



NEW SOUTH WALES



Legislative Council

**PARLIAMENTARY
DEBATES**

(HANSARD)

**FIFTY-FIRST PARLIAMENT
SECOND SESSION**

OFFICIAL HANSARD

Wednesday, 14 October 1998

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

Wednesday, 14 October 1998

JOINT SITTING TO ELECT A SENATOR

The two Houses met in the Legislative Council Chamber at 11.00 a.m. to elect a senator in the place of Senator Belinda Jane Neal, resigned.

Mr CARR: Mr Clerk, I move:

That the Hon. Virginia Chadwick, President of the Legislative Council, act as President of the Joint Sitting of the two Houses of the Legislature for the election of a senator in place of Senator Belinda Jane Neal, resigned, and that in the event of her absence the Hon. John Henry Murray, Speaker of the Legislative Assembly, act in that capacity.

Mr COLLINS: I second the motion.

Motion agreed to.

The Hon. VIRGINIA CHADWICK: I thank honourable members for the faith they have placed in me.

Mr CARR: I present proposed rules for the regulation of the proceedings at the joint sitting, which have been printed and circulated. I move:

That the proposed rules, as printed and circulated, be now adopted.

Mr COLLINS: I second the motion.

Motion agreed to.

The PRESIDENT: I am now prepared to receive nominations with regard to a person to fill the vacant place in the Senate caused by the resignation of Senator Belinda Jane Neal.

Mr CARR: I propose Mr Stephen Patrick Hutchins to hold the place in the Senate rendered

vacant by the resignation of Senator Belinda Jane Neal, and I announce that the candidate is willing to hold the vacant place if chosen. Senator Belinda Jane Neal was, at the time she was chosen by the people of the State, publicly recognised to be an endorsed candidate of the Australian Labor Party and publicly represented herself to be an endorsed candidate of that party. Mr Stephen Patrick Hutchins is a member of the same political party.

The Hon. M. R. EGAN: I second the proposal.

The PRESIDENT: Does any member desire to propose any other person to fill the vacancy? There being no other nomination, the question is, That Mr Stephen Patrick Hutchins be chosen to hold the place in the Senate rendered vacant by the resignation of Senator Belinda Jane Neal.

Question so resolved in the affirmative.

The PRESIDENT: I declare that Mr Stephen Patrick Hutchins has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator Belinda Jane Neal.

Mr CARR: I move:

That the President inform His Excellency the Governor as soon as practicable that Mr Stephen Patrick Hutchins has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator Belinda Jane Neal.

The Hon. M. R. EGAN: I second the motion.

Motion agreed to.

The PRESIDENT: I now declare the joint sitting closed.

The joint sitting closed at 11.09 a.m.

LEGISLATIVE COUNCIL

Wednesday, 14 October 1998

The President (The Hon. Virginia Chadwick) took the chair at 10.55 a.m.

The President offered the Prayers.

The PRESIDENT: I shall leave the chair to permit preparations to be made for the joint sitting to be held at 11.00 a.m. The business of the House will be suspended during the joint sitting. The House will resume upon the ringing of the bells.

[The President left the chair at 10.58 a.m. The House resumed at 11.18 a.m.]

SENATE VACANCY

Joint Sitting

The PRESIDENT: I announce that at a joint sitting of the two Houses held this date to choose a person to hold the place in the Senate of the Commonwealth of Australia rendered vacant by the resignation of Senator Belinda Jane Neal, Mr Stephen Patrick Hutchins was chosen to hold that place. I table the minutes of proceedings of the joint sitting.

Ordered to be printed.

LOTTERIES AND ART UNIONS AMENDMENT BILL

PUBLIC SECTOR MANAGEMENT AMENDMENT (COUNCIL ON THE COST OF GOVERNMENT) BILL

ROAD TRANSPORT (DRIVER LICENSING) BILL

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

Suspension of standing orders agreed to.

TREASURER, AND MINISTER FOR STATE DEVELOPMENT

Notice of Motion

The PRESIDENT: I inform the House that following the passing of the resolution last evening regarding the censure of the Leader of the

Government and production of documents dealing with the Sydney water crisis, I have directed the Clerk to remove from the notice paper the notice of motion given by the Leader of the Government yesterday, as the substance of that notice was contained in the amendment by the Leader of the Government which has been decided by the House.

PETITIONS

Family Impact Commission Bill

Petition praying that the integrity of the family unit be encouraged by support for the Family Impact Commission Bill, received from the **Hon. Elaine Nile**.

Animal Liberation

Petition praying that within one year of the presentation of the petition there be a ban on animal exploitation such as battery cages for hens, single stalls and farrowing crates for sows, feedlots for cattle and intensive housing for broilers, wildlife and other animals, received from the **Hon. R. S. L. Jones**.

Governor of New South Wales

Petition praying that changes to the office of Governor of New South Wales be reversed, and that protection of the role, duties and future of that office be put to a referendum, received from **Reverend the Hon. F. J. Nile**.

Same-sex Relationship Rights

Petition praying that same-sex relationships be accorded the same status, rights and benefits as heterosexual relationships, received from the **Hon. Dr Chesterfield-Evans**.

EVIDENCE (AUDIO AND AUDIO VISUAL LINKS) BILL

Bill introduced and read a first time.

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [11.23 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to enable New South Wales to participate in a substantially uniform interstate scheme for the taking or receiving of evidence and the making or receiving of submissions, from or in other States participating in the scheme. In July 1997 the Standing Committee of Attorneys-General approved a model bill drafted by the Parliamentary Counsel's Committee which provided arrangements between participating States with respect to the taking of evidence by audio or audio visual links interstate. Since that time all States and Territories—with the exception of Victoria, which had already enacted legislation to facilitate the taking of evidence by audio or audio visual links interstate—have been working towards implementation of the proposal.

New South Wales will be the second State to enact the legislation, the first being South Australia, which assented to the Evidence (Use of Audio and Audio Visual) Amendment Act 1998 of South Australia on 2 April 1998. Western Australia anticipates introducing legislation which gives effect to the model bill within the next two weeks and anticipates that it will be passed by the Parliament by the end of 1998. The Australian Capital Territory anticipates introduction of legislation based on the model bill into its Parliament by the end of 1998. All other States and Territories are actively considering the proposal.

Subsequently, I asked my Evidence Act Monitoring Committee to consider the terms of the model bill endorsed by the Standing Committee of Attorneys-General, SCAG, and at its meeting on 26 August 1997 it approved the terms of the model bill in so far as they related to interstate audio and audio visual links. This bill substantially reflects the provisions of the model bill approved by SCAG and considered by the Evidence Act Monitoring Committee. In the course of drafting the South Australian Act was considered.

The bill does not attempt to prescribe a process for the taking of evidence interstate by audio or audio visual links. It simply seeks to facilitate that process by giving a New South Wales court a statutory discretion to order the taking of evidence and submissions by audio or audio visual links from a person or persons physically present in another State—defined in the legislation as a participating State—which has enacted legislation in substantially the same form as this bill.

The bill requires a New South Wales court to be satisfied that the necessary facilities are available, that it is convenient and that it is fair before making an order that evidence or submissions be taken by

way of audio or audio visual links in a participating State. In particular, evidence or submissions cannot be taken or received by audio means unless persons who are at the courtroom can hear the person at the remote place, and vice versa. Similarly, evidence or submissions cannot be taken or received by audio visual links unless persons at the courtroom can hear and see the person at the remote place and vice versa.

The bill also empowers the court to make such orders as it deems just for the payment of the expenses associated with taking evidence interstate by audio or audio visual links, including the costs of providing the link. Legal practitioners entitled to appear in a New South Wales court are deemed to be entitled to appear in the courts of participating States for the purposes of this bill. New South Wales legal practitioners will be accorded the same rights of appearance in the courts of participating States where legislation in comparable form to this bill is enacted.

The bill sets out the powers of a recognised court—defined in the bill as a court in a participating State that is empowered by legislation in substantially the same terms as this bill to order the taking of evidence by audio or audio visual links interstate—and provides for the protections, privileges and immunities available to judges, practitioners and witnesses in those courts to be extended to them even when they are taking evidence, via an interstate audio or video links, from a remote site in New South Wales. New South Wales courts, their personnel and litigants will be accorded the same protections, privileges and immunities when they take evidence from interstate by audio or video links in States that have enacted legislation comparable to this bill.

Although an interstate court may not punish for contempt or enforce or execute its judgments or process in New South Wales the bill provides that the interstate court may make some orders relating to the proceedings which may then be enforced by a New South Wales Local Court as if it were an order of the Supreme Court, including punishing for contempt for failure to obey the order. Again, the converse will apply with respect to orders of New South Wales courts made pursuant to comparable legislation in other participating States.

The bill also provides for certain contempts of interstate courts taking evidence or submissions in New South Wales to be punishable in New South Wales by imprisonment of up to three months. Contempts of New South Wales courts in participating States will likewise be protected. This

bill is designed to assist courts, practitioners and litigants overcome the tyrannies of distance within Australia by facilitating the appropriate use of audio and audio visual technologies, which is now of sufficient quality to be confidently used in the administration of justice. The use of such technology can help reduce costs of travel and use of court time for those engaged in litigation in this country and should be commended.

Debate adjourned on motion by the Hon. J. P. Hannaford.

LOCAL GOVERNMENT AMENDMENT (COMMUNITY LAND MANAGEMENT) BILL

Second Reading

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [11.32 a.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.

It gives me great pleasure to introduce the Local Government Amendment (Community Land Management) Bill, which makes necessary and desirable reforms to the community land management provisions of the Local Government Act 1993. The commencement of the Local Government Act in July 1993 saw the introduction of a new approach to the concept of public land management by councils. The previous prescriptive approach was replaced with a new system whereby councils, in consultation with their local communities, became responsible for deciding how public land in their areas would be used and managed. Public land was divided into operational and community land. Particular provision was made to protect valuable community land which included public reserves, parks, sportsgrounds and other land set aside for general community use. A regime was set in place whereby councils had to prepare plans of management for all community land within their areas.

The system that was set in place provided a foundation for responsible and accountable management by councils of community land. By and large, the new system has worked well. However, since 1995 the Government has become aware that there is some community concern that the present provisions of the Act are too broadly cast. Community land cannot be sold. However, there is widespread concern that the present provisions leave too much scope for misuse of environmentally sensitive land and for inappropriate alienation of community land for essentially private purposes by lease or licence. A corresponding community demand for reinforcement of its right to participate in important decisions about how community land is used and managed has also become apparent.

A number of significant court decisions have also illustrated the need for clarification, at least, of the existing provisions of

the Act. In view of those concerns the Minister for Local Government issued a green paper on community land management in September 1997. The many responses to the green paper from all sectors of the community, including valuable submissions from councils and other local government organisations, convinced the Government of the need for reform. It is in that context that I now present this bill. One of the fundamental anomalies in the present provisions relates to the categorisation of community land in a plan of management.

The Act at present requires a plan of management for community land to place the land in one or more of the categories of "a natural area", "a sportsground", "a park", or "general community use". However, the Act does not define those terms, nor does it specify in what way those categories should relate to or affect the way in which community land should be used or managed. The bill accordingly makes provision to identify what land should appropriately be placed in each category and prescribes a number of core management objectives that must apply to land in each category. These definitions and core objectives are contained in a draft exposure regulation that I will release today for public comment. The definitions and core objectives have been developed in consultation with a number of government agencies who have a direct interest in environmental and land issues.

A major consequence of defining the categories of community land and core objectives for each of them will be to enable environmental and other values of community land to be better identified and protected. It will also enable community land to be more appropriately managed to achieve a responsible balance between protection of relevant values and use of the land by the community. The bill introduces a fifth category of community land, namely, "an area of cultural significance". This will enable specific measures to be developed for the protection and preservation of items of cultural, as distinct from natural, value. It will also remove any possibility of conflicting management objectives arising from cultural and natural items being covered by the same category.

New sections 36A and 36B apply specifically to community land that is affected by an instrument under the Threatened Species Conservation Act or the Fisheries Management Act. Under those sections any land that is declared to be critical habitat or that is directly affected by a recovery plan or threat abatement plan under those Acts must be categorised in a plan of management as "a natural area". The plan must also include the core objectives prescribed by regulation for the category of "a natural area". The plan of management will be required to take account of the existence of critical habitat or the council's obligations under the recovery plan or threat abatement plan, and otherwise be consistent with the objects of the Threatened Species Conservation Act or the Fisheries Management Act, as the case may be. The council will be required to send a copy of its draft plan of management or amended plan of management to the Director-General of National Parks and Wildlife Service or the Director of New South Wales Fisheries, as the case may be, and to incorporate in the plan of management any matters required by them.

The Act at present allows a plan of management to apply to more than one area of community land. These plans are commonly referred to as "generic" plans of management. The management objectives, performance targets, et cetera, in generic plans are, of necessity, quite general in nature. Such plans are considered inappropriate for community land that includes critical habitat or is directly affected by a recovery plan or threat abatement plan, which need quite specific

objectives, performance targets, et cetera. Accordingly, the bill provides that the plan of management applying to an area of land that is critical habitat or directly affected by a recovery plan or threat abatement plan must apply only to that area of community land. Such land cannot be included in a generic plan of management.

Also, until such time as a new plan of management is adopted or an existing plan of management is amended the use of the land must not be varied in a detrimental manner. Changes of use will be allowed for the council to comply with its obligations in relation to critical habitat, et cetera, to give effect to the prescribed core objectives or to cease an inappropriate use. No new lease or licence of the land may be granted in that interim period. New section 36C makes similar provisions with regard to land that is the subject of a council resolution declaring that the land has a known natural, geological, geomorphological, scenic or other feature that is considered by the council to warrant protection or special management considerations.

New section 36D applies to land that the council declares by resolution to be "an area of cultural significance" and contains provisions similar to new sections 36A to 36C. Land would be declared "an area of cultural significance" because of the presence on the land of any item that the council considers to be of Aboriginal, historical or cultural significance. Any proposal by a council to change the category of community land from "a natural area" or "an area of cultural significance" to another category will require a public hearing. The types and purposes for which buildings may be erected or used under lease or licence on land categorised as "a natural area" will also be strictly regulated.

The bill makes other provisions relating to the quality and content of plans of management generally, including some restraints concerning approvals for major development, subleasing and construction of public roads on community land. Under the present provisions a council is required to publicly exhibit a draft plan of management. No further exhibition is needed if the council considers that amendments to the exhibited plan are not substantial. This has been the source of considerable community concern. There is significant scope for disagreement on the question of whether a particular amendment is "substantial" or "not substantial", and the issue has already led to court action. The potential for further court challenge in any particular case is significant.

Community land management is now largely the responsibility of the council and its community. It is, therefore, important in terms of transparency in local decision making and community participation that such a relatively minor cause for dispute between a council and its community be removed. Accordingly, the bill amends the Act to require all amendments to an exhibited draft plan of management to be publicly exhibited for further submissions before the plan may be adopted. Only the amendments are required to be further exhibited, and submissions will be limited to the amendments. Re-exhibition of amendments will not therefore re-open the whole plan of management to further public comment. If the amendments are truly not substantial, the additional process should not unreasonably delay adoption of the plan of management.

The other main area of reform is that dealing with the granting of leases, licences and other estates in respect of community land. Particular provision is made to permit the granting of leases, licences and other estates in respect of community land for the provision of public utilities. This was sometimes overlooked in the preparation of some plans of management,

causing some unintended difficulties in the provision of these necessary works. The Act at present prohibits community land from being sold, exchanged or otherwise disposed of. This will not change. However, in addition to providing for the granting of leases and licences of community land, the Act at present also allows the granting of any other estate in community land for any purpose and without any requirement for prior public notification. There is no real reason that the granting of other estates should be dealt with differently to leases or licences.

With some exceptions necessary for practical reasons, the bill will make the granting of other estates in community land subject to similar requirements to those applying to the granting of leases and licences. New provisions in the bill will limit the granting of leases, licences and other estates in respect of community land that is managed under a generic plan of management. Under the new provisions a generic plan of management will generally only be able to authorise the granting of a lease, licence or other estate in respect of community land to which it applies for a purpose prescribed in the regulations. Prescribed purposes will be strictly low impact. Different considerations will apply to a plan of management that applies to just one area of community land.

At present an authorisation in a plan of management for the granting of a lease or licence of community land may be limited to the granting of a lease or licence for a public purpose or by reference to other matters. It will be possible under that provision for community land to be leased for a purely private purpose not associated with any public benefit. This is widely regarded as unacceptable, and there is a strong feeling in the community that leases and licences of community land should only be granted for a public purpose. The Government supports that view. Accordingly, an important reform is that, with some exceptions either specified in the bill or to be prescribed by regulation, leases, licences and other estates in respect of community land may only be granted for what are essentially public purposes.

Councils will no longer be able to grant leases, rights of way, et cetera, for a purely private purpose, such as allowing vehicular access over community land to adjoining privately owned land. Another important reform is that, with some exceptions prescribed by regulation, a proposal by a council to grant a lease, licence or other estate in respect of community land for a term of five years or less must be publicly notified in the same way as is required for leases, et cetera, for terms of more than five years. A period for lodgment of submissions must be allowed, and the council will have to consider all submissions lodged during the prescribed public notification period. Councils will not generally be required to obtain ministerial consent to the granting of leases or licences for terms of five years or less even if objections are lodged. However, there will be cases in which ministerial oversight of such proposals is desirable in the overall public interest.

New section 47A accordingly empowers the Minister, in effect, to require a particular proposal to be referred for prior ministerial consent before the lease, licence or other estate may be granted. Other less significant measures to enhance transparency, accountability and public participation in relation to leases, licences, et cetera, are detailed in the bill. The bill also contains provisions to close some loopholes which have become apparent with regard to alienation of community land. These allow the alienation of community land otherwise than in strict compliance with the provisions of the Act relating to the granting of leases, licences and other estates. Briefly, the bill provides that any lease, et cetera, for a term of five years or less that includes incentives for future councils to renew it

upon expiry of the original term will be regarded as conferring an option for renewal for a term equal to the further term. This will ensure that the need for ministerial consent to such a proposal, on the premise that the lease, et cetera, is only for five years, cannot be avoided by use of that device.

A second loophole allows the alienation of community land otherwise than by way of a lease or licence. At present a council may instead enter into a management arrangement with some person or body that, in effect, allows exclusive use of land or a building. Such an arrangement is not subject to specific statutory controls. Accordingly, new section 47D prohibits, with some exceptions, any exclusive use or occupation of community land otherwise than in accordance with a lease, licence or estate granted in accordance with the Act. Appropriate transitional provisions are included in the bill to require existing plans of management to be brought into compliance with the new provisions in some circumstances to enable existing leases, licences and other matters to remain in place at least until their designated termination date, or to allow a reasonable time for compliance with the new provisions. I commend the bill to the House.

The Hon. D. J. GAY [11.33 a.m.]: The Opposition cannot support this bill. Before Government members and certain crossbench members get too excited about our non-support and fire up their computers to whip up media releases calling us anti-green, I shall make a number of points about the bill.

[Interruption]

The Hon. J. R. Johnson will enjoy this. I am sure that by the end of my comments he and his colleague the Hon. A. B. Kelly will agree wholeheartedly with the Opposition's position. Whether or not the Hon. J. R. Johnson votes with the Opposition is another matter. It is well known that the Opposition has a high regard for the security of community land. I realise that there have been difficulties in the past in certain areas of the State, but I cannot see that this bill is a great improvement—or any improvement at all—on the current legislation. Nor do I know where the demand for this bill came from.

In September 1997 the Minister for Local Government released a green paper identifying possible reform measures for the community land provisions in division 2 of part 2 of chapter 6 of the Local Government Act 1993. According to the Minister, the thrust of any reform was intended to control "the extent to which community land may be alienated from general community use". On the surface this appears to be an honourable aspiration, and the Opposition wholeheartedly supports that goal. The Leader of the Opposition has said publicly of the coalition's vision for Sydney and New South Wales that we believe we must take every chance to open public access to the foreshores and, for example, to Sydney Harbour.

A strong sense of community is paramount to the Opposition, including reclaiming public space for the people. This bill purports to do that, but in reality it will not deliver; it will simply impose a greater workload on councils. It will give the Minister more power and, consequently, remove the community's power to deal with issues. It will make matters worse and more confusing. Ultimately it will cost ratepayers money for no real benefit. Once again the intention has been hijacked by poorly planned legislation that will leave the community in no better position. It is about cynical tree hugging and getting green votes, not the environment.

This legislation will create an enormous amount of paperwork and give a great deal of power to the Minister. I wanted to support the bill but I cannot. The more I examine it the more questions it throws up. Indeed, it poses more questions than it provides answers. The lip-service the Government is giving the environment is outrageous. Some of the dirtiest parts of this State are owned by the Carr Government—the air, the rivers and the harbour being examples. Some extreme bureaucrats and environmentalists want our national parks to be public spaces without people. This bill is going down the same path. It is messy and totally unnecessary.

Let us consider the Carr Government's record on the environment. The Government claims to be green, yet we have the brown air of Sydney. The 1997 State of the Environment report showed that Sydney's air was dirtier than air in the United States of America and Europe. Last year Sydney recorded its worst pollution levels in 15 years, with pollution exceeding acceptable health standards every second day over the summer months. That flies in the face of Labor's window dressing, anti-pollution plans of March 1995, which stated:

A Carr Labor Government will take effective action to clean Sydney's air.

Once again the Carr Labor Government has failed to introduce any substantial initiatives to clean up the air in Sydney. The Opposition is seriously concerned about reports that the Clean Air 2000 program is under threat by the Government. We call on the Carr Labor Government to immediately provide adequate funding to ensure the future viability of the Clean Air 2000 program. What about vehicle emissions? The ALP's policy in March 1995 stated:

Vehicle emission performance and evaporative emission checks will become part of registration inspections from the beginning of 1996.

