appin car yard without a licence. That unlicensed trader is one of the largest-volume unlicensed dealers the department has ever dealt with.

Recently the department obtained Supreme Court injunctions against six members of one extended family for unlicensed motor dealing. Their unlicensed dealing involved the purchase of more than 50 vehicles in two years. The Supreme Court orders restrain the six from carrying on the business of a motor dealer without a licence and from selling motor vehicles without the prior written approval of the Director-General of the Department of Fair Trading. I would like to think that these prosecutions and the penalties involved will serve as a strong and effective deterrent to unlicensed car dealing. The message is clear: the Carr Labor Government of New South Wales will not tolerate the exploitation of ordinary people buying a second-hand car.

MELBOURNE TO DARWIN FAST TRAIN

Reverend the Hon. F. J. NILE: I ask the Treasurer, representing the Minister for Transport, a question without notice. Is it a fact that the Howard Government is supporting a 4,000 kilometre fast-train track from Melbourne to Darwin travelling at 300 kilometres an hour? What impact will that project have on the proposed Sydney-Canberra very fast train line? Has the New South Wales Government been consulted and, if so, what is the Government's response to the proposed Melbourne-Darwin line which will travel through New South Wales rural areas?

The Hon. M. R. EGAN: It is early days. The proposal would be very attractive if it is economically viable, which still has to be established. The New South Wales Government looks forward to co-operating with the proponents and the Commonwealth Government in establishing the feasibility and viability of the project.

MINALI YOUTH CENTRE

The Hon. PATRICIA FORSYTHE: My question without notice is to the Attorney General, representing the Minister for Community Services. Is it a fact that the Minali Youth Centre staff who have accepted redundancy will leave tomorrow? Does the number of staff taking redundancies represent more than one-third of the total staff? If so, what arrangements have been made to ensure that the children and young people currently at Minali will be appropriately cared for until the centre closes? Is the Government assuming that casuals will be able to care for these children, who are at Minali because of their extreme, challenging behaviour? Will the Government guarantee the safety of both children and staff when more than 20 of the existing staff leave?

The Hon. J. W. SHAW: I will refer that question to the relevant Minister and obtain a response.

PUBLIC SERVICE ASSOCIATION MEMBERS PAY INCREASE

The Hon. J. KALDIS: My question is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Will the Minister inform the House of the present position concerning the payment of the 2 per cent productivity increase to Public Service Association members?

The Hon. J. W. SHAW: I am pleased to inform the House that following intensive negotiations last week the Public Service Association and the Public Employment Office agreed on a range of initiatives on a sector-wide and agency basis for a 2 per cent increase effective from the first pay on or after 1 July 1998, and to progress the payment of the 2 per cent increase effective from the first pay on or after 1 January 1999. On Monday, 22 June 1998, the Crown Employees (Public Sector Salaries June 1997) Award was varied by consent in the Industrial Relations Commission of New South Wales to reflect that agreement.

The PSA and the PEO engaged in genuine and constructive negotiations and agreed on a range of initiatives on a sector-wide and agency level. A sector-wide initiative involved the PSA and the PEO agreeing on the appropriate accommodation and work space per person. Savings in workers compensation in 1998-99 will be based on prevention, improved management and rehabilitation. A three-year plan has been endorsed by the Government, Treasury, WorkCover, the PSA, the Labor Council and agencies. In regard to monitoring and review, the PSA and the PEO will work for the early identification and achievement of savings in accordance with the heads of agreement.

The PSA accepted the PEO recommendation that agency-level issues which are consistent with the co-operative negotiation agenda be progressed with agencies as a priority, urgently addressing issues which concern the first and second 2 per cent increases. All government agencies will have the opportunity of progressing their issues with the PSA. The PSA and the PEO also reached agreement on

the commencement of further negotiations to progress and deliver the payment of a further 2 per cent increase from 1 January 1999. As a major employer the New South Wales Government clearly demonstrated the success of the State's industrial relations system to resolve issues with its own employees and to avoid excessive disruption to services and inconvenience to its principal constituents, the people of New South Wales.

The agreement is a clear example of how the New South Wales industrial relations framework can resolve somewhat difficult issues in either the private or the public sector. Because the New South Wales system is premised on genuine and constructive industrial relations negotiations, it can actively facilitate workplace change and improve productivity and efficiency. It can deliver results with which each industrial party can live and from which all parties can benefit. This is in contrast to the Federal industrial relations system and some policies of the New South Wales Opposition which appear to have minimal regard for the right to freedom of association, collective bargaining, employment security and workplace reform for the benefit of all participants in employment in New South Wales.

ERSKINEVILLE AND MACDONALDTOWN STREET LIGHTING FAILURE

The Hon. D. J. GAY: Is the Treasurer, Minister for State Development, and Leader of the Government aware that for the four days from 15 June to 19 June 1998 the street lights were out in the following Erskineville and Macdonaldtown streets: Rochford Street, Parkers Lane, Pleasant Avenue, Smith Lane, Prospect Street, Morrissey Road, George Street, Bridge Street, Macdonaldtown Street, Burren Street and Randall Street? Is he aware that EnergyAustralia staff told residents they could not fix the problem quickly because of the lack of staff arising from corporatisation? Is he further aware that during these four nights, some rainy, crimes such as motor vehicle theft increased in those streets?

The Hon. M. R. EGAN: The question should have been addressed to my colleague the Attorney General, who is the Minister representing the Minister for Energy in this House. I did not know that a number of streets in Erskineville and Macdonaldtown were without street lighting between 15 and 19 June. If someone had told me on 15 June, the lights would have been back on that night. But if by some mischance they had not been, I would have gone out there on 16 June and fixed them myself.

The Hon. D. J. GAY: I ask the Treasurer a supplementary question. Does he remember that he said he would introduce tougher consumer protection measures by the end of last year to avert problems such as the extended darkness in Erskineville? What is being done about implementing these measures? What will he do to ensure that the Erskineville problem is not repeated? Given that he undertook to go out and fix the problem, will he refer the matter to the new electricity industry ombudsman?

The Hon. M. R. EGAN: It is absolutely disgraceful that the Hon. D. J. Gay has taken nine days to bring this matter to the attention of the authorities. He is not doing his job. Why did he not tell us on the very first day so that the problem could be fixed?

JUSTICE FITZGERALD SUPREME COURT APPOINTMENT

The Hon. B. H. VAUGHAN: Can the Attorney General confirm that the President of the Queensland Court of Appeal has been appointed to the Supreme Court of New South Wales?

The Hon. J. W. SHAW: Justice Fitzgerald is a great Australian and a great jurist. He is presently President of the Queensland Court of Appeal. I am very pleased that he has accepted an invitation to be appointed as an acting judge of the Court of Appeal in New South Wales for a period of 12 months from 1 July 1998. Justice Fitzgerald was admitted to the Queensland bar in 1964 and appointed Queen's Counsel in 1975. He is famous for conducting the Queensland Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct in Queensland between 1987 and 1989. He made a splendid contribution to Australian public life in his courageous conduct of that inquiry. Since then he has been a very fine judge. He was a brilliant advocate as a barrister and is an eminently qualified person. It is a coup for the New South Wales justice system to have gained the services of such a distinguished Australian and such a fine jurist. I welcome Justice Fitzgerald to the New South Wales system. I am sure that he will contribute to the rule of law in this State.

CHILD IMMUNISATION

The Hon. A. G. CORBETT: I ask a question of the Minister for Public Works and Services, representing the Minister for Health. Is the Minister aware that on 10 June this year 20 year 8 students in Maitland, South Australia, were supposed to be vaccinated against hepatitis B but that a registered

nurse vaccinated them with Infanrix, the acellular pertussis, diphtheria and tetanus vaccine that is licensed in Australia only for children up to the age of five? What arrangements have been made to assure parents that a similar and potentially dangerous mistake will not occur during the national enhanced measles control program, when approximately 587,500 children from kindergarten to year 6 across urban and rural New South Wales are expected to be vaccinated?

The Hon. R. D. DYER: Shortly before I came to the Chamber for question time I signed a covering letter to the Clerk of this House conveying responses to questions placed on notice by the Hon. A. G. Corbett concerning vaccination programs. I do not believe that the responses dealt with the particular matter the member has raised now. I have to confess that I am not aware of the circumstances in South Australia referred to. However, I will refer the question to my colleague the Deputy Premier and Minister for Health and I will convey the Minister's reply to the honourable member.

POLLUTION CONTROL REGULATIONS

The Hon. J. M. SAMIOS: I ask the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for the Environment: Is it a fact that a report by the Australian Chamber of Manufactures has found that the Government's new polluter-pays registration, known as load-based licensing, will lead to the loss of 3,100 jobs in a number of major New South Wales companies? Is it also a fact that the average cost per company would be close to $500,000 a year, with an average increase of 250 times the current fees? Given that most companies in New South Wales support the principle of polluter pays, will the Minister undertake to review the regulation with a view to reducing the sharp increase in fees to prevent avoidable job losses?

The Hon. J. W. SHAW: I shall refer that question to the Minister for the Environment and obtain a response for the honourable member.

NORTH COAST PUBLIC WORKS INITIATIVES

The Hon. J. R. JOHNSON: My question without notice is directed to the Minister for Public Works and Services. The Minister recently inspected a number of government project sites on the north coast. Will he provide the House with details of the scope of his department's involvement in the further enhancement of this beautiful area of our State?

The Hon. R. D. DYER: It is appropriate for the Hon. J. R. Johnson to ask this question as he originally came from the far north coast, as indeed you did, Mr President. The north coast of New South Wales is a major growth area of the State for residents and tourists. The demand for public infrastructure in the area to meet this growth has seen a major injection of government spending to keep pace with the needs of local communities. The Department of Public Works and Services is the Government's agency for the delivery of a major portion of the capital works program and in that role it is involved in a broad and diverse range of projects and activities on behalf of other government agencies.

The Hon. M. R. Egan: We now refer to asset acquisition programs, not capital works programs.

The Hon. R. D. DYER: I am happy to call it the asset acquisition program, given the expert advice proffered to me by my colleague the Treasurer. As Minister for Public Works and Services I recently inspected a number of ongoing projects between Ballina and Tweed Heads. In that relatively small area the reason for the popularity of the far north coast was evident. Every community is expanding in response to the influx of people attracted to the beauty of the area. Redevelopment of Ballina District Hospital has been completed at a cost of $3.5 million.

This project included a 48-bed ward, with facilities for aged care, maternity, general accommodation, staff amenities and a pharmacy. The design principles reflect those of the big metropolitan hospitals. A feature of the hospital is the racetrack design, which locates the beds around the perimeter of the ward, with the utility areas in the centre to allow a more efficient operation. On the northern side of Lennox Head is the Lake Ainsworth sport and recreation centre.

The Hon. R. B. Rowland Smith: A very nice facility.

The Hon. R. D. DYER: The Hon. R. B. Rowland Smith, a former Minister for Sport and Recreation, is well aware of the centre. This marvellous facility is located right on the coast, with a freshwater lake on one side and the ocean on the other. It offers a range of healthy and educational activities for schoolchildren from all over the State. Improvements costing $1.8 million have just been completed and include a new dining room, conference centre, main kitchen, reading rooms, disabled facilities, improved staff amenities and sheltered outside areas.

In order to protect the facility from harsh weather conditions a further $500,000 is being spent on a protective seawall and rehabilitation of the sand dunes. Approximately 12,000 tonnes of quarried rock is being placed along the base of the dunes. To complement this work a timber walkway and viewing area are to be constructed to provide safe access for viewing the spectacular panorama from this location. The Government does not want the beach to disappear. I emphasise that these wonderful facilities are available to all school and local community groups throughout New South Wales.

The Hon. I. Cohen: Are you building a rock wall there?

The Hon. R. D. DYER: Yes, we want to protect the beach. Another interesting project benefiting the State as well as local business is the TAFE College at Kingscliff, just south of Tweed Heads, where $23.5 million has been spent on the first two stages. Facilities on the college campus will be provided for the 1,200 students. Courses will include business and administration, with rooms set up as office environments. The college also provides courses in food preparation and hospitality—growing industries in that part of the State. The college is located adjacent to Kingscliff High School. The Department of Education and Training is maximising the opportunities to share facilities between the two educational bodies, to achieve greater efficiencies and to allow a smoother transition for students wishing to undertake studies at the college in pursuit of their chosen careers.

Each project I have mentioned is only a snapshot of the work being undertaken by the Department of Public Works and Services and other agencies in the region. The department has more than $743 million worth of projects under way or planned for the coming year. In addition to the benefits that the facilities provide to users, they are also a boost for the local economy and industries, which provide the bulk of the resources and materials to construct and operate these facilities and, as a result, improve employment opportunities in this part of New South Wales.

PARKES CRIME STATISTICS

The Hon. D. F. MOPPETT: My question without notice is directed to the Attorney General, representing the Minister for Police. Is the Attorney aware that the recently published crime statistics for the local government area of Parkes show that offences related to cannabis, including cultivation, trafficking, distribution and illegal use, have risen sharply over the past three years, and that one category of offences is 1½ times the State average? Given that Parkes is a stable and prosperous community, what explanation can the Attorney General offer for the extent of cannabis use in this area, and what steps are being taken to curtail the illegal use and distribution of cannabis there?

The Hon. J. W. SHAW: The statistics to which the Hon. D. F. Moppett refers indicate some general increases in the use of cannabis and other related offences. Until the question prompted me, I had not taken a particular interest in the statistics for the Parkes area, but I will undertake to do so. I will liaise with the Minister for Police and endeavour to provide a further explanation for those statistics and to inform the member what action should be taken to redress the matter.

SEXUAL HARASSMENT

The Hon. Dr MEREDITH BURGMANN: My question without notice is directed to the Attorney General. Will the Attorney inform the House of steps being taken by the Government to provide protection from sexual harassment?

The Hon. J. W. SHAW: Honourable members would be aware that last year the Parliament passed the Anti-Discrimination Amendment Bill 1997. Among other provisions, the bill included a specific ground of complaint on the basis of sexual harassment under the Anti-Discrimination Act. Until last year the Act applied to sexual harassment only by virtue of decisions of the Equal Opportunity Tribunal, which had held that the provisions of the Act concerning discrimination on the ground of sex also included harassment.

The Anti-Discrimination Amendment Act 1997 strengthened the prohibition against sexual harassment by making it a specific ground of unlawful discrimination and by expanding the Act's coverage to include volunteers and trainees, sporting participants, small businesses, private educational authorities, and Ministers and members of Parliament. The Anti-Discrimination Amendment Act 1997 commenced on 4 July 1997, with the exception of provisions concerning schools, which provisions commenced on 4 September 1997, thus allowing time for educational authorities to disseminate information about the amendments.

One of the Government's prime concerns has been to ensure that, regarding complaints with respect to discrimination in employment, women can be represented by specialist advocates to provide advocacy and support. In order to identify the specific needs of women who go through the Anti-

Discrimination Board's complaint processes, the board has undertaken a survey of women whose complaints were finalised between 1 June and 30 November 1996. The survey was conducted in association with the New South Wales Working Women's Centre and the Commonwealth Human Rights and Equal Opportunity Commission. The issues arising from the survey are currently being examined by the board's consultation group.

The Government is concerned to ensure that employers and managers are more aware of their responsibilities to protect employees from sexual and other forms of harassment in the workplace, and in order to achieve that goal the Anti-Discrimination Board is undertaking education and training programs, producing publications, and providing a policy and procedures checking service for employers. The board runs an extensive training and education program to assist employers, accommodation providers and providers of goods and services to appreciate and comply with their responsibilities under the anti-discrimination laws of this State. Under the program the board provides expert educators to design and run individually tailored training for individual organisations, runs a series of seminars designed especially with the needs of employers in mind, and targets particular industry sectors for the development of relevant programs.

The board also recognises that not all employers will attend in-house training or seminars, and in order to reach a wider audience it produces a range of specialist guidelines written especially for major employers and service providers. Finally, the board provides a service to employers by which it can check an organisation's equal employment opportunity, harassment prevention, and general harassment and discrimination-related policies and advise on their implementation. The Government and the Anti-Discrimination Board take the view that legislative prohibitions constitute only part of the solution to the problem of sexual harassment in the workplace. The board's extensive educative and training initiatives provide a crucial supplement to the Government's legislative provisions by ensuring that employers and employees throughout the State are fully aware of their rights and responsibilities under the Anti-Discrimination Act.

MACLEAN FLYING FOX COLONY

The Hon. I. COHEN: I ask a question without notice of the Minister for Public Works and Services, representing the Minister for Information Technology, and Minister for Forestry. Considering that most commercial hardwoods so far studied produce most of their nectar at night, release pollen at night and are receptive to cross-pollination at night, that research clearly shows how important flying foxes are to the continued health and productivity of the forests of New South Wales, and that in daylight bees and parrots simply mop up the good work done by flying foxes the night before, and given that there are some 60,000 flying foxes in the colony at Macleay, including endangered black flying foxes, will the Minister take action to prevent the removal of those foxes? Exactly where will those foxes go to if they are driven off from this maternity site?

The Hon. R. D. DYER: I have to confess that my knowledge of flying foxes is insufficient at this point to enable me to answer the question with any degree of completeness. I will refer the question to my colleague the Minister for Information Technology, and Minister for Forestry and furnish the honourable member with what I expect will be a very interesting response.

ACID SULPHATE SOILS

The Hon. Dr B. P. V. PEZZUTTI: I ask a question of the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for the Environment. Has the disappearance of a Cabinet paper regarding acid sulphate soils led to a standstill by the Government in solving the problem? Who are the major players who have forced the Government to bury any hope of a solution to this most serious environmental problem?

The Hon. J. W. SHAW: I shall refer the question to the Minister for the Environment and obtain a reply.

NORTHERN NEW SOUTH WALES AQUACULTURE INDUSTRY

The Hon. A. B. KELLY: My question is to the Treasurer, and Minister for State Development. What is the State Government doing to support the creation of new jobs in the land-based aquaculture industry in northern New South Wales?

The Hon. M. R. EGAN: Land-based coastal aquaculture, such as prawn and snapper farming, has the potential to create hundreds of new jobs and become one of the strongest industries in northern New South Wales. Under the previous Government, growth in the New South Wales aquaculture industry did not keep pace with the growth of the industry in Queensland. The Hon. D. F. Moppett indicates his agreement with that statement. This Government wants to turn that around. As part of that, next April

New South Wales will host the World Aquaculture Society's annual conference and trade show. The conference will provide a focus for the local industry and offer an opportunity to learn from international experience and showcase some of our local achievements.

The Hon. D. F. Moppett: Where will that be held?

The Hon. M. R. EGAN: Be patient. The State Government is committed to supporting the development of land-based coastal aquaculture. In July 1997 a steering committee representing industry and various government agencies was established to support the development of the industry. The first stage of the project has involved the development of a planning document that has identified the potential for further industry development, particularly in prawn cultivation. In 1997-98 the total production of farmed prawns in New South Wales was 410 tonnes, representing more than $5.5 million in sales.

The Hon. Jennifer Gardiner: Way behind the Queensland industry.

The Hon. M. R. EGAN: Yes. As I said, under the previous Government, we fell way behind Queensland, but we are about to catch up. The steering committee has also established a number of industry targets to be achieved by 2005—targets that will directly benefit job creation in northern New South Wales. All the attempted interjections of the Hon. Dr B. P. V. Pezzutti are wasted on me because I have a cold and I cannot hear a single word he is saying. All I can hear is noise from the Opposition benches. The Government hopes to attract at least an extra $25 million in investment over the next seven years. This would see the establishment of an additional 400 hectares of new aquaculture farms. Given the high returns achieved by aquaculture, this will translate into significant benefits for the region.

The aquaculture industry is labour intensive. An additional 400 hectares under production would mean some 260 new jobs in northern New South Wales, with many other indirect jobs to follow. Exports from the region would also increase. The committee envisages that the industry could achieve exports of $30 million a year by 2005. All industry and government agencies have important roles to play in ensuring the industry's future. Overall, the capabilities within the industry and strong market demand indicate that a bright future is achievable. The New South Wales Government is committed to working with the aquaculture industry to ensure the creation of a profitable and sustainable industry, with the potential to provide secure new jobs well into the future. And the conference is in New South Wales!

GOVERNMENT HOUSE FURNITURE

The Hon. Dr MARLENE GOLDSMITH: I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council, representing the Premier, Minister for the Arts, and Minister for Ethnic Affairs, a question without notice. Given that the Premier stated recently that the furniture from Government House is now in storage, where is the furniture being stored and at what cost to the taxpayer is it being stored? Will the Minister inform the House whether any of the furniture from Government House has been sold?

The Hon. M. R. EGAN: Last time we were down at Government House, for the presentation of the Address-in-Reply, I was accused of selling the crockery and the carpet.

The Hon. Dr B. P. V. Pezzutti: You did, too.

The Hon. J. H. Jobling: And the overmantel.

The Hon. M. R. EGAN: I do not know who got in and sold the silver first, but it was not me. As far as I am aware, nothing has been sold. I would assume that if things are being stored, they are probably being stored in the basement or garage of Government House or in some other safe location.

WORKPLACE AGREEMENTS

The Hon P. T. PRIMROSE: My question without notice is directed to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. The International Labour Organisation recently criticised the Howard Government's industrial reforms for breaching international conventions promoting collective bargaining. The Federal Government has rejected the ILO's request to appear before the organisation. Despite this fact, the Howard Government still claims to be committed to upholding its obligations as an ILO member. What is the New South Wales Government's position on individual Australian workplace agreements under the Australian Workplace Relations Act 1996?

The Hon. J. W. SHAW: It is clear that the centrepiece of the Federal Government's industrial relations policy is the individual contract. That is really the philosophical underpinning of everything the Federal Government is endeavouring to do—not always successfully, as we know from the waterfront experience. Traditionally, under governments both

conservative and social democratic in democracies during this century, the idea of collective bargaining has been supported as a means to address the inequality of bargaining power between individual employees and employers. That has been the way in which social democracies have sought to redress the imbalance between the individual worker and the corporate employer which occurs when determining wages and conditions.

However, the current Federal Government, under the influence of a laissez-faire labour market deregulatory policy, has abandoned that traditional model—the model that was regarded as consensually supported under the Menzies Government and as part of the Australian way of dealing with industrial disputes. We have had a right-wing trajectory under the current Federal Government, which has abandoned the traditional Liberal approach to the resolution of industrial disputes and to the determination of fair wages and conditions. It is indisputable that a marked break with tradition has been discernible in the policies of the Federal Government. It has obviously not succeeded on the waterfront. Essentially, what has happened on the waterfront is the reinstatement of all of those workers who were collectively dismissed with the encouragement and facilitation of the Federal Government.

A voluntary redundancy program has been agreed upon that in fact could have been undertaken at any time, and obviously does not represent any victory for Mr Reith. There is the idea of annualising and averaging overtime payments—which is, by the way, a good idea, but something that Mr John Coombs put on the table months ago. What has happened in the Australian stevedoring industry is basically a traumatic incident, but it has been to no avail; it has not led to positive or practical results. That is a manifestation of an extremist laissez-faire policy towards labour relations which has not succeeded in practice. As the commentary goes on about that drama, the Federal Government will be seen as adventurist and as not competent in terms of dealing with these matters, and blame will accrue for the disruption to Australia's stevedoring industry that occurred during that saga.

As I said earlier, at the centre of the Federal Government's policies is to be found the so-called Australian workplace agreement—the individual contract notion which deprives the employee of the support of collective bargaining that is enshrined in the United States legislation, the Wagner Act of 1935, is enshrined in International Labour Organisation treaties or conventions, and is regarded by Liberal democracies throughout the world as an appropriate way for governments to approach labour relations.

It is true, of course, that to compete effectively in a global economy, business requires industrial certainty and stability. The removal of collective bargaining and third party arbitration creates an environment of instability for business and deprives the parties of a means to determine their disputes objectively and peacefully. We saw in the Rio Tinto dispute in the Hunter Valley the concept enshrined in Mr Reith's legislation whereby there cannot be arbitration unless the parties agree, notwithstanding the devastation that has been caused to a regional economy. That is just an irrational policy; it is contrary to the policy that the Government is pursuing in New South Wales, and I believe that it will be characterised by the people as extreme, inappropriate and unproductive.

TIMBARRA ENDANGERED SPECIES HABITAT

The Hon. R. S. L. JONES: I ask the Attorney General, representing the Minister for the Environment, whether it is a fact that Green Loaning Biostudies employed by Ross Mining, which is currently destroying endangered species habitat at Timbarra, is setting about 1,800 traps a night to catch threatened species and that half of those animals are dying overnight? Is it also a fact that Ross Mining holds 10 endangered Hastings River mice? Will the Minister immediately investigate this shocking loss of endangered wildlife?

The Hon. J. W. SHAW: I will refer the question of the Hon. R. S. L. Jones to the Minister for the Environment and obtain a response.

CHAIRMAN OF GENERAL PURPOSE STANDING COMMITTEE No. 5

The Hon. J. F. RYAN: My question is addressed to the Chairman of General Purpose Standing Committee No. 5, the Hon. I. M. Macdonald. Is it a fact that yesterday evening the honourable member attended an estimates committee inquiry into regional development several hours late and unable to take the chair? Why was he late, why was he unable to take the chair, and why did he behave in a disorderly fashion? Did his conduct bring this House into disrepute?

The Hon. I. M. MACDONALD: I am delighted to have the opportunity to answer the question asked by the Hon. J. F. Ryan. In fact, I had a perfectly proper arrangement with the Hon.

I. Cohen for him to stand in for a while as chairman of the committee. It was not a question of my taking over from the Hon. I. Cohen when I arrived back. However, I was very keen when I got back, given that the committee was talking about regional development, to point out a few things to the Hon. M. R. Kersten. It was during my pointing out his relationship with One Nation that I had occasion to be less than genteel with him. I think there is a deal with the National Party and One Nation that needs to be exposed and highlighted. I am glad that the Hon. J. F. Ryan asked me this question, because I will not walk away from the fact that the Hon. M. R. Kersten is in bed with the One Nation Party. I am glad that I have had the opportunity to say a few words about that. I know that the Hon. I. Cohen was very keen for me to be able to point out this fact to the House.

The Hon. J. F. Ryan: Have a look at the transcript.

The Hon. I. M. MACDONALD: The Hon. J. F. Ryan should have a look at the transcript. I had a go at the Hon. M. R. Kersten for getting into bed with One Nation. I am glad that the Hon. J. F. Ryan has asked me a question on this matter.

The Hon. J. F. Ryan: On a point of order. Accusations against various people who have been associated with the One Nation Party have been ruled to be disorderly because they are offensive.

The PRESIDENT: Order! Not by me. No point of order is involved.

COMPUTER MILLENNIUM BUG

The Hon. JANELLE SAFFIN: My question without notice is to the Treasurer, and Minister for State Development. What is the Office of State Revenue doing to manage the possible problems associated with the so-called millennium bug?