It took 2½ years for the Government to finally announce that policy, but it will be three years

before it is introduced. So much for Bob Carr delivering for the Greens and for the environment! The Carr Government cares only about counting the numbers of national parks in New South Wales and does not bother about the air pollution we breathe. In the dying days of this Parliament and of the Carr Government this bill is presented merely as an attempt to boost the Government's green credentials.

The green groups should note the lack of promise and consultation on this bill. When this bill was debated in another place the Minister for Local Government, Ernie Page, took just four sentences to reply to the debate, which was probably a relief to members there. He said that the concerns raised by Opposition members were mind-boggling and that he was devastated by their comments. He added that he had hoped the honourable member for Lakemba would have spoken in the debate and thanked Government members for their contributions. The Minister's lack of comment was usual for him and it was, once again, disappointing.

In the Legislative Assembly the Opposition raised many valid criticisms about this legislation. The Minister did not reply to a single issue raised in debate by the Opposition. I assume that the Minister with carriage of the bill in this House merely tabled the Minister for Local Government's speech and did not attempt to address the concerns raised by the Opposition. The Minister for Local Government may have been devastated by the Opposition's comments, but what is devastating is that he did not have the conviction, nor probably the ability, to respond to any of them.

Many criticisms of the bill came directly from the Local Government and Shires Associations, which, as the representative body for 177 councils in this State, had contacted the Minister. But Ernie Page, the so-called Minister for Local Government, felt no need to address any of those concerns. That demonstrates the contempt and arrogance that the Minister has for the general public and for local government.

The changes proposed in this bill are far reaching and will impact on many people, yet the Minister for Local Government did not have the common courtesy to acknowledge those concerns. I have listened, read and re-read the debate in the Legislative Assembly, but I have been unable to find one strong reason advocated by the Government for why this proposed legislation should be passed. I have searched Government speeches for concrete examples of the benefit of this new approach, but I could not find any.

The antics of this Government remind me of a skit on the *Goon Show*. One goon said, "We will put legislation through Westminster to stop elephants crossing Tower Bridge." The second goon replied, "But elephants don't cross the Tower Bridge." "See," said the first goon, "it's working already." This bill is very much like that skit; it addresses a problem that does not exist. I acknowledge that difficulties have arisen in certain areas, but many problems raised by environmental groups in letters to members of Parliament refer to Commonwealth and State lands. I hope those groups realise that this bill will not address those difficulties.

Problems are encountered with some local government community lands, but they are in isolated areas. In many cases—perhaps in most—matters have dragged on for a long time. Under existing legislation the Minister had the power to intervene in those cases, but he chose not to exercise that power. I shall elaborate later in detail on that point. Instead of addressing specific problems, this bill is a broad-brush approach by the Minister for Local Government to simply increase the already enormous workload of New South Wales councils. It is right up there with the botched-up Companion Animals Bill and shares the stage with the so-called septic tank regulation.

I am amazed that this Minister is intent on imposing more work on local government. When will this stupidity end? When will his Cabinet colleagues say that enough is enough? One aspect that is particularly interesting about this entire process is the lack of information available from the Minister and his office as to who suggested the legislation was necessary. The Local Government and Shires Associations noted in its submission on the green paper:

There are regular references to suggestions received without identifying the source of those suggestions. The suggestions would have had greater credibility had their sources been identified.

That is fair comment. Essentially, councils will be required to classify all community lands within their area. I know of one council whose responsibility covers 4,660 square kilometres and which has large community property holdings and approximately 1,400 parcels of land classified as community land. Under this proposed legislation—I hope the Minister's adviser is listening because he probably had a hand in writing this rubbish—this council will be required to examine each of the 1,400 parcels of land to decide which category each parcel falls into in accordance with the enormous number of regulations attached to this bill.

If an area falls into the category of being "a natural area" or "an area of cultural significance", a separate plan of management will be needed. This mammoth task will involve many hours of council deliberation to decide on appropriate categories for the various parcels of land. Many hours of staff resources will be required to draft and redraft new plans of management because councils no longer will be able to have generic plans. This process will also cost a significant amount of ratepayers' money.

As I said earlier, one council with 1,400 parcels of land could be required to produce 1,400 separate plans of management! The Hon. A. B. Kelly frowns because he knows what effect that will have on that council. The Minister's office just does not seem to care. This broad-brush approach from this Minister for Local Government is not needed. I agree with the suggestion of one council that the generic plans of management should be kept as they presently stand. Let us then address any problems or development issues with specialist studies or with a strong information system that refers to recovery plans, critical habitats and the like.

This bill is an over-reaction, it is draconian, it is prescriptive, and it duplicates processes already in place. Experience shows that these days communities know when something controversial is being considered by councils. Communities guard their land jealously, and rightly so. When something controversial occurs and there are complaints, we should then turn to these specialist studies. We should look at each matter on a case-by-case basis, engage in weighty debate on them, and analyse them. It is obscene to simply lump more administrative requirements on councils to prevent a smattering of difficulties—and there are very few.

There are three areas of concern in this bill that I would like to discuss in detail. They are increased workload for councils, more power for the Minister and various departments, and the disadvantages to certain community groups. First I will talk about how councils will be hit heavily by this bill. The proposed legislation will impose an excessively prescriptive regime that is contrary to the often stated aim of the 1993 Local Government Act to reduce prescription and make councils accountable to their communities rather than to the Minister. This issue was raised by the Local Government and Shires Associations in their weekly circular 37/98, dated 18 September this year. It states plainly:

The Associations have expressed concern to the minister about the prescriptive nature of the amendments proposed by the Bill.

The associations argue that aspects of the bill will increase the administrative burden on councils without providing any real community benefit. I agree. The associations are not attempting to water down the bill, as the Environment Liaison Office has suggested. That is a total distortion. The Local Government and Shires Associations simply see the bill for what it is: a bureaucratic piece of nonsense legislation that will achieve little except to create more work for councils. The associations are trying to protect their member councils from this Minister and his staff, and rightly so. As I have stated previously, in recent times councils have been affected by an enormous amount of legislation.

In response to this, in the past few weeks I have received many letters from councils across New South Wales. Each one of them complained about the excessive amount of work legislation has imposed upon councils without any support from the State Government and with unworkable implementation time frames. I have no doubt that if this bill is passed it will make councils even angrier, and if the Minister proceeds with this bill he does so at his peril and at the peril of his Government.

Schedule 1[2] to the bill will insert a new subsection 36(3A), which states that a plan of management that applies to just one area of community land must include a description of the condition of the land and buildings, and the use of the land. The plan of management must also specify the purposes for which the land will be permitted to be used and the purposes for which any further development of the land will be permitted, and describe the scale and intensity of any such permitted use or development. In another attack on scarce local government resources the Government is proposing to disallow the economic and socially effective practice of having generic plans of management. This will cause enormous problems.

According to the bill, individual plans of management must be drawn up for each area of community land categorised as "natural" and for each area categorised as "culturally significant". Some councils have more than 1,000 parcels of land, and that could require more than 1,000 individual plans of management. Why do we need these extra plans of management? It is just stupid. Members on the Government side who are unaware of this requirement are shaking their heads in disbelief. Why do we need the draconian imposition of more requirements?

Imagine the resources and the time it will take for councils to analyse each piece of community land. The bill will impact extremely heavily on rural

councils, who obviously have a greater number of community land areas. I warn the Minister that complaints from councils will inundate his office. If I were the Minister responsible for introducing this bill I would not be going to the Local Government Association conference next week. Additionally, according to new section 36C and exposure draft regulation 6B, land should be categorised as a natural area if it possesses a significant geographical feature, a geomorphological feature, landform, et cetera. This will lead to lengthy debate within councils, who will have to decide whether particular land is to be categorised as natural.

Every piece of land that has some natural feature will ultimately be required to have an individual plan of management prepared for it. If some councils believe strongly that there are many natural areas—and obviously they will—all generic plans of management will become redundant and council staff will have to spend hours and hours—and plenty of ratepayers' money—preparing plans of management for each area. One council has already estimated that it will cost at least \$90,000 to engage specialist consultants to provide the required additional information. I think that is being conservative. I think \$90,000 would be the minimum.

Schedule 1[3] will insert a new category of "area of cultural significance". This may very well turn out to be equally annoying and redundant. In the other place reference was made to a council with a built environment whose general manager said that the council had the requisite knowledge about endangered species and Aboriginal sites in the area. I dare say that councils are aware of what is contained within their community lands and are acting appropriately. These details are probably already contained in plans of management and I cannot see why additional special plans of management must be drawn up.

Exposure draft regulation 6E outlines how areas can be of Aboriginal significance. I understand the rationale, but this one is an absolute doozey. The regulations refer to an "area of aesthetic significance by virtue of having strong visual or sensory appeal or cohesion". Members of the Government are amused by this. Surely aesthetic significance is very much in the eye of the beholder. This provision could tie up councils for hours and hours in arguing whether certain land is visually appealing and therefore in need of its own plan of management or whether it can be included in a generic plan. There is no rule that one can apply to this "eye of the beholder" category that the Minister and his rocket scientist staff have evolved.

I am concerned also that in the regulations it takes about 15 pages to explain some definitions of categories and core objectives. The Carr Labor Government is creating another bureaucratic nightmare. The Government should be making community lands more accessible to the public, but it is actually alienating them with legislation that would take a whole team of lawyers to analyse. Schedule 1[6] will insert into the Local Government Act 1993 a new section 40(2), which states:

As often as it decides to amend a draft plan, the council must publicly exhibit the amendments in accordance with the provisions of this Division relating to public exhibition of draft plans, until satisfied that the draft plan may be adopted without further amendment.

Under present regulations councils could adopt amended draft plans without public exhibition if they were of the opinion that the amendments were not substantial. I should have thought that such provision would be enough, but it seems that councils will now have to re-exhibit each time they want to amend a draft plan. Even for a typographical error there will have to be a full re-exhibition. The provision is excessive. The Local Government and Shires Associations raised this issue, stating that the provision is completely impracticable. There will be administrative inefficiencies but no real benefit for the community. The Hon. A. B. Kelly is lucky to be in Parliament at the behest of the Labor Party, because he would not enjoy trying to interpret this legislation as a general manager.

Whilst on the one hand espousing accountability to the community and council empowerment, the Minister is hiding behind public interest to turn councils into massive administrative machines. I am also concerned about new section 40A, which makes reference to the need for a public hearing on a proposal to amend a plan of management to recategorise community land for the time being categorised as a natural area or an area of cultural significance. The provision in itself appears to be fairly innocuous. It allows people to have a say in something they may regard as contentious, and that is valid. However, I question the absolute requirement that a public hearing be arranged. What does that mean?

Will the requirement be the same as that under section 734 of the Local Government Act? Will the onus be placed on councils to organise these meetings? To whom will the hearing ultimately report? Just as important, who will pay? It would seem that ratepayers will once again bear the cost. Thank you, Ernie! Thank you, Ted! There is another issue that I should like the Government to address,

if it now feels inclined to do so—certainly the Minister did not feel inclined to address any question in the other place. According to regulation 6J, draft plans of management that classify an area of community land into different categories must then identify the land or parts of it into separate categories by means of a map. As there are different reporting requirements for different classifications under the regulation, does that mean we will have plans of management within plans of management?

The matter has not been made clear, and I predict that this will lead to confusion. Once again, councils are being asked to work out the problem. As well as classifying community lands, councils must assess a set of core objectives for each category contained in the regulations. This will render plans of management extremely inflexible, when in fact they need to be very flexible to address community needs as they develop and change throughout time. By way of example I point to the outer suburbs of Sydney, current high-growth areas. Plans of management for those areas would need to be reviewed frequently, and inflexibility could stymie change required by the community in its continuing social growth.

Under the regulations core objectives for classification include requirements for restoration and regeneration of some natural areas. Who will pay for that? Will councils be required to foot the bill? Will a specialist need to come in to give advice on restoration and regeneration? Will the communities be out of pocket once again? If so, coalition members will certainly let people know who is responsible. Coalition members want to know who is getting the power under this legislation. As I have stated previously, the bill is an attempt to address a problem which is essentially non-existent. Appeal rights are already contained in section 674 of the Local Government Act 1993 to cover problems that may arise. Under those appeal rights any person is enabled to bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of the Act.

I am astounded that the Minister has chosen not to use the powers currently available to him to benefit the community but has presented this quite unnecessary bureaucratic measure in order to make himself appear to be acting for the environment. It is a little late for the Minister to take that attitude now, given that he has had the power to act all along. One of my colleagues, the honourable member for Northcott, cited four examples in his electorate of the Minister sitting on his ministerial hands. In one example a site was classified as community land by the council and it was then decided to build an

enterprise on the site. Three-and-a-half years later, the proposal has cost ratepayers \$4.5 million, there is no new enterprise and there is no support from the Minister for the community.

Under another example, during construction of the M2 a council tried to persuade the Roads and Traffic Authority to cede parcels of land not required for road reservation. The Government reaction was nil. This Government goes on about the lack of community land but it will not come to the party when the land is there for it to protect. This bill, in addition to imposing immense administrative workloads, simply takes power from councils and hands it to the Minister and certain departments. The title of this bill, the Local Government Amendment (Community Land Management) Bill, is a misnomer. The bill will remove the decision making from those closest to the community, the councils. It is a fact that councils cannot be responsible to the local community if the Minister or a department is always the ultimate power. The 1993 Act sought to make the approach to local government less prescriptive. This bill is a complete about-face.

The Minister becomes empowered, certain departments—such as the National Parks and Wildlife Service—become empowered and councils become more overworked, but does the community really benefit? I turn to the main point of contention in this matter. New section 36A relates to the habitat of endangered species and the need for it to be recognised as such. I should have thought that the Director-General of National Parks and Wildlife and the Director of Fisheries would already know of the situation, and that councils would have had to act under the appropriate instruments. Under the bill, however, if all or part of an area suddenly becomes critical habitat then the onus is on a council to carry out yet another full plan of management with regard to the Threatened Species Conservation Act or the Fisheries Management Act, identify special objectives and performance targets, and go out to public notice.

Surely the Minister does not believe that councils have the staff and resources to cope with that. In my view they do not. I believe the onus should be on the National Parks and Wildlife Service or the appropriate department to carry out the plan of management, and that it should not be the role of councils in New South Wales. Similarly areas that require a recovery plan or threat abatement plan will involve councils in much more work with identification of and action in respect of threatened species areas. My understanding is that if the objects of the Fisheries Management Amendment Bill are achieved situations may arise in

the community where land will be virtually isolated from public use. Maybe that is what the Minister wants, but it is certainly not my idea of identification of community land. I wonder if this legislation is merely a power grab by the National Parks and Wildlife Service and New South Wales Fisheries.

Those groups already have a great deal of power and extending that power would be cause for concern. Are we going to be placed in a position where large areas of community land will be inaccessible, simply at the whim of a bureaucrat? The Acts which currently govern threatened species conservation and fisheries management already impose detailed requirements on managers of land that includes critical habitat. As the Opposition has already stated in another place there is no specific evidence that land with critical habitat has been used inconsistently. Why do councils have to take on this added responsibility?

Another issue of concern is new section 36D(3)(d)(ii), which provides that when a plan of management is to be adopted for an area of community land which is deemed culturally significant—that is, it could just be aesthetically pleasing or look good in someone's view—the plan of management must incorporate any matter specified by the Director-General of National Parks and Wildlife in relation to the land. Why should the National Parks and Wildlife Service be involved in every aspect? This is just more and more red tape, and instead of streamlining the process it will in fact involve more parties, layer upon layer on top of each other.

Schedule 1[19] inserts new section 47A, which will apply to leases and licences in respect of community land for terms of five years or less. I have serious concerns about an increase in ministerial powers. The Minister can simply write to a council to ensure the proposal is to be referred to him or her. I am not saying the current Minister would abuse this process, but I make the point that nowhere in this section does the bill make reference to Ministers only calling in proposals which have been objected to. The section refers to any proposal. It states that the Minister can call in any lease or licence proposal for terms of five years or less and decide whether he or she feels like consenting. That means that if Ernie Page, or someone who may follow him who would not be as decent as Ernie Page or myself, maybe someone from the right wing of the Australian Labor Party—

The Hon. R. D. Dyer: Or a coalition member.

The Hon. D. J. GAY: I do not believe it would be a coalition member. This new section would mean that the leases would be granted only to specific people to whom the Minister wanted to grant them. It would only be the right wing friends or fundraising people of the Australian Labor Party that would receive these licences. The Minister can reject applicants until it suits him to grant a licence. I know that is an extreme case and certainly I do not imagine that would happen, but it should not be in the legislation. Under the guise of public input and benefit the Minister has proposed a call-in power for himself for the granting of leases and licences. That is also an extraordinary step because, once again, it is against the philosophy of the 1993 Act. It is far more appropriate that community issues are solved at the community level rather than by the Minister making the decision.

Actually, I could probably answer for the Carr Government. The Carr Government does not want the community to have a voice in respect of this issue. In fact, this week the Minister for the Environment made sure that the community lost its voice by sacking a community member and trustee of the Parramatta Regional Park Trust board. The Minister for the Environment sacked the member because she spoke her mind in a letter she wrote to the *Daily Telegraph*. As is also demonstrated in this legislation the Carr Government does not like members of the community who are not in agreement with the Government. According to the Government community consultation means one must agree with the Government or else one is out on one's ear. I urge the Greens to take heed of the lesson given by the Carr Government in recent times.

Under new section 47B there will be no leases or licences in natural areas that are inconsistent with the use of the land. That is fine, but what will happen when areas being used by scouts and other community groups suddenly become natural areas? Will those groups have to vacate the land? Where will go? Who will pay for their relocation? Does the Carr Government have something against boy scouts? Under new section 47C, community land under lease cannot be sublet other than for the original purpose of the lease. Under the regulations, however, there will be exemptions. The exemptions are to enable surf life saving clubs to have kiosks, and hold dances and private parties, or to permit bowling clubs to allow croquet clubs to use their premises. Why are the regulations so narrow? Why do they refer only to those particular groups?

Some scout groups allow pottery classes to be held in their halls. How will they be affected? How

will the Minister explain to those groups that they are no longer welcome under the provisions of the Carr Government's legislation? It seems to me that the Carr Government's Local Government Amendment (Community Land Management) Bill will hamper community organisations. In conclusion, this bill raises more questions than it answers. I would appreciate a response from the Government on some, if not all, of the issues I have raised today—unlike the situation in the Legislative Assembly where there was no response at all. If this bill becomes law I believe all councils in New South Wales will be disadvantaged. If councils are disadvantaged so then will their communities suffer.

In the main this legislation relates to the environment. It would be far to say that we are all concerned about the future of the environment. However, there are ways to secure that future that will maximise benefit and enjoyment of the land for all. Sadly, this bill is not the way to do that. In another place, a certain Government member—the honourable member for Canterbury, Kevin Moss—referred to the fact that child-care centres, scout halls and the like, rob the community of open space. He referred to land handovers to scout associations as local government giving away land willy-nilly. Mr Moss, where will scout groups go? Are they not community groups? I was appalled by his comments.

Anyone reading the bill would wonder whether that was the sentiment of the Carr Government. I am certain that if a proliferation of scout halls was springing up, the community would be up in arms and something would be done about it. But so far I have not heard of that complaint except from the mean-spirited Kevin Moss, who seems to have something against scout halls. If he wants to be re-elected he is going about it in a very strange way.

The Hon. R. D. Dyer: He is very experienced in local government and is a former mayor of Canterbury.

The Hon. D. J. GAY: The Minister who formerly held the community services portfolio supports his attitude; he is against scouting.

The Hon. R. D. Dyer: I did not say anything about the views expressed. I said he was a distinguished member of local government.

The Hon. D. J. GAY: You are either against him or for him. You cannot have it both ways.

The Hon. R. D. Dyer: Yes I can.

The Hon. D. J. GAY: The Labor Party likes to have it both ways. The objective of the Local Government Amendment (Community Land Management) Bill is not to make things greener, but to make them appear to be green. The objective is more power for the Ministers and their departments; more work for councils; and more uncertainty. As we know, poor legislation is the trademark of the Minister for Local Government and this bill continues that tradition. Community lands will not be community lands if they are unable to be used by the general community or certain community groups, because of the proliferation of plans of management which prohibit use. The bill will seriously disadvantage councils and ultimately the community. The Opposition cannot support the bill.

The Hon. I. COHEN [12.21 p.m.]: The Greens support the Local Government Amendment (Community Land Management) Bill and congratulate the Minister on its introduction. However, after listening to the criticism by the Hon. D. J. Gay the Greens will move amendments in the Committee stage to further strengthen the bill. Hopefully, following negotiations areas of legitimate concern can be rectified. The bill in part stems from recent court cases on the community land management provisions of the Local Government Act. Of particular importance are the Balmoral Bathers Pavilion case and the Friends of Pryor Park case. In the Balmoral Bathers Pavilion case the lessee was successful in obtaining 97 per cent of the building on a long lease for private business, resulting in almost complete loss of access to the building for community use.

The surrounding parklands and beach area are now dominated by this commercial up-market venue which will be a 250-seat restaurant complex when completed. I constantly ask questions about the 3 per cent of land that will be left over; whether it will be set aside for toilets and whether the public will be able to use them. This is a serious alienation of community or public land for private purposes which is of no benefit to the community. The community strongly disputed that development.

The Hon. D. J. Gay: Not all the community.

The Hon. I. COHEN: Perhaps the business sector did not dispute it, but a significant number of people were against the alienation of that land from public use. In a program shown on Special Broadcasting Service television on 29 September entitled *The Battle for Sydney Harbour*, the issue of the dispute surrounding the Balmoral Bathers Pavilion was analysed. The community was

concerned because 97 per cent of the pavilion was to be used for private business. The program highlighted the problem surrounding the current management of community land and loopholes inherent in the Act as currently drafted. In the Balmoral Bathers Pavilion case there was no public tender process for the lease over the pavilion. The intention was that the lease would provide revenue to the council which could be used to restore the building, but at the end of the day the cost to the council will be at least \$1 million, perhaps more.

What happened at Balmoral Beach was an outrage. The people of Mosman were the losers and now have virtually no access to what was once a public building. According to the television program the only area to which the public has general access is the public toilets. The restaurant is expensive and there is no alternative for people with very little money who may want to make use of a kiosk or coffee shop or the like. The pavilion is earmarked for a 21-room hotel, conference room, exhibition room and offices; all privately operated commercial activities. According to the program 75 per cent of Mosman residents and 90 per cent of North Sydney residents opposed the current lease. It is quite clear that this virtual locking-out of the community for commercial enterprise purposes is a totally inappropriate use of a community building and land.

The bathers pavilion case has been challenged in court on numerous occasions, including the Court of Appeal. In one case the issue before the Court of Appeal was whether the council had the capacity to grant the 21-year lease of the pavilion at Balmoral Beach in Sydney. The old lease of the building for a restaurant was for 20 years and commenced in 1979. After local controversy an amended development application, the subject of the appeal, was lodged proposing the extended restaurant facility. The plan categorised the land as "park". Schedule 3 provided that the plan "expressly authorises the lease or licence of community land". The use permitted by the plan included the use of sections of the building for commercial purposes which are in keeping with the quality and atmosphere of the whole precinct, although commercial use should not totally exclude community use.

The council's plan of management was found to be invalid as it did not comply with the Act. The Court of Appeal held that while the particular plan complied with section 36(3)(b) of the Act in specifying its objectives and performance targets, the plan was deficient as to the means by which the council proposed to achieve them. The council reworked the plan of management after the case and

the lease continues to operate. In the *Friends of Pryor Park v Ryde City Council* case there was a scout hall on land which had been leased to the Scout Association of New South Wales for 21 years under the 1919 Local Government Act. It was proposed that in order to enable the operation of a private preschool the scout hall would be sublet to the association intending to operate the preschool and an area around the scout hall would be the subject of a lease or licence by the council to the association.

Council prepared a plan of management which categorised the reserve as natural area, bushland and water course. The plan authorised the lease or licence to the preschool. It was argued that the proposed lease or licence was beyond power on two grounds: firstly, the Act did not permit the grant of a lease or licence of a public reserve, or part of a public reserve, except for a purpose which promotes or is ancillary to the use of the land as a public reserve; and, secondly, the categorisation of the land as a natural area in the plan of management meant that there was no power to lease part of it for a preschool. However, the court held that the land could be alienated in the manner proposed. These cases show that in practice the legislative scheme for plans of management is fundamentally flawed. The proper management of a particular area of community land depends very much on the precise terms of the particular plan of management rather than criteria or stated objectives in the Act.

In a Newspoll survey conducted in October 1996 75 per cent of people living in New South Wales said that local councils should not be able to manage community-owned land such as parks and public places in a way which excludes public access or adversely affects the environment. A letter to the Premier on 9 June from several crossbenchers including myself, the Hon. Franca Arena, the Hon. Elisabeth Kirkby, the Hon. A. G. Corbett and the Hon. R. S. L. Jones pointed out the inadequacies of the community land provisions in the Local Government Act. The letter stated:

Community land, land set aside for the benefit of the public generally as parks and bushland reserves, is in many cases used for the benefit of just a few and is increasingly under threat of alienation. Mosman Council, for example, recently leased 97% of the Bathers Pavilion for the operation of a private business. Other public controversies have included Ryde Council's plan to sublet a scout hall on a public reserve for the operation of a private pre-school, Newcastle City Council converting community land at New Lambton into operational land so that it can be sold as part of its asset conversion program and a reservation of public land at Dover Heights being revoked to make way for private housing.

In his second reading speech the Minister stated:

The Government has become aware that there is some community concern that the present provisions of the Act are too broadly cast. Community land cannot be sold. However, there is widespread concern that the present provisions leave too much scope for misuse of environmentally sensitive land, and for inappropriate alienation of community land for essentially private purposes by lease or licence.

The Minister also said in his second reading speech that "an important reform is that, with some exceptions either specified in the bill or to be prescribed by regulation, leases, licences and other estates in respect of community land may only be granted for what are essentially public purposes". However, it appears that the bill may still allow the inappropriate alienation of community land for essentially private purposes by lease, licence or other estate. This is due to some exceptions in the bill.

New section 46 deals with the situation where a lease, licence or other estate can be granted in respect of community land. Subsection (1) states that a lease, et cetera, can be granted for the provision of public utilities and works associated with or ancillary to public utilities or may be granted in accordance with an express authorisation in the plan of management, so long as they are prescribed by subsection (4) or by regulation. Subsection (4) sets out the purposes allowed. These are the provision of goods, services and facilities, and the carrying out of activities, appropriate to current and future needs within the local community and of the wider public in relation to public recreation or the physical, cultural, social and intellectual welfare or development of persons.

That provision is very broad and is qualified by subsection (5), which states that the subsection (4) purposes include, but are not limited to, maternity welfare centres, infant welfare centres, kindergartens, nurseries, child-care centres, family day care centres, surf life saving clubs, restaurants or refreshment kiosks. These purposes will not be allowed if the grant of leases, licences or other estates would "defeat any of the core objectives . . . of its categorisation". However, the Greens are of the opinion that the bill as currently drafted may still allow, for example, a Balmoral Bathers Pavilion. The privately-operated restaurant that was in dispute in the bathers pavilion case may be allowed, as will privately operated for-profit child-care centres, kindergartens and nurseries.

In the case of *Friends of Pryor Park v Ryde City Council*, the Court of Appeal held that a proposed use of community land might be struck down as being contrary to a plan of management only if that use was "manifestly inconsistent" with the categorisation of the land. As a result, the court

held that use of a hall for a kindergarten was permissible on land categorised as "natural area—bushland" and "natural area—watercourse". This decision was reinforced by the Court of Appeal in *Seaton v Manly Council*, the bathers pavilion case.

As mentioned, the bill provides that a lease must not be granted over community land if such a grant would defeat a core objective of that category of land. If anything, this is an even less strict test than that proposed by the Court of Appeal, as only in extreme cases would a proposed lease actually defeat the objectives of a particular area. One suggestion put forward by environmental groups to address the issue is an amendment to new section 46(2). The core objectives of categorisation of community land are set out in the regulations. If the language was changed to "may only be granted . . . if its grant would advance any of the core objectives" that would strengthen the nexus between the purposes for which leases can be granted and the objectives of the area as set out in the regulations.

The bill does some very positive things. For instance, it introduces another category of community land, namely, an "area of cultural significance". According to the exposure draft regulations that accompany the bill, the core objectives for management of community land categorised as an area of cultural significance are to retain and enhance the cultural significance of the area—namely, its Aboriginal, aesthetic, archaeological, historical, technical or research or social significance for past, present or future generations by the active use of conservation methods.

Land should be categorised as an area of cultural significance under section 36(4) of the Act if the land is an area of Aboriginal significance, an area of aesthetic significance, an area of archaeological significance, an area of historical significance, an area of technical or research significance, or an area of social significance. New sections 36A and 36B, which apply specifically to community land that is affected by an instrument under the Threatened Species Conservation Act or the Fisheries Management Act, are welcomed by the Greens. Under these provisions, land that is declared to be critical habitat or that is directly affected by a recovery plan or threat abatement plan under those Acts must be categorised in a plan of management as a natural area.

Another positive aspect of the bill is that any amendments to exhibited draft plans of management must be publicly exhibited and that public submissions must be called for. This was one of the

issues raised in the first bathers pavilion case. If community land is to be recategorised from a category of natural area or an area of cultural significance, a public hearing must be arranged. This is a positive step. However, the Greens consider that there should be public hearings in many other circumstances, for instance, in relation to the initial making of a plan of management and amendments relating to, for example, the types of leases that may be granted over a particular area of community land.

The House would be well aware that I often bring to this Chamber issues that arise in my local community of Byron Bay. Those issues frequently relate to special sets of circumstances that highlight problems occurring. Those issues are raised because the local community is very active. It is a community that is constantly under pressure from the development lobby. The issue of community land is one that has been for many years, and continues to be, of great contention in Byron Bay.

With the introduction of the 1993 Local Government Act and the provisions for the classification of public land as community land or operational land there was established a process for community involvement in the consideration of lands and their classification and management by way of plans of management. I am interested in whether the Department of Local Government has conducted a review of these processes, and I am concerned if it has not done so because of the many complaints across the State of the abuse of public interest in these matters. In Byron Bay the implementation of the process resulted in lands being incorrectly classified and in the outrageous position that the council was trying to sell lands that were the property of the community.

In March 1996 there was great concern in the community when Byron Shire Council proposed a sale of public lands. It was at this point that the community found that the "for sale" list included a prized community asset, the Suffolk Park caravan park. That beach-side caravan park is of great interest to many in the community, particularly as it is in a rapidly growing tourist area. The caravan park provides the one opportunity for people to come to the beach for a cheap family holiday in an area of Byron Bay that is seen to be increasingly moving upmarket. The council attempted to sell the Suffolk Park caravan park. I refer to an item in the *Northern Star* of 30 March 1996 which stated:

The Byron Shire Council . . . announced plans to raise almost \$4 million to reduce debts totalling \$8.9 million by selling seven properties, including the Suffolk Park Caravan Park.

. . . residents understood the park was originally bequeathed to the council by Tom Suffolk on condition the land not be sold . . .

The community holds strong opinions on this matter and therefore was gravely concerned when they learned that the council had decided to sell this extremely valuable asset that had been bequeathed to the community by a local person who had passed away some time ago. It is not as though the caravan park and many other community assets were a drain on the council's resources. In fact, the caravan park is a great money earner. In that respect I quote from an article that appeared in the *Byron Shire Echo* of 25 August 1988:

. . . Cr Christoffersen said about \$850,000 is raised each year from five Council managed caravan parks on crown reserves in Brunswick Heads, Byron Bay and Broken Head. "Money from these parks comes primarily from tourism and I believe that expenditure must be applied in the areas most impacted upon by this activity," Cr Christoffersen said.

"Restoration and rejuvenation of the crown reserves along the Brunswick River and the coastline, along with works to enhance recreation areas, are ideal projects for this funding."

Cr Christoffersen said the crown reserves budget currently held over \$1.4 million. "Ideally expenditure is spent on the reserves where the money is generated but the Council can apply to the Minister to use the funds on other crown reserves in the Shire, as they have done so in the past."

In the 97/98 financial year the three caravan parks in Brunswick Heads returned a total profit of \$320,000, Clarks Beach \$420,000 and Broken Head \$107,000.

He said that the income from other caravan parks not linked to crown reserves goes into general revenue. The caravan park is a great money earner for the local community, yet there was a threat to sell it. Interestingly, at that time Byron Shire Council was trying to raise funds to reduce debts totalling \$8.9 million and was hoping to raise \$4 million from the sale of seven properties. It was a time when the community was pressured on many levels and developer pressure in the area had been at fever pitch for many years.

Also, the community had taken on a great responsibility to assess developments and has many times taken developers and the council to court over decisions. The sale of lands outraged many people and the Suffolk Park caravan park sale was a huge shock as it had long been considered a community asset. The community strongly opposed the position presented by council and carried out the research that council appeared unable or unwilling to do to substantiate the rightful ownership of the caravan park.

The Hon. D. J. Gay: I don't think caravan parks are community lands under this bill.

The Hon. I. COHEN: Some caravan parks are on Crown land. Importantly, this bill will protect such assets from sale by council. If the Hon. D. J.

Gay is right, I will stand corrected. Perhaps that matter can be debated at another time. With exhaustive and voluntary efforts the community succeeded in proving rightful ownership and the sale of the park was halted. At the time the issue highlighted the potential disaster for public lands to be wrongly classified and the public interest to be undermined. Last year another issue arose over the last piece of community land in Byron Bay town. Honourable members should note that all other lands had been sold in a council fire sale.

The people in Byron shire are treated like second-class citizens. Often in the past the council has kowtowed to massive pressure from the tourist industry, and those who live in the shire have not received the right facilities. At present those who want to hold a public meeting for a large number of people must book a room at the Lord Byron tourist resort. The people of Byron shire must use facilities provided by the tourism industry for public meetings because the council is selling its suitable halls.

The Hon. D. J. Gay: What about the council chambers?

The Hon. I. COHEN: I am talking specifically about Byron Bay. It would be unwise for the honourable member to raise the matter of the new council chambers, which are an extremely expensive white elephant. Community assets have been sold because of the stupidity of the previous council. The former general manager of the council saw fit to drag the council into serious debt and, consequently, the council sold public assets.

[Interruption]

I have raised this matter in the House on a number of occasions, as has the Hon. R. S. L. Jones. However, the Hon. D. J. Gay conveniently did not listen because we are not members of the Government and we cannot be bashed. The Hon. R. S. L. Jones and I have asked all Government and Opposition members to raise these issues and to defend the people in the Byron shire. However, we have been completely ignored because the issues are not a political football to be utilised at the time. The Hon. D. J. Gay is wrong when he says that he is not aware of these matters, because I have raised them many times.

The Hon. D. J. Gay: The 1993 Act does not provide for the sale of community lands.

The Hon. I. COHEN: Without proper consultation. However, the land can be converted to operational land, which would enable the council to

sell it. So the honourable member should not fudge. The land in question housed the oldest building in Byron Bay, the old stationmaster's cottage near the railway station. The building and land had been part of an arrangement with the State Rail Authority to deliver a community asset in lieu of section 94 contributions. The building had been renovated with council money and become the Byron Tourist Information Centre. The tourist information centre was not a community facility and community service; it was run by the tourist industry. The people of the Byron shire wanted to use the building as a community and environment centre but it became an information centre.

Byron Shire Council, in its ever increasing financial hardship, decided not to fund the facility any longer. The tourism industry took a hard line and said that without financial assistance it could not continue to operate the facility. It chose to take a stand and back down from its responsibility to provide this much-needed community service. The building was originally a tourist information centre funded by the council; it was then taken over by the tourism industry because the council decided not to continue funding it.

The issue raised many concerns and questions in the minds of the people of Byron Bay about the value of tourism to the local community and whether it was their role to subsidise an industry that stated it delivered great positives to the community. This was questioned by the community. In what became a long drawn out process the question of the right to lease the land and building for commercial purposes was raised and the community participated in the development of appropriate plans of management. On 11 August I issued a media release entitled "Up for Grabs", which stated:

. . . there is a new twist on the issue of the site. We must question whether the cottage is appropriately classified. The Crown Solicitor's assumption is that the land would be classified "Community Land", whereas the previous council resolved to class it "Operational", meaning it can be sold . . .

Before we decide who is going to manage the Old Railway Cottage we should check that it has the appropriate zoning. The building since its restoration has become an icon for Byron Bay, it plays a vital role in the feel of the town centre and is currently providing a quality service to the community and our visitors . . .

The Crown Solicitor's Office has assumed that the land would have passed to Council as "Community Land" by reason of the terms of the Agreement with the State Rail Authority.

I urged all councillors to consider seriously reclassification of the old railway cottage as community land to ensure continued public access.

The new classification would allow a draft plan of management to be developed, with community consultation, and resolve the issue of leasing, licensing and usage of the cottage. There was no draft plan of management and no proper community consultation. The tourism industry took over the land and those who blockaded the cottage, including me, were thrown out. We were not able to hold on after some weeks and the tourism industry, which receives a massive amount from the environment and the social fabric of Byron Bay, leased the building for a peppercorn rent.

The tourism industry now operates a shop selling knick-knacks, in competition with other shops, and provides information to industry representatives who pay money to advertise in the tourism centre. The people of the Byron shire have lost a great deal in terms of a community asset. I hope that this legislation will go some way to preventing such misuse of community assets in the future. The issue of community land raised questions about the right of the community to access what rightfully belongs to it, especially in a place such as Byron Bay, which is often consumed with the business of tourism. Local people can end up feeling like second-class citizens without access to a place of their own in their own town. It is a fairly shocking state of affairs for the people in the Byron area. In a letter to the Mayor of Byron Shire Council, Councillor Kingston, the Minister for Local Government, the Hon. E. T. Page, referred to my letter, as follows:

... I note that the land on which the cottage stands is classified as community land. Verbal advice received from the Council by my Department indicates that the Council has not yet adopted a plan of management in respect of the land, but has nevertheless decided to grant a lease of the land. I understand that the land may, in fact, already be subject to a lease to the Byron Environment Centre.

However, in the absence of a plan of management, the Local Government Act 1993 provides that the nature and use of the land as it existed on 1 July, 1993, must not be changed, and the Council has no power to grant a lease of the land.

They are the comments of the Minister. Nevertheless, the land is now in the hands of the tourist body. In a letter to me Ernie Page stated:

I understand that the land on which the Old Railway Cottage is located was formally classified as community land by the Council in April or May, 1996.

... As the Council has not adopted a plan of management for the land, it has no power under the Act to grant a lease of the land.

Still this land has slipped from community control.

The Hon. D. J. Gay: It will slip away further under this bill.

The Hon. I. COHEN: I hope the Hon. D. J. Gay is wrong when he says that it will slip away further. This bill strengthens the community's rights. I trust that further legislation will be introduced in good faith to protect community interests. This issue received significant ventilation in the *Byron Shire Echo* on 4 November 1997, which included a picture of representatives from the Byron Environment Centre with me protesting outside the stationmaster's cottage. The article stated:

The BEC is protesting against Council's failure to prepare a plan of management for the cottage and to consult with the community, as required for land classified as community.

In the past councils got away with too much by quietly zoning community land "operational" through a dishonourable process. In a press release of 3 November 1997 I expressed my shock at the council proceeding against community processes and granting a deed of management to the Chamber of Commerce and the Byron Shire Tourism Association for the old railway cottage in Byron Bay. The press release stated further:

After months of trying to get to the bottom of yet another Byron Council blunder, The Greens office was shocked to hear from the Minister's office that his advice was not being accepted. The Minister for Local Government in a letter, has expressed concerns regarding the defacto lease that the council is entering into, taking advantage of a loophole in the Local Government Act that he is intending to amend as soon as the appropriate community consultation takes place. Submissions to the discussion paper on Community Land have just closed and amendments to the Act will proceed as soon as possible.

I hope the proposed amendments close the loophole that allowed the mess to be made in Byron Bay. It is interesting to note also that in the *Byron Shire Echo* of 25 November 1997 an advertisement inserted at the community's expense by the Byron Environment Centre noted:

Minister Ernie Page writes to Mayor Kingston and informs him that Council does not have the power to grant a lease without a Plan of Management.

We certainly advertised and debated the issue, but the intention to push the matter forward proved difficult for the community, particularly against a strong push from vested tourism interests and also money interests of certain parts of the community who view Byron Bay as a cash cow—a status given to many other areas of the State. The Greens trust that the Local Government Amendment (Community Land Management) Bill resolves a number of these problems and allows the community to have a greater say in how its assets are dealt with. We hope

there are no further fire sales as happened in the Byron shire or in other areas of economic need. Such sales go against the public interest. The Greens support the bill.

[*The Deputy-President (The Hon. Jennifer Gardiner) left the chair at 12.54 p.m. The House resumed at 2.30 p.m.*]

The Hon. R. S. L. JONES [2.30 p.m.]: While having lunch in the members dining room today I looked out at the Domain and saw a number of people playing, running, walking and exercising. It occurred to me that the Domain is a classic example of the best use of community land. I wondered just how much the land would be worth if it had been built on and we tried to buy it back today. Community land is beyond price. Many honourable members would have been involved in the fight against what has been called the toaster, the building next to the Opera House. We lost that piece of community land; the actual roadway was sold to the developer. That is a tragedy because the toaster has marred the vista of the Opera House. The buildings along there should never have been built. When Paul Keating was Prime Minister we had the opportunity to acquire that land for a relatively small amount of money.

There have been many other battles about harbourside land. Yesterday honourable members had the opportunity to see the film *The Battle for Sydney Harbour*, which was shown in the theatre. Unfortunately, I was the only member who attended the viewing. Under a previous Minister, David Hay, there was a battle for a piece of land at Lavender Bay. We lost that battle; and that land, which was reserved for parkland, now has a block of units on it. The army is pulling out of Middle Head and there is a proposal to develop many housing sites there. We have the opportunity now to acquire that land before there is any further development and to restore it to parkland. If the Premier is re-elected in March 1999 I hope he sticks to his promise to not allow development on Middle Head.

No doubt the people of Sydney and New South Wales are concerned about keeping public spaces available to them; that is the reason for this legislation. Pieces of land all over the State have been converted by councils from community land to operational land and then sold off to developers. At the moment very little protection is afforded to community land across New South Wales. Community land is set aside as parks and bushland reserves for the benefit of the public generally. In many cases it is used for the benefit of just a few and is increasingly under threat of alienation.

Tireless community efforts to protect vulnerable community land have become a part of everyday experience. Right across the State residents are embroiled in heated battles about the future of community parks and community.