The Hon. M. R. EGAN: The Office of State Revenue—OSR—has been aware of the potential problems of the millennium bug for several years, and has been working to address the issue. The office is working closely with the Office of Information Technology not only to inoculate its own systems against the millennium bug but also to raise awareness of the problem in other government agencies. If OSR were to continue to use its existing systems it would have to spend $7 million to overcome the year 2000 date processing problems. Based on specialist advice, there is a fair chance that the work could not be completed by the year 2000. OSR had a choice to spend a lot of money to squeeze a few more years out of an old system or install a new system. It has therefore embarked on a major project to address the millennium bug, replace its outdated computer systems and create more flexible work processes.

Other benefits of replacing its old system include improving the quality of data retained and used by OSR, improving management information and improving customer service. The millennium bug threatens more than just computer systems. OSR has identified other areas that could be affected. These include a variety of computer hardware; a number of systems ancillary to the tax systems; and building facilities such as elevators, telephone exchanges, building access, security systems and airconditioning. OSR's millennium bug project plan addresses all these potential problems, and includes contingency plans in case the replacement of existing systems is delayed.

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

PORT KEMBLA COPPER SMELTER SALE

The Hon. M. R. EGAN: On 19 May the Hon. I. Cohen asked me a question without notice relating to the sale of the Port Kembla copper smelter to Turkey. The Premier has provided the following response:

> The equipment which has been sold to Turkey from the old Port Kembla copper smelter has nothing to do with the smelting works. It comprises the plating works only, which is purely mechanical and therefore has no emissions and no polluting element. The equipment was first installed at Port Kembla in 1990-91, and as the plant was closed down in 1994, the equipment has had less than three years use. It is considered a valuable asset and negotiations with Turkish officials have resulted in the Illawarra-based company Thomas and Coffey being contracted to disassemble the plant for export.

INDUSTRIAL WASTE RECYCLING

The Hon. M. R. EGAN: On 19 May the Hon. Elisabeth Kirkby asked me a question without notice relating to recycling subsidies. The Minister for the Environment has provided the following response:

> Kerbside recycling has been highly successful in New South Wales. I am advised that since the introduction of kerbside collection services in the Sydney metropolitan area, annual tonnages of material have increased from 140,000 tonnes in 1992 to nearly 300,000 tonnes of waste diverted from landfill in 1997. This success has been due to co-operative efforts between State and local governments and industry. It is unfortunate that recent downturns in Asian markets have resulted in a decline in prices paid for kerbside collected recyclables, particularly paper. Australian industry has also been working hard to become more competitive in a global

marketplace which is also impacting on material prices. I understand, however, that strong local demand continues for source separated newsprint and magazines and also cardboard, although some collection and sorting operations need to modify their processes to meet these specific industry product specifications.

Continued cost pressures on municipal waste services have resulted in the Government committing an additional $8 million over the next two years to assist local government with kerbside recycling. This funding will be used to assist councils to maintain collections and to support the implementation of structural improvements to achieve better efficiencies. This support funding is in addition to program funding for waste boards, some of which is also targeted towards improving household recycling services. An additional $1.75m package is also being provided to assist the Local Government Recycling Co-operative. This is an interim measure to support councils which are trading through the co-operative during a major business restructure. Against this backdrop, industry's producer responsibility role remains vital and the Government's industry waste reduction planning—IWRP—scheme under the Waste Act will ensure that industry takes an increased share of the responsibility for waste avoidance and recovery.

As you would be aware, IWRPs can include waste reduction targets, financial contributions to help support recycling and other waste reduction initiatives, litter reduction strategies, public monitoring and reporting programs, and identification of opportunities for reducing waste in product design, production and packaging. Plans for the tyre and dairy industries have recently been completed. The dairy IWRP will ensure that industry assists with the recovery and recycling of milk packaging through kerbside recycling. The plan contains specific performance indicators, milestones and reporting requirements, including a 60 per cent reduction in the amount of milk packaging disposed of in New South Wales and a milk packaging recycling rate of 47 per cent; and a 100 per cent increase in the recovery and use of milk packaging waste from the Sydney metropolitan area. The Government also recently accepted a beverage industry self-nomination to be the first industry to voluntarily produce an IWRP.

This plan with the major soft drink and beer companies and their container packaging suppliers will be a critical plan and the Government will monitor its development carefully to ensure that kerbside recycling is supported in an equitable manner by the industry. New South Wales has also been playing a key role in negotiations to develop and implement a national packaging covenant. This covenant will establish key producer responsibility commitments for the management and recovery of post-consumer packaging and will include a cost sharing agreement between industry and local and State Governments to support kerbside recycling. Federal and State Governments have also agreed to develop a national environment protection measure on used packaging materials. This measure will provide a nationally consistent approach to encourage packaging industry members to participate in the covenant and to ensure that signatories to the covenant are not disadvantaged. Recently all State and Commonwealth environment Ministers issued a statement following a meeting of ANZECC—Australia and New Zealand Environment and Conservation Council—warning industry that a failure to commit significant financial resources to recycling on a voluntary basis would result in the more broad consideration of the use of sanctions by government.

Complementing requirements on industry, the Government is also actively encouraging the development of markets for recyclables through Australia's first mandatory waste reduction and purchasing policy. The policy requires all government agencies in New South Wales to purchase products which can be recycled and those made of recycled materials where these are cost and performance competitive. Where contractors are concerned, preference will be given to those whose bids incorporate waste reduction strategies in line with the policy guidelines. The same preference will be given to tenders which feature the purchase and use of recycled products. Waste reduction and recycling are challenging issues which require the efforts of industry, local government and State Government to be drawn together into a set of mutually reinforcing contributions. I trust the above information demonstrates this Government's commitment to achieving this goal.

KOALA BEACH KOALA HABITAT

The Hon. M. R. EGAN: On 20 May the Hon. R. S. L. Jones asked me a question without notice relating to Koala Beach koala habitat. The following response has been provided on behalf of the Minister for Urban Affairs and Planning, and Minister for Housing:

The Minister for Urban Affairs and Planning's promise stated that further development would not proceed without a thorough interpretation of the development application—DA. The Minister has issued a section 101 direction to ensure that further development on the site is handled sensitively. Stage 2 has been submitted by the council for consideration by the Department of Urban Affairs and Planning prior to being submitted to him for determination. The ban on cats and dogs, and traffic speed restrictions, are conditions of the council's consent. Under section 76 of the Environmental Planning and Assessment Act 1979—EP and A Act—council can lodge proceedings over breaches of the conditions of consent. The council has informed the department that dogs have been found on the site, however their owners have complied with directions to remove the dogs and therefore no court proceedings have been required.

Over time, with public education and acceptance of regulations designed with koala protection in mind, the public will become more familiar with the purpose of such legislation and understand the importance of its application. There are examples in areas such as Port Stephens where koalas have persisted, unassisted, adjacent to residential areas. More recently, local planning measures have been put in place in these areas, through State environmental planning policy—SEPP—44, to ensure that koala habitat is managed to avoid decline in koala populations.

TAXI SAFETY EQUIPMENT

The Hon. M. R. EGAN: On 20 May the Hon. Elisabeth Kirkby asked me a question without notice relating to taxi safety equipment. The Minister for Transport, and Minister for Roads has provided the following response:

The Coroner did not hold an inquest into this fatal crash and, therefore, there are no coronial findings related to the matter. The Roads and Traffic Authority—RTA—has informed me that the crash was investigated by the Police Service. Accordingly, any advice regarding the investigation should be

sought from the Hon. Paul Whelan, Minister for Police. The RTA has advised that in New South Wales taxis are subject to more frequent low speed rear impacts than other passenger vehicles. However, this has no relevance to the issue of air bags since air bags are designed not to activate in low-level severity impacts.

Indeed, NRMA tests have shown that air bags in Ford and Holden vehicles, which vehicle makes are most often used as taxis, do not activate in crashes of this level of severity. The RTA has no evidence to show that the disconnection of air bags is an extensive problem. Nevertheless, the desirability of discouraging any such practice is recognised and the RTA will refer the matter to the Taxi Council to raise awareness of the dangers that would be posed by this practice. As far as practicable, the RTA will support the Taxi Council in any actions considered necessary to encourage taxi operators not to tamper with or disconnect air bags.

CONCRETE RAILWAY SLEEPER CONTRACTS

The Hon. M. R. EGAN: On 21 May the Hon. J. H. Jobling asked me a question without notice relating to concrete railway sleeper laying. The Minister for Transport, and Minister for Roads has provided the following response:

The Rail Access Corporation—RAC—has no contracts with Rocla Concrete Constructions—RCC. The Railway Services Authority—RSA—had two contracts with RCC, one of which concluded in May 1998 with the other due to end in December 1998. Under this contract RSA owns an estimated 140,000 concrete sleepers which are stored by Rocla until needed and RSA will continue to pay storage costs for the stockpile. RAC is continuing its concrete sleepering program and a substantial amount of this work is already done. In 1997-98 RSA, which performs the majority of this work, laid 40,000 concrete sleepers on these tracks.

In the coming financial year a further 75,000 concrete sleepers will be laid across the network. There is no budget problem constraining the installation of concrete sleepers. Re-sleepering of the track takes place on a needs basis and is part of the Government's overall maintenance program. This is a sensible process that does not compromise safety. Commuters and railway staff are not subject to increased risk of the maintenance program. In fact, since the implementation of the rail reforms in July 1996 the track condition index, which measures the stability or quality of the track, in 1997 indicated that the track was in the best condition it has been for at least 10 years.

CHILDREN'S COMMISSION ESTABLISHMENT

The Hon. M. R. EGAN: On 26 May the Hon. Franca Arena asked me a question without notice relating to the Royal Commission into the New South Wales Police Service recommendations. The Premier has provided the following response:

Justice Wood provided his report on the paedophile inquiry to Government on 26 August 1997. The Hon Franca Arena is correct that 10 months have passed since that time. The Government supports the establishment of a Children's Commission in New South Wales. In recognition of the community interest in the creation of this body, the Government released a green paper on the Children's Commission in December last year. This was followed by a three month consultation period so that community organisations and interested members of the community could respond to the issues canvassed in the paper. Over 160 submissions were received. Legislation to establish the Children's Commission will be brought forward as soon as possible.

BOURKE TO WANAARING ROAD

The Hon. M. R. EGAN: On 28 May the Hon. M. R. Kersten asked me a question without notice relating to the Bourke to Wanaaring Road. The Minister for Transport, and Minister for Roads has provided the following response:

The section of road in question is a regional road under the care and control of Bourke Shire Council. Accordingly, decisions concerning the priority for improvement works on the road are matters for Bourke Shire Council to consider. The Government provides considerable road funding assistance to council under the regional roads block grant scheme, the REPAIR—Repair And Improvement of Regional Roads—program, and the council determined works category of the 3 x 3 program. Councils are responsible for establishing appropriate priorities for the works funded under these programs. The 1998-99 State budget has allocated $1.1 million to Bourke Shire Council under the regional roads block grant scheme, and $578,000 under the council determined works category of the 3 x 3 program. In addition to these grants, council can apply for funding—on a dollar-for-dollar basis—under the REPAIR program for specific upgrading projects.

LOBSTER INDUSTRY

The Hon. R. D. DYER: On 26 May the Hon. D. F. Moppett asked me a question without notice about the lobster industry. The Minister for Mineral Resources, and Minister for Fisheries has supplied the following response:

I am advised that the Rock Lobster Management Advisory Committee requested that changes to the minimum and the maximum size limits of eastern rock lobster be investigated with a view to the potential benefits on the status of the stock. No formal recommendation has been received. Once the length-based model has been developed and the potential benefits of the changes are proven, consideration will be given to any recommended change.

FISHING LICENCE FEES

The Hon. R. D. DYER: On 19 May the Hon. M. R. Kersten asked me a question without notice regarding fishing licence fees. The Minister for Mineral Resources, and Minister for Fisheries has supplied the following response:

The Government's policy regarding exemption from the payment of the freshwater recreational fishing fee is that all holders of a Commonwealth Department of Social Security

pensioner concession card or of a Commonwealth Department of Veterans' Affairs pensioner concession card are exempt from payment of the recreational freshwater fishing fee. This means that all pensioners—mature age and mature age partner allowees, older long-term recipients of most social security allowances if over 60 and receiving income support for nine months, war veterans, war widows and widowers—will be exempt from paying the freshwater recreational fishing fee. These categories include, among other things, those receiving the Department of Social Security disability support pension, disability wage supplement or the sickness allowance, Department of Veterans' Affairs service pension, war widows and widowers income support supplement, or the invalidity income support supplement.

VETERINARY RESEARCH FACILITIES CLOSURE

The Hon. R. D. DYER: On 21 May the Hon. Jennifer Gardiner asked a question without notice about veterinary research facilities. The Minister for Agriculture has supplied the following answer:

I am not aware of concern expressed by veterinarians. In fact, this case of pig paramyxovirus infection was a new disease syndrome discovered and diagnosed by staff at the department's Menangle regional veterinary laboratory and the specialist virology laboratory. The actions by these laboratories to isolate and identify the virus then set in place a quarantine program that prevented the spread of the disease to the industry. This was a good example of the ability of the department to respond to emergency disease situations. These actions were supported by State and national animal industry bodies and staff were commended by organisations such as the Australian Veterinary Association. The Standing Committee on State Development did not criticise the structural changes of regional veterinary laboratories.

Recent experience with the animal health diagnostic services has shown that since changes to the State's regional veterinary laboratories more samples are being tested and the results are being provided quicker. The department is now more capable of detecting disease outbreaks through increased expertise and more efficient use of resources. The disease surveillance service provided by the combined network of New South Wales Agriculture and the Rural Lands Protection Board is the best in Australia. The Government will not reverse its decision because the changes to the regional veterinary laboratory network have resulted in a much better service to the rural clients.

TIBOOBURRA STATE EMERGENCY SERVICE PERSONNEL VEHICLE

The Hon. J. W. SHAW: On 4 June the Hon. M. R. Kersten asked me a question without notice regarding State Emergency Service personnel vehicles. The Minister for Energy, Minister for Tourism, Minister for Corrective Services, Minister for Emergency Services, and Minister Assisting the Minister on the Arts has provided the following response:

The State Emergency Service is not aware of the statistics to which the honourable member refers. In answer to the remainder of the honourable member's question, I am advised that Tibooburra SES has written to a number of private organisations in a bid to raise funds for an additional vehicle but has not approached State Emergency Service headquarters for assistance to date. Should Tibooburra SES submit a request, consideration would be given for funding in the 1999-2000 financial year. Vehicle subsidies for the 1998-99 financial year are now fully committed.

FIREARMS REGISTRY HOTLINE

The Hon. J. W. SHAW: On 20 May the Hon. M. R. Kersten asked a question without notice concerning the firearms information hotline. The Minister for Police has provided the following response:

I am advised by the executive director, management services that initial difficulties with the 1800 firearms information hotline have been resolved and the Director of the Firearms Registry has extended his apologies to persons who experienced delays in contacting hotline operators. The hotline is staffed by 20 operators from 8.00 a.m. to 5.00 p.m., Monday to Friday. All calls to the hotline are now being processed through a telephone call-centre facility. This has increased the capacity to answer the large number of calls made to the hotline.

MOTOR VEHICLE CRIME STATISTICS

The Hon. J. W. SHAW: On 20 May the Hon. M. J. Gallacher asked a question without notice concerning crime rates in the Lake Macquarie area. The Minister for Police has provided the following response:

This Government's commitment to ensuring police have sufficient powers to move on troublemakers and to deter vandalism and antisocial behaviour cannot be questioned. The Government has recently introduced the Crimes Legislation Amendment (Police and Public Safety) Act 1998, which amends the Summary Offences Act 1988 to give police the power to give directions to troublemakers in public places, including directions to move on. A person who refuses to comply with such a direction is guilty of an offence. This landmark legislation, which also introduces tough new knife laws, addresses the concerns of the Lake Macquarie community and will enable police to better protect all communities in New South Wales.

CHILD PROTECTION COMPETENCIES

The Hon. J. W. SHAW: On 3 June the Hon. A. G. Corbett asked a question without notice about child protection. The Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs has provided the following response:

Consultations with the teacher educators have established that initial teacher education course review and revision will need to be undertaken before the programs can be delivered to student teachers. It is expected that this work will be completed so that all new teachers from the year 2002 will graduate from New South Wales universities with these competencies.

SPECIAL DISABILITIES TEACHING STAFF CUTS

The Hon. J. W. SHAW: On 3 June the Hon. Helen Sham-Ho asked a question without notice about teaching staff cuts. The Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs has provided the following response:

There has been no reduction in special education staffing nor has there been a change in the way special classes in regular schools are staffed. All public schools in New South Wales are staffed according to formulae which link the number of staff to the number of students. Staffing formulae for students with disabilities are based upon students' support needs. The application of the teacher and teacher aide (special) staffing formulae to schools for specific purposes is not a staffing cut. The Government is committed to maintaining and strengthening the full range of special education services. There has been unprecedented growth in special education funding with an increase from $260 million in 1994-95 to $399 million in 1998-99. The provision of quality educational programs for students with disabilities in New South Wales government schools is a high priority. The contribution of teachers and school and administrative support staff in all schools is highly valued.

SCHOOL STUDENT WORKERS COMPENSATION

The Hon. J. W. SHAW: On 28 May the Hon. I. Cohen asked a question without notice about workers compensation. The Minister for Education and Training, and Minister Assisting the Premier on Youth Affairs has provided the following response:

Generally, students travelling to and from school are not under the supervision and control of the Department of Education and Training. Their safety is the responsibility of their parents or carers and, where transport is available and is used, the responsibility of the transport provider. Accordingly, the department is neither responsible nor liable in respect of a student injured in the circumstances indicated in the question.

GUNNEDAH PESTICIDE USE

The Hon. J. W. SHAW: On 20 May the Hon. I. Cohen asked a question about pesticide use in Gunnedah. The Minister for the Environment has provided the following response:

Following a preliminary survey in early 1996, New South Wales Health and the Environment Protection Authority—EPA—undertook an in-depth survey of pesticide traces in rain tanks in the cotton-growing region of New South Wales during the 1996-97 cotton-spraying season. A summary document detailing the main findings of the draft report was released in February to give the community early access to them. However, as the report is being prepared as a scientific publication, scientific peer review and potential editing will be necessary before it can be finally published. I am informed that these processes are under way.

The Environment Protection Authority has advised me that during the Gunnedah mediation process, the community established a process to deal with alleged non-compliance with the mediated outcomes. In the first instance, a person with a complaint is to discuss the issue with his or her neighbour. If no resolution can be obtained through such discussions, the matters are to be referred to the new complaints subcommittee of the Gunnedah chemical liaison committee, which has an independent Chair and equal industry and environmental representation. Of course, the Environment Protection Authority would investigate any allegation of a breach of the Pesticides Act or the Protection of the Environment (Operations) Act.

LAKE WOLLUMBOOLA DEVELOPMENT

The Hon. J. W. SHAW: On 19 May the Hon. R. S. L. Jones asked a question about the Lake Wollumboola development. The Minister for the Environment has provided the following response:

The proposal to consider acquisition of lands adjacent to Lake Wollumboola for possible inclusion in the Jervis Bay National Park is conditional upon the lands being assessed as meeting the Government's nature conservation criteria within the regional context; a willingness of the land-holder to sell; and resource allocation. A survey and assessment undertaken by the National Parks and Wildlife Service—NPWS—concluded that while the area has conservation values, the vegetation communities of regional significance which provide habitat for threatened fauna species are adequately represented in the existing and proposed Jervis Bay National Park.

Should the development proceed, most conservation values can be adequately protected by applying the regulatory mechanisms of the Threatened Species Conservation Act, local government environmental protection zoning, or appropriate development conditions. To protect the little terns on the Wollumboola sandspit, the NPWS annually monitors their breeding sites, erects electric fences, and conducts fox-baiting programs. The impact of the proposed urban subdivision at Culburra adjacent to Lake Wollumboola is subject to the commission of inquiry which is currently adjourned. The Government is awaiting the findings of the commission of inquiry to determine the potential impacts of the proposed development.

SUPREME COURT EQUITY DIVISION DELAYS

The Hon. J. W. SHAW: On 3 June the Hon. J. M. Samios asked a question about delays in the Equity Division of the Supreme Court. I provide the following further response:

Further to the response I have already given to the honourable member's question I have now received advice from the Supreme Court of New South Wales in relation to delays in the Equity Division of the court. The delays referred to in the question are those reported in the Supreme Court's annual review. I would like to thank the honourable member for pointing out the Government's success in reducing delays in the Equity Division since coming to office. Members may not be aware that during the final two full years of the previous Government, in 1993 and 1994, delays in the division were 30 and 24 months respectively.

I am advised by the Supreme Court that the delay for matters that have completed their waiting time in the general list is

between 10 and 19 months. This is based on statistical reports showing that most matters spend six to 12 months waiting in the general list before notification of being placed into the quarterly call-over. The call-over is held approximately two months after notification is given. At the call-over, hearing dates are allocated within a range of two to five months after the call-over. However, the picture in relation to matters that are currently waiting in the general list shows that the situation is improving. The delay from entry into the list to hearing is now estimated to be nine to 10 months. This is calculated on the circumstances for the current general list matter which has been waiting longest in the list. That matter entered the list on 2 February 1998. It will be included in the September 1998 call-over, when hearing dates in November and December 1998 will be offered.

If the matter is ready to proceed but the court is not able to offer a hearing date, for example where no suitable hearing time remains in November or December, the matter will be listed with priority in the next call-over, to be held in November 1998. From that call-over a hearing in February, March or April 1999 will be offered. Thus the maximum foreseeable delay would be 15 months. On a more general level, listing in the Supreme Court is affected by several factors, including judicial resources, provision of correct hearing estimates by parties to proceedings, and readiness of matters to proceed. If delay is an issue for parties, there are several options that may be suitable for consideration. Applications for urgent relief may be made to the Equity duty judge and dealt with immediately.

As I stated in the House on 3 June, applications for an expedited hearing may be made to the court for any matter. If the court makes an order to place the matter in the expedition list then a hearing is usually available within two to three months of readiness to proceed. In circumstances where an urgent hearing is ordered, the case will be listed for hearing as soon as practicable. Where a case is ready to proceed to hearing and is estimated to be heard within a day, and the parties are willing to accept oral notice within at least three days of the hearing date, then such a case may be placed in the short notice list with the consent of the parties. Delay in the short notice list is three months or less.

Questions without notice concluded.

MINISTER FOR PUBLIC WORKS AND SERVICES LISMORE VISIT

Personal Explanation

The Hon. Dr B. P. V. PEZZUTTI, by leave: As I entered the Chamber this afternoon for question time I heard the Minister for Public Works and Services complain that I was not in Lismore for his current visit. The Minister was well aware, as he had been told previously, that I was on parliamentary business with a standing committee in another part of rural New South Wales. Therefore, I could not be there. I absolutely reject the implication by the Minister. I am always interested in what is happening on the north coast of New South Wales. I would encourage the Minister to visit more often, and take notice when he is there.

BUSINESS OF THE HOUSE

Postponement of Business

Committee reports orders of the day Nos 1 and 2 postponed on motion by the Hon. B. H. Vaughan.

Committee report order of the day No. 3 postponed on motion by the Hon. A. B. Kelly.

LEGAL PROFESSION AMENDMENT (COSTS ASSESSMENT) BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [5.05 p.m.]: Earlier I was commenting on conditional agreements in matters where liability is not an issue. The Parliament adopted conditional costs agreements—or the no win, no fee arrangements—to encourage people in the community who cannot afford legal costs, particularly as legal aid does not apply, to access legal assistance when their matters are at risk. All members of the House would be interested in trying to encourage people to access their legal entitlements. I attended a conference at which it was suggested that conditional costs resulted in increased costs in motor accident claims. The abolition of conditional costs agreements for motor accident claims was clearly advocated. Some people are litigating as a result of conditional agreements, but if a person is legally entitled to compensation from the motor accidents scheme that person should get it.

If legal costs are an impediment to a lawful entitlement, we should encourage a change to the law to enable people to gain that lawful entitlement. Some insurance companies would like conditional costs agreements to be abandoned because they believe such agreements encourage litigation. I totally oppose any suggestion that conditional costs agreements should not be available in motor accidents claims. They enable solicitors to take risk claims on the basis that if they do not win they do not collect legal fees, but if they win they are able to increase their fees. Reasonable compensation should be afforded to legal firms prepared to take that risk.

If solicitors enter into agreements where liability is not an issue, there is no risk. The party will get compensation and there can be no justification for a fee increase. To enter into a conditional agreement when liability is not at issue

is a fraudulent representation as to risk and the solicitor is basically defrauding his client. I note that no win, no fee agreements have been entered into when liability is admitted, but there has still been an increase in fees. In those circumstances that is clear fraud. A fee uplift is being extracted when all elements of risk have been eliminated. I welcome this issue being dealt with by way of regulation. It is incumbent on the Law Society to indicate that it is prepared to pursue fraud allegations against solicitors who extract moneys from their clients in those circumstances.

The Hon. B. H. Vaughan: Are you going to talk about section 196, or have you already done so?

The Hon. J. P. HANNAFORD: I am concerned about the move to regulate costs. However I believe there may be aspects where some costs could be regulated. This area of fraud could be addressed by regulation. If a person enters into a fee agreement the regulations should not override that agreement. If a client enters into a conditional fee agreement the regulations should not override that agreement. I will be moving amendments in Committee to clarify that matter. The Hon. A. G. Corbett circulated an amendment which states that, where a person enters into such an agreement, the client should be notified before the agreement is entered into that a regulation exists.

The Opposition will support that amendment. I will move an amendment which deals with the role of the Standing Committee on Law and Justice in relation to fees in this area. The traditional procedure is that the Government gazettes a regulation, the Parliament disallows it, or the Regulation Review Committee, which oversights regulations, recommends its disallowance. Until that happens—it could take several months before that occurs because of the sittings of the House—a regulation is in place controlling fees.

The law and justice committee has developed significant expertise in relation to the Motor Accidents Act as a result of all the inquiries it has undertaken. Before the Government makes a regulation in this area the law and justice committee of this House should review that regulation—a particularly important oversighting of this area. A committee that has developed expertise can quickly make a decision. If it is a simple amendment, that amendment can be approved by the committee. If it is a complicated amendment on which there should be community consultation, the committee can oversight that matter. People could say that this is a new approach to the oversighting of regulations. I acknowledge that it is a new approach, but it is not an unreasonable one. That is something with which the law and justice committee could deal easily. The Bar Association and the Law Society are supportive of the changes I am advocating. This oversighting by the law and justice committee could be seen as a fetter on an Attorney General.

I know that pressures can be brought to bear on Attorneys General and I believe that this type of fetter is not appropriate. If we seek to regulate legal fees after we have deregulated them we will be returning to the bad old days. Initially there was a lot of opposition to the reforms I introduced to the Legal Profession Act to encourage competition between legal practitioners. Legal costs have significantly reduced as a result of that competition. When we move to reregulate, that competition will disappear. If the law and justice committee reviews these regulations before they are made it will act as an impediment to an Attorney General—an impediment about which I would not have been worried.