An example is the celebrated case of Ryde council preparing a draft local environment plan for the specific purpose of changing the classification of the Ryde swimming pool complex and Olympic park from "community" to "operational" so they could be rezoned, sold off and redeveloped. The complex is set to be redeveloped by the Olympic Co-ordination Authority into a \$17.7 million water polo venue for the 2000 Olympic Games, at a cost of \$11.947 million to local ratepaying residents, and 2.2 acres of the park is to be rezoned as residential 2(e) and sold for a 56-unit, two-to-three-storey high housing development.

Despite strong opposition from the community to the reclassification, rezoning, sale and development of this parkland—with more than 200 local residents and pool users unanimously voting against it at a public meeting—the Minister for Local Government has indicated that he is powerless to intervene, as the matter is solely for the determination of the council and the Minister for Urban Affairs and Planning. Similarly, Newcastle City Council attempted to convert community land zoned as "open space 6(a)" in its 1987 Local Environment Plan to "operational" so that it could be sold as part of the council's asset conversion program. Once again the local community expressed strong opposition to the sale of this highly valued recreational open space. It was opposed unanimously by a meeting of more than 100 local residents, yet again the Minister said he was powerless to intervene.

These battles indicate clearly that under existing legislative arrangements councils are finding it hard to resist the intense pressure to reclassify, rezone, lease and sell the community's parks and buildings to raise much needed funds. Once community land is reclassified as "operational" it can be sold, used or developed for any use permissible under the applicable local environment plan. If that is not bad enough, recent cases in the Land and Environment Court, such as *Donald Seaton v Mosman Council* and *Bathers Pavilion Pty Ltd and Friends of Pryor Park v Ryde City Council and another*, have shown that councils can use plans of management to override local environment plans.

The Local Government Act's management specifications are therefore clearly incapable of preventing private interests from radically

undermining the benefits that the community derives from public land. Amendments aimed at preventing the further alienation of these lands must be introduced as soon as possible. The community is in desperate need of an improved process, such as public hearings, to manage changes to community land. The community also needs to be informed about covenants or trusts that are clearly intended to make councils the guardians of important parklands forever, and not just real estate speculators. The bill seeks to restrict the alienation of community land. It will insert core objectives for community land plans of management, ensure that critical habitat is subject to appropriate management plans, require public exhibition of proposed changes to management plans, and establish better control over subleases of community land. It does not go far enough to protect our remaining precious community land.

My colleague the Hon. I. Cohen and I will move a number of amendments in Committee. These amendments will ensure that plans of management cannot override local environment plans; require public tenders for commercial leases on community land; include objectives for categories of community land and ensure that plans of management only allow activities that further those objectives; ensure independent public hearings for proposals to reclassify community land or to prepare plans of management; require the Minister to consider the merits of long-term leases; and ensure that financial returns from community land go back into the community. The amendments will ensure that community land is given the level of protection that it deserves and that the community expects. I hope that the amendments will be supported.

The general public is greatly concerned about the management of community land. A recent Newspoll survey found that 75 per cent of people living in New South Wales are of the opinion that local councils should not be able to manage community land such as parks and public buildings in a way that would exclude public access or adversely affect the environment. The level of concern is mirrored in the 400 submissions received in response to the Government's recent community land green paper; those submissions overwhelmingly support much stronger protection for community land. It is crucial to ensure that our remaining community land—including critical remnant bushland, open space and community facilities—is protected and remains accessible to the community.

Sydney is already suffering from a severely dwindling stock of community land, and property prices in the metropolitan area mean that councils are unlikely to be able to increase their stock of

community land in the future. Much-needed urban consolidation will place a greater demand on our public spaces. The recreational purposes to which residents put community land fulfil a critical component of city life, yet existing opportunities for informal recreation in the metropolitan area are limited and are declining relative to the total population. Land dedicated for general community use is in need of urgent protection, not only for our sake but for the sake of our children and our grandchildren.

The people of New South Wales and particularly the people of Sydney regard their community land as an asset beyond price. There is a tremendous outcry every time an attempt is made to nibble away at a piece of community land. The outcry comes not only from greenies but from middle Australians as well. It is time for governments of all persuasions to wake up to the value placed on urban bushland and parks by residents, and it is time that the erosion of this valuable community asset was stopped.

The Hon. Dr A. CHESTERFIELD-EVANS
[2.42 p.m.]: The Australian Democrats support this bill, but we feel that it does not go far enough. The Australian Democrats want to protect community lands. We are most concerned about the approach taken by the Opposition, which seeks to ridicule that position. The Australian Democrats recognise the reality of what is happening. One of the big trends is that human beings are becoming too numerous for this planet. Humans are increasingly living in larger concentrations, thus pushing up the price of land in choice areas. Globalisation and the failure of Australia to compete in the global environment have increased pressure on publicly-funded organisations.

The increased financial performance demanded of councils is increasing the temptation for councils to give community lands to the private sector in order to solve their financial problems. This has exacerbated a long-term trend for public land to go to the private sector. In Australia there is very little trend towards private lands returning to public land. The demographic centre of Sydney is once again moving east, with urban consolidation, a trend that will be grossly exacerbated by the land tax, which will lead to increased high-rise development. This is a very blunt planning instrument that will place immense pressure on community lands in high-value areas.

The Australian Democrats are committed to the concept of the public good—a very battered concept these days. Governments lack leadership; they are exhorted to manage rather than to lead.

This would suggest that they cut a deal with private sector operators or private capital. Each step halves what is left, and after a century of compromise there is almost nothing left. New Zealand had what was known as the king's chain, and landholders were not allowed to own land within 22 yards of the high water mark. Australia abandoned this principle. In the early days of settlement there was a shortage of surveyors and lands were surveyed right down to the water and sold as such. In only a few areas can one walk around Sydney's foreshores.

The position in Sydney is not so bad as that in San Francisco, where there are few places on land from which the harbour can be viewed. In Hong Kong there is almost no public land and huge numbers of people. At the rate cities grow, it is not farfetched to predict that if strong action is not taken we will face the same situation. However, the Federal Government under John Howard, after considering the five defence sites on Sydney Harbour, is giving the departing tenant, the Department of Defence, \$96 million. It is giving \$50 million for the department to move, \$40 million for the department to clean up its mess, and \$6 million to make Garden Island accessible to the public. The Prime Minister gave no money but set up a committee to look after a trust which would either sell or lease the land to make the harbour foreshore land financially self-supporting.

I challenged Mr Howard on this matter because he seemed to find the idea of government finance supporting the jewel of the Sydney Harbour foreshore land to be ridiculous. I feel that it is quite ridiculous that such a jewel is being allowed to go for such a small amount of money and such small and short-term benefit. The decision taken reflects on the lack of vision at the highest level of government. The current mayor of Hunters Hill has stated that he is looking forward to the subdivision of Woolwich foreshore. This is a matter of great concern at the local level. I can personally vouch for the fact that at New Year's fireworks and celebrations such as the bicentennial celebrations it is evident that there is too little foreshore land on which people can sit and view the harbour.

The Carr Government has stated that it will stop building on foreshore land that was owned by the Department of Defence. While this is reassuring in this case—which has been highly politicised by the non-action of the Federal Government—the efforts made at Walsh Bay and Circular Quay are less than reassuring. The Environmental Planning and Assessment Act, which almost totally excludes meaningful community input, was supported by both major parties—a considerable cause for concern.

Leichhardt council was overruled by this State Government, and foreshore land at Balmain was lost to the public. Community land was also lost at Pyrmont.

Ryde City Council was recently about to sell part of the swimming pool site on Victoria Road to a private developer and has given a long lease for the site to a private developer. The only swimming pools in the area will be under the control of the lessee, and I understand that the lessee is English-owned. One foolish councillor, when challenged by a massively packed public gallery, said that if this action were not taken each ratepayer would have to come up with 12¢ per week to build a publicly owned swimming pool complex to replace the existing complex. The council was happy to give away the land for 12¢ a week per ratepayer! That is the petty level of thinking by governments, that is the level of sacrifice that people are not willing to make.

The giving away of the Balmoral pavilion to a lessee on contract—a contract very unfavourable to the people of Mosman—was a matter touched on by the Hon. I. Cohen in his contribution to this debate. The issue was well explored in the video *The Battle for Sydney Harbour*, whose premiere I attended on Sunday, 27 September. The video was produced by the Nature Conservation Council and is a great credit to those who were involved in its production. The production of the video demonstrates the huge upsurge in community groups trying to save individual community lands and seeking help from each other in many David versus Goliath struggles. It is significant that these community groups have sprung up but that governments are not taking the initiative to protect community lands. Governments are taking the easy way out and are flogging off community land for short-term gains.

Who can the people trust? There is no reform of local governments and many councils are simply not viable economic entities. That fact is well known but it is ignored by major political parties because it is too hard to deal with. Even very viable councils are in danger of being taken over by real estate and other venal interests. They are selling the land. The Environmental Planning and Assessment Act gives very little reassurance of the overall priority of the State Government. It is, as was stated, a "one-stop shop for developers". The Federal Government's action on the foreshores gives little reassurance, even though it had a huge Federation Fund to support the heritage and the environment and even though its coffers have been boosted by the sale of Telstra and a budget surplus from welfare cuts.

If a lot of paperwork and bureaucracy is the only thing saving community land, then all I can say is, "Roll on red tape and bureaucracy." If a council has to jump through a few more hoops before it can sell off land or lease it for so long that it becomes an effective sale, like Parramatta Park, then so be it. The Australian Democrats do not want further alienation of public land and are most concerned by the Opposition's attitude. Believe it or not, whilst in my room I was watching the Hon. D. J. Gay speak, and it was very depressing. The honourable member said the Opposition was concerned, and he gave the example of a council with 1,400 parcels of community land. Surely if a council has so much land, the least it can do is keep records of it, and of what it intends to do with it. Does the Opposition suggest that a council should have no management plan for 1,400 parcels of land, no record of them and no means by which the public can access those records?

The Opposition neglects the real problems and it has not mentioned the problems that the crossbenchers in particular have spoken about. The Opposition is big on rhetoric about support for the community but it is always critical of plans to improve any situation. The Opposition is always critical of bureaucracy and complication but a lack of bureaucracy and complication often means that legal fights will go on at far greater cost, or that land will be lost. The Hon. D. J. Gay totally ignored the loss of community land in Ryde and Mosman, and he ignored the big trends that are driving the loss of lands. The Hon. D. J. Gay said, "The bill addresses a problem that is essentially non-existent." He suggested that the loss of community lands does not even exist, and that is simply an outrageous proposition from the Opposition.

I ask why the Hon. D. J. Gay does not want the National Parks and Wildlife Service to be involved. If that service can help to save community land for the future it ought to be involved as much as possible. This bill makes some progress towards making alienation of public lands more difficult, but the Australian Democrats would like it to be tightened and we would like some of the measures covered by regulations to be incorporated into the Act. The Australian Democrats will continue to seek approaches which better conserve community land and vital community assets.

The Hon. FRANCA ARENA [2.53 p.m.]: I support the bill. There is no doubt that the disposal of precious and irreplaceable community land by sale or lease is accelerating, and that the demand for open space is increasing due to the increasing

population. Only a couple of days ago Sydney's population reached four million. That is why this bill is so important and needs to be strengthened with appropriate amendments. We run the risk of the community's precious assets being alienated to special interests and diverted from proper community use. A constituent wrote to me as follows:

In the ongoing battle to protect public assets from diversion to private gain, we need all the legislative help we can get. Please, will you give your enthusiastic support to the proposals to improve and discipline the management and protection of community land?

Indeed I will. I have received letters from many organisations about this legislation and I will list them because most of them are community organisations run by volunteers who really care about our community and our environment. It is quite interesting to see the diversity of locations from where these letters have been written. They organisations are: Vaucluse Progress Association, Total Environment Centre, Sydney Harbour and Foreshores Committee, Environment Liaison Office, Connie Sievers from Balmoral Beach, Willoughby Environmental Protection Association, Castlecrag Conservation Society, Friends of Smiths Creek at Campbelltown, Georges River Environmental Alliance at Bradbury, Pavilion for the People Association at Spit Junction, Balmoral Beach Preservation Society at Spit Junction and the Friends of Calaringi at Carlingford. I do not know what Calaringi is but I received a nice letter from that group.

I also received representations from Mosman Parks and Bushland Association, Lane Cove Bushland and Conservation Society, Blue Mountains Conservation Society, Change at Windsor South, and the Law Society of New South Wales. I also received considerable correspondence from individuals but the list is too long to name them all. I have listed the organisations that wrote to me because it is the first time that I have received so many representations from people from places like Balmoral Beach, Wentworth Falls, Campbelltown and Windsor.

The strong message in the correspondence is that legislation should provide the maximum protection possible to all community land under the care, control and maintenance of local authorities. This should include nil alienation of any community land and the proper maintenance of that land. There should be rigid controls on the rezoning of land from community use to operational use. I strongly support this legislation and I will support amendments to strengthen it even further.

Reverend the Hon. F. J. NILE [2.57 p.m.]: The Christian Democratic Party has some reservations about the Local Government Amendment (Community Land Management) Bill. The overview of the bill states:

This bill amends Division 2 of Part 2 of Chapter 6 of the *Local Government Act 1993*, which governs the use and management of community land. The objects of the bill are:

- (a) To require plans of management for community land that is of particular significance for environmental reasons to regulate the use and management of the land in a manner that takes account of that significance, and
- (b) To impose further restrictions with respect to the grant of leases, licences and other estates or interests in respect of community land.

The Christian Democratic Party has received a submission from the Environment Liaison Office, which represents the Nature Conservation Council of New South Wales, the Australian Conservation Foundation, Friends of the Earth, the National Parks Association of New South Wales, the Total Environmental Centre and Greenpeace, dated 21 September. The submission states:

The Bill needs significant strengthening to

- ensure plans of management do not override Local Environment Plans
- require public tenders for commercial leases on community land
- include objectives for categories of community land and ensure that plans of management only allows activities that further its objectives;
- ensure independent public hearings for proposals to reclassify community land or to prepare plans of management;
- require Minister to consider the merits of long-term leases;
- ensure financial return from community land go back into community land.

In other words the bill is poorly drafted and has a number of very serious omissions. The final sentence of the submission states:

With the amendments we propose in place, the glaring loopholes which would still exist despite the amending Bill, may be closed.

There are major errors and problems with the legislation, even from the environmental point of view. The bill will introduce a great deal of red tape—perhaps we should call it green tape. Someone suggested that the bill is misnamed and that it should be the Local Government Amendment (Minister's Land Management) Bill. If this bill is

passed, land that is used by community groups would be placed under the control of the Minister. Usually the Greens are suspicious about the motives of State governments of both complexions, and particularly suspicious about Ministers having too much power, but it appears that the legislation is going in that direction.

The Christian Democratic Party is anxious to bring to the notice of the House concerns expressed by the Local Government and Shires Associations, the very important third level of government which is closest to and works in harmony with the community. It has expressed serious opposition to this legislation. The proposals contained in the legislation were part of the Government's green paper and were solidly rejected by the Local Government and Shires Associations in its official response to the Minister, and recently in circular No. 37/98. The Regional Organisation of Councils wrote to 177 councils and assessed their responses. It prepared reports on the green paper and many of its comments were critical of the various proposals which are part of this legislation. Circular No. 37/98 stated:

The Associations have expressed concern to the minister about the prescriptive nature of the amendments proposed by the Bill. Strong opposition has been expressed to the matters detailed in points 3 and 10 above, on the basis that they will increase the administrative burden on councils without any real community benefit.

Councils may be aware of a recent press release by the Environment Liaison Officer of the Associations' position on the Bill, which asserts that the Associations are attempting to water down the bill. The Associations reject any such assertion as a total distortion of the Associations' position.

One of the practical results of the legislation will be to put more pressure on local councils, which in turn will mean pressure on ratepayers, because hundreds of thousands of dollars will be spent by councils on administrative costs in an attempt to fulfil the requirements of the legislation and what might be referred to as green tape. The bill is inconsistent with the concerns expressed by members of this House that there appears to be an attitude towards the scouts, the Country Women's Association and other community organisations which have been allowed to erect centres on community land for the use of the community. The legislation attacks those groups, as some speakers in favour of the legislation have done. They have stated that that will never happen again.

But a Minister who is against the scouts and the girl guide movement or similar organisations, and certainly against the Country Women's Association, could have the buildings demolished

and force the organisation to move off the land because it is interfering with critical habitat. The building may have been there for 50 years, as long as the species, and that could be used as an excuse to force the demolition of buildings. Buildings erected by community organisations are invariably modest and are often constructed from fibro or weatherboard. Such organisations do not have access to large sums of money.

It would not be difficult for a government to have the building demolished and to force the community group off the land. Those organisations would be obliged to purchase land in the town or community at a high cost, which it could ill afford. With regard to the cost to ratepayers, some councils have calculated that a great deal of expenditure will be involved. For example the Council of the Shire of Baulkham Hills stated:

In a previous report to Council . . . the estimated cost of preparing individual plans of management for all public reserves was identified as \$440,000. Council took the approach to prepare six (6) generic plans.

To meet the new requirements of the proposed legislation, supplementary information would need to be gathered. It is estimated that \$90,000 would be required to engage special consultants to provide the additional information required.

One could argue that if the Government wants to take over this role it should pay the bill for expensive consultation and the drawing up of relevant plans. The Christian Democratic Party opposes this bill. The Environment Liaison Office correctly stated that the bill is full of glaring loopholes; similar to other bills that have been introduced by the Minister for Local Government, including the Companion Animals Bill, which was a mishmash. This bill should be redrafted and re-presented to this House, and we will give the Minister the opportunity to do that by not passing it through this House at this time.

Debate adjourned on motion by the Hon. Dorothy Isaksen.

PROTECTED DISCLOSURES AMENDMENT (POLICE) 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 [3.06 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 September 1996 the parliamentary Committee on the Office of the Ombudsman and the Police Integrity Commission tabled its report of the review that it had undertaken of the Protected Disclosures Act. The review was a wide-ranging one and the committee made 28 recommendations concerning the operation of the Act. In relation to the recommendations made by the parliamentary committee, the Ombudsman identified two of the recommendations for legislative amendment to be the most crucial. The first of those amendments was to clarify that the protections provided by sections 20 and 21 of the Act do extend to members of the Police Service who voluntarily make a disclosure. Those protections should apply to police officers, notwithstanding that they have a legislative obligation to disclose misconduct by other police officers.

Sections 20 and 21 of the Act provide protection for a whistleblower against acts of reprisal as well as legal actions such as actions for defamation or breach of an obligation of confidentiality. The parliamentary committee highlighted the difficulty of the protection provided by the Act extending to police officers. This difficulty arises because the Protected Disclosures Act provides that, for a disclosure to be protected, it must be made voluntarily. However, a police officer has an obligation, under the Police Service regulation, to report to a senior officer any criminal offences or misconduct by other police officers. The bill before the House today makes clear that the provisions of the Protected Disclosures Act do apply to a disclosure made by a member of the Police Service. The provisions apply even though the disclosure relates to the same conduct that the officer is obliged to report to a senior officer.

This has been achieved by inserting in the Act a new subsection 9(4) and by including a specific reference to "a member of the Police Service" in the definition of a public official. The other recommendation made by the parliamentary committee that is addressed in this bill relates to offences under section 20 of the Protected Disclosures Act. That section provides that it is an offence for a person to take detrimental action against another person that is substantially in reprisal for the other person making a protected disclosure. The parliamentary committee recommended that section 20 be amended to provide that in proceedings for an offence, the onus of proof be reversed. That is, it is for an employer to prove that any detrimental action taken against an employee was not taken in reprisal for the employee having made a protected disclosure.

The offence of taking detrimental action in section 20 is not limited to offences committed by employers. That section provides that an offence can be committed by any person. As the definition of detrimental action is quite broad and includes injury, damage, loss, intimidation and harassment, it is possible that an offence could be committed by a co-worker or another person. Accordingly, the amendment to section 20 in this bill goes further than recommended by the parliamentary committee and applies to all defendants, not just employers. The bill amends section 20 to provide that in any proceedings for the offence of taking detrimental action against a whistleblower, the onus of proof is reversed. That means that it is for the defendant to prove that any detrimental action, shown to have been taken against a whistleblower, was not substantially in reprisal for that person making a protected disclosure.

This amendment to reverse the onus of proof in relation to an offence under section 20 demonstrates this Government's commitment to the protection of whistleblowers. The

amendment will also send a clear message to all government agencies with respect to the treatment of whistleblowers. That message is that where an agency proposes to take any detrimental action with respect to a whistleblower, it must be able to demonstrate that the action was not substantially in reprisal for that person having blown the whistle. I commend the bill to the House.

The Hon. M. J. GALLACHER [3.07 p.m.]: On behalf of the Opposition I speak to the Protected Disclosures Amendment (Police) Bill. This bill is important, although some may not appreciate its impact. The bill follows on from the work of the Royal Commission into the New South Wales Police Service, which identified another problem that needs to be fixed if we are to ensure that the Police Service has the confidence of Parliament and the community. Similarly, the service is confident that members of Parliament will ensure that the necessary legislation is passed to protect them in their tasks. The bill is a result of a review undertaken by the Committee on the Ombudsman and the Police Integrity Commission by reference in April 1996. I am proud to be a member of that committee.

The committee held public hearings in relation to protected disclosures and during the course of those hearings a number of witnesses were called and gave evidence. It became glaringly obvious, and frighteningly so, that a number of officials from various departments still have grave concerns about the way in which they were treated. It was of grave concern to the committee also that many members of the Public Service had little knowledge of the protection mechanisms available to them in connection with making a public disclosure. It was interesting to hear from myriad groups, including the Police Service. The submission by Peter Woods will remain in my mind.

The Hon. Franca Arena: The famous Peter Woods?

The Hon. M. J. GALLACHER: It was quite disheartening that Peter Woods not only knew very little about public disclosures under New South Wales legislation but also showed very little interest in the people in that area of the public service that he was supposed to represent. It was also revealed in the hearings that members of the New South Wales Police Service although defined as public officials are not specifically covered by the protected disclosures legislation which covers other public servants.

Of course, police are required under the Police Service Act to report any offence of corruption, maladministration or improper conduct by a member

of the New South Wales Police Service. However, police have not had the right to make protected disclosures under the Protected Disclosures Act and therefore did not have available to them the protection measures enjoyed by other public officials. The work that Opposition members, Government members and crossbench members have done through the committee process has resulted in the bringing before this House of this legislation to rectify that problem.

This bill will enable New South Wales police officers to make protected disclosures in the knowledge that action will not be taken against them. The bill also provides for those who would take some form of detrimental action against a person who makes or seeks to make a protected disclosure. This provision also results from the work undertaken by me and other members of the committee at public hearings. It was quite disheartening to hear whistleblower after whistleblower, obviously people of high integrity and ethics, come forward in those public hearings and speak about the ramifications of the actions of others who stood up for their beliefs, came forward and made disclosures.

It is hoped that the finetuning of this legislation will be a continuous process and that those who come forward to advise of corruption, maladministration and improper conduct will have the protection of the Parliament against detrimental action that might be taken against them. The Opposition is pleased to support the bill. I am pleased that it is introduced before the end of the session so that people who come forward to make protected disclosures in the not too distant future will be protected.

Reverend the Hon. F. J. NILE [3.13 p.m.]: The Christian Democratic Party supports the Protected Disclosures Amendment (Police) Bill. The bill will make it clear that a member of the Police Service is a public official for the purposes of the Protected Disclosures Act 1994 and that disclosures of corrupt conduct, maladministration and waste made by such a member in accordance with the Act are protected by the Act. It is important that police officers who wish to bring forward information through the correct channels and under the protected disclosure provisions are able to do so without fear of repercussion against them. I am involved at the moment in assisting a retired senior police officer who felt he was victimised because he had made certain statements in carrying out his duties.

The bill provides also that in proceedings for an offence under section 20 of the Act the onus lies

with the defence to prove that any detrimental action shown to be taken against a person who makes a protected disclosure is not substantially in reprisal for the person having made the disclosure. It concerns me that reprisals can be sophisticated or subtle, making it difficult to connect an abrupt end to a police officer's career or the officer's transfer to an unfavourable location in this State with possible punishment of the officer for a statement that the officer made under the Protected Disclosures Act 1994.

Any measure that protects police officers in such circumstances is fully supported by the Christian Democratic Party in the interests of attempting to eliminate corruption and, where corruption is exposed, to take action against the offender, whether that corruption is on the part of another officer or a person outside the Police Service who may try to exert influence within the police force.

The Hon. Dr A. CHESTERFIELD-EVANS [3.16 p.m.]: The outbreak of brevity in this House has surprised me. I will of course follow the trend. The Australian Democrats welcome this bill.

The Hon. C. J. S. Lynn: There is only one Australian Democrat.

The Hon. Dr A. CHESTERFIELD-EVANS: There are two Democrats positions in this House. One is currently occupied by a person who should perhaps return his seat to those who elected him to it. But that is another issue and it is not connected with this debate or my contribution to it. The Australian Democrats welcome the bill and in particular the reversal of the onus of proof under section 20. Detrimental action taken in reprisal against a person by an employer or another employee demands action from government.

There have been many notable and appalling cases of reprisals against whistleblowers, and the reversal of the onus of proof will go part of the way to alleviating that problem. In our submission of 14 June 1996 to the committee reviewing the Protected Disclosures Act the Australian Democrats underlined the fact that for far too long people exposing corruption, substantial waste and mismanagement have had their careers destroyed by a bureaucracy that decided to close ranks to protect itself rather than act in the public interest. This culture must change.

I commend the work of the Committee on the Office of the Ombudsman and the Police Integrity Commission for its review of the Act and for taking

seriously the very real difficulties experienced by people who blow the whistle on waste, corruption and maladministration. Estimates as to the cost of maladministration, corruption and serious waste of public monies are put at around 1 per cent to 2 per cent of total government expenditure in New South Wales. One per cent at first blush seems trivial, but when calculated as part of a total expenditure of \$24.6 billion in the last budget, it amounts to \$246 million, or roughly the cost of running the Ministry of the Environment. If the figure is just 2 per cent, the cost is estimated at \$492 million, or roughly the cost of running the Department of Land and Water Conservation, the Department Mineral Resources and New South Wales Fisheries.

It should be pointed out at this stage that maladministration in the private sector could be expected to be closer to the 2 per cent mark, whilst in recent years the trend in the public administration has been downwards, towards 1 per cent, due to increased accountability measures and increasingly effective auditing. Some two years ago the Democrats prepared an amending bill that we believed would improve the circumstances of whistleblowers. We intend to continue with that private member's bill after the passage of the legislation before the House.

We must strive to change the public perception of whistleblowers from troublemakers to troubleshooters. We are pleased to have been able to host last year in the Parliamentary Theatre the whistleblowers seminar on the Protected Disclosures Act and whistleblowing. That seminar was a valuable opportunity for honourable members to familiarise themselves with the workings of the Act. Much valuable information was exchanged. The Australian Democrats prepared the private member's bill after consultation with Whistleblowers Australia Inc, and also met with representatives of the Cabinet Office and a number of other agencies. As I mentioned earlier, the Australian Democrats prepared a submission to the Committee on the Office of the Ombudsman and the Police Integrity Commission when the Protected Disclosures Act came up for review in 1996.

The Cabinet Office was, as always, difficult to persuade. After considering the response of that office to our amendments, and after further consultation, we will continue to push for the eventual implementation of our proposed amendment of section 22(a), although we understand that the Government will not accept that proposal at this stage, despite our belief that it would not lead to a significant increase in litigation by whistleblowers seeking compensation for damages. Neither the

Government nor the Opposition supports the amendments I have foreshadowed so I will not move them in Committee. However, I will introduce a private member's bill at a later date. At this stage I believe that the bill will improve the situation somewhat and I will support it.

Motion agreed to.

Bill read a second time and passed through remaining stages.

PRIVACY AND PERSONAL INFORMATION PROTECTION BILL

Second Reading

Debate resumed from 17 September.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [3.21 p.m.]: The coalition does not oppose the bill. First, I shall debunk the myth the Government is peddling that this bill is a great breakthrough for the Labor Government. In August 1992 the Independent Commission Against Corruption released its report on unauthorised release of government information. The release of the report followed the introduction earlier that year of the Data Protection Bill by the honourable member for Eastwood, Andrew Tink. That bill provided a reasonably comprehensive approach to the issue of privacy protection and is not dissimilar to the form of the bill now before the House.

On 14 April 1994 I introduced the Privacy and Data Protection Bill. This bill is less comprehensive than the bill I introduced in 1994. I acknowledge that I had difficulty with the attitude of central agencies to privacy legislation and in getting the then Government to embrace the Tink bill, which was introduced with the support of the former Attorney General, as a government bill. I recollect that there was much input from the privacy committee. One member of that committee, the Hon. I. M. Macdonald, is present in the House today. I am not aware of his involvement in the committee's deliberations at the time but I was led to believe that—

The Hon. Franca Arena: He was absent.

The Hon. J. P. HANNAFORD: No, he was fairly vociferous. I suspect that he was vociferous because he thought he might be able to get up my ribs on the issue, and I suspect that he has not changed much since then, either. My second reading speech on the 1994 bill is slightly different to my contribution today, but I took the view that that bill

should have gone further and embraced the private sector. However, I did not get the support of the Cabinet Office, the central agencies and some of my colleagues—

The Hon. M. R. Egan: You were done over.

The Hon. J. P. HANNAFORD: No. There was a compromise. In a good, almost Australian Labor Party approach I arranged for the private sector to be covered by the legislation by creating a code. Some private sector groups wanted a code that could be enforced. However, the enforceability aspect was watered down and we simply got a code that the private sector could embrace. That concept is not necessarily present in this bill, although it could be by the time the bill leaves this House. My objective at the time was to see whether I could include the private sector in the legislation. Some of my colleagues supported that objective so the legislation was referred to a select committee of the upper House chaired by Stephen Mutch. I understand that the Hon. I. M. Macdonald, who was a member of the committee, felt strongly that the legislation should embrace the private sector. I hoped that the committee would recommend amendments to the legislation to incorporate the private sector.

The Hon. Franca Arena: Did you get that?

The Hon. J. P. HANNAFORD: The Parliament was prorogued, which delighted the central agencies. Four years and six months later the House has before it a weaker bill than that referred to the select committee in 1994. As a result of extensive lobbying at the time I was tempted to send the legislation to a select committee again in the hope that we would get it right. On this occasion I will not give central agencies the opportunity for that to occur. As I said, the Opposition will support the bill, although it may be necessary to address amendments to ensure that the bill embraces the aspirations of privacy. This is yet another bill that may be described as a Carr-Egan bill—we have yet to coin an appropriate phrase. It is not really a Clayton's bill, because it does do something, but it is one of those bills that does not achieve its intended objectives.

The Hon. M. R. Egan: It might have been possible.

The Hon. J. P. HANNAFORD: The Government could have done more than it has done in this bill. My recollection is that at least some law enforcement agencies were required to do a little more under previous legislation than they will be

able to get away with under this legislation. But only time will tell in relation to a number of those matters. Let us again put to bed the myth that the Government has been innovative in bringing forward this legislation. I acknowledge that the first privacy legislation in Australia was introduced in New South Wales in 1975. New South Wales led the way. Indeed, I recall that it led the world in embracing privacy principles.

The Hon. M. R. Egan: Was that a Peter Coleman initiative?

The Hon. J. P. HANNAFORD: No. I think it was one of the first bills introduced by the Wran Government.

The Hon. M. R. Egan: I thought you said 1975.

The Hon. J. P. HANNAFORD: Late 1975.

The Hon. M. R. Egan: The Wran Government was not elected until May 1976.

The Hon. J. P. HANNAFORD: In that case it was a Willis initiative.

The Hon. M. R. Egan: It would have been a Coleman initiative if it was the Willis Government.

The Hon. J. P. HANNAFORD: Peter Coleman was the Leader of the Opposition; he was never Premier.

The Hon. M. R. Egan: In 1975 he was a Minister.

The Hon. J. P. HANNAFORD: I am not sure. Let us say that New South Wales led the way. It would have been nice if New South Wales had continued to lead the way in this area but it abdicated that opportunity to Victoria. In 1980 the OECD adopted a set of principles relating to privacy. As I said, the New South Wales Government introduced privacy legislation in 1992. If either of the bills introduced in 1992 and 1994 had been carried, New South Wales would have embodied the OECD principles in major privacy legislation. Indeed, it would have adopted better principles than those embraced in Federal privacy legislation. The European Union has now adopted a set of principles for privacy.

The principles outlined in this legislation are an enhancement of the European principles. The principles contained in this legislation are the same

as those in my 1994 legislation, which are acknowledged to be the best enunciated, according to comment I have received. Privacy legislation is not unique to New South Wales or Australia. The European Union has invoked similar principles and from 28 October all of its member States are to regulate their implementation. Hong Kong has privacy legislation that embraces the private sector, and therefore is ahead of many other countries in that respect. New Zealand has had privacy legislation that embraces the private sector, and has left this State for dead. Some American States are examining this issue, though in the American way.

Last week the Canadian Government announced that it would introduce privacy legislation that would embrace the private sector. It was anticipated that Australia's Federal Parliament also would introduce privacy legislation embracing the private sector. The Federal Privacy Commissioner had drafted the principles on which that legislation would have been based. I am led to believe that the draft may have even had the support of the Federal Attorney-General. Whatever may have been the machinations, the Federal Government decided last year not to embrace a legislative framework for privacy in the private sector.

The Federal Government decided to allow the private sector to create voluntary non-enforceable codes. That announcement was met with a high level of derision by those with an interest in privacy. It was not embraced by the Victorian Treasurer, Alan Stockdale. In an article in the *Australian Financial Review* of 27 April under the headline "Privacy laws needed, says Stockdale" the Victorian Government announced that it would move with its own form of regulation. The article stated in part:

The Victorian Treasurer and Minister for Multimedia, Mr Alan Stockdale, last Friday warned that voluntary industry codes would not be enough to guarantee privacy in the information age, repeating his call for national privacy legislation.

Mr Stockdale said businesses should have the benefit of a national privacy regime with minimum requirements set out in uniform, legislation alongside industry codes of conduct that would provide self-regulation on most issues.

The Victorian Government issued a discussion document—which is more than New South Wales did—entitled "Information Privacy in Victoria Data Protection Bill" that outlines the approach of the Victorian Government to embracing private sector privacy legislation. In recent discussions Mr Stockdale made it clear to me that he will proceed with the introduction of that legislation, which is expected to pass through the Victorian Parliament before the end of its current session.

Victoria's preference is that national legislation should be applied uniformly across the country. However, if Canberra is not prepared to move in that manner, Victoria intends to put in place a regime to protect at least its economy and its businesses. New South Wales should have been prepared to take a similar leadership position, but its Minister advocated his position, and added, "This is a decision for Canberra, and when Canberra does something, we will."

In this economic climate such an approach is merely an apology for doing nothing. The New South Wales Government should have said, "We take the same approach as Stockdale. There should be Federal legislation; if not, we will legislate in New South Wales to apply the principles, but we will do so in conjunction with Victoria so that there is consistent legislation between Victoria and New South Wales." The Government should not play the who-should-go-first ego game but should take the opportunity to embrace those principles within the proposed legislation. For four years New South Wales has done nothing on this issue.

The Hon. Janelle Saffin: We have.

The Hon. J. P. HANNAFORD: The Government has done nothing for the private sector and has done only what is reasonably inadequate for the public sector. When this bill emerged I thought there surely must have been consultation with the industry. I sent the bill to approximately 50 industry organisations and not one was aware that legislation was proposed. In fact, one government agency contacted me for a copy of the bill because it was unaware of it! So much for government consultation or a government process of determining whether the private sector wanted to take the opportunity, last offered in 1994, of embracing such codes. Some industry organisations would have wanted that opportunity and others would have said, "No, everything is okay at the bottom of the garden."

The Government did not consult. I am led to believe, and perhaps the Hon. I. M. Macdonald might add his comments, that the Government did not burden the privacy committee with the content of the proposed legislation. It has been suggested that there may have been problems with the one coalition member of the privacy committee. That committee has worked always in a relatively bipartisan fashion. I was never intimidated by the Hon. I. M. Macdonald being a member of that committee, but then most people are not intimidated by him. An explanation by the Government for not consulting with the committee was that an Opposition member was one of its members.

The Hon. Carmel Tebbutt: Who never goes.

The Hon. J. P. HANNAFORD: And does not attend meetings.

The Hon. M. R. Egan: Who is it? Name him! Get rid of him. Sack him! Is it a she?

The Hon. J. P. HANNAFORD: The committee could have asked that member to be absent from committee meetings so that the Government could provide some input on the proposed legislation.

The Hon. M. R. Egan: How can she absent herself if she is never there?

The Hon. J. P. HANNAFORD: The Government should not have been intimidated by that person's presence on the committee. The Government should have been prepared to consult with the committee, and I understand that did not happen. That might have reflected the fact that the central agencies had a fair degree of control over what was happening with this legislation. The bill before the House will apply to the public sector and not to the private sector. I make it clear to the House, as I have made it clear to industry organisations, that I believe appropriate privacy legislation is required in this day and age. That applies to the public sector as well as to the private sector. In this day of massive communications control through the Internet and through electronic mediums with the ability to control, access and manipulate data, and to misuse data, the public wants protection.

If there is one issue in the community today it is the prevailing feeling of people that they do not have control of their own lives. They are concerned that their private lives can be undermined by Government and by big business. Recent figures showed that four of the richest men in the world have more assets than the 40 poorest governments, and big business is bigger than big government. The ability to control information about people is an all-pervading fear of members of the community. I suppose most people have never read Alvin Toffler's *Future Shock*. Those who have read that book would wonder how big business can control their lives through the control of information. That is why the public wants to know that information about them will not be misused or abused.

The Hon. Franca Arena: What about the public register of paedophiles?

The Hon. J. P. HANNAFORD: I will give the honourable member an opportunity to pursue her

interests later. There is a need to address privacy in the private sector. I give notice that if the Federal Government does not introduce Federal legislation to achieve uniformity and cover the field, as the Victorian Government has been prepared to move, the coalition Government, post 27 March next year, will implement legislation. I was hoping before I finished my speech to be able to table a package of amendments I would have moved to indicate the direction the Opposition would take to embrace the private sector.

Unfortunately, I have just received the first draft of these amendments from the Parliamentary Counsel and I do not wish to incorporate them in my speech at this stage. Depending on how long the debate goes, if we are able to finalise those amendments I may seek to incorporate them. I commend the Parliamentary Counsel staff. They have done a large amount of work to prepare these amendments. It is important to have on the parliamentary record a set of amendments that indicate the direction the Opposition is prepared to go to work with the private sector to have it embrace a set of principles.

I do not know whether this model is consistent with the model that will finally be determined by the Victorian Government, but I believe it is not inconsistent. However, I would make certain the two packages of legislation are identical so that industry that does business in the two States can comply with both pieces of legislation. I would do the same as I understand Alan Stockdale will do in Victoria. That is, if the Federal Government goes ahead with a uniform piece of legislation, the Victorian Government will repeal its legislation and we would repeal the New South Wales legislation. We do not want duplicate systems in this country, because of the cost to industry. To give an example, when the uniform credit laws came into place there was a need to put in place protective measures. I am told the cost to industry of complying with that legislation was in the vicinity of \$100 million. We must keep clearly in mind that this legislation has a cost.

The legislation does not need to be introduced overnight. There can be a significant lead time. I notice the Victorian Government was going to propose a lead time of only one year. It is now talking about a lead time of two or three years. I would consider that to be appropriate. I am not going to pursue in Committee the amendments to incorporate the private sector into this legislation. That is not something to be done by the Opposition, but I appreciate Parliamentary Counsel's

amendments. Those amendments should be incorporated into the record so the community knows we are serious about this measure.

The Hon. I. M. Macdonald: If you are serious about it, move your amendments now.

The Hon. J. P. HANNAFORD: I am not going to move them now, and I have given the reason. The coalition believes there is a need to consult with industry—a far cry from the Government's lack of consultation. In a letter to the Government today, the Insurance Council thanks the Government for making its officers available to talk to the council about the implications of the legislation, but then says that the council has not had the time to read and understand the legislation. So much for consultation. The letter goes on:

At this stage we are still considering the impact of the legislation in respect of the supply of particular types of information from particular public sector agencies. As you will recognise, that is a large task.

The Insurance Council has raised a number of matters it is concerned about with the Government's bill.

The Hon. J. W. Shaw: It will have the time. The speed with which this House proceeds will allow sufficient time for consideration of the matter.

The Hon. J. P. HANNAFORD: All of these organisations have at least had the benefit of my communicating with them, even if the information did not come from the Attorney's office. The Opposition is receiving comment from industry organisations. The Government must look at these issues in detail. The Opposition, unlike the Government, is showing consideration for industry.

The Hon. J. W. Shaw: At least we will get it through.

The Hon. J. P. HANNAFORD: Only because we are supporting you. This legislation does not apply to government commercial organisations. The definition of "public sector agency" states that it does not include a State-owned corporation. State-owned corporations, major suppliers of information in the Independent Commission Against Corruption inquiry, will not be bound by these privacy principles. However, the Opposition will move an amendment so that the legislation will apply to all State-owned corporations. State-owned corporations, though meant to be competitive organisations, are still owned by the Government, which is responsible for them.

If it is accepted that privacy principles apply to the public sector, those principles should apply to agencies that the public sector owns. If one of the major sources of leaked information that was the subject of the ICAC inquiry was the water corporation—now a State-owned corporation—why should that body not be brought under the legislation? Perhaps the competitive position of Sydney Water would be affected? I am trying to identify who would be the major competitor of Sydney Water.

The Hon. A. B. Kelly: Fosters breweries.

The Hon. J. P. HANNAFORD: Yes, a few weeks ago the breweries were major competitors. There is no reason that the legislation should not apply to a State-owned corporation. The electricity authorities were another major source of leaked information. It may be argued that the electricity authorities are now in a competitive field, but I do not believe that they should be in a competitive field of providing to the community information about individuals. Since electricity authorities are State-owned organisations, the State should embrace a set of principles to be applied by competitive government agencies. It is for that reason that the Opposition will seek to have this legislation applied to State-owned corporations.

Threats have come from the Cabinet Office—threats from the Cabinet Office are interesting—that the Government will pull this legislation if it is applied to State-owned corporations. To my mind, if the Government is prepared to pull the legislation for such reason then that demonstrates its lack of commitment to the principles of privacy being applied to government. The Cabinet Office would love the legislation to be pulled, so that the legislation would not apply to any part of the government sector. The Cabinet Office would hope that it might be able to drag that situation on for another four years after the coming election.

The Hon. I. M. Macdonald: With the coalition, that would happen—it would be sent off to some committee. That certainly happened before. You sent the matter off to Stephen Mutch, and he sat on his backside.

The Hon. J. P. HANNAFORD: No, such a measure should have passed through shortly after the March 1995 election. The Cabinet Office has been able to twist the Attorney General around its little finger for the past four years. I hope that the Government has more intestinal fortitude than would be apparent from the threats that have permeated down to my office.

The Hon. I. M. Macdonald: Let's get Stephen Mutch back.