There will be an oversighting of what the Attorney General and the bureaucracy do. That is the role of the Parliament. It is certainly the role of a parliamentary committee to oversight the activities of a bureaucracy and a Minister. We should not run away from that approach—we should welcome it. Some might say that this is a whole new move for the Parliament: that parliamentary committees should look at regulations before they are made. So be it. I have noticed that the Federal Government in Canberra is circulating regulations before they are being made so that parliamentary bodies can comment on them. I welcome that approach. It is something that this Parliament could emulate.

Reverend the Hon. F. J. NILE [5.15 p.m.]: The Christian Democratic Party supports the Legal Profession Amendment (Costs Assessment) Bill. The principal purpose of this bill is to amend part 11 of the Legal Profession Act to rationalise the financial administration of the cost assessment scheme; to introduce a requirement that cost assessors give limited reasons for decisions; and to provide a mechanism for a review of cost assessment determinations. A number of complaints have been made about legal costs in connection with motor vehicle accidents. The Standing Committee on Law and Justice, which spent a great deal of time investigating this matter, heard evidence to the effect that too much of the money from this area is going into legal fees. This matter must be rectified.

The Hon. B. H. Vaughan: The insurers are getting a lot for it, are they not?

Reverend the Hon. F. J. NILE: The Hon. B. H. Vaughan, as Chairman of the Standing Committee on Law and Justice, would know that that committee heard evidence from members of the legal profession.

The Hon. B. H. Vaughan: This legislation is insurer driven.

Reverend the Hon. F. J. NILE: Legal costs are too high. There must be limited reasons given for decisions and a review of cost assessment determinations. Ideally, the best way to approach this matter would be to have a no-fault system and thereby avoid all the legal argument about whether there was fault in the first place. That is another important area that still has to be examined and reported on by the law and justice committee. The Christian Democratic Party has received a great deal of correspondence on this issue. Whenever the Government attempts to regulate the costs of the legal profession it attracts attention.

I wish to table a letter that the Christian Democratic Party received from the New South Wales Bar Association, dated 1 June, which makes reference to that association's concerns; a letter dated 10 June; and a copy of a letter sent to the Leader of the Opposition. The Bar Association states that it supports the amendments the Leader of the Opposition proposes to move in Committee. Even the word "conditional" appears to have upset the Bar Association. It wants that word removed from the Opposition's amendments. In a letter dated 24 June the Bar Association states:

> If covered by a cost agreement, fees in a motor vehicle accident matter should be recoverable, as long as they are covered by a cost agreement, whether conditional or not.

I do not have a problem with the word "conditional" remaining in the Opposition's amendments, but I think the Bar Association has convinced the Opposition that it should remove it. Further correspondence from the Law Society dated 21 May states that it supports the provisions contained in the bill that relate to costs assessment, although schedule 1, clause 3 is causing concern. The letter, which I will table, states:

> That provision seeks to amend Section 196 of the Legal Profession Act 1987 in a way that would allow for Regulations to be made to fix "fair and reasonable costs for legal services in any Motor Vehicle Accident matter".

That wording seems reasonable, but the Law Society is concerned and has proposed some amendments. I will also table the Law Society's letters dated 17 and 22 June regarding the amendment to be moved by the Hon. A. G. Corbett. In the letter of 22 June the Law Society states:

> The Society supports the proposed amendment to the bill.

The Hon. A. G. Corbett proposes to move two amendments to schedule 1, section 175A and section 196, on page 3. I will follow the debate on those amendments as to whether the Government considers they are in the best interests of the consumers. It is the view of the Christian Democratic Party that consumers should be given first consideration and the legal profession second. I seek leave to table those documents.

Leave granted.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.21 p.m.], in reply: I thank honourable members for their contributions and their support for the bill. Certain amendments are proposed to be moved in the Committee stage, in particular in relation to section 196. I wish to make further observations about what is being proposed by the Government, because it has suited some interests to misconstrue the Government's intentions. The amendment to section 196 of the Legal Profession Act will simply provide the power to make a regulation to regulate legal costs in motor accident matters.

The Attorney General proposes to put that power in the Act so that he can respond quickly should it be necessary at some time in the future to regulate legal costs in motor accident matters. The Attorney has stated clearly that at this stage he does not have an intention to make a regulation. Suggestions of plans to make a regulation or that the Attorney or his department has already formed a view on the content of a regulation are wrong and mischievous. The Attorney General has indicated that he will not even consider the matter until he has received and had an opportunity to consider the report of the Justice Research Centre. This power is being put into the Act so that a regulation can be made should it prove necessary.

The background is that the Standing Committee on Law and Justice identified as part of its deliberations the need to consider the impact of the deregulation of legal costs in the motor accidents scheme. The law and justice committee is yet to finalise that aspect of its report because, quite properly, the members are first awaiting some information as to the impact of legal costs. That information will be provided in the report of the Justice Research Centre which is inquiring into the issues concerning legal costs in motor accident

matters. It was considered appropriate to seek to include a regulation-making power because the Government, and, I am sure, the law and justice committee, has received extremely strong submissions from the motor accident insurers suggesting that there has been a significant increase in legal costs since deregulation, which was impacting upon premiums. Those submissions were supported by financial impact studies.

In the circumstances it would have been remiss of the Government not to have taken any action. Nevertheless, aware that the report of the Justice Research Centre would be available soon, the Attorney took the view that the decision on whether legal costs in motor accident matters needed to be regulated could await that report. Should the report of the Justice Research Centre support the submissions about the impact of legal costs, then by having a regulation-making power in place the Government will be in a position to respond quickly. However, if the report does not substantiate significant increases in legal costs, then there is no intention of making a regulation.

Motion agreed to.

Bill read a second time.

MINES INSPECTION AMENDMENT BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [5.26 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.

The Mines Inspection Act 1901 and the General Rule made under it provide the ground rules for the safe operation of mines, other than coal and shale mines, in New South Wales. The International Labour Organisation—ILO—recently published Convention No. 176 on safety and health in mines. As part of this Government's commitment to the highest standards of safety in mines in New South Wales, the Mines Inspection Act and the General Rule were reviewed to ensure compliance with the ILO standard.

The Mines Inspection Amendment Bill amends the Mines Inspection Act 1901 to bring it into line with the ILO convention. A wide-ranging consultation took place during the drafting process. The Mines Inspection Act is also to be amended so that it reflects current standards. The Act presently covers all quarries, along with certain processing plants associated with quarries, such as ready-mix concrete and asphalt plants.

Salient features of the bill are: the definitions of "mine" and "treatment" have been widened to bring these sites under the jurisdiction of the mines inspectorate, and mines inspectors are given jurisdiction over certain events that occur outside mines if they are caused by mining operations. This will eliminate any uncertainty as to whether these matters are the responsibility of WorkCover or the mines inspectorate. For example, flying rock propelled out of a mining area by blasting will become part of the inspectorate's jurisdiction. Previously, it was unclear whether such damage was a matter for WorkCover, the mines inspectorate or some other authority. WorkCover supports the new definitions.

Currently an increasing number of people are involved in the management of mines, who do not come from a traditional engineering background. A manager of a mine either has to have formal qualifications acceptable to a board of examiners, or must hold a permit to manage an operation employing no more than 20 people. The Act does not presently allow for people who may wish to manage mines but do not fit the current criteria. Thus an artificial barrier has been created.

It is therefore proposed to create a class of mine manager, called general managers, who will have the responsibility for daily supervision, control and management at their mines. General managers need not have mining qualifications. However, if they do not and the mine employs more than 20 people, they must appoint a person with those qualifications to supervise production in their mines. A mine owner wishing to appoint a general manager who does not have mining qualifications must first obtain approval from the Chief Inspector of Mines. Failure to obtain that approval will be an offence, punishable by a fine of $2,200, plus $55 per day whilst the offence continues.

It should be noted in relation to opal mines in which no person other than the owner of the mine is employed that an exemption previously granted in 1986 will continue to operate in relation to section 5 of the amending bill. Some operations, because of their size or the nature of the material being mined, may not need the services of a fully-qualified production manager. In such cases, the chief inspector will have the power to grant a permit if the proposed standards in section 5C are met.

Those managers who hold formal qualifications, called certificates of competency, will need to keep abreast of technological and other changes in their profession. For this reason, it is proposed to insert a new division 2A into the Act, putting an obligation on certificated managers to maintain standards throughout their mining careers. Further provisions will oblige certificate holders to keep records of the work done to maintain their standards. The chief inspector will be given power to examine those records and issue directions to correct any shortfalls.

A new section 18C will cover situations where certificate holders return to jobs in mine production after periods of employment outside. Before resuming as a production manager, the certificate holder must get written permission from the chief inspector of mines. The chief inspector has the power to seek evidence of ongoing training before giving consent, and will have power to direct remedial training, if required. Failure to comply with this section is an offence.

There will be rules setting out the subjects in which certificate holders must maintain their skills and competencies. The chief inspector will also issue guidelines from time to time. The chief inspector will be given power to grant exemptions to the proposed obligations, but only in exceptional circumstances.

The intent of the new part 2, division 2A has been widely discussed with industry, and has been welcomed by mine managers. I am pleased to advise the House that many of the mine managers are already adopting this practice.

The use of explosives in mining is an area where safe operation is crucial. A new division 2B in part 2 of the Act will make it an offence for a person to undertake blasting operations at a mine unless that person holds a shotfirer's certificate of competency granted by the Minister or a shotfirer's permit issued by inspectors of mines. A certificate of competency will only be granted to an applicant who has satisfactorily passed an examination set by the proposed shotfirer's board of examiners. Smaller operations will be served by allowing inspectors to grant permits to suitably-experienced people, under proposed section 18J. Shotfirers' permits will be site-specific and subject to conditions that the inspector thinks appropriate.

Shotfirers will also be subject to the same disciplinary procedures as managers and engine drivers. In this respect a consequential amendment is proposed to section 19, providing for inquiries into the conduct of those persons. Accurate information and statistics on accidents and dangerous occurrences at mines are a necessary part of monitoring the effectiveness of a safe mining policy. This was recognised in Article 5.2(d) of the ILO convention. An amendment to section 40 of the Act requires mines inspectors to give the chief inspector a report of the accidents and occurrences that they investigate. Such information will be published each year in the annual report of the Department of Mineral Resources. The report will also include statistics relating to the incidence of lung diseases contracted in non-coal mines.

Complete and accurate plans of mine workings contribute to the safety of people employed in mines. In certain cases, section 41(1) of the Act currently requires a plan of the workings to be prepared once a mine has begun operations and then updated periodically. Article 5.5 of the ILO convention requires appropriate plans to be prepared before the start of operations, and to be revised to show any significant modifications to the workings that occur once operations have commenced. Section 41(1) of the Act is being amended to adopt the wording of the ILO convention.

The Carr Government is committed to careful risk management. Government inspectors have been very active in recent years, promoting risk management and assessment techniques. The need to manage risk is also highlighted in article 6 of the ILO convention. In this regard, a new division 3 is to be inserted in part 4 of the Act. The new division will oblige general managers of all non-coal mines to identify and assess any risks associated with the safety and health of persons employed at their mines.

Wherever practicable, the risk should be eliminated. If that is not possible, the general manager must minimise the risk to the fullest extent practicable by measures that include the design of safe work systems. Failure to abide by the new provision will be an offence. The provision as drafted allows a reasonable lead time—up to two years—so that operators who currently do not have a risk management system in place will be able to introduce one. The provisions for notification to inspectors of accidents and diseases have also been redrafted to clarify the types of accidents for which notice must be given, and the period in which notice must be given.

The revised sections require certain lung diseases to be notified, as well as serious accidents and dangerous incidents. A serious accident is one that causes death or serious injury. Serious injury is defined in amendments to section 4. Dangerous incidents are defined in section 4 as incidents that have the potential to cause serious injury. A new section 48 will restate existing provisions of the Act that require serious accidents and dangerous incidents to be investigated. This complies with article 10(d) of the ILO convention.

Various other amendments will repeal outdated provisions, some of which have been superseded by the Occupational Health and Safety Act 1983. The bill also contains a number of amendments to the Mines Inspection General Rule 1994. These amendments incorporate requirements of the ILO convention. Clause 7 will be amended to require the general manager of a mine to provide an effective communications system so that immediate communication is available with persons who are employed at the mine. This satisfies the requirements of Article 7(a) of the convention.

Another amendment to clause 7 will require the general manager to provide two separate exits from each underground working place, wherever it is practicable. A second means of exiting allows underground workers to escape if one exit is obstructed. The same principle is long established in coal mines, and is a requirement of Article 7(d) of the ILO convention. Another requirement, familiar to coalminers, is for the general manager to introduce a system allowing them, and the production manager if there is one, to be aware of the names of workers who are underground at any time, as well as their likely location. An amendment to clause 7, incorporating requirements of Article 10(c) of the convention, will introduce this practice to non-coal mines.

A new part 7A will incorporate article 5.4(d) of the convention in respect of the safe storage, transportation and disposal of waste produced at the mine. The definition of "emergency" in clause 55 of the General Rule will be amended to include "foreseeable industrial or natural disasters", as required by the convention. Article 8 of the convention requires general managers of mines to prepare emergency response plans. An amendment to clause 56 will give effect to this requirement, while at the same time co-ordinating the mine's own emergency plans with those of the emergency services in its locality. Thus, if there is an accident or dangerous event at a mine, provisions will be in place to deal with the emergency efficiently, and safely.

Finally, schedule 3 to the bill makes a small consequential amendment to the Defamation Act 1974 with respect to reports of investigations of serious accidents or dangerous incidents. Section 48 of the Act requires the Minister to direct an inspector to provide a report, which the Minister may make public. The proposed amendment will make such a report subject to absolute privilege when published. This will have the desirable effect of allowing inspectors to give frank and open opinions of the causes of serious accidents or dangerous incidents without fear of reprisals in the form of defamation actions. I commend the bill to the House.

The Hon. J. H. JOBLING [5.26 p.m.]: The Opposition does not oppose this legislation, which clearly will provide improved safety regulations by stipulating the positions and functions of general managers and production managers of mines in New South Wales. It should be noted at this stage that coal, shale or opal mines are not included. The bill will cover all quarries and associated processing plants, such as asphalt plants and ready-mix concrete batching plants. The legislation will bring the ground

rules for safe operation of mines into line with International Labour Organisation Convention No. 176 on safety and health in mines. I am pleased to note that the Government accepted and passed amendments to this bill in the Legislative Assembly, which allayed most of the concerns of the mining industry and the Opposition relating to safety or health risks being identified, assessed and eliminated by the general managers of mines.

I had proposed to move a further amendment on behalf of the Opposition to clarify section 46. However, the bill clearly details the requirements of personnel operating a mine. If a general manager of a mine does not possess mining qualifications and the mine employs more than 20 people, the general manager must appoint a person with mining qualifications to supervise production, which is fair and reasonable. Those production managers must undertake ongoing education in their profession, and the Chief Inspector of Mines has the power to seek evidence of that. I am sure that everyone employed in mining, concrete batching and quarrying would be supportive of ongoing education in the mining profession, particularly in blasting operations.

Blasting operations will be governed by a new division 2B in part 2, making it an offence to undertake blasting operations unless a person holds a shotfirer's certificate of competency granted by the Minister or a shotfirer's permit granted by the Inspector of Mines. Shotfirers' permits will be site specific and subject to conditions that the inspector believes are appropriate. The role of the shotfirer is particularly critical when one considers the explosives that are handled and the possible outcomes.

Various other amendments repeal provisions now superseded by the Occupational Health and Safety Act. The bill will require the general manager of a mine to provide two separate exits from each underground working place wherever practicable. I am sure that people employed in underground mines will appreciate this. The second exit will allow underground workers to escape from an accident or a dangerous situation when one exit is obstructed. Such occurrences have been all too frequent in the past but do not happen as often now.

The bill will introduce a system whereby the names of underground workers and their likely location are with the production manager and available at all times. In view of the depth of some mines and the length of some of the tunnels and drives, it is important to know at all times where people are underground when the mine is in operation. This provision replicates the system used in coalmines and would be familiar to all coalmine workers. General managers of mines must establish emergency response plans in co-ordination with local emergency services. Again, this is highly desirable, especially should an accident or emergency occur. The plans will be in place for the safe and efficient evacuation of personnel and the management of an emergency.

The bill introduces a system of risk management to our State's mines. General managers of all non-coalmines must identify and assess any risks associated with the safety and health of persons employed at their mines and must put into place measures to eliminate or minimise risks to the fullest extent possible. The Opposition had intended to move an amendment to ensure that the meaning of "foreseeable risk" to the safety and health of workers is clearly defined. From discussions with Government advisers I note that the Government proposes a further amendment which will resolve the problem to the satisfaction of the Opposition.

It would not be desirable for the bill to hold mine operators liable for not foreseeing an accident caused by something perhaps as small as a crack in a concrete path. The Government and the Opposition obviously want to ensure that major defects in mining operations are not overlooked and that problems are prevented as often as possible. The Opposition took advice from the New South Wales Minerals Council in formulating its proposed amendment to clarify that any reasonably foreseeable and significant—I emphasise "significant"—safety or health risk is a risk that has the potential to cause serious harm to persons carrying out mining operations.

During the second reading debate in the other place the Minister stated that the Government was concerned about "those significant risks that have the potential to cause serious harm to people". The Opposition believes that the bill as it stands, without the amendment, would leave interpretation of this issue too wide. The Government's proposed amendment will address the issue and the amended bill will be consistent with Article 6 of the International Labour Organisation Convention. The Opposition does not oppose the bill.

The Hon. M. J. GALLACHER [5.33 p.m.]: It would be remiss of me not to raise a matter of concern to members on the central coast and the lower Hunter, an area which I actively represent. The Mines Inspection Amendment Bill deals with the responsibilities of mine managers and inspectors. In managing mines, as well as being mindful of underground activity, they should consider the security of people above the ground.

There is growing concern about the exploration currently taking place on the central coast. I recognise that the bill relates to mines other than coalmines. The exploration is primarily for coal but other minerals may be discovered. I am a resident of the affected area. The Mine Subsidence Board and people representing mines have stated that subsidence of up to 2.5 metres could be experienced in the area, and a building covenant has been imposed.

I wish to build a new home and meeting the mine subsidence covenant could mean that I will be forced to pay up to $25,000 extra for the foundations, on a home of 25 squares. Such costs have to be borne by the residents, not by those involved in mining coal or any other mineral. Mine managers have a responsibility to keep an eye on workers but everyone involved in the industry should consider the people on the ground above. I will raise this issue with some passion in the last half of this year. People have to fork out up to $25,000—

The Hon. B. H. Vaughan: Is there a mine under your block?

The Hon. M. J. GALLACHER: Not at this stage. Mining is proposed under my block and under a huge area of Wyong shire. It is a beautiful area and part of a water catchment. Young home buyers are moving into the area to get away from the urban sprawl on the coast. Now they are being told that they will have to pay up to $25,000 extra just for house footings in addition to the cost of the home. That is not in the best interests of the people of New South Wales.

The Hon. B. H. Vaughan: Forced on you by the insurance industry, I suppose.

The Hon. M. J. GALLACHER: No, it has been forced on us because the Mine Subsidence Board wishes the flooring in all homes in this area to be bearers and joists flooring, not concrete slab. The major building companies in the area design their homes and prices on the basis of a waffle pod slab.

The Hon. B. H. Vaughan: They are afraid of being sued.

The Hon. M. J. GALLACHER: Exactly. The problem is that the poor, unsuspecting home builder has to come up with the $25,000 extra. That is not fair. I suspect that most honourable members would agree. After spending all the money one can afford on a block of land one is told to expect up to 2.5 metres of fall on the land. Allowing the present situation to continue is not in the best interests of the people in Wyong shire.

The Hon. R. D. DYER (Minister for Public Works and Services) [5.38 p.m.], in reply: I thank the Hon. J. H. Jobling and the Hon. M. J. Gallacher for their contributions to the debate on the bill and I commend the bill to the House.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. R. D. DYER (Minister for Public Works and Services) [5.40 p.m.]: I move:

> Page 28, schedule 1[62], proposed section 46(a), line 29. Insert "and that has the potential to cause significant harm to persons carrying out those operations" after "mine".

The Government, which is keen to seek clarification of concerns surrounding risk assessment, regards any injury as significant, particularly when mine safety overall is considered. Employers must be vigilant about mine safety. The Government is also keen that risk assessment be taken into account in situations where persons are not performing a particular task but are working in the vicinity of other workers, for example, where a person is working on the ground while a load is being hoisted overhead. It is appropriate that such situations be also taken into consideration when any risk that might be present is being assessed. International Labour Organisation Convention No. 176 on safety in mines requires risk assessment. Accordingly, the Government supports ratification of this convention, and the amendment clarifies this issue.

The Hon. J. H. JOBLING [5.42 p.m.]: I thank the government advisers for their co-operation in discussing this amendment. The Opposition had proposed to move an amendment because of its concerns. However, following discussions with the Government the Opposition is of the view that the amendment meets all requirements and solves our concerns. The Opposition was concerned that revised section 46, which provided that a general manager of a mine must ensure as soon as is reasonably practicable that any reasonably foreseeable safety or health risk arising from the carrying out of operations at a mine is identified and assessed, would be added to the Mines Inspection Act.

The mining industry also was alarmed that that change would result in problems that had been

clearly identified. The amendment's reference to a reasonably foreseeable safety or health risk clearly overcomes the reference to "any risk". With the words now included, any question of interpretation under section 34 of the Interpretation Act, which allows the Minister's speech to be considered, has been resolved. I thank the government advisers for that. The Opposition had proposed to move a similar amendment to provide that any reasonably foreseeable significant safety or health risk arising from the carrying out of operations at the mine be identified and assessed, being a risk that has the potential to cause serious harm to persons carrying out mining operations. The Government's amendment addresses that issue and the Opposition supports the amendment.

Amendment agreed to.

Schedule as amended agreed to.

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

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 1998-99

Debate resumed from 18 June.

The Hon. J. KALDIS [5.50 p.m.]: It is customary that the Opposition will attack the budget, whatever it contains. The Opposition would not be worth its salt if it came here praising the budget. From that aspect the Opposition leader should be congratulated because he did a good job; he searched thoroughly to find weaknesses in the budget. It is customary also that the Government and the Opposition go to the press the next day to see how the budget has been received. I start with the *Sydney Morning Herald*, which came with the banner headline:

> Asian crisis hits home but health, police and education get a boost in the budget. The fourth Carr Government budget pitched for Labor's heartland, offering breaks to first home buyers and families.

Although the Treasurer, Mr Egan, hinted at more announcements before the State elections in March, he said:

> There is no doubt the Asian crisis will affect Australia's growth and the New South Wales growth. It will decrease growth in New South Wales by $2 billion by next financial year, but domestic growth will continue strongly.

The Government is aiming to turn the more than $400 million deficit into a $45 million surplus, with bigger surpluses in the years ahead. At the same time, it has increased the budget for education and training to $6 billion, an increase of $809 million. In that context I recall Stephen O'Doherty, shadow minister for education and member for Ku-ring-gai, saying in the lead-up to this year's State budget:

> So we think the Government is going to keep its promises! I'll believe it when I see it.

The figure allocated to education and training is a record. There is more per student in real terms than ever in the 150-year history of public education and training in New South Wales. The honourable member for Ku-ring-gai continued, asking:

> What are they cutting out of school budgets?

Nothing. School budgets have been increased. Direct funding for their global allocation in 1998-99 is $233.3 million, an increase of more than $9 million, or 3.4 per cent, compared with last year. The Carr Government is providing $11 million more to schools for these purposes than did the previous coalition Government. Under the coalition, in 1994-95 the average global budget was $59,891 for a public school and $239,259 for a secondary school. Under the Carr Government those global budgets have risen to $66,236 for public schools and $245,388 for secondary schools. In the electorate of Ku-ring-gai, schools are receiving $181,384 more in 1998-99 than they did in 1994-95.

Many were surprised at the generous allocation to health. Because of the Federal Government's refusal to come to an agreement and provide to the States the necessary funds, the States are suffering. But the New South Wales Government provided the necessary funds. There is $303 million extra for health and $93 million extra for the police. Education, health and law and order are the primary duty of a State government, and all these spheres are looked after well in the budget. "Health, police and education get a boost in budget" said the headline on the first page of the *Sydney Morning Herald* of Wednesday, 3 June.

In the next column of that newspaper was another important item headed "Foreign debt up, dollar down and worse still to come as Asia's economy crumbles". In those circumstances it is hard for any government to bring down a budget, but the New South Wales Government, notwithstanding all the criticism from the Leader of the Opposition, should be congratulated. Let me now mention some specifics. The government investment in the Riverina is more than $114 million. The money will be spent in the Riverina this year building new schools, hospitals and roads. The New

South Wales Treasurer, and Minister for State Development said, announcing the budget:

> The New South Wales Government is putting families first by providing $600 million in subsidies to rural and regional New South Wales.

As the Hon. I. M. Macdonald said in a press release:

> The increased government investments in the Riverina will support more than 2,200 jobs, putting money in the pockets of local families. We are securing basic services like health, child care, schools, roads and disability services for the people in the Riverina. This year's budget gets behind families in the Riverina, supporting jobs and investment by generating opportunities for local business.

Expenditure on projects within the electorate of Wagga Wagga during 1998-99 is expected to reach $18 million. In the Hawkesbury electorate, expenditure on projects is expected to surpass $15 million. The list of projects is compiled from information provided to Treasury by individual agencies. That is planned project expenditure on major and minor works at the time of presentation of the State budget and the asset acquisition program on 2 June 1998. In the south-eastern region more than $233 million will be spent this year building new schools, hospitals and roads. The increased government investment of $600 million in the south-eastern region will support more than 4,500 jobs.

Major projects in the south-eastern region are: $1.2 million on upgrading the courthouse; $1.766 million upgrading Ulladulla school; $1.9 million replacing Bodalla school; $9.6 million for national parks; and $14.326 million for State forests. In the Georges River electorate more than $5 million will be spent building new roads and transport systems. This was amongst the announcements by the Treasurer, and Minister for State Development, Mr Michael Egan. I have had many complaints about the imposition of land tax, but the bill on premium property tax assures that the land tax will apply in principal places of residents that have a land value of no less than $1 million. The number of properties subject to the tax at any time is no more than one-fifth of a per cent of the number of occupied private dwellings owned or being purchased in New South Wales.

Another area that is dear to me is ethnic affairs. I am pleased that the budget provides nearly $12 million for this purpose. Carnivale is no longer funded through the Ethnic Affairs Commission by way of a $500,000 grant. Funding for Carnivale is now provided through the Ministry of the Arts. The Ethnic Affairs Commission classifies casual interpreters and translators as staff, rather than as contract interpreters. As such, their remuneration is included in the commission's employee-related costs.