The Hon. J. P. HANNAFORD: Some people might like to try that, but I do not think there is much chance of its happening. The Opposition will seek to have the legislation applied to State-owned corporations.

The Hon. I. M. Macdonald: He's Charlie's boy these days, isn't he?

The Hon. J. P. HANNAFORD: I have heard rumours to that effect. There are several different models that could be used for this legislation. There are models in New Zealand and in Hong Kong. Those models provide a much more flexible approach to the development of codes and the involvement of the Privacy Commissioner, rather than the Minister, in the development and the application of the codes. The Opposition will at the Committee stage pursue amendments designed to bring the bill more into line with those particular models.

The exemption powers provided by the bill have the potential to make the legislation completely ineffective. They allow the Minister to exempt a wide variety of activities from the bill. The Minister will be able to use the bill so as to never allow the privacy principles to be brought into operation. The Opposition will consider that matter closely when developing amendments. Effectively, the Government has drafted this bill so as to neuter it. That is not appropriate. The approach taken to deal with complaints and revenues is very interesting. That is a potentially very unfair aspect of the bill. The bill provides that a person who makes a complaint can at a very early stage make an irreversible choice between mediation by the Privacy Commissioner, with no enforcement powers, or a fully litigated dispute before the Administrative Decisions Tribunal.

The bill provides that once the commissioner makes a preliminary assessment of complaint—without inquiries and investigations—the commissioner, not even the complainant, must choose whether he or she will commence a proper investigation, which can only result in the commissioner attempting to conciliate between the complainant and the agency. If the commissioner so chooses, the complainant forfeits his or her right to take action before the tribunal. Otherwise the commissioner can send the complainant off to seek an internal review by the agency complained about, and if this fails then the complainant can seek a review by the tribunal, which is the only body that

has the power to order remedial conduct and award damages.

Of course, we know that government agencies would never be unscrupulous, but an unscrupulous agency wishing to avoid paying out damages against it would not offer sufficient remedies in any internal review but would appear conciliatory. As soon as the complainant accepted the investigation by the commissioner then the agency could become intransigent, knowing that the complainant had forfeited his right to take action before the tribunal. The result would be that the preservation of the rights the complainant has to remedies would be largely up to the vigilance of the Privacy Commissioner in refusing to investigate complaints. That is a bizarre result. The only way one can protect one's rights is by going to the commissioner, yet the commissioner could decide not to investigate. The potential for unfairness under this proposal must be avoided, and the Opposition will move amendments to deal with that.

There is a problem in relation to public registers. The Opposition will consider amendments in this regard also. Public registers are very important for private sector business. There is a need for access to the registers, and the Opposition would not wish to impede such access. Clause 62(1) could criminalise the actions of whistleblowers acting in the public interest. The words "a bribe or other similar corrupt conduct" should replace the words "any financial or other personal benefit". This would make clause 62(1) consistent with clause 62(2), and would make the criminalisation of non-corrupt conduct less likely.

I understand that the central agencies are worried about changes in this matter and have even suggested that the bill might be pulled if recognition is given that whistleblowers ought to have rights in this regard. Opposition members are not paranoid about the central agencies. However, we do know how they act. The club of former attorneys general would agree on the difficulties of dealing with the central agencies, which would on some occasions love to act as the Attorney General themselves. There are problems with the bill. There is a need to make the legislation work more effectively in relation to the public sector.

It is important to ensure that people who make complaints are able to pursue those complaints properly and that this legislation does not provide a mechanism under which Ministers could surreptitiously ensure that the legislation never works. It is for that reason that the Opposition will at the Committee stage move several amendments. I

welcome the position taken by the Attorney General that he will allow time for the development and circulation of those amendments in order that the community can have opportunity for fair consideration. Even though I have been somewhat critical of the Attorney General I commend him for getting the bill to this stage. He is fortunate to have such a beneficent Opposition that is prepared to co-operate in order to get this legislation passed.

The Hon. CARMEL TEBBUTT [3.59 p.m.]: The Privacy and Personal Information Protection Bill will give recognition to data protection principles concerning the collection, storage, use and disclosure of personal information by public sector agencies. The objects of the bill are to promote the protection of the privacy of individuals; to specify information protection principles that relate to the collection, use and disclosure of personal information held by public sector agencies; to require public sector agencies to comply with those principles; to provide for the making of privacy codes of practice for the purpose of protecting the privacy of individuals; to provide for the making of complaints about privacy related matters, and for review of conduct that involves the contravention of the information protection principles; and to establish an office of the Privacy Commissioner and to confer on the Privacy Commissioner functions relating to privacy and the protection of personal information.

Pursuant to sessional orders business interrupted.

QUESTIONS WITHOUT NOTICE

DEPARTMENT OF COMMUNITY SERVICES CLIENT ACCESS

The Hon. PATRICIA FORSYTHE: My question without notice is to the Attorney General, representing the Minister for Community Services. I refer to the reference in a press release from the Minister for Community Services yesterday that a staff member, to whom I referred yesterday in question time, who had been involved in a car accident had been dismissed. Was the staff member dismissed for this one incident? If so, how does the dismissal fit with the requirements of the New South Wales industrial relations legislation? Were there prior incidents involving the staff member that should have had the department concerned about the capacity of that person to adequately care for people with a disability? Will the Minister investigate all the circumstances of this case and advise the House of the outcome?

The Hon. J. W. SHAW: I will refer the question to the Minister for Community Services for a reply.

DEPARTMENT OF FAIR TRADING RURAL SERVICES

The Hon. I. M. MACDONALD: I direct my question without notice to the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. What resources does the Department of Fair Trading provide to assist consumers in vital rural and regional areas of New South Wales?

The Hon. J. W. SHAW: If there is a member of this House concerned about rural matters and services, it is my colleague the Hon. I. M. Macdonald. I congratulate him on his vigilance and tenacity in relation to such matters. When the Department of Fair Trading was formed in late 1995 the Government aimed to provide a network of customer-friendly fair trading centres throughout the State, giving a wide range of services to consumers and traders. I must say that in my travels around these various centres I am impressed by the services that they provide for the community. First of all, the amalgamation of various agencies into the Department of Fair Trading in 1995 was good and positive in terms of consumer protection in New South Wales. Second, the spread of the offices throughout the State will provide a very important service to the people of New South Wales.

The department has established fair trading centres in 23 locations across the State, 19 of which are in regional and country areas. That means that consumers and traders from Cardiff to Casino have access to information and assistance across the full spectrum of fair trading issues. A prominent example of the assistance given by the Department of Fair Trading to rural New South Wales occurred late last month when Department of Fair Trading inspectors stopped a large pyramid scheme—the Concorde game—in Nyngan, Warren, Cobar and Dubbo. That illegal scheme has recently caused great loss to people in regional Victoria.

To ensure that access and protection continues, my department has undertaken an extensive expansion and upgrading program of fair trading centres. In the first two years of the department's existence expanded regional fair trading centres were established around the State, including at Wagga Wagga, Newcastle, Lismore, Gosford and Armidale. Some of the existing fair trading centres were improved and enlarged while others were established to meet community needs. For example, the Central Coast Fair Trading Centre at Gosford serves one of the fastest growing populations in the State.

Consequently, it is one of the busiest regional fair trading centres. The expansion program has continued this year. In February a fair trading centre was established at Orange to give communities, including Cowra, Bathurst and Lithgow, access to the department's services.

Recently I officially opened fair trading centres at Coffs Harbour, Port Macquarie and Wollongong. I am pleased to say that last month the Wollongong Fair Trading Centre was able to respond quickly and constructively to assist victims of flood and storm damage in the Illawarra. In rural areas where a full-time fair trading centre is not an option my department uses a variety of strategies to extend access to its services. Regular outreach services are provided at Griffith, Leeton, Narrandera, Bega, Deniliquin, Batemans Bay, Broken Hill, Bourke and Brewarrina. In addition, the Department of Fair Trading participates in the Premier's Department's government access program, which aims to increase access to all government services to people living in remote rural areas. The program reaches areas including Kyogle, Maclean, Nambucca Heads, Dorrigo, Grenfell, Oberon, Nyngan and Gilgandra. The Department of Fair Trading has also provided training to staff of the TAFE mobile library van in western New South Wales.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. J. P. HANNAFORD: My question without notice is directed to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Is it a fact that today in the other House the Premier withdrew his support for electricity privatisation and stated that in view of the experiences in places such as New Zealand he no longer supported electricity privatisation? Where does this leave the Treasurer's statement to the House only yesterday that the position of the Treasurer and the Premier in support of privatisation had not changed? Was the Treasurer deliberately misleading the House? Why has the Premier abandoned the Treasurer?

The Hon. M. R. EGAN: The misfortune for the Leader of the Opposition in this place is that I actually heard what the Premier said in the lower House. I would have to say that neither the Premier nor I have changed our positions on the matter. The Leader of the Opposition and the Opposition have to understand that whilst I am firmly convinced of the merits of privatising the electricity industry, the community also has to be convinced of those benefits. If the Opposition thinks that if ever it gets into government it can ram privatisation down the throats of the people of this State without first convincing them of its merits and worth, it will go the way of the Rundle Government in Tasmania.

BATHURST CORRECTIONAL CENTRE FACILITIES

The Hon. A. B. KELLY: My question without notice is to the Minister for Public Works and Services. What steps has the Government taken to improve the facilities at Bathurst Correctional Centre? Have local workers benefited from the works in progress at the site?

The Hon. R. D. DYER: I acknowledge the Hon. A. B. Kelly's well-known interest in matters affecting the central west of the State. I am pleased to report that the Department of Public Works and Services has recently completed three special projects at Bathurst Correctional Centre at a total cost of \$3.6 million. The projects comprise a periodic detention centre, a crisis management unit and visitors centre and an indigenous design workshop, the first of its kind to be constructed within a correctional centre. The first special project, the periodic detention centre, can accommodate 45 male and female inmates. The decision to construct the centre was in response to the perceived need to provide local detention facilities for central western residents convicted of relatively minor crimes.

Prior to the construction of the centre it was necessary to transport those short-term detainees out of the region, separating them from their families and dislocating them from their communities. The construction of the centre will allow the friends and families of short-term detainees to visit them and keep them in contact with their community without incurring prohibitive transport costs.

[*Interruption*]

Even the Hon. M. J. Gallacher would know that armed robbers are not suitable for periodic detention. The second project recently completed at Bathurst Correctional Centre is the crisis management unit and visitor centre, which was constructed at a total cost of \$1.5 million. Construction of this unit was set in train as a direct result of the Waller report on suicide and self-harm in custody, and provides intensive examination and treatment for detainees who, in the view of the Department of Corrective Services, may be at risk of injuring themselves. The new unit can house up to 13 inmates.

The third project is the indigenous design workshop, which has received considerable publicity in the central west for its innovative design and strong involvement of the local Aboriginal community in its setting up. The workshop was constructed at a total cost of \$600,000 and was

designed by Dennis Kombumerrie, Australia's first Aboriginal architect. Mr Kombumerrie manages the Department of Public Works and Services Aboriginal design unit. The design workshop, known as the Girrawaa creative works centre, is constructed in the shape of a lace monitor goanna and marks an interesting contrast with the less imaginative structures that comprise the rest of the correctional centre.

The Hon. D. J. Gay: Almost anything would be less imaginative than a lace goanna.

The Hon. R. D. DYER: I suggest that the shape of a lace monitor goanna would provide a more interesting shape than the box-like structures one ordinarily encounters in correctional facilities. The creative works centre aims to give indigenous inmates the chance to learn useful design and construction skills, to improve their employment prospects upon release and to provide them with opportunity for creative expression. The centre includes a commercial, cultural and creative work area, and it is intended that the works produced at the centre will be available for public display. Every effort was made by the Department of Public Works and Services to involve local businesses in the tender and construction processes of these new facilities.

A great many local workers and subcontractors succeeded in obtaining work on site during the building phase. Once again this will benefit the local community by ensuring that the contract money remains in the region and boosts local employment prospects for Bathurst and the central west. I understand that all the projects were completed on time and on budget. I am proud to say that my department completes all its programs on time and on budget. I congratulate the contractors and officers of the Department of Public Works and Services for their efforts in securing this important infrastructure for the central west.

STATE TAX REDUCTION

The Hon. R. T. M. BULL: I address my question to the Treasurer, Minister for State Development, and Vice-President of the Executive Council. Yesterday the Treasurer informed the House that there would be no double-dipping and no tax increases with the implementation of the goods and services tax. Will the Treasurer assure the House that financial institutions duty will be abolished when the new tax package is introduced?

The Hon. M. R. EGAN: Financial institutions duty is one tax that the Government has been keen

to abolish as part of a revised Commonwealth-State finance package. Indeed the FID is listed by the Federal Government to be replaced by GST revenue. Certainly the Government is keen to see the FID abolished. However, I point out to the Opposition and the Federal Government that this Government and other State governments can abolish taxes only to the level of the additional revenue received from the Commonwealth.

The Hon. R. T. M. Bull: It should be ample.

The Hon. M. R. EGAN: The Deputy Leader of the Opposition said that it should be ample. I assure him that even on the Commonwealth Government's calculations, until 2002 or 2003 there will be a shortfall in GST revenue to the States. To put that another way, GST revenue to the States would not fully compensate for the lost revenue from the taxes that the Commonwealth has nominated should be abolished. The Commonwealth Government has said that it will top up the States for that shortfall. There are two problems with that. First, the Commonwealth Government's calculations are simply wrong. I am not sure whether I have brought to the attention of the House previously—certainly I have stated this publicly—that one big problem is that the Commonwealth has estimated that the States, in order to put gaming operators on an even keel, will have to reduce their taxes to the tune of only about \$500 million.

The Hon. R. T. M. Bull: All the States?

The Hon. M. R. EGAN: Yes, all the States.

The Hon. R. T. M. Bull: Across all States?

The Hon. M. R. EGAN: Yes, precisely. The look of amazement on the face of the Deputy Leader of the Opposition confirms the point I am making.

The Hon. R. T. M. Bull: Hotels and clubs?

The Hon. M. R. EGAN: Hotels, clubs and casinos in all States. The Commonwealth is proposing to put a GST on gaming, but it is saying that to avoid additional imposts the States should reduce their gaming taxes to compensate.

The Hon. R. T. M. Bull: Therefore, all taxes will remain the same.

The Hon. M. R. EGAN: No. The problem is that in its published calculations the Commonwealth is saying that the amount by which the States would have to reduce their gaming taxes to compensate for

the GST on gaming will be \$500 million across all States in one year. The Deputy Leader of the Opposition knows that that is nonsense. In fact, in this year it would require almost \$500 million from New South Wales alone to do that. Across the nation we are looking at \$1,500 million a year, and that means that over a three-year period the Commonwealth's calculations are about \$3 billion short.

The Hon. D. J. Gay: That is if anyone can believe you.

The Hon. M. R. EGAN: Your own leader in this place has confirmed that. His reaction just now was that of amazement that the Commonwealth's estimation is that it would be at a cost of only \$500 million to all the States. My point is that for quite some years there will be a gap between what the States give up and what they get back. That gap has to be met by either the Commonwealth topping up payments to the States or the States being deprived of much-needed revenue for vital services.

The second difficulty is that the Commonwealth is committing itself to topping up the States in globo, not to topping up each State, to ensure that the revenue they are giving up is equal to the extra revenue they would be getting from the GST. There are two important issues there. It should not surprise anyone that if the New South Wales Government, for example, is handed \$100 in additional revenue it will only give away \$100 of revenue. It would not put out its hands for \$100 and in return hand over \$120; that would be fleecing the hospitals, schools and roads.

The Hon. R. T. M. Bull: We would not do that in government either. We will have to deal with all of this.

The Hon. M. R. EGAN: As the Deputy Leader of the Opposition said, quite rightly, no government would do that.

The Hon. M. J. Gallacher: No sensible government would do it.

The Hon. M. R. EGAN: As the Hon. M. J. Gallacher said, no sensible government would do it. So here we have the National Party, the Liberal Party and the Government in furious agreement! No sensible government would give away more than it gets back. Certainly the Carr Government will not do it. All I can commit to is forgoing taxes to the value of the revenue that we will receive if the GST package goes through.

Financial institutions duty is a horrible tax. I have to admit it was introduced by a Labor Government, but the Liberal-National Government doubled it. Madam President, as a member of the Cabinet at that time you must have felt absolutely ashamed that it was a coalition government that doubled the financial institutions duty. Coalition members must have felt ashamed when their Government increased payroll tax from 6 per cent to 7 per cent. They must have felt ashamed also on all the other 20-odd occasions that they increased taxes in this State.

The Hon. M. J. Gallacher: What about your land tax?

The Hon. M. R. EGAN: Let me talk about land tax. The revenue that this Government gets from land tax as a proportion of total revenue is actually less than the proportion of land tax collected under the previous coalition Government. The Opposition parties would impose upon the people of New South Wales the Kennett land tax policies.

The Hon. R. T. M. Bull: No way!

The Hon. M. R. EGAN: No way?

The Hon. R. T. M. Bull: No way!

The Hon. M. R. EGAN: I am glad to hear that, because on previous occasions the colleagues of the Deputy Leader of the Opposition have said that we should follow Mr Kennett's example on land tax, under which the top marginal rate is 5 per cent. In New South Wales it is 1.85 per cent, and it is coming down.

The Hon. J. P. Hannaford: He took the Labor land tax off private homes.

The Hon. M. R. EGAN: He has imposed a 5 per cent marginal rate of land tax. It is that policy which the coalition parties in this State would implement in order to finance the abolition of the premium property tax. Let there be no mistake about that.

FEMALE BOXING MATCHES

The Hon. FRANCA ARENA: I ask the Minister for Public Works and Services, representing the Minister for Sport and Recreation, a question without notice. Is the Minister aware that two young girls, one aged 16 years and the other 14 years, one from Ballina in New South Wales and the other

from Tasmania, recently fought in a boxing match, putting at risk their physical and mental development and risking possible chronic brain damage? What rules and regulations are there regarding boxing matches between young women? What can the Government do to prevent such unacceptable spectacles? Will the Minister launch a campaign informing young women as well as young men of the dangers of boxing? Is this an example of women's liberation gone mad?

The Hon. R. D. DYER: In regard to the last part of the question, I would be inclined to answer in the affirmative. I do not regard boxing as a particularly decorous or suitable activity for women. Two women trying to beat each other insensible is not something that I regard as an addition to our culture or an improvement of our society.

The Hon. M. R. Egan: Or two men beating each other insensible.

The Hon. R. D. DYER: I agree with the Treasurer's comments. The medical profession would certainly be of that view. It is well recognised that a blow to the head is likely to cause brain damage, and often does cause brain damage. I am delighted to refer the question to my colleague the Minister for Sport and Recreation in case she has views on the matter that are different from mine. When I have the benefit of the Minister's advice I will convey it to the Hon. Franca Arena.

OCCUPATIONAL HEALTH AND SAFETY POLICIES ENFORCEMENT

The Hon. A. B. MANSON: I ask a question without notice of the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading. Virtually every peak occupational health and safety body recommends vigorous enforcement policies as a deterrent to workplace accidents. Will the Minister inform the House of the occupational health and safety enforcement policies in New South Wales?

The Hon. J. W. SHAW: I thank the Hon. A. B. Manson for his question. I am glad that he is still an active member of this House, and I hope that he long remains so. The Government's policy has been to vigorously ensure compliance with occupational health and safety legislation. It has been encouraging employers and employees to comply with the standards required by occupational health and safety legislation. WorkCover has a compliance strategy that focuses on education and prevention. Prosecution, of course, is the last resort, but it is available to back up the other strategies.

Between 1 July 1997 and 30 June 1998, 937 prosecutions were completed, with 636 convictions being recorded; and fines imposed by the Chief Industrial Magistrate, the Local Court and the Industrial Commission of New South Wales totalled approximately \$3 million. There has been a marked increase in enforcement activity by WorkCover since 1995. Currently, between 70 and 80 matters are completed each month. Successful prosecutions rose from 311 in 1994-95 to 636 in 1997-98. That is a significant lift in the enforcement of prosecutorial policies and in the number of matters dealt with by the courts. The number of prohibition and improvement notices issued rose from 8,600 in 1994-95 to 13,700 in 1997-98.

WorkCover is developing a compliance and prosecution policy in accordance with recommendation 11 of the Standing Committee on Law and Justice so as to provide transparency and certainty to industry and other stakeholders about WorkCover's compliance and prosecution policies. The policy will address both occupational health and safety and workers compensation compliance services. It will seek also to achieve a balance between WorkCover's responsibility to enforce the legislation and its role to assist industry in injury prevention and management.

The Government's occupational health and safety enforcement strategy has four tiers: first, a strategy of education, advice and persuasion; second, the issuing of improvement notices and prohibition notices; third, the issuing of penalty notices, also known as on-the-spot fines; and, fourth, prosecution. Prosecutions take place whenever there are serious breaches of the legislation. Those include incidents that involve a fatality; offences involving a high risk of fatal or serious injury to a worker; a wilful repetition of an offence; failure to comply with a prohibition notice; or incidents in which inspectors are obstructed from carrying out their duties or exercising their powers under the relevant Act.

The Hon. R. B. Rowland Smith: What about the employees?

The Hon. J. W. SHAW: The Act provides for the prosecution of individual workers. Certainly, a legal obligation vests in individual workers. But an obligation vests also in management to provide and enforce policies that are conducive to safety in the workplace. I do not think there would be any disagreement about those fundamental principles. Prosecution of more serious matters, such as those involving workplace deaths, is conducted before the Industrial Relations Commission of New South Wales. Less serious breaches are heard before the Chief Industrial Magistrate and in the Local Court.

This Government doubled fines for occupational health and safety breaches, and those fines now stand at \$550,000 for a first offence and \$825,000 for a repeat offence. The New South Wales on-the-spot fine system is a practical intermediate penalty system. It makes effective use of the existing infringement notices already operated by the police. The immediacy of the penalty has impact and leads to increased attentiveness to safety and improved safety behaviour. Our Government's approach to the application and enforcement of occupational health and safety law has been commended by the Australian Industry Commission.

The Legislative Council's Standing Committee on Law and Justice—which has been doing excellent work in this area—examined the New South Wales on-the-spot fine system in the course of its inquiry into workplace safety and has recommended against modification or change of the existing system. The National Health and Safety Commission is currently examining the advantages and the efficacy of the New South Wales fines system to assess its potential as an effective preventive measure capable of being implemented nationally. The study commissioned by the commission has indicated that there exists a broad consensus of opinion that on-the-spot fines operate as an effective preventive measure.

ELECTRICITY PRIVATISATION

The Hon. J. M. SAMIOS: I ask the Treasurer, Minister for State Development, and Vice-President of the Executive Council whether he stands by his comments of 1 October 1997, as reported in the *Australian Financial Review*, that the longer privatisation is delayed the more jobs become at risk. How many jobs have been placed at risk as a result of the Premier's inability to do what he freely admits is in the best interests of the people of New South Wales?

The Hon. M. R. EGAN: As I have already pointed out in question time today, and as I pointed out in question time yesterday and on numerous other occasions, my position on privatising electricity utilities has not changed. I do not recall making the comment attributed to me in the *Australia Financial Review*.

ST GEORGE FORMER CAMPUS SITE

Reverend the Hon. F. J. NILE: I ask the Attorney General, representing the Minister for Education and Training, a question without notice. Is it a fact that Kogarah council is planning to rezone the former university site at Oatley for tertiary education to retain a university involvement in the area? Is it further a fact that Trinity Grammar

School is the preferred bidder for the \$15 million site for a primary school with very high school fees for a working class area? Will the Government review this proposal to ensure the best result for the people of Kogarah, St George and New South Wales so that a tertiary role is retained at Oatley?

The Hon. J. W. SHAW: I have some knowledge of, and an interest in, the Oatley site for tertiary education because in previous years I was a member of the council of the Sydney College of Advanced Education, so I have taken a genuine and active interest in this matter. It is always good to meet former colleagues from the Sydney College of Advanced Education. Recently, I met the Vice-Chancellor of the University of Technology, Sydney, Professor Tony Blake, with whom I had dealings when I was on the council. I am concerned about tertiary education generally and this campus in particular. However, I am cautious so I will not venture to give a substantive answer, but I am happy to refer the question to Mr Aquilina and obtain a response.

CENTRAL COAST EMPLOYMENT AND TOURISM

The Hon. B. H. VAUGHAN: My question is directed to the Minister for State Development. What developments have taken place on the central coast recently to encourage jobs and tourism?

The Hon. M. R. EGAN: My colleague the Hon. B. H. Vaughan is a staunch defender of this House. However, I point out to him that not all members of Parliament are such staunch defenders of this House. Indeed, the Hon. A. B. Kelly has drawn my attention to an article in the *Deniliquin Pastoral Times* with the headline "Small plan to abolish the New South Wales upper House". On reading that headline the honourable member first thought that it meant a little plan. But it does not mean a little plan; rather, it is a plan of the National Party member for Murray, Mr Jim Small, who mounts a compelling case for the abolition of the New South Wales upper House. Indeed, I look forward to his support in the years to come. I can understand why the Hon. M. R. Kersten is looking rather tetchy. The only way he will have a long-term parliamentary career is if this House continues to exist and he remains a member of it.

The Hon. R. T. M. Bull: He will go to the lower House.

The Hon. M. R. EGAN: That is the problem—he will not go to the lower House,

although he will contest a seat in the lower House. He should hope that there will be an upper House to which he can return when his bid for the seat of Broken Hill fails. That has nothing to do with the central coast but I thought it might be of interest to the House. Honourable members who keep abreast of such matters will know that on 28 September the Premier announced a \$24.7 million initiative that will lay the foundations for an annual horticultural festival on the central coast. That money will go towards building first-class recreation and sporting facilities for the region. The State Government will provide 174 hectares of land valued at \$20 million and \$4.5 million in seed funding for the project.

In addition, Tourism New South Wales will provide \$200,000 for national and international marketing of the festival. The project will create long-term jobs on site and more jobs in the community in related service and tourism industries. This is another solid commitment to the people in the fastest growing region in New South Wales, and comes on top of the recently announced \$12 million for Grahame Park in Gosford. When the festival is up and running it should cover more than 20 hectares of the site or about the same area as that covered by the Expo in Brisbane in 1988. There will be outdoor gardens, restaurants, a horticultural complex, a recreation area and parking spaces.

The Festival Development Corporation has been set up to run the annual event and facilities on land at Mount Penang. I am pleased that the board will have strong local representation that will ensure extensive community consultation at every stage of planning. The festival corporation will oversee the annual horticultural festival to be held each September from 2001, construction of first-class community sporting facilities, including a training centre, to accommodate the Australian football league and the cricket association, development of infrastructure services, development of environmentally sustainable long-term commercially viable buildings and renovation and commercial re-use of existing buildings, including heritage areas.

The corporation will finance its future development by attracting private sector involvement and generating income from the horticultural festival. The Federal Government will be asked to provide further funding from the Federation Fund to help develop of the site. The 2001 Australian Springtime Flora Festival will be a fabulous way for the central coast to commemorate the centenary of Federation, and I wish everyone involved with it all the best for the future.

ELECTRICITY PRIVATISATION

The Hon. D. J. GAY: My question is addressed to the Treasurer. Given the Treasurer's statement of 29 August—I remind him that he has made the same statement on numerous occasions—as reported in the *Sydney Morning Herald*, that the onus would be on privatisation opponents to show where the money would otherwise come from to build better schools, better hospitals and other infrastructure, under the Carr-Egan Government where will the money come from to build better schools and hospitals now that the Premier has ruled out privatisation of the electricity industry?

The Hon. M. R. EGAN: I thank the Hon. D. J. Gay for the opportunity to inform the House that in 1998-99 the Carr-Refshauge Government is spending a record \$7 billion plus on educating and training the young citizens of New South Wales, and a record \$7 billion-plus on our hospital and health systems. Indeed, we are managing those record budgets in health, education, community services, aging and disability services, the environment, roads, and many other areas while at the same time paying for the Olympics. I assure the House that in September 2000 there will not be a single cent of Olympic debt.

The Government has an excellent record of allocating money where it is most required. Indeed, we are spending some \$1.3 billion more on our health and hospital systems than the coalition Government did in its last year of office, in 1994-95. Given our record budgets and the amount we are spending on the Olympics, one wonders what the Opposition did with all the money when it was in government? The simple answer is that the coalition Government wasted and mismanaged the finances of the State and as a result there was no money to spend on schools, hospitals, roads or community services; but this Government has allocated record funds to those vital areas.

BYRON SHIRE COUNCIL

The Hon. I. COHEN: I ask the Attorney General, and Minister for Industrial Relations a question without notice. Can the Minister inform the House of the current situation regarding a breach of the Local Government Act 1993 by Byron Shire Council in relation to the transfer of section 94 funds? In particular, who is responsible for the breach and what action has been taken to address it?

The Hon. J. W. SHAW: I regret that as presently advised I cannot provide an answer to the honourable member. I will refer the question to the Minister for Local Government and seek an answer.

WORKPLACE SAFETY

The Hon. Dr MEREDITH BURGMANN: My question without notice is directed to the Attorney General, and Minister for Industrial Relations. WorkCover New South Wales began an advertising campaign in August to raise community awareness of workplace safety. Could the Minister inform the House of the campaign's progress and the response it has received?

The Hon. D. J. Gay: That's a good campaign and the Minister is the first of his lot not to include his photo in a campaign.

The Hon. J. W. SHAW: I acknowledge the interjection of the Hon. D. J. Gay and thank him for that praise. I seek input from honourable members of this House about the campaign because I do not regard myself as having any expertise in advertising or public relations. I am happy to talk to any member of this House or, indeed, any member of the Legislative Assembly, on how they perceive the advertising campaign to be proceeding. It is certainly a useful enterprise and the notion of elevating public concern about workplace safety is important. Hopefully the campaign will have that sort of utility.

It has been an intensive campaign on television, on billboards and in the newspapers. It is designed to say to people, "You know about road deaths and the problems with safety on the road but what about at work where the statistics are more alarming?" I pay tribute to the upper House Standing Committee on Law and Justice for recommending this approach in a bipartisan and co-operative spirit. We have given effect to the recommendation and put money into it. I am only happy that the campaign has proved useful. At the risk of being repetitious, I ask honourable members for their views on the advertisements.

POLICE PAEDOPHILE ALLEGATIONS

The Hon. J. F. RYAN: I ask the Attorney General, Minister for Industrial Relations, and Minister for Fair Trading, representing the Minister for Police, is it a fact that police who face allegations of paedophilia and other serious misconduct have been permitted to remain on duty, as highlighted by New South Wales Ombudsman, Irene Moss? Why has the Police Service not established an adequate procedure to deal with officers who pose this risk to the community? What steps will the Minister take to rectify the situation?

The Hon. J. W. SHAW: Whether police facing allegations should remain on duty is a difficult question, but I will refer the honourable member's question to the Minister for Police and obtain a response.

CIRCUMCISION

The Hon. A. G. CORBETT: I ask the Minister for Public Works and Services, representing the Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs, what has been the practical effect of the adoption by the Department of Health of the position statement of the Australian College of Paediatrics on routine circumcision of male infants and boys, specifically in terms of the reduction in numbers of male infants who are routinely circumcised?

The Hon. R. D. DYER: I will seek a response to that question from my colleague the Minister for Health and convey it to the Hon. A. G. Corbett.

CENTRAL COAST EDUCATION FACILITIES

The Hon. J. KALDIS: My question is directed to the Minister for Public Works and Services. Can the Minister inform the House of the progress of the construction of a new school at Wadalba on the central coast and of securing new school facilities for this region?

The Hon. R. D. DYER: I thank the Hon. J. Kaldis for his question and for the interest he shows in the central coast and in the provision of educational facilities throughout the State. For some years it has been clear that additional education facilities would be required on the central coast to meet population demands. This is especially true of the northern half of the region, where new housing estates have provided an opportunity for young families from Sydney to obtain their first homes.

The previous Government's attitude was that the best way to address this need was to tack on additional classrooms and demountables at existing school sites—a band-aid response to the problem. By contrast, after strong representations from local Labor members, the Carr Government decided to construct two new schools in areas best suited to take advantage of future population growth. I am pleased to report that one of these new school sites will be at Wadalba, just to the north-east of Wyong and within easy transport access of the new housing estates at Warnervale and Kanwal.

The other new school will be constructed in the Lake Munmorah region further to the north. The new school will be a combination primary school and high school. The high school complex comprises four two-storey buildings with first-floor walkways and lift access as well as four single-storey buildings. The two-storey blocks include general learning areas, administration, staff facilities and a

science block. The single-storey buildings include a library, materials technology and visual arts, multimedia and performance spaces, a gymnasium and a canteen. Sports fields and play areas will also form part of the complex, which will be built on open land near Tuggerah Lake.

[Interruption]

The Hon. M. J. Gallacher has been spending far too much time plotting against the Leader of the Opposition, the Hon. Peter Collins. If he spent less time plotting against his leader in this House and in another place, he might know what is happening on the central coast.

The PRESIDENT: Order! The Minister for Public Works and Services should address his remarks through the Chair, and other members should listen in silence.

The Hon. R. T. M. Bull: Go back to the start. I missed it.

The Hon. R. D. DYER: The Deputy Leader of the Opposition is so interested in my response that he wants me to go back to the beginning. If he is not careful I will do that. The Hon. M. J. Gallacher ought to spend less time plotting and more time observing what is happening on the central coast. I am able to inform the House—and as Minister for Public Works and Services I am in a position to do so—that tenders for the construction of the school will be called shortly and, as always, every effort will be made to ensure that the subcontract packages go to local workers. General construction will commence shortly thereafter.

I am pleased to report that land for the school has been acquired and that the development application has been lodged with Wyong Shire Council. Given the strong support for education facilities generally displayed by the current Wyong Mayor, Councillor Russell, I am confident that this application will receive early and favourable consideration by council and that work on the school will commence in accordance with the proposed construction timetable.

The Hon. M. J. Gallacher: There is no water and no sewerage.

The Hon. R. D. DYER: It is also worth placing on record the tireless efforts of the honourable member for Wyong, Paul Crittenden, and his office staff in securing this school for his electorate. I am advised, contrary to the protestations of the Hon. M. J. Gallacher, that water and sewerage

services that are currently being installed for the neighbouring Landco estate will also extend to the school. It would appear that the Hon. M. J. Gallacher should spend far less time plotting in favour of the honourable member for Lane Cove and against the Leader of the Opposition in the other place and in this place, and give some attention to what is going on in his own backyard on the central coast. Clearly he is very misinformed about matters that he should be more aware of.

I have paid tribute to the role of my colleague the honourable member for Wyong and his office staff in securing this school for his electorate. As a parent and as a local member, Mr Crittenden knows only too well the importance of adequate local schooling opportunities, and his pursuit of the new school for the Wyong-Kanwal region reflects his commitment to securing first-class capital works for his community. I hope I have rammed the message home to the Hon. M. J. Gallacher that the Government means business, that it will build this school.

The Hon. M. J. Gallacher: Not in my lifetime.

The Hon. R. D. DYER: Notwithstanding the doubts being expressed by the Hon. M. J. Gallacher, the school will be built in his lifetime, because I intend to call tenders for its construction very soon.

CROSS-BORDER BRIDGE PROJECT FUNDING

The Hon. M. R. KERSTEN: I address my question to the Treasurer, and Minister for State Development. In view of the fact that the Federal Government has allocated \$15 million for a new bridge at Moama-Echuca and a further \$17 for a new bridge at Robinvale-Euston from the Heritage Fund, what will your Government contribute to these cross-border bridge projects?

The Hon. M. R. EGAN: I will be happy to refer the honourable member's question to my colleague the Minister for Roads.

KNIFE SEARCH RECORDS

The Hon. R. S. L. JONES: I ask the Attorney General, representing the Minister for Police, whether records are kept of all searches conducted under section 28A of the Crimes Legislation (Police and Public Safety) Act, regardless of whether knives or other dangerous weapons are found. If not, why not? Will the Minister give an immediate direction that such records must be kept? If so, how many of

these searches did not produce knives or other dangerous weapons? Is this information provided to the Ombudsman as required by section 6 of the Act? If not, why not? Will the Minister ensure that the Ombudsman now receives these records?

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

STATE BANK OF INDIA AUSTRALIAN OFFICE

The Hon. E. M. OBEID: My question is directed to the Treasurer, and Minister for State Development. Will the Minister give the House details on how New South Wales is faring as one of the major financial centres of the Asia-Pacific region?

The Hon. M. R. EGAN: I am pleased to inform the House that India's largest commercial bank, the State Bank of India, will open its first Australian office in New South Wales next month. The State Bank of India employs more than 236,000 people in almost 9,000 branches around the world and has assets of some \$US45 billion. This move by the State Bank of India further consolidates Sydney's growing reputation as an international banking centre. The State Bank of India will be the only Indian bank operating in Australia and will target both Australian and Indian business. It will begin modestly, dealing with major corporate clients, but hopes to expand to full commercial operation, with between 25 and 30 staff, within a few years.

The State Bank of India is the latest international financial institution to see Sydney as the gateway to Australia and Australian business. The Australian representative for the bank, Mr David Azariah, said the Indian economy is performing well despite the Asian currency crisis and the bank is looking to expand its operations in Australia. I am told that India has an annual growth rate of between 5.5 per cent and 6.0 per cent, its currency is stable, and by 2010 it is expected to become the world's fourth-largest economy. Sydney is indisputably the finance and business capital of Australia and, according to the Reserve Bank of Australia, New South Wales now controls more financial assets than the rest of Australia put together.

I was pleased to see that even the Victorian Premier, Mr Jeff Kennett, in a speech to the Law Institute at the beginning of the month, conceded that Sydney is the financial capital of Australia. Mr Kennett went on to say that Sydney should be

supported in its bid to become the New York or London of Asia. As much as I am heartened by Mr Kennett's recognition of the facts, I am disappointed that the Opposition will not acknowledge our success or support our efforts to win more jobs and more investment for New South Wales. Non-residential building figures released yesterday show that in the June quarter, work started on more than \$1.1 billion worth of factories, offices and shops in New South Wales—an increase of 12.5 per cent on the June quarter last year and more than double the national figure. That is a staggering figure. New South Wales was responsible for 38.5 per cent of all non-residential building starts in Australia in the June quarter, and that is well above our share of the Australian economy.

Also in the June quarter, more than \$1.2 billion worth of engineering projects were commenced in New South Wales—projects such as transport facilities, water and sewerage works, electricity, pipelines, telecommunications, and other work in heavy industry. This is 11.3 per cent more than for the same period last year, and compares with a fall of 4.1 per cent nationally.

Trade between Australia and India is valued at some \$3.2 billion a year, of which \$421 million is between New South Wales and India. India is this State's sixth largest export market. In addition, there is a significant local Indian community in Australia. In New South Wales alone almost 70,000 people have a direct connection with India—either being born there or being first generation Australians. The State Bank of India will officially open its first representative office in Sydney later this month, and I am pleased to say that the bank's chairman, Mr M. S. Verma, will be in Sydney for the opening. I wish him and the State Bank of India well in their new venture in New South Wales.

GERRINGONG AND GERROA SEWAGE TREATMENT PLANT

The Hon. Dr A. CHESTERFIELD-EVANS: I ask the Minister representing the Minister for Urban Affairs and Planning why the Environmental Planning and Assessment Act was invoked to overrule Kiama council on the siting of the new sewage treatment plant for Gerringong and Gerroa. I understand it is now proposed to site this plant at Rose Valley, changing the character of the area. I am also aware of the complaints by residents close to the sewage treatment plants at Bombo and Blackbutt. Could the Minister tell me why Rose Valley was chosen, what alternatives were considered and why they were discarded, when a draft environmental impact statement suggested a site in farmland on the eastern side of the highway as being preferred?

The Hon. M. R. EGAN: Unfortunately I am not conversant with this issue, and I shall refer the question to my colleague the Minister for Urban Affairs and Planning.

F3 MOTORIST WARNING SIGNS

The Hon. M. J. GALLACHER: My question is addressed to the Treasurer, representing the Minister for Transport, and Minister for Roads. Has the State Government spent the Federal Government grant for the installation of motorist warning signs on the F3? If so, when can the motorists of New South Wales, and in particular the motorists of the central coast, expect to see the signs installed and operating? Is this another example of a State Government broken promise?

The Hon. M. R. EGAN: I shall be delighted to refer this question to my colleague the Minister for Transport, and Minister for Roads.

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

WATER CATCHMENT MANAGEMENT REPORT

The Hon. M. R. EGAN: On 9 September the Hon. Dr A. Chesterfield-Evans asked a question without notice relating to special areas strategic plan of management. I now provide the following answer:

The special areas strategic plan of management was prepared jointly by the New South Wales National Parks and Wildlife Service and Sydney Water in accordance with the requirements of the Water Board (Corporatisation) Act 1994. The plan's development was supported by an extensive consultation process involving representatives from conservation, recreation and community groups, as well as experts in ecology, water quality, catchment management and public health. The Minister for Urban Affairs and Planning has endorsed the strategic plan in conjunction with the Minister for the Environment and its release has awaited:

- the completion of negotiations between Sydney Water and the National Parks and Wildlife Service regarding the transfer of some Sydney Water special areas to the National Parks and Wildlife Service; and
- finalisation of the necessary implementation process to give effect to the plan.

The implementation process for the strategic plan is now complete and negotiations regarding proposed land transfers are progressing. It is anticipated that the plan will be publicly released in late 1998.

T-SHIRT SLOGANS

The Hon. M. R. EGAN: On 9 September the Hon. Franca Arena asked a question without notice

relating to T-shirt slogans. I now provide the following answer:

T-shirts depicting characters from the cult cartoon show *South Park*, were withdrawn from sale by ABC shops on 11 September 1998.

TRANSGENDER ATHLETES

The Hon. M. R. EGAN: On 9 September the Hon. Elaine Nile asked a question without notice relating to transgender athletes. I now provide the following supplementary answer:

It is currently the policy of the International Olympic Committee to restrict the eligibility of athletes competing in female-specific events to those who have successfully undertaken a gender verification test at a current or previous Olympic Games. The Sydney Organising Committee for the Olympic Games—SOCOG—has the task, through its medical program, of overseeing the conduct of the tests, but not the formulation of the gender verification policy or the responsibility of acting on the results of the tests, which are conveyed confidentially to the IOC. In previous Olympic Games, the IOC has not made the results of gender testing public, in accordance with article 5 of the International Olympic Committee Medical Code.

At recent Olympic Games, the screening test has involved analysing tissue from a buccal smear—taken from the inner lining of the mouth—for the presence of a gene on the Y chromosome, normally found only in males. If necessary, further examinations—laboratory and/or clinical—may be undertaken. It is likely that this, or a similar, procedure, will be conducted in Sydney in 2000.