The commission continues to fund projects in western Sydney by way of grants of more than $200,000. A further $120,000 will also be provided to organisations in western Sydney under the newly established community partnership scheme, which targets priority ethnic affairs issues in the community and seeks to develop innovative ways to respond to community issues. The interpreting and translation service for the State is provided for in the commission's overall budget.

User-pays revenue for the service is expected to raise $2.2 million in the 1998-99 financial year, and the cost of providing that service is expected to account for $5.3 million of the commission's total expenses. The commission expects to provide the following language services in some 72 languages: 10,000 interpreting assignments provided on a fee-for-service basis; 12,000 interpreting assignments provided without charge in the courts to customers meeting the requirement of the EAC exemption policy; 1,538 words translated on a fee-for-service basis; and 125,000 words translated without charge to customers meeting the requirement of the EAC exemption policy.

Most importantly, the budget was extremely clever, boasting no new taxes and no tax increases. The Labor Government is most definitely doing the right thing by increasing spending in the vital sectors, such as education, health and police. The State budget will deliver the best Olympic Games, and at the same time will provide relief to people in need. The Olympics are paid for and the Government is reducing debt. As the Premier, Bob Carr, said, "If it wasn't for the one-off funding of the Olympic Games, the budget would be in surplus by more than $500 million." Mr Carr said, "Everyone in this State should take pride in the Olympic effort. This society is delivering a superb effort on the Games; it's a great advertisement for what Australians can do. It is a message that deserves to go around the world." By September 2000 the Olympics will have been paid off without increasing debt by one dollar. I commend the budget to the House.

The Hon. J. F. RYAN [6.04 p.m.]: The budget is one of the most powerful actions that this Parliament takes, but because it comes up every year many of us perhaps tend to take it for granted. This ancient capacity of the Parliament to tax and spend and to control the Executive in terms of its taxing and spending is a very powerful weapon in the determination of public policy. This House has been treated to yet another promise from the Government

that it will deliver a budget surplus. Every year the Government has delivered that promise, but it has never delivered. Like a hapless drunk continuously vowing to give up the bottle, every year the Treasurer makes the claim that this year we will have a surplus. But that "some day" never comes. In October 1995 the Treasurer told the House in his Budget Speech:

> . . . an underlying budget result is a deficit of $238 million with a projected small surplus next year and a projected surplus of $268 million in the year 1997-98.

By the next February the result of the 1995-96 budget was a deficit of $611 million. The Treasurer was only $373 million off the mark! The Carr Government constantly makes the claim that we are paying for the Olympics as we go. We are not! Every year a $400 million deficit is left behind. In reality, we are not paying for the Olympics as we go at all. The second Carr Labor Government budget was delivered on 21 May 1996. On page 20 of his Speech the Treasurer finally mentioned the budget result. He promised that "the underlying budget result for 1996-97 is a small surplus of $5 million". The following year the Treasurer had to report a $452 million deficit—a discrepancy this time of $457 million. The third Carr Labor Government budget was delivered on 6 May 1997. That time it was not until page 29 of his Speech—that is, 10 pages later—that the Treasurer mentioned the budget result. He proclaimed, "The budget result for 1997-98 is an underlying surplus of $27 million." The result was a $359 million deficit—$386 million short of his expectation.

That was a spectacular failure in view of the fact that the Treasurer announced eight new taxes in that budget, including a tax on family homes worth more than $1 million; an increase in the land tax rate from 1.65 per cent to 1.85 per cent; an increase in the duty on insurance premiums; the ill-fated poker machine tax; the bed tax; an increase in stamp duty on motor vehicles with a purchase price of $45,000 or more; the electricity distributor levy; and a doubling of the parking space levy. Not content with that, in a mini-budget a couple of months later the Treasurer increased payroll tax, took another hit at land tax, and increased the stamp duty on motor vehicle transfers by 20 per cent. Despite all that, he still managed to blow the budget by $400 million. The budget is supposed to be a secret until it is delivered, but the one thing I was certain of was that this year the Treasurer would announce that the budget would be in surplus.

The Hon. D. J. Gay: He always announces one, but he never has one.

The Hon. J. F. RYAN: That is right. The one thing I am certain of is that after the election next year when we start to hear reports on the budget, we will be told that there will be a budget deficit.

The Hon. D. J. Gay: The only good thing is that he will not deliver next year's budget.

The Hon. J. F. RYAN: That is true. I know that the average citizen in New South Wales rarely ever goes to bed worrying about the state of the Government's finances. But just because it is not a popular cause is no reason to dismiss it. While few people worry about the mechanics of government finances, we all worry about the outcome. Governments that spend more money than they collect—as the Car Government has done—affect the community adversely. They make a call on public savings and put pressure on interest rates, indirectly robbing battling householders of precious disposable income.

Those governments mortgage opportunities available to future generations by saddling the public purse with debt and heavy interest rates, thereby robbing future governments of the opportunity to provide infrastructure or social assistance. In the financial climate we have experienced during the last few years, when revenues have been growing in leaps and bounds, the Government should have been putting money away for a rainy day. There is nothing surer than that at some time in the future a government will be faced with the situation that faced the former Greiner Government.

We will have a major downturn. When we most need funds to help people in difficulties, to assist people in the bush hit by drought or to mop up after a natural disaster, there will be no funds to draw on. During the past three years the Government has squandered a bumper crop of revenue, some of which the State should have saved for when funds are tighter and interest rates are no doubt higher. There are signs that that is not far off. This year's budget papers indicate that if the New South Wales economy is badly affected by the Asian currency crisis, the budget outcome could deteriorate by as much as $2,600 million. Members will know from various events in the Parliament during the past week that the public service sector is claiming a 5 per cent increase in the near future. Yet I note that the Government is predicting a wages growth in the next year of only 3.7 per cent.

The Commonwealth budget, delivered only a few weeks ago, predicted that wages growth in the nation would be 4.25 per cent. I do not know why the Treasurer believes New South Wales will escape

that impact, but if it does not the deficit will be higher. A number of things that pad out the alleged surplus in the budget will not be available or sustainable. For example, the budget is heavily dependent on asset sales worth hundreds of millions of dollars. Once those assets are sold they are not available to sell again, and the Government will have to look elsewhere to find the resources it needs to support its annual recurrent expenditure. During the estimates committee hearings I learned that this year the Government will take a whopping $169 million dividend from Sydney Water. I remember members opposite screaming blue murder when in 1992-93 the Greiner Government took two special dividends totalling just $100 million from the Water Board.

Threats were made about how that would end the capital works program introduced by the previous Government to clean up our waterways. What will happen if the Government gets into the habit of taking $169 million every year from Sydney Water? Last year when the Government took $147 million from Sydney Water we were told it was a special occasion. In addition to the $169 million dividend, Sydney Water will be required to pay a tax equivalent of $109 million. So this budget is supported by a whopping contribution from Sydney Water of $278 million! That is not sustainable. If it continues, Sydney Water will not be in a position to deliver even the Government's dreadful sewer tunnel, the infiltration and exfiltration works designed to stop our sewers from overflowing in wet weather, or to clean up sewage in the Hawkesbury-Nepean river.

During the past three years we have been treated to a litany of broken promises by the Carr Government. Despite its promises not to introduce new taxes or increase other taxes beyond the rate of inflation, New South Wales families are now the highest taxed in Australia. They are $1,100 a year worse off because of the Government's increases in taxes and charges. Yet the Carr Government, unlike many former New South Wales Governments, has enjoyed three years of economic sunshine, the best experienced by a State government in living memory. Increased economic activity and what seems to be an endless list of tax increases have given the Carr Government an extra $4,800 million in revenue. John Howard's management of the national economy and hard work to repair the Federal Government's black hole has seen interest rates plummet to their lowest levels in 20 years. The State Government's budget has been enhanced as a result.

The Government has also reaped many of the long-term benefits of decisions made by former coalition administrations, most of them opposed by the person who is now the Treasurer, such as reforms to State Rail, the sale of the GIO and the State Bank, the closure of the former State superannuation scheme and the privatisation of third party motor vehicle insurance. It would be interesting to compare the Howard Government's performance on families to the performance of the State Labor Government. In the last three budgets the Federal coalition Government has achieved a $2.75 billion surplus with no increases in income taxes or company tax, wholesale sales tax, or petrol tax. This year Government debt will be reduced by $31 billion from the $96 billion the Federal Government inherited. People throughout Australia are experiencing the lowest mortgage interest rates since the 1970s, and small businesses are experiencing the lowest interest rates since the 1960s.

We are enjoying the lowest inflation rate since the 1970s and the lowest unemployment rate for nearly eight years. All of this has been achieved without any new Federal taxes or increased taxes for the past three years. The Federal Government's sound financial management will result in an average $3,800 saving to every family. The Carr Government, by comparison, has never achieved an underlying budget surplus, despite increasing existing taxes and introducing a number of new taxes. Land tax has increased by 23 per cent, green slips are up by 54 per cent, the duty on insurance premiums has gone up by 100 per cent, stamp duty on cars has risen by 20 per cent and the health insurance levy—all the stuff we hear from Andrew Refshauge about people pulling out of private health insurance—has increased by a whopping 32 per cent. Andrew Refshauge has helped out no end! Workers compensation premiums have gone up by 55 per cent and waste disposal charges have increased by a massive 138 per cent.

The State Government has increased all of these taxes, despite its promise to the contrary, and the result is that families in New South Wales are taxed or levied an extra $1,100 a year. Mr Egan claimed that this budget is every inch a Labor budget. I am not sure what that means, but it does not make a priority of addressing the needs of disadvantaged people. I would have thought that the benchmark for the Government in terms of its compassion and commitment to social justice would have been a significant improvement in the available resources to deal with child protection.

In recent times the Department of Community Services has had two Ministers and three chief executive officers, and there have been endless reports from agencies such as the Child Death

Review Panel and the Community Services Commission. The consequence is that this State is in no position to deal with the massive number of people who report child abuse. Children in trouble or at risk of abuse are among the most vulnerable. Any decent government would do everything it possibly could to deal with that problem.

This year's budget has increased the allocation for child protection by $11 million. In case honourable members think that is impressive, I simply ask them to compare that amount with the allocation of $25 million from the budget to refurbish Lotteries New South Wales computers. If that does not illustrate the priorities of this fading Government, I do not know what does. I have had the opportunity to study the budget documents in detail in relation to funding of hospitals in western Sydney. Recently, the Hon. Dr Andrew Refshauge visited Blacktown and made great play of the fact that he is improving that hospital. It may interest members to know that for the first time in recent memory the budget allocation for hospitals in Sydney's west has fallen below the $100 million mark by a long shot—down to about $80 million.

I am proud that I was part of a Government that spent more than $650 million during six or seven years on rebuilding hospitals in Sydney's west. We refurbished and upgraded Blacktown and Fairfield hospitals. We built community health centres at Fairfield and Narellan. We built a Karitane unit at the Fairfield Hospital and a Tresillian unit at Penrith. We redeveloped the Liverpool Hospital at a cost of $183 million. We relocated the Children's Hospital at a cost of more than $300 million. By comparison the Carr Government has stalled projects that should have been finished by now, such as the second stage of the Nepean Hospital, which is still under way and still behind budget. At the moment all there is of the Blacktown Hospital project is a monstrous hole in the ground and a big sign out the front, which is starting to fade with age, that says that the works are about to be completed.

Last year the Macarthur strategy for Campbelltown Hospital had an appalling allocation of about $1 million towards an $85 million project. This year $6.8 million dollars was allocated towards that project. If the former Fahey Government had been re-elected, that project would have been finished by now. The Nepean cancer unit, which is part of the upgrade of the hospital at Nepean, will now be only one-third the size of the unit promised by the former coalition Government. Roads in Sydney's west are in need of attention. I recall Michael Knight promising that, every year, in recompense for his failure to address the abolition of the tolls in western Sydney, he would devote an extra $70 million to roads in Sydney's west. Where is it? I compared the expenditure allocations of Michael Knight with those of Wal Murray and discovered that, when Wal Murray's achievements for roads in Sydney's west were adjusted for the rate of inflation, there was very little difference between the spending of this Government and the spending of the previous Government—with one exception.

The Hon. D. J. Gay: Wal Murray was a big man.

The Hon. J. F. RYAN: Indeed, and he was generous when allocating funds for roads in Sydney's west. In 1996-97, when the budget papers listed a budget allocation of $122 million for projects in Sydney's west, the Government came remotely close to providing an extra $70 million for roads in that area. However, honourable members would be interested to know that most of that money came from the Federal Government. Those figures were boosted by a $33 million contribution from the Federal Government to upgrade what is known in western Sydney as the orbital road.

Bob Carr has not been able to live down his irresponsible and broken promise to lift the tolls on the M4 and M5. We will not let the Labor Party forget that at the next election. When the Carr Government was distributing its rather extraordinary western Sydney statement it claimed that the $130 million it might spend on the M5 east road was part of its contribution to roads in western Sydney. I ask members opposite to consult a road map. Since when was Beverly Hills to Mascot ever considered to be part of western Sydney?

There are no new capital works projects in the Penrith area. The budget allocates money only for the completion of projects which appeared in the last budget, many of which were commenced by the former coalition Government. The upgrade of the Nepean Hospital was a former Fahey Government initiative. The Labor Government claims that $27 million will be spent on that hospital this year, but that figure is somewhat rubbery. There is no indication that work on that site is progressing at any faster rate.

Most of the road-building projects in Penrith have been slowed down and an important road project—to widen Castlereagh Road—has been returned to mothballs. I have already referred to the paltry effort of the Government in relation to the Macarthur health strategy—a budget allocation of only $6.8 towards that $85 million project. I referred

also to the dreadful budget allocation for Blacktown Hospital. The Government claims that it spent $12 million on Blacktown Hospital. I simply ask members opposite: does it cost $12.4 million to dig a hole? That is all that has happened on the site. Members can visit that site and see for themselves.

Nearly one-third of the money allocated for capital works projects in the Blue Mountains area was simply a reallocation of unspent money from last year. An amount of $1.7 million was supposed to have been spent redeveloping Blaxland Public School, but only $371,000 was actually spent on the project. So that money was reallocated this year. The upgrading of Katoomba hospital was supposed to have been finished by now, but spending on that project is half a million dollars behind and the completion date has blown out to next year. If the budget papers are to be believed, the project to widen the Great Western Highway at Faulconbridge is $1.2 million behind schedule. In all, $4.1 million of the mere $13.7 million allocated to the Blue Mountains this year is money left unspent from last year that has had to be reallocated.

Outside the Blue Mountains, but of interest to Blue Mountains residents, is the upgrade to Lithgow District Hospital. It is also in trouble. The completion date for that construction work has been extended by a year and $2 million of last year's budget has been reallocated. Many of the other promises made by the Government to reduce taxes are nothing more than a fiddle, for example, the statement that it will remove the $43 dollar levy on vehicle registrations. If a family buys a modest, used car worth about $10,000 this year, the extra stamp duty on the vehicle that was introduced by the Government last year will wipe out any benefit that family would gain from the reduction in vehicle registrations. If a family buys a standard six-cylinder car, like a Falcon or a Commodore, it will pay an extra $175 dollars in stamp duty and it will be four years before any savings are realised.

The estimates committees have been incredibly revealing. I participated in the Olympics estimates committee and established something which I suspected when I was chairing the Select Committee on the Proposed Duplication of North Head Sewerage Tunnel. When I had an opportunity I asked the Olympics Minister, "Was the sewerage tunnel an Olympic project?" He said, and it is recorded in *Hansard*, "Absolutely not."

This project was hurriedly completed and more than $200 million was unnecessarily spent on it because we were told it had to be done in time for the Olympics, to enhance swimming conditions in Sydney Harbour on wet days. That is about all it does. In order to give Sydney Water a big tick, taxpayers or Sydney Water ratepayers will be ripped off by about $200 million. The Warragamba Dam spillway project has been delayed by a couple of years. I would not be surprised if that had something to do with the sewerage tunnel project or the increased dividend which has been taken from Sydney Water.

A great deal of resources have been expended on yet another education restructure. It was interesting at the estimates committee to watch the Minister for Education and Training fumble around. He was unable to answer direct questions as to how much that new restructure would cost. Additionally, the estimates made by the Minister on the administration costs of the back-to-school allowance exceeded his expectation of about 1 per cent. This year the Government spent $4 million on the administration of this project, which is nothing more than an election stunt for next year. That $4 million figure would increase if the Government bothered to calculate the great deal of effort made by ancillary staff in each school to key name and address data of individual students into computer format.

An enormous amount of money has been spent on waste management with virtually no result. When I asked the Minister for the Environment whether she was able to tell the committee what achievements had been made on this Government's principal objective in waste management—the diversion of solid waste from landfill at a rate of 60 per cent, which is what the Government wanted—she was not able to tell the committee that any progress had been made in that area. Some extraordinary admissions were made by the managing director of the New South Wales Waste Service that any attempt by one of the regional waste boards to contract out the disposal of waste to landfill would be permitted only if it could be done without a loss of revenue to the New South Wales Waste Service. Additionally, when asked whether there would be increases in the waste levy to prop up uncommercial decisions made by the New South Wales Waste Service, he did not rule them out.

It is possible that people in western Sydney will be paying more for waste disposal in order to prop up the proposal by the New South Wales Waste Service for a megatip in Cessnock. That proposal will require extensive road building in Cessnock. It would not surprise me if the people of Mount Druitt had to pay to make that proposal work. The Government will not be delivering on its promise to link funds raised from the compulsory section 72 waste levies to waste reduction and reuse

programs. Over the five years from 1995 to the end of this financial year the Government will raise more than $127 million in levies, yet the Minister said to the estimates committee that the Government would spend $69 million from the Consolidated Fund on those projects between now and the year 2000. It is nothing like the hypothecation of the $127 million that it will be raising.

Thank heavens this will be the last Carr Government budget. I look forward to the opportunity of being part of the Collins Government, which will deliver a budget that offers a great deal more hope and achievement than this one. However, I wish to commend without reservation one achievement of the Government—the announcement of a families first package that will expand a program that was piloted when the coalition was in office. Community carers will visit families with new babies to ensure that they are off to a good start. A similar program that was trialled overseas resulted in the prevention of child abuse and the easy identification of children at risk. I have no doubt the expansion of the program will have a significant impact on reducing child abuse. I wish the Government and the people who implement that program enormous success.

In the past two weeks I have heard of the sad death of Karol Jacobsen, the son of Mr John Jacobsen, a former chair of the Council for Intellectual Disability. Honourable members, particularly the Minister for Public Works and Services, would be aware of the enormous contribution that Mr John Jacobsen has made in successfully advocating for more support for people with disabilities and their families. There is no doubt that his son Karol played a significant role in inspiring him in his efforts to cause those changes to be made. I pay tribute, as I am sure do all members, to the life of Karol Jacobsen and acknowledge all that has been achieved because of him. I extend my condolences to his family.

During this debate we heard the first contribution to the House by the Hon. Carmel Tebbutt. I congratulate her on making her first speech and wish her well in her further contributions. I also congratulate her on her achievement of being elected to the House. Also during this debate we heard the final contribution to the House of the Hon. Elisabeth Kirkby. I wish her all the best in her retirement, which I am sure will be active and healthy. As a member facing preselection, I know the tenuousness of membership of this House. Anyone who has been a member of this House for 17 years deserves commendation for that alone. But the substantial contribution the Hon. Elisabeth Kirkby has made to public debate needs to be acknowledged, even though on many occasions she and I have not agreed. Nevertheless, I acknowledge the contribution she has made in service to her constituents. I congratulate her on her 17 years membership of this House and wish her the best for the future.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

[*The Deputy-President (The Hon. Janelle Saffin) left the chair at 6.33 p.m. The House resumed at 8.00 p.m.*]

BILL RETURNED

The following bill was returned from the Legislative Assembly without amendment:

Crimes Legislation Amendment Bill.

POLICE LEGISLATION AMENDMENT (PROTECTIVE SECURITY GROUP) BILL

Bill received and read a first time.

Suspension of standing orders agreed to.

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.02 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 implements the recommendations of the Police Integrity Commission report regarding the former special branch of the New South Wales Police Service. Its purpose is to set in place a legislative framework for oversight and scrutiny of the proposed protective security group of the Police Service. In March last year the former special branch of the Police Service was abolished following disclosures of the most disturbing kind at the Royal Commission into the New South Wales Police Service. These were catalogued by the royal commission in chapter 3 of volume 2 of the final report.

In the report of the Police Integrity Commission released on Wednesday 17 June 1998, the PIC confirmed that the former special branch was a law unto itself. It seemed only accountable to itself. It used its resources to keep records on persons in whom it should have had no legitimate interest. It has always been acknowledged that the legitimate functions of the former special branch would need to be maintained. That is why this Government supports the recommendations of the PIC report, including the creation of a new, highly accountable

agency to undertake the legitimate functions of the former special branch. After its abolition, an interim VIP security unit under the command of Carolyn Smith was established.

However, the royal commission identified the need for an agency with the capacity to provide protective services and associated risk and threat assessments. In addition, there is a recognised need for any new group to undertake operational and tactical analysis, intelligence gathering and liaison with relevant agencies in relation to persons who present a risk of politically motivated violence or terrorist activity. This need is particularly critical given the number of official and distinguished visitors anticipated in New South Wales in the lead-up to the Olympics in 2000. In addition, there is a need to protect holders of high office in this State and to co-ordinate investigations with other agencies tasked with preventing terrorism and politically motivated violence.

To meet these needs Commissioner Ryan has proposed the establishment of the protective security group. Last week, the Police Integrity Commission recommended that the creation of such an agency should be a priority. The Government endorses the formation of the protective security group, provided appropriate safeguards are in place. This bill will put in place some of the key elements of the overall strategy for monitoring the operations of the protective security group. The Government remains of the view that any unit with these unusual functions should be subject to higher standards, and an even higher level of scrutiny than most. The protective security group will operate strictly according to a charter which sets out the role and functions of the group. In addition, it outlines strict accountability mechanisms in relation to target selection, records and records management, and information dissemination.

The bill provides that the charter of the group will be determined by the Commissioner of Police and approved by the Minister. This charter outlines the activities that the group is authorised to engage in; provides a formal mechanism for approval of targets to be investigated; sets out criteria for approval of targets; and sets strict limits on the keeping of records and files by the group. Strict adherence to this charter is the critical test for the proposed protective security group and the Government is not prepared to leave this to chance. We are putting in place a mechanism to ensure that the charter is adhered to.

The bill amends the Police Service Act to require that the Commissioner of Police conducts an annual audit of the operations, policies and procedures of the protective security group. This audit is to include: an examination of whether the group is effectively adhering to its charter; whether individual members are adhering to the charter; whether proper procedures are in place and being followed in relation to the use and payment of informants; and whether proper procedures are in place and being followed for the recording and use of intelligence gathered by the group.

The bill also amends the Police Integrity Commission Act to provide that the PIC shall monitor and report on the conduct and effectiveness of the audit to be performed annually by the Commissioner of Police. This specific responsibility to monitor the effectiveness of the commissioner's annual audit is in addition to the existing, more general audit power of the PIC outlined in section 14 of the Police Integrity Commission Act.

This structure for annual auditing and monitoring has been developed in light of the recommendations of the royal commission and the Police Integrity Commission. It will assist in ensuring that the police commissioner takes responsibility for very close scrutiny of the protective security group. The commissioner's oversight and auditing will in turn be specifically monitored and reported on by the Police Integrity Commission. In addition, the Police Integrity Commission will have the capacity to undertake investigations at any time into any aspect of the operations or oversight of the protective security group in order to ensure circumstances conducive to misconduct do not arise. If the Police Integrity Commission considers it necessary, this may be done using covert surveillance methods.

The audit and monitoring structure outlined in this bill will provide for the closest ongoing scrutiny of the operations and policies of the new protective security group. In addition to the annual audit and monitoring structure I have outlined, the bill also puts in place a requirement for a thorough review of the protective security group after the 2000 Olympics. In supporting the creation of a group to carry out the functions of the proposed protective security group, the royal commission also recommended that a review of the operations of the group be conducted at the conclusion of the Olympic Games to ensure that it has remained within its charter and that it still has an effective role to perform.

The bill puts in place a legislative requirement for this review to be carried out. It amends the Police Service Act to require the commissioner to cause a deputy commissioner to carry out a special review after the conclusion of the Olympic Games. In addition to examining whether the Protective Security Group has adhered to its charter, the special review shall examine and make recommendations about any future role of the group. As with the conduct of annual audits, the bill will amend the Police Integrity Commission Act to require that the PIC monitor and evaluate the effectiveness of the review and its recommendations.

The royal commission identified the particular need for VIP protection, threat assessment and a soundly based counter-terrorist capacity in the lead-up to and during the Olympic Games. The Police Integrity Commission has reiterated the necessity for this function to be performed as part of an accountable agency within the Police Service. The Government concurs with the view of the royal commission and the Police Integrity Commission that these are essential activities during this period. However, the Government is not necessarily committed to the ongoing need for a group with all the functions of the proposed Protective Security Group after the completion of the Games.

This bill will ensure that the Government is put in the best possible position to judge whether or not there is still a need for the Protective Security Group when our international visitors have returned home at the conclusion of the Games. It will ensure that the reconsideration of the role of the Protective Security Group is undertaken with external oversight and in an objective manner. The cronyism that concerned the Police Integrity Commission in its report last week will have no opportunity to gain any foothold in the ongoing management of the Protective Security Group.

As members of this House are aware, the files of the former Special Branch are a matter of keen interest. Not surprisingly, some people have requested access to any files that may have been held about them. In deciding how to deal with the files, I have established a working party with representation from community groups to consider matters outlined in the body of the PIC report and appropriate options. Some files will be of

historical interest, others of concern to the individual, and some will need to be exempted because of the confidential material they contain.

The bill does make a minor consequential amendment to the Freedom of Information Act to ensure that protective security group files will have the same freedom of information status as the State Intelligence Group and to continue the exemption in relation to the former Special Branch.

This does not mean that such files cannot be released. However, it does mean that where appropriate access can be denied under that Act because they are of the type I have previously mentioned, such as containing information about informants or sensitive operational material. And, it may well be that after the working party I have announced completes its work further amendments are needed. If that is the case, the Government would certainly make those amendments.

Australia has so far been relatively free from terrorist activity and politically motivated violence. However, the coming of the Olympics will focus intense attention on Australia in general and Sydney in particular. We cannot afford to take any risks with the level of protection and threat assessment undertaken in the lead-up to and during the Olympics. These tasks are properly the responsibility of an agency such as the Protective Security Group operating in close co-ordination with similar agencies in the Commonwealth and other parts of Australia.

In approving the establishment of the Protective Security Group the Government has very carefully scrutinised the charter under which it is to operate to ensure that it enables the group to provide protection for the community of New South Wales while at the same time minimising the risk of improper use of power. This bill puts in place a legislative framework for the oversight of the Protective Security Group, which the Government considers to be an essential element in the establishment of the group.

There will be no part of the Police Service of this State under closer scrutiny than the Protective Security Group. That scrutiny will, as I have outlined, include external monitoring by the Police Integrity Commission. By establishing the oversight mechanism outlined in this bill the Government is giving effect to the recommendations of the royal commission and the Police Integrity Commission, and acting to ensure protection of the citizens of this State from terrorist violence and from rogue police misusing their powers. I commend the bill to the House.

The Hon. M. J. GALLACHER [8.03 p.m.]: On behalf of the Opposition I am pleased to support the Police Legislation Amendment (Protective Security Group) Bill. As set out in the explanatory note, the bill puts in place a number of measures that the Police Service, and the Police Integrity Commission following its recommendations, feel must be put in place in the lead-up to the Olympic Games. It is a shame that the Attorney General has not taken the opportunity to read his speech rather than incorporating it in *Hansard*, as it would have answered the concerns of members about measures laid down in the bill in relation to the setting up of the Protective Security Group. I am sure that had the Attorney availed himself of the opportunity to detail the rationale of the Government's proposals, it would have allayed the fears of members about another special branch opening up in New South Wales.

But, of course, it falls to the Opposition to carry the ball and to explain to members of this House what yet another piece of Government legislation is all about. The Government is incapable of doing that. The Opposition is quite happy to point out the objects of the proposed legislation and to identify any warts that may appear. The Opposition is pleased that not too many warts appear on the proposed legislation. That does not mean that other legislation relative to police that this House will debate later this evening will not have the same qualifications as this one has. As I alluded to earlier, the bill puts in place the setting up within the New South Wales Police Service of what will be referred to as the Protective Security Group. More importantly, the bill puts in place certain auditing responsibilities and mechanisms to ensure that the integrity of the Protective Security Group is maintained. It also establishes the underlying principle behind the formation of the Protective Security Group, that is, to ensure certain safeguards as we approach the 2000 Olympic Games.

It is refreshing that yet again the Police Integrity Commission has been given an active role by virtue of this legislation. I understand that the commission has been consulted quite considerably about the formation of the Protective Security Group and is supportive of it. The bill also provides for certain exemptions with respect to freedom of information. It is important that the people of New South Wales be made aware that the necessary legislative framework will be in place in the New South Wales Police Service to protect their identity when they come forward with confidential information. Of course, this House will hear a considerable amount of debate in the ensuing months about the special branch files that are currently held securely within the confines of the Police Integrity Commission. There will be considerable discussion not only in the Parliament but also in the wider community with respect to those files, in terms of who can access them and what information can be gleaned from them.

The Government will have to decide what should be done with those files. I suspect that most parliamentarians who have been the subject of any covert surveillance by the special branch in the past would have come from the Government ranks. I know of one or two Government members who have been the subject of such surveillance, but I will not mention their names. If I did, the result might be that their names will be placed in the register of some intelligence holding. I am sure that some

Government members, who are nodding in agreement with what I am saying, are looking forward with relish to being given the opportunity to look at any files on them that are held by the former special branch.

An interesting argument is how much access will individuals have to the files held by special branch. It is all right for the Government to say that we are all entitled to view any file that may be held in our names. But what do we, as parliamentarians, do to protect people who in the past have provided to special branch information concerning suspected persons? Are the particulars of those people to be made available to any person who seeks to view special branch files that might be held at the Police Integrity Commission?

The working party established by the Government, which comprises members of the Police Service, the PIC, and the Ombudsman's office, is currently looking at ways in which to monitor this problem. I take my hat off to the Government with respect to this legislation. It has never before come back to the Parliament and said, "We want to set up another branch of the highway patrol. We therefore need parliamentary approval to do so." It has not come back to us and said, "We want to set up a special operations group to look at property theft in western Sydney. We need an Act of Parliament to do it." That has never been done.

On this occasion, however, the Government used a sleight of hand. It is asking members of this Chamber to vote for and support the formation of another group within the New South Wales Police Service. The reason is quite simple: it wants to include each and every one of us in the loop. There is no way that any member will be able to say later "I did not want another special branch formed in New South Wales" if he or she did not vote against this legislation.

I will be interested to hear the views of members on the crossbenches. In the past they have made very clear their position in relation to special branch. Will they support the setting up of this Protective Security Group? As I said earlier, the Opposition is quite supportive of the formation of this group. We understand the rationale for this legislation. Similarly, I am interested to hear the views of members on the crossbenches in relation to this matter. Will they believe the Government when it says that this group will not be another special branch, or will they be more cautious and place their views on the record? They have an opportunity to do that tonight. I look forward to hearing from them.

The Government continues to increase the role of the PIC. The Opposition recognises that a constructive position has to be taken with respect to the PIC. Recently, certain benefits might have accrued to the PIC to enable staff of that body to conduct inquiries. However, it has also been restrained in relation to its operating expenses and ability to fulfil its job. The Opposition will monitor that aspect through the Committee on the Office of the Ombudsman and the Police Integrity Commission. As a member of that committee, I look forward to scrutinising the role of the PIC. I place on the record that the Police Integrity Commission will not be the body conducting the audits. It will do nothing more than audit the audits conducted within the New South Wales Police Service. The PIC will have a normal auditing or investigative role with respect to complaints received by it about this legislation. When a matter is not the subject of a complaint, audits will be subject only to an earlier audit conducted by members of the New South Wales Police Service.

The Parliament will closely scrutinise the effectiveness of the proposed Protective Security Group. To ensure its effectiveness the Police Service must commence a positive and pro-active education program. I refer tonight to the fine work being done by the corruption prevention unit of the Independent Commission Against Corruption. A similar body has not been established within the Police Integrity Commission. The Government should take into account the excellent work that has been done, and is still being done, by that unit when establishing an education program for people involved in the protective security group.

Reverend the Hon. F. J. NILE [8.16 p.m.]: The Christian Democratic Party supports the Police Legislation Amendment (Protective Security Group) Bill, the objects of which are:

> . . . to enact provisions in connection with the Protective Security Group of the Police Service. The Bill:
>
> (a) requires the Commissioner of Police to conduct an annual audit of the operations, policies and procedures of the Group, and
>
> (b) requires the annual audit to include an examination of . . . and
>
> (c) requires the Commissioner of Police to cause a Deputy Commissioner to conduct a special review of the operations, policies and procedures of the Group after the Sydney Olympic Games, and
>
> (d) requires the special review to include an examination of:
>
> (i) the Group's adherence to its charter, with special reference to the Sydney Olympic Games, and

(ii) the role of the Group after the Sydney Olympic Games

(e) enables the Police Integrity Commission to monitor and report on the conduct and effectiveness of the annual audits, and

(f) enables the Police Integrity Commission to assess and report on the recommendation of the special review, and to monitor and report on the effectiveness of the special review, and

(g) provides for documents created by the Group to be exempt documents for the purposes of the Freedom of Information Act 1989.

Earlier the Hon. M. J. Gallacher said that this legislation arose as a result of recommendations in the report of the Police Integrity Commission, which in turn arose from the report of the Royal Commission into the New South Wales Police Service, in particular, the recommendations relating to the former special branch.

In March last year the former special branch was abolished because of some of the negative statements made in the report of the Royal Commission into the New South Wales Police Service about which sensational headlines and articles appeared in the *Sydney Morning Herald* and other newspapers. I, as a member of Parliament, had some contact with special branch over a number of years. It did not involve matters of intelligence; the contact related to death threats that were made against me. Recommendations were made by special branch as to how to prevent those threats being carried out.

I recall being shocked on one occasion when special branch visited my home. I never requested any attention; it was at the instigation of Minister for Police at the time or the former police commissioner. After receiving reports of death threats I was advised by special branch that it wished to inspect my home and to recommend security measures—the installation of alarm and lighting systems that were activated on the detection of movement. Members of special branch spent a great deal of time inspecting my home at Gerroa and made a file of recommendations, which were adopted, concerning the installation of such security systems.

Some of the recommendations, which involved the installation of metal shutters on windows, were excessive. Over a period of years I have always found the staff of special branch to be intelligent and professional. I certainly never met the type of officers described in the reports. I received also reports from special branch about Festival of Light events held in Sydney. Apparently, special branch officers infiltrated various organisations to monitor their activities. They did not report to me in detail about all matters, but they would tell me when they had uncovered matters of concern, and on such occasions our marches and rallies received increased police protection.

Some honourable members may not know that at one such rally that was attended by about 150 people at Belmore Park people were physically attacked, equipment was damaged, tyres were deflated, I was knocked to the ground and banners and placards were torn. It was a Christian march, not political gathering; it was organised by the Festival of Light. Such physical attacks and damage to property should not take place in our democratic society. There was a real need for the special branch. I believe that its officers did a very good job. I am not surprised that special branch had files that contained information and newspaper clippings on certain individuals. To create a file on an individual, one must collate information from every available source. A newspaper article is not a mysterious item. With such material and the names of people with whom one associates, police create profiles and valuable information networks.

Having regard to the possibility of security risks, the special branch files should not be disclosed to the public or to the media, or even to the people mentioned in them. I have never criticised special branch; I see a need for such a unit. Under this legislation the Protective Security Group will carry out similar functions to those performed by special branch, but with greater supervision. If it is the fact that special branch did not come under proper supervision, then it cannot be blamed. It cannot be held responsible for a lack of supervision by senior officers—from the Commissioner of Police down. If it was allowed to operate without supervision, then the system that allowed that to happen is to blame.

If special branch officers came under the direct supervision of the Commissioner of Police or his delegated officers, they were entitled to believe that they had greater freedom or flexibility in their activities. Similarly, criticism of the special branch in that regard is misplaced. Criticism should be levelled at the Commissioner of Police and other senior officers who allowed special branch to operate in that way. I believe that there must have been some type of reporting by the officer-in-charge of special branch to the police commissioner or even the Minister for Police.

I would be surprised if there had not been frequent briefings by that officer of the

commissioner and the Minister after the explosion in an airline office or the murder on a Sydney street of a Turkish Government delegate. Special branch would have made reports to the police commissioner or Minister for Police about the identity of the perpetrators of the attacks, and it would have co-operated with Federal bodies such as the Australian Security Intelligence Organisation.

In setting up the protective security group the bill recognises that the group will undertake operational and tactical analysis and intelligence gathering. It will also collect newspaper cuttings, magazine cuttings and other material, and I assume it will note number plates of vehicles parked outside premises the occupants of which are suspected of terrorist activities. Such intelligence gathering by the special branch has been ridiculed, but I believe they were legitimate and necessary. It all forms a part of the big picture. One piece of information on its own may not prove anything, but when taken together with a network of information may make clear the overall picture, about which it may be necessary to institute counter measures.

The group will liaise with relevant agencies in relation to persons suspected of politically motivated violence or terrorist activity. The Olympic Games in 2000 will be attended by many international sporting teams and very important persons from overseas. The temptation for a terrorist group to use the Games—to detonate a bomb perhaps—to showcase its cause will be great. We need a body such as the Protective Security Group, and I hope it is sufficiently resourced with equipment and personnel to enable it to function effectively. It will work in conjunction with other agencies whose task it will be to prevent terrorism and politically motivated violence. I look forward to the Protective Security Group providing genuine protection against those in our society who engage in what I term underground-type activity rather than what is regarded as normal criminal activity.

Such a group must use every possible resource to involve itself in intelligence gathering in order to identify potential dangers and prevent them from becoming a reality rather than attempt to solve an incident after the event. Some of it may be as simple as collecting newspaper clippings and photographing motor vehicles outside buildings. It is all part of the bigger picture and should not be ridiculed by members of this House.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.28 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.

DRUG MISUSE AND TRAFFICKING AMENDMENT (ONGOING DEALING) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.30 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.

The Government is pleased to introduce the Drug Misuse and Trafficking (Ongoing Dealing) Bill 1998. The bill aims to create a new indictable offence of supplying prohibited drugs on an ongoing basis. A specific provision is to be inserted into the Drug Misuse and Trafficking Act 1985 to make it an offence for a person to supply any prohibited drug, other than cannabis, for financial or material reward on three or more separate occasions during a period of 30 consecutive days. The bill will provide for a maximum sentence of 20 years imprisonment and substantial fines.

The bill is based upon an important recommendation of the Wood royal commission. The new offence plugs a potential loophole under the existing law. It targets dealers who have organised their affairs in such a way as to limit the full effect of the Drug Misuse and Trafficking Act 1985. Presently, it could be argued dealers who carry small quantities of prohibited drugs can avoid serious penalties under the Act as the penalty structure is largely based on quantities. The amount of drugs which are supplied is immaterial to an offence under section 25A, either within each individual offence or in total.

Furthermore, the offence is constituted by the supply of any prohibited drug, other than cannabis, within a 30-day period. In other words, it is immaterial whether the same drug is supplied on the three separate occasions. Once again, the provision is framed in a way which will prevent dealers from evading the ambit of the provision on technical grounds.

The bill differs in crucial respects from the private member's bill of the honourable member for Eastwood, namely, the Drug Misuse and Trafficking Amendment (Regular Drug Dealings) Bill 1997. As has happened so often in the past, an Opposition bill was ill-conceived and hastily cobbled together. For all of that honourable member's efforts, the overall legal effect of his bill was basically nought. It essentially restated existing law, failed to address the recommendation of the

Wood royal commission and left his standing with the people of New South Wales as a serious proponent of criminal law reform under an ever-darkening cloud.

In contrast to the rhetoric underlying the Opposition's bill, the Government will circumscribe the offence of commercial dealing for powerful public health and community safety reasons. In this respect, the Government is at pains to emphasise that an essential plank of the Drug Misuse and Trafficking (Ongoing Dealing) Bill 1998 is that the three offences be committed within a 30-day period. The 30-day period is based on an appreciation of the operational aspects of modern policing, and the social responsibility which goes with government. Put simply, the offence of commercial dealing will facilitate and feed into police surveillance and undercover work.

The suggestion is not that the police would use this power to arrest suspects on one or two occasions, thus allowing the suspect to wait out the relevant time-frame. Rather, it is expected that the police will gather information on the three occasions through surveillance and undercover work and only then arrest the suspect. A time-frame is thus a necessary component of the offence to accommodate public health and community safety concerns.

The new offence can only be prosecuted on indictment and the penalty for the offence is 3,500 penalty units, currently $385,000, or imprisonment for 20 years, or both. The penalty to be imposed is therefore the same as that imposed for prohibited drugs, other than cannabis, under section 25(2) of the Drug Misuse and Trafficking Act 1985, which makes it an offence to supply a commercial quantity of a prohibited drug.

I turn now to the specific features of the bill. Clause 25A(1) makes it an offence for a person on three or more separate occasions during any period of 30 consecutive days to supply a prohibited drug, other than cannabis, for financial or material reward. The quantity of the prohibited drugs supplied on each separate occasion or in total is immaterial. It bears noting that this new law does not exist in a vacuum. Rather, it will complement existing laws under the Drug Misuse and Trafficking Act 1985. I should take time to clarify the relationship between a particular provision under the Drug Misuse and Trafficking Act 1985 and the new offence.

Section 29 is an unusual provision. In short, the provision deems possession of a trafficable quantity of a prohibited drug to be for supply, unless a person can prove otherwise. In relation to section 25A, it is intended that deemed supply under section 29 will have application in appropriate cases to the element of "supply" only, just as it does in the case of other drug offences. The other elements of the new offence—including the element of "for financial or material reward"—will need to be proven in the usual way; that is, proven beyond reasonable doubt by the prosecution.

I return now to the bill. Under clause 25A(2), it is immaterial whether or not the person supplies the same prohibited drug on each of the occasions relied on as evidence for the commission of the offence. Clause 25A(3) is an important procedural provision. Under subclause 3, the prosecution may present evidence of three or more occasions when the person supplied the prohibited drug for financial or material reward. To find the person guilty, the jury must be satisfied that the person supplied a prohibited drug on at least three of those occasions, provided that all of the members of the jury agree as to the same three occasions.

Clause 25A(4) creates an alternative verdict provision. This provision will enable a jury to acquit a person of the offence of commercial dealing but nevertheless convict him or her of other offences under the Act relating to the supply of a prohibited drug. For example, the jury may still convict a person on two counts of supplying a prohibited drug under section 25. Such a provision is consistent with the overall tenor of the Drug Misuse and Trafficking Act 1985, in which certain alternative verdict provisions already exist, and is good commonsense.

Clauses 25A(5) to 25A(7) deal with the well-established principles of double jeopardy. In short, the provisions are intended to ensure that a person cannot be convicted twice in relation to what is essentially the same set of circumstances. Clause 25A(8) is included for abundant caution. It clarifies the position with respect to already existing offences relating to the supply of a prohibited drug under the Act. Subclause 8 specifically sets out that section 25A does not remove the liability of any person to be convicted of other offences of supplying a prohibited drug or affect the punishment that may be imposed.

Clause 25A(9) excludes the lawful use of prohibited drugs from the operation of a section 25A offence. Specifically, it provides that nothing under section 25A renders unlawful the supply of a prohibited drug by a person licensed or authorised to do so under the Poisons and Therapeutic Goods Act 1966 or a person acting in accordance with authority from the director-general of the department of health, where the director-general is satisfied that the supply of the prohibited drug is for the purpose of science, instruction, analysis or study. This is not a new exclusion. Indeed, such a provision is again consistent with the overall tenor of the Drug Misuse and Trafficking Act 1985 and other provisions already in the Act.

Clause 25A(10) defines key terms under section 25A. In particular, it defines cannabis as meaning cannabis leaf, cannabis oil, cannabis plant, and cannabis resin. These substances are excluded from the ambit of the provision. However, let it be absolutely clear that there are no changes to pre-existing offences generally in relation to cannabis under the Act. In other words, cannabis offences will continue to be dealt with under the present structure of the Act based on the quantity involved. The bill also amends section 9 of the Bail Act 1978 to include the new offence of commercial dealing as an exception to those offences for which there is a presumption of bail. In short, no presumption will operate for, or against, the granting of bail in relation to this offence.

Finally, the bill amends the Confiscation of Proceeds of Crime Act 1989 and the Criminal Assets Recovery Act 1990 to bring the new offence within their ambit. The bill amounts to a competent and carefully considered improvement to our drug laws. Despite its relative brevity, it has received considerable attention and has taken its current form after a long and extensive consultative process. It proffers a valuable and new response to the growing problem of small-scale yet systematic drug dealing in New South Wales.

The bill toughens the Government's response to drug dealing. It provides a new weapon in the armoury of police against those who persistently engage in the "commercial" supply of hard drugs, without restrictive emphasis upon the quantity supplied on each occasion. It steps up the campaign against dealers where it matters—on the streets—and facilitates the apprehension, arrest and incarceration of such dealers. The bill thus forms a central plank in the Government's commitment to make the streets of New South Wales safe for the people of New South Wales. I commend the bill to the House.

The Hon. M. J. GALLACHER [8.30 p.m.]: On behalf of the Opposition I am pleased to speak on the Drug Misuse and Trafficking Amendment (Ongoing Dealing) Bill. It is yet another example of legislation that has some good points, but those good points have been raised by the Opposition in debate after debate in this Chamber and in another place recently. It is refreshing that the Government has finally listened to the Opposition on some matters, resulting in the introduction of this bill.

The bill is based broadly on recommendations of the Wood royal commission and follows an Opposition bill presented in another place by the honourable member for Eastwood, Andrew Tink, which provided tougher penalties for regular drug dealers. I give recognition to the architect of the legislation. He, like other members of the Opposition, would be disappointed that the Government has not adopted all the provisions of the bill he proposed. The Government has tinkered with the edges, watering down what members of Parliament and the people of New South Wales want.

The object of the bill is to amend the Drug Misuse and Trafficking Act 1985 to create a new wholly indictable offence of supplying prohibited drugs on an ongoing basis. The Opposition has disquiet about the minutiae of the bill. That is where the legislation has failed. I will put the Opposition's concerns quickly so that debate can be free flowing and expeditious. The Opposition does not believe that the 30-day restriction in the bill should exist. It means that offenders have to be convicted of three separate offences within a 30-day period before they can be dealt with for ongoing dealing. The 30-day proviso should be removed.

Reverend the Hon. F. J. Nile will move amendments similar to those moved by the Opposition in the Legislative Assembly to achieve this. The 30-day proviso does nothing more than water down the legislation. After an offender is caught for the second time he could contract his work out to somebody else, thereby avoiding the penalties for ongoing dealing while continuing to receive the proceeds of drug dealing. The legislation is quite foolish in that regard: somebody has to be caught three times within a 30-day period before he can be punished for ongoing dealing.

The Hon. I. Cohen: It is not "caught"; it is "observed".

The Hon. M. J. GALLACHER: The Hon. I. Cohen says that it is absurd. I am thankful that he agrees that the 30-day provision should be scrapped. Someone caught dealing in drugs three times—whether it be within 30 days, 30 months or 20 years; it does not matter—should go to prison. The Opposition wants it firmly on the record that it is committed to looking after the young people of this State, providing legislation that is serious about getting drug dealers off the street, not giving them an opportunity to skip out twice and then get someone else to do the dealing so that they can avoid detection.

The Opposition wants legislation that works. The Government had the opportunity to show the people of New South Wales that it is serious about drug crime and protecting children to ensure they have a future, but again it has provided a safety net for dealers, the scum of the earth, who are interested only in ripping money off people and ensuring that our children turn to drugs as a means of escaping their perceived problems.

The Hon. M. R. Kersten: Destroying their lives in the process.

The Hon. M. J. GALLACHER: The Hon. M. R. Kersten talks from experience. He knows the problems occurring in western New South Wales. He has seen it occurring in his home town of Broken Hill. I have toured Lightning Ridge, Walgett and Bourke with the honourable member to see the problems young people are having in those towns. Dealers are approaching young Aboriginal people and making drugs readily available to them because no legislation says that if drug dealers go to Walgett or Bourke and continue their activity they will go to gaol. This legislation fails the people of Bourke and Walgett. I am happy that the Hon. M. R. Kersten is in the Chamber this evening. Like many other members of the Opposition he is interested in this debate and keen to ensure that the Government changes its mind and agrees to removal of the 30-day provision.

To try to placate some members of this Chamber and some members of the community the Government has removed any reference to cannabis from the provisions of the bill. Time and again we hear that people who deal in cannabis are likely to deal in other drugs. Once they start to offend in these areas they do not care whether they are dealing in powders, grass, tablets or whatever. All they are interested in is making money from young people and others in the community. Cannabis should not be excluded from the legislation. All the drugs currently listed under the Drug Misuse and Trafficking Act should be covered by this bill. Anyone caught dealing, in any period—30 months, five years or whatever—in cannabis, white powder

or tablets should go to gaol. The Parliament has a responsibility to send a very clear message to people dealing in drugs: if they persist, it will not be very long before they are on their way to gaol.

The Hon. I. COHEN [8.38 p.m.]: The Opposition is showing its true colours. The leader of one of the Opposition parties is on record as saying that people who have one joint should go to gaol for a year. More and more young people are being thrown into gaol as a result of this sort of attitude.

Reverend the Hon. F. J. Nile: This is for selling.

The Hon. I. COHEN: Sellers, young people, everybody. The Hon. M. J. Gallacher appears not to understand that the bill relates to ongoing dealing. It is not a matter of being caught three times; it is a matter of being sighted three times, being found out later to have been dealing three times. No-one in this House is going to defend dealers, but many young down and out people in the community who are selling drugs have a major problem. It is a health problem, a social problem. Members of the Opposition have this copper mentality that cannot see beyond throwing more people into gaol.

It is an indictment of both major parties in this House that they seek to increase the number of young people sent to gaols. This law will not resolve the drug problem or health and education issues. Society does not answer the numerous questions asked by many young people and this is the type of attitude that turns young people to drugs. The Opposition has missed the point that society has a malaise that is turning young people to drugs. Despite this, members have a lock-them-up, copper mentality, a one-dimensional attitude. We live in a sick society and Opposition members are fuelling the flames. National Party members believe that those who have one joint should be locked up for 12 months! I am not saying that it is acceptable to deal in small quantities.

The Hon. D. J. Gay: You are saying that it is acceptable.

The Hon. I. COHEN: I am not. It is unfair and inappropriate for these people to be locked up and there is no way that dealing in small quantities can be proved adequately in law. It will result in police corruption. Honourable members should remember that 90 per cent of the findings of the Royal Commission into the New South Wales Police Service related to drug dealings, and the Opposition is encouraging corruption. The Greens totally oppose the bill. It creates a new indictable offence of supplying prohibited drugs on an ongoing basis.

The Hon. Franca Arena: That is a good and full answer.

The Hon. I. COHEN: Thank you. It is very difficult sometimes to get a point across in this House because many members are serious thickheads who are great at indulging in legal drugs but are draconian when it comes to illegal drugs. New section 25A will make it an offence for a person to supply any prohibited drug—other than cannabis. The honourable member for Eastwood moved an amendment in the other place, with which the Hon. M. J. Gallacher agrees, that marijuana be included in this draconian legislation. That makes a mockery of attempts to engender some sanity in this debate.

The bill provides that it is an offence to supply prohibited drugs, other than cannabis, for financial and material reward on three or more separate occasions during a period of 30 consecutive days. That is totally inappropriate and unenforceable, and leaves society open to massive police corruption. People will be loaded up, police will give false evidence, and there will be major problems. This bill will return us to the dark old days of the police inquiry.

The Hon. D. J. Gay: If they don't sell it, they will not have any problems.

The Hon. I. COHEN: They do not have to sell it; they can just get loaded up. It is such a shaky situation: three sightings or suspicion on three occasions of selling drugs and they are sent to gaol. It is not good enough to talk about hard drugs; the Greens are on record as being vehemently opposed to all forms of drug addiction.

The Hon. D. J. Gay: But you want to help the dealers.

The Hon. I. COHEN: I am saying that one must take a balanced approach so that the wrong people are not victimised.

The Hon. D. J. Gay: You are too balanced. You have gone the wrong way.

The Hon. I. COHEN: You are suggesting that a dealer who is caught once should be thrown into gaol?

The Hon. D. J. Gay: I am happy with that.

The Hon. I. COHEN: If some young kid buys a few deals for himself and friends—

The Hon. D. J. Gay: I did not say user; I said dealer.

The Hon. I. COHEN: A user can be a dealer. This bill does not specify trafficable amounts. I will not defend major dealers but in supporting the bill the Opposition is saying that kids will be gaoled if they give three joints to three other kids. It might be a silly young school child who does not know what is going on and, because of the inappropriateness of the laws of this society, thinks, "Why should I abide by the law?" The Government suggests that a joint of marijuana is the same as a shot of heroin, so why should any kid take this law seriously? This bill is an inappropriate response by society to a major problem.

Reverend the Hon. F. J. Nile: Marijuana is a gateway drug.

The Hon. I. COHEN: That has not been proven. The honourable member for Eastwood said that the Opposition believes there should not be a limit of 30 consecutive days and that cannabis should not be excluded from the ambit of this bill. Of course, other than that the Opposition supports the bill and suggests that cannabis should be included in it. That is indicative of the inappropriateness of the law-makers of this State. This bill is shameful; it is a law and order auction bill. It seeks to move the Government towards outbidding the right wing for the next elections and flies in the face of social justice and international rights and covenants.

It has been proven year after year, time and again that it just does not work. However, that does not matter to the Government and if it assists in its being re-elected it will not look too different from the Opposition, with members on both sides moving a little to the right. Everyone is scared of Pauline Hanson and police are at the helm making the laws in this State. What a wonderful thing to look forward to in the next term of government! One will not be able to differentiate between the two major parties. We might have a Lib-Lab Government. I will be happy to be perpetually in Opposition because I will at least have a shred of principle.

The Hon. J. H. Jobling: That is all you will have.

The Hon. I. COHEN: That is more than the Opposition has. The bill provides for a maximum sentence of 20 years imprisonment or fines of up to $380,000. It provides the same penalty regime for a supplier of commercial quantities of a prohibited drug, and the Greens accept that as part of the judicial system. However, the bill does not specify an age limit, and underage persons on the street could supply a small amount three times and face 20 years in gaol or a fine of up to $380,000. That is inappropriate.

As the Government briefing note points out, the amount of drugs supplied will be immaterial to an offence under new section 25A, either individually or in total. It is immaterial how much or how little—even if it is equivalent to only three middies of beer. It will be an offence simply to supply a prohibited drug other than cannabis—thank heavens for that—within a 30-day period, unless the Opposition's amendments are agreed to. This is a "three strikes and you are in" bill that will target small-time drug dealers who deal small amounts of drugs regularly.

Reverend the Hon. F. J. Nile: This is a Government bill.

The Hon. I. COHEN: I do not care whose bill it is.

Reverend the Hon. F. J. Nile: Well, criticise the Labor Party.

The Hon. I. COHEN: I have been.

Reverend the Hon. F. J. Nile: You have been criticising poor old Duncan Gay.

The Hon. I. COHEN: I have been criticising the Hon. D. J. Gay and the Hon. J. W. Shaw and I have been calling out to the Labor Party. The Hon. D. J. Gay was in my face. A person who has one joint could go to gaol for 12 months. This bill also targets drug users who buy small quantities of drugs and onsell them to friends. That is despite the fact that the law recognises that those who are proven to be buying and onselling to friends are not in the same category as on-the-street drug dealers. The bill will catch people who onsell drugs for recreational use or use drugs to support an addiction. What about those who are down and out because of a drug habit? Desperate people on hard drugs like heroin have limited choices: they break into houses to steal private property, prostitute themselves, or sell drugs to support their habits.

The Hon. R. B. Rowland Smith: They can keep off drugs, can't they?

The Hon. I. COHEN: No, they cannot.

The Hon. R. B. Rowland Smith: Why not?

The Hon. I. COHEN: The attitude of the Hon. R. B. Rowland Smith is typical of some older members of our society. Young people cannot relate to what his generation did.

The Hon. R. B. Rowland Smith: Don't give me that garbage about "the older generation".

The Hon. I. COHEN: Your values are completely inappropriate in today's society. You have no knowledge of what is happening in society outside this crystal castle of Parliament House.

The Hon. R. B. Rowland Smith: You don't know what you're talking about.

The Hon. I. COHEN: People are rejecting your values. I am a member of this House and I still reject your values. You are wasting a space.

The Hon. M. R. Kersten: That is an insult.

The Hon. I. COHEN: It is an insult, and it is intended. Certain members of this House do so little that they would be doing the community a favour if they retired right now. It is insulting to me that this type of bill could pass through this House while members sit smug in their ivory towers and do not understand what is happening. They do not see drug addicts in the streets. These addicts are desperate.

The Hon. J. H. Jobling: You are being patronising.

The Hon. I. COHEN: I am being just as patronising as the Hon. J. H. Jobling is at other times.

The PRESIDENT: Order! This debate will be conducted without interrogatories by way of interjection. I entreat the Hon. I. Cohen to ignore interjections.

The Hon. I. COHEN: I am attempting to ignore them, but I am struggling to move on from the first page of my speech. I would ask for the support of the House to allow me to turn the page. I was saying that people onsell drugs to pay for their own habit, and they are in a desperate situation. The Greens have received some pertinent correspondence on the bill. The Council for Civil Liberties wrote:

> In our opinion the Bill is a draconian and brutal piece of legislation which imposes extraordinarily harsh criminal penalties in an area increasingly recognised to be a health and general society problem.

It is unfortunate that some honourable members of this House do not recognise that we have terrible problems in our society. There is a serious health problem with injectable drugs. While travelling with the committee on safe injecting rooms I saw people who were what I could only describe as half alive, "shooting up" into their throats and their legs. They were really desperate. It was like a slow suicide. Those people, for many and various reasons, have not had a fair chance in life and have fallen into drug use and become victims. They are not criminals, although they are judged by many on both sides of this House as being criminals. They are suffering and are on the edge of death.

Each year up to 700 Australians die from drug overdoses because people like many honourable members of this House just do not care. This legislation will make matters worse for them. It will do nothing for their rehabilitation or detoxification. A good friend of mine on the north coast who had done many good and productive things in his life fell foul of heroin. He had to visit, cajole and negotiate and argue with people to be included in a detoxification program, to get to the first stage of detoxification so that he could get off the drug.

My friend is no longer on the drug. He has made that breakthrough after many failed attempts to do so. He has children and he has made a mess of his life and is going through a living hell. Fortunately, he has come through, because he was not incarcerated for drug use; he was not brutalised and raped in gaol. But his life has not been completely and utterly destroyed in that way, as happens time and again in our community. The submission continues:

> The Bill targets dealers . . . it requires very little thought to see that the persons most likely to be caught are either addicts cutting or taxing small quantities and/or selling to support their own habit, or recreational users who may supply to friends, eg, a person who went to a rave party, purchased 3 tablets which were then onsold or given to friends to cover the cost of entry.

Reverend the Hon. F. J. Nile: Like Anna Wood.

The Hon. I. COHEN: Anna Wood died from another health condition. I agree that her death was a tragedy and I would like to see educational measures that avoid such tragic loss of life. The method that Reverend the Hon. F. J. Nile would use would not solve the problems of the Anna Woods of this world. His head-in-the-sand attitude does not address the problems. He should be urging a bill on education about drugs.

Reverend the Hon. F. J. Nile: Your head is in the clouds on pot smoking.

The Hon. I. COHEN: Are you saying that I am a pot smoker?

Reverend the Hon. F. J. Nile: Your head is in the clouds on pot smoking.

The Hon. I. COHEN: Apart from Reverend the Hon. F. J. Nile and the Hon. Elaine Nile, I would be one of the straightest people in the House. My indulgence in drugs is so minimal as to be almost non-existent.

Reverend the Hon. F. J. Nile: You said my head was buried in the sand.

The Hon. I. COHEN: It is indeed.

Reverend the Hon. F. J. Nile: Your head is in the clouds.

The Hon. I. COHEN: Closer to the angels, Reverend Nile.

Reverend the Hon. F. J. Nile: I hope you listen to them.

The Hon. I. COHEN: Indeed I do. With recreational users, possibly only one person in a group of friends is able to obtain drugs for the group. The dealer may wish to deal with only that one person, who obtains the drugs after collecting money from the friends and then onsells small quantities of drugs for recreational use. That person will be caught by this legislation. That is totally inappropriate. The friends of Anna Wood—tragic though her death was—would be caught by this legislation. No age limit is stipulated, so young children will be caught by the legislation. The royal commission recommendation on which this legislation is based states:

> The Commission accordingly recommends that consideration be given to amending the Drug Misuse and Trafficking Act 1985 by creating an indictable offence of "engaging in commercial" supply, to catch those instances where a person, who is obviously engaged in a regular business of supply, is presently able to minimise his or her criminality by holding and dealing in drugs in quantities less than the indictable or commercial quantity,

The Minister said in his second reading speech on this bill that the bill will create a new offence which "plugs a potential loophole under the existing law". The Council for Civil Liberties refutes that claim. The council argued in its submission on this point:

> It is untrue to say that there is a loophole. There have been a number of cases where the Court has accepted that a course of dealing in small quantities can accumulate into a commercial, or large commercial quantity with the appropriate penalties, eg *Locci*, 1991 22 NSWLR 309 and *Hamzy*, 74 A.Crim R. 341.

People who are caught by police after an accumulation of drug offences will face appropriate charges for those offences. The submission continues:

> It goes without saying that it also introduces a huge new potential area of police corruption whereby corrupt police can bargain on the basis of the vastly different penalties that could flow from say 2 minor changes of supplying minute quantities and a charge under this section. The bill seeks to totally destroy the distinction built in between minor and commercial quantities.

That is extremely destructive in relation to the way in which the present system is set up. People who possess small quantities are given a smack over the wrist, and that is particularly appropriate where young people are involved, and people who possess large quantities are incarcerated—

The Hon. Dr B. P. V. Pezzutti: This is drugs.

The Hon. I. COHEN: It is indeed.

The Hon. Dr B. P. V. Pezzutti: You talked about "smack".

The Hon. I. COHEN: That was a Freudian slip. I retract that statement and substitute the phrase "appropriate punishment for the crime committed". The Greens are concerned that the bill does not specify quantities in relation to offences. With such large penalties at stake, the Greens consider that at the very least the amount of supply on each separate occasion should be a trafficable quantity. I understand that the Hon. R. S. L. Jones will move an amendment to that effect.

Reverend the Hon. F. J. Nile: Do you want us to legalise all drugs?

The Hon. I. COHEN: And to control them, to educate against them, and also to acknowledge that it is a medical and social problem, not simply a legal problem. I give a specific example. Currently under the Act, the maximum penalty of 20 years imprisonment or 3,500 penalty points applies only to persons charged under the commercial quantities provisions. I cite the example of heroin. To be subject to these heavy penalties, an accused must be caught supplying 250 grams of heroin. However, under this bill the accused may have been caught supplying only three $50 deals over a 30-day period. The three deals may amount to less than one gram

of heroin. Potentially the accused will face a 20-year gaol term and a $350,000 fine for three $50 deals over a 30-day period. I say to the Government and the Opposition: get real!

The Hon. Dr B. P. V. Pezzutti: Get what?

The Hon. I. COHEN: Get real! Currently, if a person is caught supplying less than—

The Hon. Dr B. P. V. Pezzutti: Are you supporting the bill?

The Hon. I. COHEN: The Hon. Dr B. P. V. Pezzutti's powers of deduction never cease to amaze me.

The Hon. Dr B. P. V. Pezzutti: I thought you were supporting the ALP.

The Hon. I. COHEN: Some members of this House speak independently. Some members of this House make up their own minds without kowtowing to the Government, the Opposition or, for that matter, the Hanson political phenomenon. I feel proud to be one of those people. Currently, if a person is caught supplying less than one gram of heroin he or she falls into the small quantity penalty regime and faces a maximum of two years imprisonment or 20 penalty points if tried summarily, and 15 years imprisonment or $220,000 if tried on indictment. However, the Greens are informed that most offenders charged with supplying small quantities of heroin are tried summarily. Thus, individuals charged with supplying small quantities of heroin are often only subject to the less harsh penalties. The Law Society wrote to me on 13 May.

The Hon. Dr B. P. V. Pezzutti: It was one of your friends who had a large amount of money in his car.

The Hon. I. COHEN: I suggest to the Hon. Dr B. P. V. Pezzutti that before he makes statements in this House he should get his facts right. The matter went to court, and no offence was proven.

The Hon. Dr B. P. V. Pezzutti: How much was there in the car?

The Hon. I. COHEN: He went to court and no offence was proven.

The Hon. Dr B. P. V. Pezzutti: How much was in the car?

The Hon. I. COHEN: I do not know. No offence was proven, so what is the point? In a letter to me dated 13 May the Law Society wrote:

> The legislation will target dealers who sell little and often, in response to community pressure from people who, quite rightly, do not want to see blatant drug dealing on their suburban streets. Nor does the general community want to see users hanging out on their streets waiting to buy drugs or, having "scored" under the influence of drugs. Unfortunately, while the effect of this legislation will be to push "unsightly" transactions off the streets, it will not do anything to attack drug abuse in our society nor reduce the quantity of drugs available.

The Law Society went to the media regarding this bill. The community law and research centre of the University of Technology, Sydney sent me a draft response to the bill in which it argued:

> The Bill marks a significant social trend in the dealing with illegal drugs along prohibitionist/zero tolerance lines and away from alternatives to criminalisation and drug law reform, despite clear community support for and recent debate about the latter and the evidence suggesting the substantive failure of the historical prohibitionist approach.

The prohibitionist approach did not work in the 1930s. We now have safe drinking houses, and alcohol is legal. The prohibitionist approach has never worked, and it never will. The UTS community law and research centre continued:

> By abolishing the vital distinction between small quantities and commercial quantities, the Bill is not only failing to target organised crime and large scale suppliers, but attacks those who are drug dependent, or those who may, on occasions, supply to friends. The distinction between minor and commercial quantities is necessary to maintain the difference between commercial dealers and personal users.

This bill does not do that at all; it refuses to acknowledge such a distinction. It is interesting to note the inappropriateness of the legal system to deal with this situation. I commend to all members a book titled *Fear or Favour* by David Heilpern, an academic from Southern Cross University. In his book Mr Heilpern states:

> In late 1992 I was representing a young man aged 18 years, charged with an armed robbery offence. He was blonde, slight and, in the words of my paralegal, "cute". Although he had been on bail pending trial, he was now pleading guilty.

No-one would excuse the crime that that young man committed. However, when it was requested that he be put into protective custody because he was young and a potential prison victim, the judge said to Mr Heilpern, who was representing him, "I have yet to see any evidence of sexual assault within our prisons. Where is the proof?" That young man was sentenced to three years imprisonment. After serving eight months imprisonment he wrote to David

Heilpern and described his life as the friend of a heavy in the system. He claimed to have been raped on countless occasions, until he met someone who looked after him in return for favours. Members opposite may laugh—they are probably not listening to the information I am providing the House. I urge them to listen to the next line in David Heilpern's book:

> He killed himself shortly after his release.

That was the effect on that young person of the dehumanising system. This is the sort of thing that is happening time and again. In the foreword to the book—

[*Interruption*]

Young people who might have dealt three joints over a 30-day period do not deserve to go to gaol to be gang raped by the heavies there. No member of this House should support a system that sends naive, silly, young men to gaol for months on end, allowing them to be gang raped and to come out as destroyed human beings. For the Hon. M. R. Kersten to say that shows his lack of understanding of the criminal system and the cruelty that happens in these gaols. Does he think that raping a young man is a fair punishment?

The Hon. M. R. Kersten: I did not say that at all.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): I iterate the President's early request that members comment at the appropriate time. If the Hon. I. Cohen does not want to be interrupted, he should not direct questions to members.

The Hon. I. COHEN: I would like to read a small portion of the foreword to a book written in 1988 by the Hon. Justice Michael Kirby, AC, CMG, President of the International Commission of Jurists, and a judge of the High Court of Australia. He said:

> Although it should be read by scholars of criminology, it should also be read by judges, public officials, members of the media and other citizens . . .
>
> Attention is needed not just to protect the State (and therefore the community) from the legal claims which may be made in the future by prisoners subjected to unacceptable sexual violence whilst in custody—it is also needed because respect for basic human rights extends to prisoners. Once society is informed of such affronts to human dignity, it is a moral responsibility of citizens to do what can be reasonably done to guard those at risk of violence, to deter offenders and to punish those proved guilty of wrongdoing. The courts have recognised that they must respond with firmness when sexual violence in prison is proved . . . There are few more serious affronts to human dignity than the instances recounted in this book.

He refers to cases of sexual violence and rape of young people in gaol. Their crimes are insignificant compared to the terrible punishments they have to endure. The book states at page 77:

> Apart from the factors of age, low education levels, Aboriginal over-representation and mean sentence length, there are other characteristics important in placing sexual assaults in prisons in an environmental context.
>
> Prisons are, above all else, a closed environment, with a pecking order based on brute force, gang power and fear. They have their own economy, hierarchy, discipline and even their own language. Descriptions from prisoners, prison officers and successive inquiries paint a picture where overcrowding and understaffing mean that prisoners themselves are often the law makers. Authorities rely on this self-policing as an aid to managing the prison effectively.

These are the sorts of institutions to which we are sending people for relatively minor infringements of the law. The legislation will see more people go to gaol for relatively minor misdemeanours. The finding of a study undertaken by Mr Heilpern were that one-quarter of males aged 18 to 25 incarcerated in New South Wales prisons report they have been sexually assaulted while in custody. Younger, smaller and gay prisoners within the age range are at greater risk. The perpetrators of these assaults are almost always other male prisoners. There is no evidence that separate prisons for younger prisoners lessen the phenomenon. There is no evidence of a racial basis for the phenomenon in New South Wales.

Sexual assault in prison is rarely reported. There is sufficient evidence of sexual assault within women's prisons to justify further research. Sexual assaults occur mostly, but not exclusively, in cells. One half of those aged 18 to 25 incarcerated in New South Wales prisons report they are assaulted other than sexually while in custody. The legislation will place people in totally inappropriate conditions. The bill marks a significant social trend in dealing with illegal drug use along prohibitionist-zero tolerance lines and away from criminalisation and drug law reform alternatives, despite clear community support for and recent debate about the latter, and evidence suggesting the substantive failure of the historical prohibitionist approach.

By abolishing the vital distinction between small quantities and commercial quantities, the bill not only fails to target organised crime and large-scale suppliers, but attacks those who are drug dependent or those who may, on occasions, supply to friends. Recent legislative changes allowing greater scope for police involvement in undercover operations through surveillance mean that opportunities for entrapment and police set-ups are

expanded by the introduction of the three-strike rule. In effect, the bill will allow officers discretion to charge a person for an alleged single offence. This is alarming, given the finding of the Royal Commission into the New South Wales Police Service that 95 per cent of police misconduct was drug related. Tim Anderson, of the Council for Civil Liberties, describes zero tolerance policing as a big lie. He says:

> New York style 'Zero Tolerance' policing neither solves crime nor delivers justice in the US. It would be a disaster in Australia. 'Zero Tolerance' is nothing more than old fashioned 'law and order', along with the traditional overpolicing of poor and marginal social groups.
>
> The claim is that intensive targeting of petty crime will reduce major crime—former NYPD chief William Bratton intensively prosecuted 'squeegee people', prostitutes, public drinks, aggressive beggars, litterers and reckless cyclists, and claimed major crime had fallen.
>
> Elsewhere 'Zero Tolerance' has been pushed by police associations anxious for extra resources, and by politicians seeking law and order votes—'Zero Tolerance' theorist James Quinn Wilson is a conservative who deplores the breakdown of the nuclear family and looser morals; he believes in reducing social security and tightening divorce laws.
>
> Recently falling crime rates in the US are no evidence of the success of 'Zero Tolerance'—violent crime across the US has grown strongly since the late 1970s, alongside more intensive policing and greater penalties—there were peaks in the recessions of the early 1980s and 1990s—the recent fall is from the record high levels of 1991-92.
>
> The 'land of the free' jails its citizens more than any country on earth—1.7 million prisoners and 6 million in jail, on parole and on probation (1996)—the US prison population tripled since 1980 at the same time as its violent crime levels rose. So tougher penal sanctions in the US are clearly associated with rising violent crime rates.
>
> Consider what zero tolerance applied evenly across the USA would mean—police would arrest and often jail the 32% of young people involved in petty theft, the 40% who smoke marijuana and the 50% involved in underage drinking—the current US model imported into Australia would raise our prison rate eight times and our violent crime rate several times.
>
> There are currently inquiries into police brutality in New York and corruption in some parts of Britain, associated with 'Zero Tolerance' policing—serious assaults by police, racist policing and renewed fabrication of evidence have all been linked to 'Zero Tolerance'.
>
> Police dissenters include: Thames Valley Chief Constable Charles Pollard . . . New Zealand Police Assistant Commissioner Paul Fitzharris . . . and Fife Chief Constable John Hamilton.

There are a few senior police in various countries who oppose zero tolerance. The Greens are not saying that the Government should go easy on drug dealers. We support any moves against major drug dealers. The Greens would like to see relevance in the legislation to deal with these problems.

The Hon. Dr B. P. V. Pezzutti: This is boring and repetitive. You have gone on for too long.

The Hon. I. COHEN: This is a very important issue. On many occasions in this House members have gone on for too long. If one person is kept out of gaol due to my boring repetition, if one young person is not raped due to my boring repetition, if drug law reform sanity dawns on the major political parties due to my boring repetition—

The Hon. Dr B. P. V. Pezzutti: You have not mentioned the word "treatment" once.

The Hon. I. COHEN: If the honourable member was listening earlier, he would have heard me mention my experience on the safe injecting rooms committee and my request that this issue be considered more as a health issue.

The DEPUTY-PRESIDENT (The Hon. D. J. Gay): Order! The Hon Dr B. P. V. Pezzutti will stop trying to divert the Hon. I. Cohen from the subject matter of the bill, which is drug dealing and not drug use per se.

The Hon. I. COHEN: I say to those honourable members who might not have listened to what I have had to say that we are dealing with human lives. We need a balance between treatment and draconian laws against drug dealers. We must hit major drug dealers hard. We must get off the backs of those who are down and out, those who are living in the streets who are using only minute quantities of drugs. We must look at treatment, rehabilitation, education and other ways of dealing with these problems.

Incarceration has failed miserably and will continue to fail miserably. Policy makers in our society have very little imagination. They rely on traditional values that have been shown not to work. They are using a 1950s mentality to try to solve problems in the latter part of the twentieth century. As we move into a new millennium we should look at new ways of resolving these problems. Members of Parliament and members of the older generation are in danger of losing relevance in society at large.

The Hon. ELISABETH KIRKBY [9.21 p.m.]: In spite of the lengthy debate, honourable members may need to be reminded that the purpose of this bill is to enable the effective prosecution of

drug dealers who supply a small amount of drugs on a continuing basis. This bill, which is aimed at small-time dealers, excludes people supplying cannabis, although I believe an amendment will be moved later by Reverend the Hon. F. J. Nile which will include cannabis. I am informed that the bill is based on a recommendation of the Royal Commission into the New South Wales Police Service.

The commission identified a gap in the law whereby street dealers supply small amounts of prohibited drugs, possibly less than the commercial amount, to any number of people, but they never at any time have a large amount actually on their persons or in their possession. It is believed that the dealers would have a larger amount stashed close by and then, after selling a small amount, they would go back to the stash and come back onto the streets with another small amount. Linking the dealer with the large supply has been difficult for the police to prove.

According to the royal commission, the solution is to make penalties for supplying many smaller amounts of drugs equate to penalties for possession of commercial amounts. This, of course, was the case put forward by the royal commission. However, from all the information I have collected it appears that that may not always be the case. Small-time dealers may, in some cases, never have had a commercial quantity of the drug that they are supplying. In fact, they may simply be supplying their friends. Unfortunately, it appears that this bill is a further indication of the escalation in the current bidding war to get tough on crime. It is a knee-jerk reaction to the introduction of a similar bill in the other place by the shadow police spokesperson the Hon. Andrew Tink. This is confirmed by the fact that this bill was introduced in the Legislative Assembly rather than—as I believe should have been the case—introduced in this House by the Attorney General.

The bill will amend the Drug Misuse and Trafficking Act 1985 and create a new indictable offence of supplying a prohibited drug on an ongoing basis. The elements to be satisfied for ongoing dealing are: that a person supplies a prohibited drug for financial or material reward on three or more separate occasions over a period of 30 consecutive days. It does not matter whether the same drug is supplied on each occasion, and the amount is not relevant. The term "supply" has an extended meaning under the Drug Misuse and Trafficking Act. It includes: sell, distribute barter, exchange, or deal, so long as it is for financial or material reward, but it does not include giving away. As has already been pointed out, this new offence is an indictable offence for which the penalties are $385,000 and/or imprisonment for 20 years. This penalty equates to that applied to an offence under section 25(2) of the present Act for supplying a commercial quantity of a prohibited drug.

New section 25A(4) states that if it is not proved that there were three occasions of supply as alleged, the accused should be acquitted of the offence. However, he or she can still be convicted of the single supply offence. If a person is convicted under this section, he or she cannot also be convicted of a single supply offence. I imagine that that means that the police would proceed under the trafficable or commercial quantity offences if the amounts were large, as only evidence surrounding one incident of supply would need to be adduced. I am informed that this bill will be supported by members of the Opposition. The Government and the Opposition are saying that they must rid the streets of drug dealers. But, once again, the only people they are targeting are the small suppliers. They are the ones that are most visible and the easiest to catch.

Regrettably, the problem is that, no matter how many of these street corner dealers who are caught by the police are locked up by magistrates, there will always be some other small supplier to immediately take their place. These people are expendable to the big suppliers; they are the foot soldiers and the drones; and they will always be sacrificed by the drug generals. It goes without saying that the penalties under this bill are outrageously inappropriate. The bill specifically does not set a minimum amount of prohibited substance, yet an enormous penalty is imposed for small amounts of drugs. This is an indictable offence, so why not confine the drug amount to an indictable quantity or even a trafficable quantity? A trafficable quantity is lower than an indictable quantity. Even so, other indictable offences in the Act carry a penalty of 2,000 penalty units and/or 15 years—not 20 years.

The bill states that this offence can be heard only on indictment. That means that the matter cannot be disposed of summarily as with other offences listed under sections 30 and 31 of the main Act. When matters are dealt with under these sections the penalties are as low as 50 penalty units and/or two years. Under the bill it is possible for somebody who is convicted to spend 20 years in gaol for supplying three tablets of ecstacy. I totally oppose the use of ecstacy. I realise how dangerous ecstacy is and I realise how many tragedies have resulted from its use, but a person could spend 20

years in gaol for supplying ecstasy to someone who was able to cope with it, who used it in a way that did not place his or her life in danger and for whom it did not result in a tragic outcome.

It is late and I do not wish to unduly delay the House. I know that other members will have a great deal to say on this legislation. We are being asked to vote on a bandaid solution to the international problem of illegal addictive drugs—an attempt to impose a criminal solution on what is increasingly recognised by the judiciary, the medical profession and many eminent international lawyers as a medical problem. All the indicators and statistics show that crime is increasing. One does not have to be a genius to know that the increased crime is being fuelled by the craving of addicts and their desperation to satisfy their addiction. Many addicts sell drugs to subsidise their addiction. How do we tackle the problem of illegal drug use? How can drug use be brought under control so that the associated crime can also be brought under control?

The latest crime statistics show a decrease in theft and shoplifting from retail stores, which has resulted from an increase in security in shopping centres. That is not a cry for tougher law and order measures. The community pays a premium on goods to finance that added security. Addicts who are desperate for money to feed their addiction go to places where there is no security—our homes and our streets. Obviously security guards or police cannot be placed on every street corner or outside every house. In some streets in Sydney every house has bars on the windows and elaborate security systems. It could be argued that is good for the gross domestic product. People get paid to manufacture and install window bars and elaborate security systems, lawyers get paid to represent those charged and people are employed to build yet more prisons, to house prisoners at a cost of between $35,000 and $55,000 per year.

Is this the sort of society in which we want to live? It could also be argued that drug abuse is good for the gross domestic product because it spawns industrial and commercial activity. But what price do we put on human misery, on the families torn apart by children who strip their parents, sisters and brothers of money and assets and then die tragically? Currently New South Wales has 13,500 police officers. Police patrols can offer about 30 seconds of surveillance per property per day. Doubling the number of police presumably would mean they could offer about 60 seconds of surveillance per property per day. Remembering there are 1,440 minutes in a day, the doubling of police numbers is clearly an inadequate response, no matter how appealing that idea might be to some people.

The only way to tackle the drug problem is to make drugs worthless. By making drugs worthless or significantly devaluing them, addicts can purchase their needs without stealing, dealing or assaulting people. If the Government wants to control the drug problem, it must control the market by becoming the middle man or dealer. That may seem an outrageous idea to many people, and I note the interjections of Reverend the Hon. F. J. Nile. But other reputable people in the community who are genuinely interested in making our streets safe believe that is the only solution. Governments already control the supply of many addictive drugs by scheduling them. They also control the sale of addictive drugs such as tobacco and alcohol, and not too many people protest about that control. Governments also run programs to bring people who develop difficulties with drugs of addiction into contact with health care professionals. That is another area that has to be addressed when dealing with people who have an addictive illness.

Australian opium, grown in Tasmania, is exported and processed overseas into high-grade pharmaceutical products. However, it can also be very cheaply made into heroin. Let me continue to talk about money, because that is the root of the problem and the reason for so much drug-related crime. People steal, deal or prostitute themselves to obtain a sufficient amount of money to feed their addiction. If heroin was a legal drug, registered heroin addicts could buy Australian-grown heroin from Government-approved pharmacies for about $1.70 per dose, less than a schooner of beer. I realise it would be a very brave Government in this political climate that would make the long and difficult journey to educate the public, begin registration and supply heroin to addicts. However, let us look at the other end of the supply scale—the opium growers in Afghanistan, Burma, Laos, Pakistan, India and Thailand, who are lucky to average an income of not much more than $2 a day.

So here we have it. There are users dependent on the end product who are theoretically able to maintain a heavy addiction for far less than the average park bench alcoholic, and there are subsistence farmers who require about $3 per day to meet their basic needs. Apart from growing enough opium to satisfy their cultural needs, it probably does not matter to those people if they are paid $2 per day to grow dry-land rice rather than opium. Whether they cart bricks, weave carpets or grow saffron or some other crop, $2 per day is $2 per day. To make drugs worthless, governments must

move towards regulation and then focus on the source. AusAid has already done extremely valuable work in developing crops such as dry-land rice in Thailand, Laos and Vietnam.

In the recent Federal budget the customs Minister, the Hon. Warren Truss, announced that his Government had underlined its tough-on-drugs commitment with a budget allocation of $33 million for specific customs strategies. However, with a coastline as big as Australia's and a large number of containers and overseas passengers coming into the country every year, it will be a case of good money being thrown after bad. Even the additional 18 intelligence analysts, which the Federal Government is going to spend $7.3 million to employ, will largely be a waste of time. How much more intelligence do we need? We know the regions where the opium is grown and the various peoples and tribes involved in its cultivation. I could hop on a plane tomorrow to the north of Thailand, take the drug warriors by the hand and show them where the stuff is grown.

A far more effective use of that $33 million would be to pay the opium growers, who are paid a pittance for producing the raw material, to switch to growing alternative crops, something that is socially useful. AusAid workers could teach them how to grow dry-land rice and buy their surplus rice. Instead international drug barons are buying the opium. A global effort is required to wipe out the drug trade. Countries fighting the drug war on their own territory are battling a $400 billion international problem.

The *Economist*, a magazine which is not known for exaggeration, used the resources of its economic intelligence unit to estimate that the global drug trade is worth $400 billion. That is not a figure that was plucked out of the air. The *Economist* went even further, estimating that 75 per cent of the global illicit drug trade would have to be wiped out by law enforcement agencies before there was any significant impact on the profits of the drug barons. A long-term multilateral attack is the only strategy that can possibly work in the long run.

Until illicit drugs are worthless we will continue to fight this uphill battle. Until the gap between the person growing the drug for $2 a day and the person taking the drug for $1.70 a dose is narrowed to exclude the middle man we might as well save our money fighting drug offences because we are simply throwing good money after bad. If we are serious about tackling the drug problem we must also ensure that there are exclusivity clauses in any international free trade agreements that see opium growers subsidised to grow alternative crops. There is a very good case for subsidising alternative crops such as dry-land rice and alternative food crops in areas that produce opium.

The other most addictive drugs that are also very dangerous for people's health—tobacco and alcohol—at least are taxed. At least the users and the abusers pay a premium to society, which provides them with counselling. People who are victims of the illicit drug trade do not pay taxes; there are not adequate detoxification centres; there are not adequate counselling services; and indeed the addicts are a drain on valuable resources, and an impediment to social security. Their personal security is also at risk. Winston Churchill wrote in a book that the solution to every problem, however complex, is commonsense.

Ten years ago in the United States a kilo of cocaine sold for $60,000. Today, after billions of dollars have been spent in the United States fighting the drug war—$30 billion in 1995 alone—a kilo of cocaine costs $20,000. Virginia, a State renowned for tobacco production—we all know about Virginian tobacco—passed the Uniform Drug Act, which provided for imprisonment for not less than 20 years for simple possession. That law has failed miserably. Bill Clinton, in his campaign for the presidency, defined insanity as doing the same thing over and over again and then expecting a different result. This is exactly what we are doing today in New South Wales in attempting to combat the drug problem here.

Drug laws are widely ignored daily by Australians in every walk of life. Indeed, draconian and unworkable drug laws breed cynicism and disrespect for the rule of law in general. This is a negative consequence. As Stephen J. Morse, Professor of Law at the University of Pennsylvania, stated when commenting on drug laws in the United States, "We are fighting an enemy that large numbers of Americans do not consider their foe." Many Australians would echo his thought.

When I was given my speech notes today I was asked to stress not only the policy of my party, the Australian Democrats, that drug abuse is a health problem, not a problem of crime or law and order. I was also asked to dedicate the speech and my remarks on behalf of the Democrats to a young man named Paul Jones, who died of an overdose earlier this year because he was addicted to heroin and he was not able to get help. Many young men and women in Australia are dying of overdoses of drugs and all we are doing is suggesting that if we introduce draconian penalties—$385,000 fines and

imprisonment for 20 years—we are assisting them. We are not helping them one iota because it will not remove the drugs from the streets. As I said earlier, even if this legislation, when it is passed, picks up more of the small dealers, the next day or next week there will be more small dealers on the streets of Cabramatta selling small quantities of drugs.

Regrettably, when looking back over what I have done over the past 17 years in this Chamber I come to the conclusion that many of the things I said 17 years ago I could say again tonight. Nothing has changed. If this bill is passed tonight and the draconian penalties are introduced I could come back and sit in the gallery in 17 years time and the Chamber would still be debating the matter and the problem would still not be solved, because the bill is not the solution, and I oppose it.

The Hon. R. S. L. JONES [9.47 p.m.]: That was another magnificent speech from the Hon. Elisabeth Kirkby, a wonderful speech.

Reverend the Hon. F. J. Nile: You are so loyal to her.

The Hon. R. S. L. JONES: I am loyal to her as a person and I would have been loyal to her as a Democrat if I still had the privilege of being a Democrat. Unfortunately, we had a slight falling out a couple of years ago. I am opposed to the legislation. It is draconian and a significant departure from the provisions and penalty structures of existing legislation. Further, it has been noted by the Council for Civil Liberties as a brutal piece of legislation which imposes extraordinarily harsh criminal penalties in an area increasingly recognised to be a health or general society problem.

The bill creates a completely new offence for people who have been caught dealing in drugs three times within a 30-day period. Bear in mind that the quantity of drugs that the person has dealt in is not relevant as to whether a person is charged under the legislation. It is also not necessary for a person to be charged after each individual act of supply. If caught offending under the provisions of the bill, a person may be fined more than $350,000 or imprisoned for a maximum of 20 years. Reverend the Hon. F. J. Nile foreshadowed an amendment to include people selling cannabis. Young women up north who make cookies with about half a gram of cannabis in each one and sell them for $3 or $4 each will be liable to 20 years gaol if his amendment is successful. Can anyone imagine anything so outrageous?

It has been argued that the bill stems from a recommendation of the Wood royal commission about the difficult time police officers have had in catching large drug suppliers who do not carry large quantities of drugs on their person. Police officers have expressed frustration that their surveillance work did not come to fruition in sentencing outcomes. It is argued that big suppliers carrying only a small quantity on their person when caught could not be slapped with heavy penalties because the current sentencing system is based on proving possession, with the reasoning that the larger the quantity supplied the greater the potential profit and criminality. Page 229 of the final report of the Royal Commission into the New South Wales Police Service, Volume II: Reform, from which this amendment has supposedly grown, noted that in their overzealous attempts at securing drug convictions "some police have sought to overcome the difficulty by lying about the circumstances of the finding" of the drug. It continued:

> There were many such examples in the course of the Commission's hearings. The frustration for police arising from these circumstances is such that they may "solve" the problem by "loading up" the dealer with a larger quantity of drugs, or alternatively engage in theft or extortion to "punish" the dealer.

Recently I met with some dealers and users who were represented in an organisation and they explained that many dealers have been ripped off by the police, who steal their money and drugs but do not bust them. They said that this goes on all the time and is still happening today. Even after the royal commission police are still involved in corruption; and while ever there is the potential for corruption, corruption will exist. Here, as elsewhere in the royal commission reports, we find evidence of police corruption in drug law enforcement.

This bill will reinforce such behaviour by police officers because it legally endorses entrapment as a means by which to catch criminals. Entrapment and surveillance will be a main feature of the implementation of the bill because police will need evidence to prove that a person has engaged in dealing three times and will collect this evidence by acting as agents provocateur, or going undercover and tricking an unsuspecting dealer into selling drugs to a police officer. It is likely that police will also increase their use of video surveillance in compiling evidence to secure ongoing dealing convictions.

This places police in a curious position in which they are encouraged to watch and condone, and in some cases invoke, criminal behaviour in order to extract the maximum possible offence. Recent evidence from the New South Wales Ombudsman notes that large numbers of serious

corruption allegations continue to be made against the New South Wales Police Service, despite the reforms of the past year. In fact, oral complaints against police officers jumped 26 per cent and formal written complaints rose 16 per cent in the 10 months to April, taking the total number for the financial year to more than 20,000 complaints against police in this State alone. That shows the depth of corruption that still exists because of our antiquated drug laws.

Further, there is concern that this corruption may focus on particular ethnic groups. A study published in 1997 documenting young Asian people's experience of policing, centred in Cabramatta, showed that encounters between police and young people of Asian background are often conducted in a climate of fear, racism or hostility. These young people were found to be subjected to routine harassment, intimidation and mistreatment by members of the New South Wales Police Service. It is against this background that we are giving police greater power to carry out drug law enforcement activities.

The irony of the situation is that the provisions of this bill are not likely to catch the big dealers, who are the intended recipients of the penalties: it is likely to catch small-time dealers. The Law Society of New South Wales notes that the legislation will target dealers who sell little and often. The Council for Civil Liberties notes that most likely to be caught are either addicts cutting or taxing small quantities and/or selling to support their own habit. A joint submission from the UTS Community Law and Research Centre, the Redfern drug policy project and the New South Wales Council for Civil Liberties made the following comments about the erroneous aim of trying to reduce the supply of drugs:

> . . . the bill is not only failing to target organised crime and large scale suppliers, but attacks those who are drug dependent, or those who may, on occasions, supply to friends. The distinction between minor and commercial quantities is necessary to maintain the difference between large commercial dealers and person users. Large, disproportionate penalties do not address the problem, but feed into easy false assumptions about the nature of drug use and crime.

David Dixon from the University of New South Wales has noted that the bill misunderstands the drug market. It assumes that there is one dealer supplying to many people, when in reality there are both users and dealers, and these are often interchangeable. Users may sell drugs to support their habit. If they take note of this legislation they will look to alternative sources for funding their habit. It is likely that these people will resort to property-related crime such as car theft and robberies and the crime rate will increase as a result.

I had a meeting with members of the Drug Users Association, who had fears that many people addicted to heroin and other drugs will no longer sell to support their habit but will indulge in break-ins, robberies, and assaults on old ladies to steal their bags. The penalty for a break and enter or stealing from individuals is less than the penalty for selling heroin to support a drug habit. It will be in the interests of drug addicts to break into people's homes and steal their goods rather than sell heroin on the streets. There will be a significant increase in property crime and robberies in this State as a direct result of this legislation and the Government will have to wear that. In the past few months crime has increased significantly because of an increase in heroin addiction, and this bill will exacerbate that.

When I am in Sydney I live in Manly and my neighbours there have been robbed many times, mostly by heroin dealers. My next-door neighbours have been robbed three times in the past three years and many people in the surrounding streets have been robbed and are moving out of the area as a result. The perpetrators are mostly heroin addicts who can find no other way to supply their habit. Burglaries throughout Sydney will increase because of this legislation. It will be in the interests of addicts not to sell on the streets or to their friends because they will end up being sent to gaol for 20 years.

This bill will not stop drugs being sold. Wherever there is a demand there will be a supply. If we cannot keep drugs out of our gaols, we certainly cannot keep them off the streets or out of our homes. This legislation is yet another in the army of policies that the Government is introducing to up the ante in the law and order bidding war that will undoubtedly plague us until the next election. But it is the wrong approach. Amongst others, the Director of Public Prosecutions, Nicholas Cowdery, noted:

> My view is that the so-called war on drugs is going the way of most other wars. It's costing time, it's costing money, it's costing lives [and] it's achieving nothing other than creating more crime which I then have to prosecute.

I am concerned that drug dealers will simply move their trading to another area or off the streets. First offenders, small-time dealers and young runners will fall into the net and be sent to gaol as a result of this. It is likely that younger people will then be selling drugs as older people convince them to make money for them. Crackdowns on street-level user-dealers can be counterproductive because both

sellers and consumers tend to adapt their behaviours to changes in policing policy rather than cease their behaviours. Those who are sentenced—and under the provisions of this bill it will be for extended periods—will be lost in the corrective services system and placed in the invidious position of living alongside other inmates who may have lesser sentences for committing what would be considered far more serious crimes.

A recent study authored by David Heilpern, the launch of which I attended recently, has produced alarming figures on the number of sexual assaults occurring in prisons. He found that one in four prisoners he interviewed claimed to have been sexually assaulted and one in two claimed to have been assaulted other than sexually during their period of imprisonment. The youngest prisoners are most likely to be targeted and for some prisoners this becomes a daily occurrence with multiple perpetrators. This could easily happen to the people who will be most affected by this bill, that is, the first offenders—this bill catches first offenders—the drug user who sells to support a habit or the recreational users who on-sell to their friends. They will all be caught.

If the Government was really serious about trying to reduce the supply of drugs, it would conduct a comprehensive review of current drug laws with the aim of reforming them so as to make central to policy the minimisation of the harm drug use can cause to individual users and the community. In the Law Society's view such a policy should incorporate containment of drug use alongside recognition that those who are dependent on drugs have a medical problem. It should not be regarded as a legal problem but a medical problem, similar to the use of alcohol and tobacco.

The Hon. A. G. CORBETT [9.59 p.m.]: This bill is an attempt by the Government to tackle the increasingly difficult problem faced by our society—drug dealing. It is based on the findings of the Royal Commission into the New South Wales Police Service which showed that many drug dealers escape higher penalties by splitting the deals into smaller quantities. In accordance with the royal commission recommendation, this bill seeks to rectify the problem by creating a new, indictable offence of supplying prohibited drugs on frequent occasions. I acknowledge that drug dealing is a serious problem and that large commercial dealers should be particularly targeted. However, I do not believe that this bill appropriately addresses the problems.

I cannot support this bill, because there are numerous difficulties in its enforcement. Given the necessity of securing sufficient evidence to gain a conviction, this bill will encourage the entrapment procedures permitted by the controlled operations legislation passed by this Parliament last year. It will result in the inappropriate targeting of the very people that we should be protecting from big-time drug dealers—young people. It is young people who are often employed by commercial traffickers of drugs, to avoid detection and punishment. It is young people who will be left holding the bag for their suppliers. The very people whom the Government should be after will not be caught and will not be punished by this legislation.

Government members have praised the bill as a valuable tool for the police force against those who persistently deal in drugs, a tool that improves the campaign against dealing on the streets, and facilitates the apprehension, arrest, and incarceration of dealers. This bill is problematic in that the apprehension, arrest and incarceration of dealers will happen only after the third occasion on which police have been made aware of the drug dealing. This legislation permits a police officer to observe a crime in progress and do nothing—not only on one occasion but on two occasions. It is the third occasion on which the person is apprehended. This legislation would permit police to stand idly by and do nothing while they watch the commission of a criminal offence. They should be addressing the behaviour of suspected drug dealers and they should strike on the first offence. Thus, the bill does not offer any opportunity to drug dealers to rectify their behaviour, by being warned or charged after the first offence.

The bill assumes that most dealers who deal in drugs in small quantities and on frequent occasions are in essence parties to an organised crime ring and large suppliers. The bill does not make a distinction between minor offenders and large commercial dealers. It therefore ignores the fact that a large proportion of the people targeted will be people who are themselves drug dependent, or are supplying friends who are drug dependent. A large proportion of them will be young people who for various reasons have taken an unfortunate route in life. To support this legislation would be to ignore the real causes of drug abuse and trafficking—social, economic and health problems. These cannot be solely addressed by strict law enforcement and penalty increases.

By proposing that dealers be observed on three occasions before being charged the legislation puts society and many young people at risk. It creates more opportunities for far more people to become exposed to more drugs. It will only increase the consequences of drug addiction and drug dealing.

Drug abuse is a social, economic and health problem. It cannot be resolved by strict policies that will only put our young people in gaol. We, as parents who care about our children and the future of this society, should not allow legislative practices that will treat young people and hardened criminals in the same way.

As legislators we should not reinforce the same conditions that force our young people to engage in crime or become drug dependent. Rather than constantly being engaged in policing and punishing the dealing of drugs, we should be more engaged in identifying and eliminating the causes of drug use. The Government should pay as much attention to the cause of drug demand as it does to drug supply. Then we might see the drug problem addressed. Unfortunately, the causes of drug use and abuse are very complex and require a long-term, well resourced and researched, multifaceted program that will need to last much longer than a four-year election cycle to see any real impact. That is the real problem—the lack of a long-term perspective in a political system that encourages only short-term, knee-jerk reactions.

Debate adjourned on motion by Reverend the Hon. F. J. Nile.

ADJOURNMENT

The Hon. R. D. DYER (Minister for Public Works and Services) [10.04 p.m.]: I move:

That this House do now adjourn.

RETIREMENT OF THE HONOURABLE ELISABETH KIRKBY

The Hon. ELISABETH KIRKBY [10.04 p.m.]: As the day has passed I have begun to feel a bit like Dame Nellie Melba: this morning, when I introduced my private member's bill, I think many honourable members believed that was to be my last contribution in this House. They may also have believed that to be so when I spoke last week on the budget. Only a few moments ago I spoke to a bill to amend the Drug Misuse and Trafficking Act. In addition to those speeches today I have given many radio and television interviews. I have received an enormous number of telephone calls, facsimile messages, letters and cards. My office at the moment is full of the most beautiful flowers.

Many people have approached me and thanked me for what I have done, or what they believe I have done, over the past 17 years. As one can imagine, I am beginning to feel overwhelmed. Honourable members may not believe this, particularly as I am normally fairly articulate, but, quite frankly, I do not know what to say.

The Hon. R. D. Dyer: I don't believe that.

The Hon. ELISABETH KIRKBY: The Minister says he does not believe me. In the present circumstances I really must say something. I wish it were an occasion on which I could be light-hearted, happy, not too serious. However, it is impossible for me not to be serious at this moment, even if only for a few minutes, because what has happened in Australian politics over the past two weeks is too serious to be dismissed lightly.

I was very concerned when I realised there was going to be a new party called One Nation. As months went by and I heard some of the comments of the only member the party had in Federal Parliament, I became even more concerned. After what happened in Queensland only two weeks ago, I am not only concerned but also very frightened, because we have now seen the emergence in Australian politics of a force that is not only simplistic but totally divisive. Regrettably, it is appealing to the frightened and the helpless and those with the least understanding of the political process and of world events.

The rise of One Nation has been fuelled, in my opinion, by the wrong policies of the Federal Government—its economic rationalism—together with the fact that the Federal Government has not been listening to the people. But, of course, One Nation has also been fuelled by the media. Yesterday, when I went to Channel 9 to appear on the *Midday* show, I was sitting in a taxi and the driver had his radio tuned to what would normally be the John Laws show. Yesterday, it was not John Laws; he was obviously sick or on holidays, and another person was hosting the program.

I was listening to an interview with a woman who had telephoned the program and said she lived in Blacktown. The woman said she had come to Australia as a small child from Italy. She had grandchildren, so she was obviously a mature woman. Some members of this House may believe that we should not be politically correct, but I do not believe that, even two years ago, it would have been possible for anyone in New South Wales to say on radio what that woman said without being pulled up by the program host.

We live in a democracy and we have religious freedom. This woman was placing on record her complaint that there was a Muslim mosque in her

suburb, and she felt that was not right because, she said, this is a Christian country and Muslims should not be allowed to build a mosque here. The laws of this State provide that there can be no discrimination on the grounds of race, religion or sex. Therefore it is very wrong that these prejudices, which we all know exist, are now openly canvassed without anyone trying to rein them in. To me, that seems to be a recipe for disaster.

When I woke up this morning I switched on my radio, as I always do, and I heard part of the BBC world news, which is now rebroadcast by Radio National. I heard a report from Indonesia relating the story of Chinese women who were raped in Indonesia in recent days, since the departure of Soeharto. Apparently the rapes occured in seven different centres, on the same day, at more or less the same time, by men whom the victims similarly described as having shaven heads and being covered with tattoos. The women were subjected to multiple rapes for about six or seven hours, from nine o'clock in the evening until about three o'clock in the morning. Some of those women escaped to Singapore, and I believe some have now come to Australia.

We know of the appalling race riots that occurred in Indonesia years ago. I gather that although Soeharto has gone and there is a change of government, it is still possible for such vile and unnecessary abuse to take place. My fear is that if people are ignorant enough to believe that One Nation has the answers, there could be similar racial uprisings in New South Wales. It only takes one tense situation—one group of people coming out of a hotel late at night after having too much to drink and spilling out into the streets—for trouble to start. Because it has been boiling up, and because it is now okay to voice prejudice whereas previously it was not, trouble will start.

It is not the end of the world if One Nation is elected in Queensland, because there is no fixed-term Parliament there and if the Government is unstable there can be a new election and possibly a new Government within a matter of two years. But if One Nation candidates are elected to the Senate for a six-year term and control that House, it will not matter who is in government, whether it is the coalition or the Australian Labor Party: those Senators will be there for six years without any way of getting rid of them. That is what is so important and that is what all political parties must remember, because it is possible to block One Nation candidates.

When the leader of my party, the first woman leader of any political party in Australia, Senator Janine Haines, decided to stand for a lower House seat in South Australia she was quite effectively sidelined because the Liberal Party and the Labor Party in South Australia exchanged preferences. It would be quite possible in this State for the Liberal Party, the National Party and the Labor Party to exchange preferences to block out One Nation candidates. I find it strange that even in the deep north of Queensland any thinking person could believe it is better to have One Nation members of Parliament than Labor members of Parliament. After all, we know very well that nowadays there is very little difference between Labor Party policy and coalition policy.

I feel particularly strong about this, because my family on my mother's side were artisans in pre-revolutionary Russia. Many of my grandmother's sisters married Estonians, Latvians and Germans. During the lead-up to World War Two my grandmother was beside herself with fear because she had sisters and nieces writing to her in England begging her to send them some type of identification that would prove they were not Jewish. Of course this was impossible. She could not send them parish records because they had been born in St Petersburg; they had been registered at the British Embassy as British subjects. She did not have the baptismal records that would be available if one was born and brought up in a country town and christened in the local church, like the majority of people in Australia and Great Britain.

My family saw their friends being taken away, and many of them lost their businesses. None of them were sent to the concentration camps, but they lost everything simply because they could not prove they were not Jewish. I knew very well, even though I was a child, that Hitler was elected democratically; not as a result of a takeover or a coup. That is why I am so frightened. I say to my friends and colleagues in this House: please be aware of the danger of racism. Be aware of the danger of extremism. And be aware of what could happen here.

Although in the past we have been shielded from the divisive and frightening results of bigotry, we see what happens overseas. We see what happens in Indonesia through racism; we see what happens in Europe. What is happening now in places like Kosovo and Albania and what has happened for centuries in Ireland has not always been based purely on race; in many cases it is not even based on religion. It just happens. The last words I would say to you, and I beg you to remember them, are from the German theologian Martin Niemöller. They have been quoted many times, but I do not make any excuses for quoting them again:

> When Hitler attacked the Jews I was not a Jew, therefore, I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic, and therefore I was not concerned. And when Hitler attacked the unions and industrialists, I was not a member of the unions and I was not concerned. Then, Hitler attacked me and the Protestant church—and there was nobody left to be concerned.

Thank you for your friendship over the years, for sharing things, debating things and arguing things. I leave here with very mixed feelings: great sadness, but also great happiness that I have had the privilege of being in this Chamber for 17 years and enjoying your friendship. Thank you.

The Hon. R. D. DYER (Minister for Public Works and Services) [10.20 p.m.]: I would like to convey to both Liz and the House the apologies of the Leader of the Government, the Hon. Michael Egan, who, as the House will appreciate from his demeanour in question time, is not well. He regrets his inability to be here this evening to pay tribute to the parliamentary service of the Hon. Elisabeth Kirkby. However, as Deputy Leader of the Government I am pleased to be able to do that. Liz entered this House in 1981 and I came here in 1979, so I am pleased to say that I have spent the whole period of Liz's parliamentary service as her colleague, although in another party. I am advised that the Hon. Elisabeth Kirkby is the longest-serving Democrat member of Parliament anywhere in Australia.

During her parliamentary service here Liz has asked more than 1,300 questions and made more than 1,000, shall I say, thorough and copious speeches. I hope Liz will not consider it amiss if I say that if I had 10¢ for each word she has uttered I would be a very wealthy person. But we are all the better for having heard her views because no matter what views one may take on issues that arise from day to day, week to week and month to month, she can be truly said to be a person who espouses her principles. She continued to do that right down to her very last speech a few minutes ago, when she expressed concern on an issue about which many of us here are very concerned—the rise of the One Nation Party. Liz's remarks this evening encapsulated the nature of her parliamentary career and service.

Liz has always stood up for her principles and expressed them very clearly in this House. She is a past Vice-President of Australian Actors' Equity. She has a strong interest in women's issues. She is a member of the Women's Electoral Lobby and the Women's International League for Peace and Freedom. I am happy to say that I have been associated with her in the State Parliamentary Group of Amnesty International. Earlier today I reminded Liz that in that capacity the two of us went to see the late Paul Landa when he was Attorney General to lobby him on behalf of the parliamentary amnesty group to abolish the death penalty in this State for the few offences for which it remained, namely treason, piracy, and arson in Her Majesty's dockyards.

The death penalty had been abolished for murder and other offences many years earlier, but it remained for the three I mentioned. Paul Landa heard us courteously, but he was not able to give effect to our request while he was Attorney General. However, his successor, the Hon. Terry Sheahan, did. Liz's occupations included actress, script writer, and public affairs commentator in both television and on radio, including the Australian Broadcasting Corporation. Her interests include gardening, cooking and breeding beef cattle. She trod the boards, so to speak, before she switched her career to politics.

The Hon. J. P. Hannaford: Just another form of acting.

The Hon. R. D. DYER: The Leader of the Opposition suggests that politics is just another form of acting, but I believe sometimes there is some conviction as well. Liz is certainly an example of someone who has given expression to her genuine convictions. The *Illawarra Mercury* once described Liz as a woman of character in many hats. That is probably an apt way to encapsulate Liz Kirkby. On behalf of the Government in particular, although I believe I speak for all members of the House, thank you, Liz, for your parliamentary service, and the very best wishes from all of us in whatever you may chose to do.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [10.26 p.m.]: On 19 September 1981, 16 members were elected to this Chamber in the second periodic election of members of the Legislative Council. Only five of those 16 remain—Liz Kirkby, Max Willis, Fred Nile, Franca Arena and Brian Vaughan. It is interesting to reflect on those who have gone—David Landa, Jack Hallam, John Doohan, John Garland, Ted Pickering, Barney French, John Matthews, Richard Killen, George Brenner, Ken Reed and Derek Freeman. I can well remember 19 September 1981. Liz Kirkby may have been elected, but it was the day I resigned from every position in the Liberal Party and every position in community organisations. I was going to take a new direction in life. I did not think it would be here. Some change!

When Liz Kirkby was elected I remember people saying, "What will a priest and an actress achieve?" Little did they realise the direction they would take. Liz Kirkby was referred to as Madam 96; people thought it was a joke. Again, little did they realise! Don Chipp may well have started the Australian Democrats, and many of Liz's Federal colleagues may think they put the Democrats on the map, but in reality Liz Kirkby is the one who put the Democrats on the map in New South Wales. She has been the anchor for the Democrats in New South Wales. She has been a great parliamentary contributor.

I do not think any of us could realistically imagine another person more capable of taking on a brief on almost every piece of legislation and being able to so credibly articulate it. It has been an unbelievably incredible performance; one that anyone in this Chamber would love to emulate, but never will. Together with Fred Nile she has seen the evolution of the Independent influence in State politics, an evolution that will never be turned back. There may be eight Independents in this House today, but it would not surprise me if there are not upwards of one dozen after the next election or the election after that. That will again change the face of politics in New South Wales.

Elisabeth Kirkby, as one of the leaders of the Independent movement in New South Wales politics, has been able to exert massive influence. I know that in her early years in this place she experienced frustration as the government of the day, which controlled the numbers, rammed through legislation. She must have wondered whether it was all worth while. But things have changed. She has had a marked influence not just on the political scene but on the Parliament. She is a great personality, a great raconteur who contributed to the conviviality of the House, and she is a great individual to associate with. Anyone in this place who has associated with her will never forget her.

One does not really make a lot of friends in politics; one has a lot of associates and one has a lot of associations. Liz developed friendships within this House. I hope that they are lasting. She has certainly been able to develop great associations from which we have all benefited. Liz, on behalf of my parliamentary colleagues, I thank you for that friendship and that association. It is something we will cherish. You have made a mark on the body politic of New South Wales and you will not be forgotten.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [10.31 p.m.]: I will be brief, but I hope sincere. On behalf of my National Party colleagues I thank the Hon. Elisabeth Kirkby for her long association and for the work she has done in this House. Liz, you are one of the most exceptional persons and members of Parliament I have ever met. You have an understanding of Parliament and the capacity to understand legislation and debate it. You have always handled yourself with dignity. Whatever happened during debate in the Chamber, afterwards we enjoyed your company in the dining room, regardless of the conflict that might have occurred in this Chamber.

Liz, you can reflect upon your service in this Chamber with a great deal of satisfaction. You have represented the people of New South Wales, the Australian Democrats and your views in an extraordinary fashion. We thank you for it. We wish you well and hope that you have many bountiful seasons in one of the nicest parts of New South Wales. Thank you very much for everything.

The Hon. R. S. L. JONES: [10.33 p.m.]: This is truly the end of an era. Liz has not only been a member of this House for the past 17 years; she has also been the Leader of the Australian Democrats and, unfortunately, has carried the flag alone for many years. In the early days before I became a member of this Chamber I saw letters from her to various people and became aware of the work that she was doing in the community. It is an underestimation to say that she made 1,000 speeches. I suspect it would be more like 4,000, all well thought out and eloquent. I and other honourable members have been amazed at the way she has been able to grasp issues, speak on nine different issues in one night, be well-versed on each issue and speak eloquently, well and coherently, when some members would say, "What are we talking about tonight? What are we voting on now?"

Throughout her 17 years in this Parliament Liz had to have a grasp of every piece of legislation debated in this Chamber; she had to know what each piece of legislation did and what effect it would have on the community. She contacted community organisations upon whom the legislation impacted, got feedback from them and presented their views in this Chamber. She has been the conscience of this Chamber. She fought for the battlers, the disadvantaged, people with disabilities and, in particular, the lesbian and gay community. Today, against all odds, she presented a bill against the wishes of the coalition and the Christian Democratic Party. That bill, which is now before the House, will be taken up by others after she leaves this place. We hope that legislation will become law within the next 15 months.

Liz is a truly amazing person. We have had our fallings out and I very much regret that, Liz, but I have always respected you, even though it has not always seemed that way from the comments I have made. I spoke out of court. Some of the things that I said in the heat of the moment should never have been said. As a result I paid the penalty and I am outside the party. Maybe one day I will again be accepted by the party. Who knows what will happen in the future? Liz had to carry the flag on her own because of our falling out and she has done so magnificently.

Liz's departure will be a great loss to us and to me personally, although she may not believe that. Her departure will be a great loss to the New South Wales branch of the Australian Democrats, although she will be replaced tomorrow by Arthur Chesterfield-Evans, who will have very large shoes to fill. I hope he will learn quickly what an enormous task he has ahead of him. I thank Liz for all the good times we spent together and ask her to forget about our falling out. She has been really wonderful. We will miss her enormously.

The Hon. DOROTHY ISAKSEN [10.36 p.m.]: I join other members tonight in saying farewell to the Hon. Elisabeth Kirkby. I came to this House in 1978, as did the Hon. Virginia Chadwick and the Hon. J. Kaldis. We were the first elected members in this House. In those days there were only Government and Opposition members. In 1981 we were joined by two crossbench members—Reverend the Hon. F. J. Nile and the Hon. Elisabeth Kirkby. It was a bit of a shock to us party members to have to cope with crossbenchers.

Both members came with somewhat of a reputation—Elisabeth being known to most of us through her profession as an actor in a very successful soapie, *Number 96*. Our Chairman of Committees at the time, the Hon. Clive Healey, was not too excited about having women members invade the Legislative Council, and the last straw was when a new member also happened to be an actress. But we discovered that Clive Healey must have watched every episode of *Number 96*—he reminded us of that fact every time Elisabeth made a speech.

I remember Elisabeth as a former President of Actors Equity who always made a valuable contribution to debate on industrial relations legislation. As an early crossbencher, Elisabeth had the enviable task of having to speak on every bill, which she did at length. That did not always endear her to the Leader of the Government at the time, who was the Hon. Paul Landa, or, I might add, every other government leader and whip who had a whole program delayed by one of her long and detailed speeches, particularly late at night. But whether one agreed with her, I think she won the admiration of all honourable members for the way in which she handled the tremendous task given to her as the representative of the Australian Democrats in this House.

I remind new members that, in those days, we did not have any staff; we shared a stenographer among four members. Elisabeth was given a lot of assistance on a voluntary basis by her party until the Government agreed to give the crossbench members two researchers to help them cope with their heavy workload. Liz, you have been a credit to your party and you have also played an important role as a woman member of this Parliament—a factor about which other women members will be proud. I wish you every happiness and success in the next phase of your life. You will be long remembered in this House.

The Hon. Dr MARLENE GOLDSMITH [10.39 p.m.]: When I first began to work in politics as a staffer there was a widespread belief that women did not have the stamina for politics. Today that seems impossible, but in 1981 such attitudes were very real. In that year the Hon. Elisabeth Kirkby became a member of this Chamber. It is difficult to imagine anyone who has done more single-handedly to dispel that myth than the Hon. Elisabeth Kirkby. When I became a member of this House in 1988 I was in awe of her capacity for work. As the leader of a two-member party she spoke on bill after bill but, as colleagues have already pointed out, she made speeches that were cogent, well-researched and original, even if I did not always agree with them.

I mainly wish to speak about her committee work. The Hon. Elisabeth Kirkby became a member of the Standing Committee on Social Issues in 1991, when I became its chair. In the years since, her attendance record and contribution to that committee have been impressive. On top of her contribution to parliamentary speeches, she has been lobbied by every lobby group in the known universe, because of the past and present governments' lack of numbers in this House. I have not always agreed with her views, but I thank her for her indomitable strength and stamina, for her trailblazing and for her articulate and eloquent contributions to this House. I wish her very well for the future.

The Hon. I. COHEN [10.40 p.m.]: As a relatively short-term member of this House, I am not able to share the same experiences as many other

members. However, having watched the Hon. Elisabeth Kirkby standing at the lectern on many occasions, the word "formidable" comes to mind. She zealously stands up for her principles and admirably represents the Democrats' ideals, many of which I share. We have had but a few slight disagreements. Generally, she has been generous of spirit to me as a newcomer to the House. It has been great to watch her represent in a strong and forthright manner the ideals that I also attempt to represent. Her capacity for work day after day, consistently presenting with strength and passion the issues she holds so dear, has been inspiring. Another word that comes to mind is wisdom, particularly in relation to her final speech on important issues. Her final words to this Parliament were wise and true. If people far and wide listen to her echoing voice, we will all share a better world. I thank you, Elisabeth.

The Hon. PATRICIA FORSYTHE [10.42 p.m.]: I join with other members in wishing the Hon. Elisabeth Kirkby a long and happy retirement. I have known the honourable member for 10 years, but my strongest memory of her is the night I gave my first speech in Parliament. The Hon. Elisabeth Kirkby paid me a very personal honour and tribute, which I will never forget. The remarks she made to me afterwards—which I will not put on the record—made that night very special. I met the Hon. Elisabeth Kirkby in 1988 when I was a staff member. When I negotiated with her on bills I came to understand what people had said about her—that she was a person with an enormous capacity for a detailed understanding of bills. Even when the House was dealing with a number of bills she had a grasp of them all. In the Chamber, bill after bill she would be on her feet.

Liz not only made speeches on a bill—which we can all do—but she had a rational argument for every clause at the Committee stage of the bill. That is the measure of an excellent member of Parliament: not only to be able to give speeches on a range of issues—and we are all here because we have opinions—but to have a grasp of detail and to be able to debate amendments at the Committee stage of bills. I came to understand the intellect of the Hon. Elisabeth Kirkby and her commitment. She has been the conscience of this House on many issues. I have come to respect her. From time to time I have been at the other end of her comments and criticism, perhaps more than most members. When I have been criticised or chastised by the Hon. Elisabeth Kirkby I have felt it more, because I suspect that we agree on many issues.

Liz is a member with a conscience. I know that she is a liberal in the true sense of the word—and I am proud to describe myself in the same way. She has always been able to share a sense of fun with us all. People wrongly think that the Legislative Council is a stuffy old House engulfed in tradition. There is often camaraderie and a sharing of ideas during debates, which is perhaps not the case in other Houses of Parliament.

The Hon. Elisabeth Kirkby has been able to share with all of us her long experience in this House, and we have been the richer for her being a member. I certainly will miss her. As I said recently when the Hon. Ann Symonds retired, she was one of a number of women members when I joined the House in 1991—Beryl Evans, Ann Symonds, Judith Walker and now Elisabeth Kirkby—who have made an indelible mark on this House. Women members joining this Parliament should acknowledge the example they have set as important role models. I wish her well and thank her for her friendship.

The Hon. A. G. CORBETT [10.45 p.m.]: In 1981 when the Hon. Elisabeth Kirkby became a member of this House I was working overseas on an oil refinery teaching English. I vividly remember that year the marriage of Prince Charles and Diana, Princess of Wales. A number of the expatriates were British and were glued to their radios listening to the BBC world service. I make that point because 17 years is a long time and I commend the honourable member for her incredible staying power. I know the toll that parliamentary duties can take on relationships with family members and on the health of members in general. It is a fact that is dismissed by the media all too quickly. The staying power of the Hon. Elisabeth Kirkby was necessary not only because of the important useful role the Democrats have played over this period, but also because the electorate perceived her as someone able to stand up and represent their interests. She has also performed to the high standard expected of her by the Democrats.

What I admire most about the Hon. Elisabeth Kirkby is her ability to keep going under enormous pressure, to stand up for her ideals and to represent her chosen party with loyalty and commitment. I will also miss her presence, her knowledge of parliamentary procedures and her speeches in this House, which at times gave me assistance in formulating a last-minute position on legislation and amendments. Liz, I wish you the very best in your retirement; I am sure it will be busy and public orientated. In conclusion, when there was a strong possibility of my being elected in 1995 the Hon. Elisabeth Kirkby called me and offered her assistance should I need it. I remember that, and I appreciate it. It serves to remind us all that whatever

our positions are politically, there will always be times when as colleagues we can reach out and assist one another in an otherwise lonely and insular place. Take care, Liz, and congratulations on all your efforts over the years.

The Hon. VIRGINIA CHADWICK [10.47 p.m.]: I will be brief because many of the comments I hoped would be said have been said by colleagues on both sides of the Chamber and the crossbenches. I hope Liz understands when I simply say "Hear! Hear!" in endorsing many of the remarks that have been made. I have known Liz a long time, not only in this Chamber but for many years she lived in my area between the central coast and Newcastle. She threw herself wholeheartedly into many issues within the Newcastle and Hunter Valley communities. I have enjoyed working with her, sometimes arguing against her, on issues of concern to Newcastle and the Hunter.

I raise that because it is an indication that Liz has not only made the contribution that many members have spoken about in terms of her workload, staying power and intellect when dealing with legislation and issues before this Chamber, but in every sense of the word she has been a good citizen by involving herself in issues and concerns in the broader community where she lives. She has now moved further away from the Hunter Valley. From conversations with her, I am of the understanding that she is deeply immersed in issues and concerns in her new local community.

As the Hon. A. G. Corbett said, 17 years certainly is a long time, so I hesitate to say that Dorothy Isaksen and I have been here for even longer. It will be a strange feeling for the old stagers when we come into the Chamber in future not to see the white head there. Sometimes when Liz stood to speak we thought that she could not have a view on a certain subject. But she would say, "Mr President, on behalf of the Australian Democrats" and express her view. I hope Liz will take this the right way: I am not sure whether I am pleased or sad that I will not hear that opening line again, although it could well be that Liz's successor will be well versed in parliamentary procedure and perhaps continue the tradition which has driven so many Government and Opposition members mad, as well as having been a source of interest and inspiration on other occasions.

It will be strange to experience question time in my remaining years in Parliament without the breathless phrase, "If not, why not?" If Liz has asked 2,000 questions, 1,750 of them have ended with "If not, why not?" Again, I am not sure whether I am pleased that I will not hear that again or whether in a strange and perverse sort of way I will miss it. I totally agree with the comments that have been made about Liz's prodigious workload, her great capacity. Many people in the community hold politicians in very low regard. If other members served the community as well as Liz Kirkby has served the community and the Australian Democrats, perhaps that would go a long way towards improving the image of politicians.

I finally comment on Liz's membership of the Australian Democrats. Being of a great old age now, I remember that when I was much, much younger one of my more admired Liberal Ministers was the Hon. Don Chipp. When I was a university student and very much involved in student politics and student debating, Don Chipp succeeded in changing Australian censorship laws. Remembering student politics in the sixties, as a member of the Liberal Party I would have been considered a very strange student activist. The work of the Hon. Don Chipp in the important area of censorship made me very proud as a Liberal to be able to say that he was a Minister from a party of which I was a member. When Don Chipp came to Newcastle university there was a riot because the engineers, the male engineers, at Newcastle—

The Hon. Dr B. P. V. Pezzutti: They were all male in those days.

The Hon. VIRGINIA CHADWICK: Yes. They rioted and Mr Chipp and I had to be rescued from the building by the police. The engineers said that he should not let their sisters or mothers read wicked books; it would be the end of society as we knew it. An example of the ludicrous laws that Don Chipp was able to overturn is that when I was an arts student a compulsory component of my course was to read, study and be examined on a book such as *Lady Chatterley's Lover*. I could not buy the book or borrow it from the university library. The only way that students could read that compulsory text was to take our student cards to the library to prove that we were doing the course and be escorted like pariahs to one end of the library, where we sat with the book.

All the engineers were looking at us because if we read that book it meant that we were loose women. When we had finished reading the book we had to sign it back into the custody of the librarian. I certainly admired Don Chipp and, although I was very sorry he left the Liberal Party, I could understand why many friends and colleagues of mine at the time left the Liberal Party and joined the Australian Democrats. I had no great difficulty in understanding why people would be attracted to the, I guess, old-fashioned Democrats.

The Hon. D. J. Gay: Why did they not leave to join the Labor Party?

The Hon. VIRGINIA CHADWICK: A Liberal would never join the Labor Party.

The Hon. Patricia Forsythe: A small-l liberal or a big-l Liberal?

The Hon. VIRGINIA CHADWICK: There are no liberals in the Labor Party. Liz, I have very much enjoyed our friendship and I most certainly hope that it can continue after this evening. You have done women parliamentarians proud. You have done this Parliament proud. You have served the citizens of New South Wales very well and the Australian Democrats owe you an enormous debt.

The Hon. JENNIFER GARDINER [10.58 p.m.]: I join with many colleagues from both sides of the House in paying tribute to Elisabeth Kirkby's wonderful life as a parliamentarian and wish her well in the future. I have always admired her extraordinary physical and intellectual stamina, something that I can only despairingly envy. I particularly thank Liz for her assistance with the innocuously titled General Purpose Standing Committee No. 2 inquiry into rural and regional health services in New South Wales. It has been a very demanding and rigorous inquiry and Liz has been very generous with her time during the committee's public hearings throughout country New South Wales.

I know that Liz will not disappear from public life in New South Wales because I will see her on Saturday at Wagga Wagga for yet another day of trying to encourage more women, from all sides of politics, to enter the parliaments of this country. Liz, I hope that from time to time around the traps of country New South Wales in particular I will continue to meet you. I hope you relax a bit and do not accept too many invitations of that ilk. I join with everybody else in wishing you a very happy post-parliamentary life.

The Hon. Dr B. P. V. PEZZUTTI [10.59 p.m.]: I should like to say a few words this evening on the retirement of the Hon. Elisabeth Kirkby. Saint Elisabeth Kirkby she is not. In the 10 years that I have been a member of this House I have always admired her enormous energy, commitment and capacity to consult and to express the views of myriad people. Whether those people have changed her mind over time is a different matter because she can be quite stubborn. However, I have always thought she represented a progressive view of the world—not at all conservative or looking backwards but rather looking to the future. Though from time to time that has made me uncomfortable, I have always thought that Liz Kirkby had her eyes clearly focused on where she thought the world should be going.

Her final speech this evening exhorted honourable members to be aware of the populism and racism and what are easy fixes. If there was a proposal from the Hon. Elisabeth Kirkby one could be sure that the solution was not simple; it was often complex and obviously detailed, and to follow the arguments one needed to be fairly careful. However, the arguments were always logical, even if I did not necessarily agree with them. She was always committed. I do not think I have ever heard the Hon. Elisabeth Kirkby read a speech in a monotone; she has always spoken with great passion.

I think the Hon. Elisabeth Kirkby regretted one thing: when I was able to convince her that there was a need to look at hospital waiting lists. Her support was vital for the committee to reach a majority. She became the Chair of that committee—I think it was the only committee that she chaired—and during that time she was sorely tested as she met two serious combatants. Anyone who has met the former Legislative Council member Patricia Staunton and has seen her in full flight examining members of the community or the bureaucracy would understand how horrific it was to have her defending the Government, with the Hon. Elisabeth Kirkby in the middle and me asking questions. I rather think that is one of the reasons that the Hon. Elisabeth Kirkby eventually made a decision to retire.

Though I have some disappointments about that committee, my biggest disappointment is that I will be making my contribution on that committee in the absence of the Hon. Elisabeth Kirkby and will not hear further from her, although I hope she advises Dr Chesterfield-Evans when he comes into the Parliament on the view of the Democrats. I have had the opportunity to travel to the country with the Hon. Elisabeth Kirkby with General Purpose Standing Committee No. 2 and the committee that inquired into hospital waiting lists. We travelled and heard evidence, but also shared a few pleasant evenings together.

I have had the privilege of having the Hon. Elisabeth Kirkby as my guest, and the good company in this place happen to be women. Most of them are progressive left-wing women from both sides of the House—and Elisabeth Kirkby is also a progressive woman. I have always enjoyed her company and regard her as a friend and confidante.

Honourable members will be surprised to learn that from time to time I have taken advice from her, and I will seek advice in the future if she will let me. She has represented and amplified the Democrats vote in this State and instead of falling apart when the party was in trouble, she soldiered on and represented her party, although she had relatively few supporters in the community—

The Hon. Virginia Chadwick: She doesn't wear boas or feathers.

The Hon. Dr B. P. V. PEZZUTTI: No, she does not wear feathers. Not only has she amplified the vote, she has spoken on behalf of many different groups, saying what they were often not game to say because it was a little too progressive. Liz, I am thankful that you did that and I wish you well for the future. I hope you do not retire. I know you cannot afford it because the superannuation from here for you is lousy. I hope the stock and the grass grow well and the sun shines.

The Hon. J. F. RYAN [11.04 p.m.]: I wish to remind the House of three pleasant memories I have of the Hon. Elisabeth Kirkby. First, apart from her indomitable performance in this Chamber, is her convivial behaviour outside the Chamber. She is the one member of this House who has been able to go from table to table in the Parliamentary Dining Room, visit the table of any party, and yet the discussion or parliamentary tactics have not altered one iota. My second pleasant memory is the wonderful party that she threw some years ago when I was a reasonably new member of the House and she said something unparliamentary to the Hon. Dr B. P. V. Pezzutti. She managed to make history by being expelled from the House for 10 minutes. I am sure she recalls the occasion. What said a lot about not only the Hon. Elisabeth Kirkby but this House was that following that auspicious occasion the House adjourned and almost every member went up to her office to celebrate in a convivial manner.

The third and final thing I can recall about the Hon. Elisabeth Kirkby is the number of Ministers who listened to her speeches up in their rooms who would ask themselves, "Have we got it?" They would listen to a bit more and say, "Yes, I think she is going to be with us", or "No, we haven't got it." And the striptease would be excruciating. As the speech continued people would wonder which side she was on. I remember a few occasions when the vote of the Hon. Elisabeth Kirkby did not always match the speech she had given in the Chamber. It was an excruciating and wonderful experience to watch the people who cared about the fate of the bill follow her speech and wonder where it was going to end.

Thank you for those fabulous moments you have given us, wondering what was going to happen. I join with my colleagues in wishing you all the very best. As one of the newer and younger members of this Parliament I have been able to learn many things from you. I thank you for your ability to master detail and speak at any time, at any length.

The Hon. D. F. MOPPETT [11.06 p.m.]: Following the eloquent praise that has been placed at your feet, Liz, I approach the table with some trepidation. I am perhaps less worthy than others who have spoken tonight to offer praise to you, because, as you would recall, I rode into this place on the back of trenchant criticism which I offered against your party and which now, in retrospect, seems perhaps like a blast of hot air from the north-western plains in the middle of a drought. Certainly since that time my admiration for you as a person has grown immensely. As first a disciple and then a proselyte of the great tradition of liberal political philosophy, you have chosen to walk the narrow path of a party that never aspires to achieve government. That has certainly been a difficult path for you, one that I did not fully understand when I came to this place but hope, and feel, I understand better now.

My colleagues have made many kind comments with which I agree. Nearly all have spoken of your capacity for work, which could be described only as nothing short of prodigious. My colleague the Deputy Leader of the Opposition spoke of the way in which you comport yourself about this place, with dignity. I would add to that and say that you have a certain graciousness that we will always remember as being peculiarly you. Liz, all of us with have different memories of your contributions to this place. We were reminded recently of Cicero's edict that if we do not know where we came from soon after we are born then we will always remain a child. I think you have shown people, not only in this Chamber but those who follow the politics of New South Wales and Australia, the great advantage it is to come into the Parliament with such a wide range of experience and such a diverse background as you have had.

You have shared with us those wonderful experiences. Again last night you were speaking about your family's background and of living in St Petersburg in extraordinarily heroic times in which we certainly do not live today—although the challenge of today's politics remains one which we have to address most earnestly. The legacy that all of us who served with you have of remembering your rich contribution to the life of the Parliament is something we will treasure. Most particularly, though, we will remember those times when we

have been together in discussions here and at the dining room table, and some of us will remember times when we have been out in the bush on committee hearings. Your friendship and the sharing of those wonderful experiences in your life have been things we as individuals will never forget. We thank you very sincerely for that.

The PRESIDENT [11.10 p.m.]: Before I put the question I wish to associate myself with the laudatory remarks made by honourable members in regard to the imminent departure of the Hon. Elisabeth Kirkby. It has been a privilege and an honour to have served with you in this place. Your service to the people of New South Wales as a member of this honourable House has been indefatigable, principled and dedicated. We owe you a debt for the example you have set. Suffice it to say, in conclusion, that I share your profound concerns about recent developments on the political scene. I applaud your having brought that to our attention. I wish you a long, happy and healthy life after your retirement from this place.

Motion agreed to.

House adjourned at 11.11 p.m.