SYDNEY WATER SUPPLY CONTAMINATION

The Hon. M. R. EGAN: On 9 September the Hon. D. J. Gay asked a question without notice relating to Sydney's water supply contamination. I now provide the following answer:

Customers of Sydney Water who have been affected by the water contamination events have from early this month begun to receive a \$15 rebate off their water bills. That rebate will automatically flow through to any tenant who normally pays water rates under the terms of the tenant's contract with the landlord of the premises occupied by the tenant. In addition, the Department of Housing, which is the State's largest landlord, will pass on the full amount of the rebate to its tenants. Private sector landlords of tenants who do not pay water rates are being encouraged by Sydney Water to pass on the rebate to their tenants. This is being done in a letter attached to water bills that are being sent out to Sydney Water's customers in affected areas.

The Independent Pricing and Regulatory Tribunal, Sydney Water and the Department of Housing are exploring the option of changing Sydney Water's billing protocols so that tenants are billed directly by Sydney Water for the usage component of bills. In addition to paying the rebate, Sydney Water is also compensating people who reside in the areas affected by the contamination for some classes of expenses that they have incurred as a result of the boil water alerts. For example, compensation is being paid for the cost of replacement kettles

and replacement water filter cartridges. Compensation of this kind is being paid to any person making a valid claim who resides in an affected area, including people renting properties who do not pay water rates.

SYDNEY WATER SUPPLY CONTAMINATION

The Hon. M. R. EGAN: On 9 September the Hon. J. H. Jobling asked a question without notice relating to Sydney's water supply contamination. I now provide the following response:

Sydney Water is beneficially using biosolids in a range of market sectors including agriculture, forestry, landscaping, and land rehabilitation. The average production of biosolids in 1997-98 was 475 tonnes per day. All use of biosolids by Sydney Water is in accordance with the New South Wales Environment Protection Act guidelines, which were formulated taking into account international standards and guidelines. The guidelines were supported by a range of applied research carried out throughout New South Wales over many years to demonstrate the fertiliser value of biosolids and to determine environmental impacts. The New South Wales guidelines are largely based on the United States EPA guidelines, but are considered to be much more conservative in respect of allowable contaminant levels in the soil. Testing for giardia and cryptosporidium is not carried out, nor required, under the guidelines.

Some biosolids products are used in garden landscaping works and on one golf course at Springwood in the Blue Mountains. These products have been stabilised to ensure extremely low levels of pathogens. Small amounts of biosolids are also used in forests and in the rehabilitation of degraded mine sites. The United States regulations do not require that all sludge be pasteurised to a temperature of 70 degrees before use and the United Kingdom regulations do not require that all biosolids be oven dried and turned into pellets. These processes are two of the many practices allowed overseas, which also include those practices permitted by the New South Wales EPA and utilised by Sydney Water. The process of lime stabilisation adopted by Sydney Water for sludge from Penrith and Quakers Hill—not Castle Hill as suggested—involves a high level of pathogen reduction and ensures that products from these two plants also meet the EPA's requirements for beneficial use.

REGIONAL WATER QUALITY

The Hon. M. R. EGAN: On 10 September the Hon. I. Cohen asked a question relating to regional water quality. I now provide the following response:

In country New South Wales, the local council, county council or water supply authority samples and tests water quality in the urban water supply. These tests can include physical, chemical and microbiological quality. It is the responsibility of the water supply authority to investigate the cause of any contamination and implement appropriate management responses to correct the situation. The Department of Health reviews the results and may require the water authority to undertake appropriate action to protect public health—for example, to boil drinking water if microbiological contamination is detected. The New South Wales Government has established a Cabinet task force on water to respond to the public health concerns associated with giardia and

cryptosporidium. The task force has established protocols for notification of giardia and cryptosporidium contamination for Sydney Water and these will be modified for use throughout country New South Wales.

PARALYMPICS CHILD TICKET ALLOCATION

The Hon. M. R. EGAN: On 10 September the Hon. A. G. Corbett asked a question relating to Olympics ticket allocations. I now provide the following response:

Sydney Organising Committee for the Olympic Games has developed the "Olympic Opportunity" tickets for particular groups including people who are socially disadvantaged and school students. Approximately 1.5 million tickets will be available for these groups. For all venues used for the Olympic and Paralympic Games there will be seating provided for identified people with disabilities who will be able to order that seating through the mail order process. The Paralympic Games Organising Committee is finalising the ticketing policy for the Paralympic Games. To help all children attend the Paralympic Games, including those with a disability, the organising committee is working with community groups in a nationwide program to send children to the games, for example, Rotary and Lions clubs have agreed on a project to raise funds to send children to the games.

OLYMPIC TORCH RELAY ROUTE

The Hon. M. R. EGAN: On 13 October 1998 the Hon. C. J. S. Lynn asked a question relating to the Olympic torch relay route. The Minister for the Olympics has provided the following response:

The route for the torch relay for all of Australia has been approved by the entire Sydney Organising Committee for the Olympic Games board, including the Leader of the National Party, Ian Armstrong. It will be made public on 31 October 1998. In the meantime SOCOG is negotiating with councils across the nation for 198 lunchtime and evening celebrations. Additional negotiations are being held with hotels and motels to accommodate both the torch relay staff and the national and international media at 99 overnight stays. During this period of negotiation the proposed route must remain confidential so that these negotiations are not compromised. Neither SOCOG nor I will comment on speculation on where the torch may go. We certainly have not told the Hon. C. J. S. Lynn.

The full route will be revealed on 31 October 1998 and everyone will know at that time whether the claims made by the Hon. C. J. S. Lynn are true or false. In the meantime, I am sure other honourable members can make their own judgement about the Hon. C. J. S. Lynn having a cheap shot at my children as a way to attack me.

COASTAL CROWN LAND SALE

The Hon. M. R. EGAN: On 16 September the Hon. I. Cohen asked a question relating to the sale of coastal Crown land. I now provide the following response:

It is not appropriate to give broad guarantees of the type suggested, however part of the Government's coastal policy is

designed to protect coastal Crown land with significant environmental, scenic and public access attributes through the coastal Crown lands assessment process. Another initiative of the policy is the development of a coastal inventory by the National Parks and Wildlife Service. The coastal inventory will identify coastal lands that are considered important for protection and will be used as a guide for the future management of coastal Crown land. The sale of coastal Crown land is on the Coastal Council's agenda. It will address this issue as part of its investigations into coastal land acquisition. The Minister for Urban Affairs and Planning believes that this process of better coastal land assessment will ensure that important coastal Crown land will be retained and protected.

LIDDELL POWER STATION POLLUTION LEVELS

The Hon. M. R. EGAN: On 16 September the Hon. J. H. Jobling asked a question without notice relating to Liddell power station pollution levels. I provide the following response:

Immediately upon receipt of the independent report, prepared by J. D. Court and Associates Pty Ltd, the Department of Urban Affairs and Planning wrote to Muswellbrook Shire Council on 27 August 1998, attaching a copy of the report. At its meeting on 14 September 1998, council directed that the information be forwarded to the Macquarie Generation Consultative Committee and Macquarie Generation for consideration and comment. Consequently this process provides for the committee to have the report. The department considered this to be the most appropriate course of action. The Government advocates continuing monitoring and community consultation to ensure that emissions are well within tolerable levels in terms of health and amenity impacts.

VACCINE REACTION FINANCIAL ASSISTANCE

The Hon. R. D. DYER: On 9 September the Hon. A. G. Corbett asked a question without notice about financial assistance for those who have suffered a serious adverse reaction to a vaccine. My colleague the Minister for Health has provided the following response:

While there is no "no-fault" compensation scheme available in Australia, children in New South Wales may be compensated for severe adverse events where negligence of the medical or health professional can be established. Irrespective of whether compensation is available for negligence, medical expenses may be met by Medicare, or through the New South Wales hospital system where appropriate, and specific services are also available for relevant disabilities. Analysis of New South Wales notifications of adverse events from 1995 to 1997 indicate that of those events considered by the Adverse Events Advisory Committee as possibly attributable to recent immunisation, most have recovered within hours or days and none has suffered disabilities.

The need for a "no fault" compensation scheme for any kind of adverse reaction to any drug or medical treatment was extensively considered by the Commonwealth professional indemnity review in 1996. The review found that "no fault" compensation schemes should not be supported, including for specific purposes such as immunisation.

WATER FILTRATION PLANT CONTRACT

The Hon. R. D. DYER: On 9 September the Hon. R. S. L. Jones asked a question without notice concerning water filtration plants. My colleague the Minister for Health has provided the following response:

The previous coalition Government failed to warn the public about the potential health concerns from cryptosporidium in Sydney's water supply. On 7 July 1993 the Department of Health issued a media release stating that Sydney people should not be alarmed by reports of the existence of the parasite cryptosporidium in the city's water supply. Further, there is no record the previous Government consulted the New South Wales Department of Health regarding the technical specifications of the water filtration plants.

POLICE CAPSICUM SPRAY USE

The Hon. J. W. SHAW: On 10 September Reverend the Hon. F. J. Nile asked a question about police capsicum spray use. I now provide the following answer:

I am advised by the deputy commissioner that there has been no delay in issuing oleoresin capsicum spray—OC spray—and training of officers in its use is occurring according to schedule. All weapons trainers have been trained as instructors in the use of OC spray and have trained over 1,800 police to date, with all New South Wales police anticipated to have completed training within a year. The Police Service, through the commissioner's standing committee on firearms and operational officer safety, is constantly reviewing developments in non-lethal response, including those introduced in South Australia. I note South Australian police use the same type of spray as used by Victorian police in the incident referred to by the honourable member. New South Wales Police Service tests indicate the type of spray used in New South Wales is more effective than its Victorian counterpart.

NUDE THEATRICAL PERFORMANCES

The Hon. J. W. SHAW: On 9 September Reverend the Hon. F. J. Nile asked a question about nude theatrical performances. I now provide the following supplementary answer:

No, I do not contemplate that actors in New South Wales, whether covered by either State or Federal awards, will be forced to perform nude in television, film and stage productions, and I will outline my reasons. This issue has arisen from a decision of the Federal Government to ask the Australian Industrial Relations Commission to review the decisions in the "allowable matters" process to correct errors that the federal government believes may have made as part of the process. The opinion of the Federal Government is that the nude work provisions can be made part of the award as "exceptional matters orders", through arbitration by the Australian Industrial Relations Commission. Section 89A(7) of the Workplace Relations Act 1996 states, "Exceptional matters may be included in industrial dispute". Subsection (1) does not exclude a matter—the exceptional matter—from an industrial dispute if the commission is satisfied of the following:

- (a) a party to the dispute has made a genuine attempt to reach agreement on the exceptional matter;
- (b) there is no reasonable prospect of agreement being reached on the exceptional matter by conciliation, or further conciliation, by the commission;
- (c) it is appropriate to settle the exceptional matter by arbitration;
- (d) the issues involved in the exceptional matter are exceptional issues;
- (e) a harsh or unjust outcome would apply if the industrial dispute were not to include the exceptional matter".

Clause 12.11.1 of the Federal Entertainment and Broadcasting Industry-Actors-(Theatrical) Award 1998 states, "If an employee shall be required to appear nude or semi-nude such requirement shall be specified in the contract of engagement or in the case of employees not specifically engaged for a run of the play or a particular period, specified at the time of engagement". Clause 3(m), "Terms of Engagement of the Actors (State) Award" provides, "If an employee shall be required to appear nude or semi-nude, such requirement shall be specified in the contract of engagement".

The Commonwealth Sex Discrimination Act 1984 and the New South Wales Anti-Discrimination Act 1977 provide protection against sex discrimination and against sexual harassment in the workplace. However, contrary to what was asserted by Mr. Reith in his press release of 4 September 1998, a request to an employee to perform nude will not necessarily contravene State or Federal anti-discrimination legislation. It will depend on an examination of the particular facts. I would remind honourable members that at the time of debating the "topless amendment" in the Senate in 1996, the Federal Opposition was vocal in calling for the provision to prevent coercion of employees to perform nude to be retained in awards to prevent harsh and unjust outcomes across the industry. Senator Sherry—Tasmania-Deputy Leader of the Opposition in the Senate—stated:

It is a much more effective protection . . . if the Commission has the power to either deal with the matter as a test case or to deal with the matter and prescribe it and maintain it in awards forever.

If this advice had been taken up, this current imbroglio may not have arisen. The review by the Minister for Workplace Relations and Small Business to reopen 35 awards, simplified by the "allowable matters" process, and the probability of the subsequent removal of existing award safeguards, demonstrates the need for comprehensive protection of workers' conditions of employment, such as is provided under New South Wales industrial legislation.

Questions without notice concluded.

SYDNEY WATER SUPPLY CONTAMINATION

Tabling of Documents

The Clerk tabled certain documents relevant to the contamination of Sydney's water supply system that were lodged with him earlier this day according to paragraph 3(i) of the resolution of the House of 13 October 1998.

Service of Summonses

The PRESIDENT: I inform the House that earlier this day summonses were issued out of the Supreme Court in the Administrative Law Division, in proceedings No. 30102/98, the plaintiff being the Hon. Michael Rueben Egan and the defendants the Hon. Virginia Anne Chadwick, Mr John Denton Evans and Mr Warren Cameron Cahill. Service of the documents was effected today and I have taken steps to engage solicitors and counsel to act on our behalf in the proceedings. The plaintiff claims:

- (a) a declaration that the Legislative Council has no power to order the production of documents the subject of legal professional privilege or public interest immunity or to determine itself a claim for legal professional privilege or public interest immunity;
- (b) a declaration that orders 3(ii), 4, 4A and 5 of the orders of the Legislative Council made on 13 October 1998 are beyond the powers of the Legislative Council;
- (c) an injunction restraining the defendants from taking any steps to compel compliance by the plaintiff with order 3(ii) of the orders of the Legislative Council made on 13 October 1998.

The proceedings are listed for hearing on 27 October 1998 at 9.30 a.m.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [5.06 p.m.]: I move, as a matter of privilege and without notice:

That this House agrees with the action taken by the President in arranging for legal representation in the proceedings.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [5.06 p.m.]: The Government will oppose the motion.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [5.06 p.m.]: It is extraordinary that the Government would oppose this motion moved by the Opposition. The House agrees with the action taken and arrangements for legal representation in the proceedings. What is the Government trying to achieve by opposing the motion? The House is entitled to an explanation from the Government. Given that the Leader of the Government has already spoken, the Attorney General should provide an explanation as to why the Government is opposing the motion.

The Hon. J. P. HANNAFORD (Leader of the Opposition) [5.07 p.m.], in reply: In view of the fact that no other member has sought the call, I shall in response make comments similar to those made by my colleague. It is an outrage for the Government,

through the Leader of the House, to indicate to the Parliament that the Government is prepared to take legal proceedings against the Presiding Officer of this House and then to say that the Government will be opposed to the Parliament defending itself. It is ridiculous that the Government is prepared to take the Parliament to court and then wants to stop the Parliament from defending itself.

The people of this State have to ask themselves the following questions. What is this Government about? What is the Government trying to hide in this issue? Why is the Government trying to ensure that the Parliament is not able to protect itself from the attacks being made by this Government? Never in my period of association with politics—a limited 30 years—have I known of a government not being prepared to support the Parliament in defending itself when it has been taken to court. Is the Government prepared to waste public money in pursuing these issues but is not prepared to allow the Parliament to defend the powers of the Parliament?

That is what the Government has indicated. The Leader of the Government has indicated that the Government will oppose this motion, a motion that the House agrees with the action taken by the President in arranging for legal representation in these proceedings. That is what the Leader of the Government has said. This Government has dragged the process of government about as low as anyone could. I am appalled at the attitude being exhibited by the Leader of the Government and by his Government.

Motion agreed to.

The Hon. Franca Arena: Could I ask a question? I seek clarification—

The Hon. M. R. Egan: No. The time for questions has passed. It is different if the honourable member wants to take a point of order but to allow honourable members to jump up at any time during the day's proceedings to seek clarification is quite unprecedented. I appreciate that the Hon. Franca Arena has some problem understanding the procedures of this House, but she has been here long enough and should not be so confused.

The Hon. Franca Arena: On a point of order. Are the documents that have been tabled public documents that can be seen by honourable members of the House and photocopied? What is the procedure with the 10 boxes that have been given to the Clerk? I want to know what members can do with the documents?

The PRESIDENT: Order! I refer the honourable member to the terms of the motion that was carried yesterday.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Workplace Safety Interim Report

Debate resumed from 23 September.

Reverend the Hon. F. J. NILE [5.11 p.m.]: It is a pleasure to support the report of the Standing Committee on Law and Justice on workplace safety. The interim report was printed on 22 December 1997. Earlier in my brief remarks I pointed out that it is a pity that sometimes a long time elapses before reports are debated in the House. However, a number of important recommendations have already been acted upon by the Government. I thank the Minister for Industrial Relations for the publicity campaign which honourable members will agree has been impressive. Television, radio and newspaper advertisements relating to workplace safety have depicted a husband or a wife leaving home to go to work, and have posed the question, "Will he return home?" or "Will she return home?"

Those advertisements have certainly underlined the need for care, particularly in light of the recent tragedy in Victoria. When an explosion occurred at the Esso natural gas plant, two very brave employees put their own lives at risk and were killed while attempting to turn off the gas. The families of those two men will never see their loved ones, husband or father, again. That accident brought home to us the tragedies that can occur in the workplace. Dramatic photographs and media reports of head-on car accidents, overturned semi-trailers and cars that have been crushed have an impact on the community in general.

In Australia during the past financial year 2,900 people died as a result of workplace accidents and occupation-related diseases. During the same period 2,030 people were killed on the roads. It is not a competition to find out which is the most dangerous, the workplace or our roads. They are both dangerous. Accidents at the workplace are often overlooked because of a lack of publicity about them. It may not be possible to show the effects of an accident if it occurs within a factory environment. Workplace accidents do not have the same impact on the community as road accidents because deceased or severely injured employees are invariably removed from the site without delay.

The work of the committee and its report has elevated the dangers of the workplace into public

comprehension through television and radio campaigns. I am sure honourable members are aware that as a result of those efforts and the adoption of the recommendations of the committee there will be an even further reduction in workplace accidents in New South Wales. The committee's terms of reference were:

That the Standing Committee on Law and Justice inquire into and report on workplace safety matters, with particular reference to:

- (a) integrating management systems and risk management approaches aimed at reducing death and injury in the workplace;
- (b) social and economic costs to the community of death and injury in the workplace; and
- (c) the development of an appropriate legislative framework for regulatory reform and/or codes of practice in relation to occupational health and safety in the workplace.

The committee went into the workplace environment and met workers, managers and employers; and inspected many workplaces in New South Wales and in other States. The members of the committee were given as much information as possible on what was happening in the workplace and were literally at the coalface when they visited coalmines. I recall the committee's inspection of the Newcastle port through the co-operation of the Newcastle Ports Corporation. The corporation made its pilot vessel available to the committee to inspect the harbour from the water. Committee members saw one or two sites at which there had been serious accidents. In one instance some lading equipment crashed into the water and killed one of the workmen involved on the job.

Committee members also had the opportunity to speak to medical experts whose job it is to try to save the lives of workers who have been injured. Many accidents in the workplace involve heavy weights. A worker who is crushed may sustain broken bones and injuries to other parts of his body. It was informative for the committee to visit the bone and joint institute at Newcastle and meet the director, Professor Bogduk, who was very impressive. I understand from his report and from other information that he is pioneering some radical means of restoring the health and strength of injured workers so that they can return to their families and to the workplace to continue their occupations. At some of the places the committee visited there had been accidents, but other sites were chosen because of their high safety records. The committee was able to explore how one particular company and its employees had achieved that safety record.

One of the impressive places that the committee visited was the BHP steelworks, which

has an impressive safety record. We met the workers and they showed us around. I was impressed with the diligence they applied to avoid workplace accidents. One of the most important messages that emerged from our inquiry was the need to establish, through risk management, how accidents can occur and the steps necessary to prevent them. In that way a company could have a zero accident record. People may say that that is impossible, but that should be the aim. We should not tolerate one injury or fatality in the workplace.

I was interested to hear how workers had developed safety attitudes. When going up or down steep flights of metal stairs they hold on to the rail and when working in furnace areas they wear the correct equipment, such as helmets or fire-proof jackets. Workers must be trained not to leave anything on the ground, notwithstanding the temptation to put equipment or tools on the ground and walk away to do something else. Another worker may trip over equipment or tools left on the ground and fall into a dangerous area, perhaps amongst the furnaces, and be seriously injured or even killed. The committee was deeply impressed when it visited a factory that was neat and tidy, with no items left lying on the ground. It was obvious that the workers had adopted a commendable attitude to safety and their tidiness had reduced the risk of accidents. Sloppy work practices endanger lives.

The committee visited Merewether High School at 6 o'clock one morning and met the school cleaners. We wanted to understand some of the pressures placed on them. Most of the cleaners are women who have to carry vacuum cleaners and floor polishers around the buildings. Those buildings were not designed with safety in mind; they have steep stairs and windows which are unreachable, making it necessary for the cleaners to balance on desks or tables, thereby risking a fall and likely injury. Those places cannot be rebuilt, but workplace safety should be a priority in all future government and non-government constructions. Planning is vital to reduce the potential for accidents and to make buildings worker-friendly, particularly for cleaners who usually work at night.

Schools are built for children, not for cleaners. Some pieces of equipment, including polishers, are very heavy for women to use. I found those machines difficult to control at full speed. In the Hunter Valley we had an opportunity to listen to workers in both the open-cut and underground mines. We visited the Ravensworth open-cut coalmine at Muswellbrook and the miners conducted

us on an inspection of open-cut mining. At first glance it may not appear to be as dangerous as underground mining, but open-cut mining far below the surface involves the potential for accidents. The emphasis is on production and massive equipment is used. The vehicles used to carry the coal are huge. The equipment we saw cost about \$30 million and included huge excavators which dig out the coal. There is a potential for accidents if workers are not briefed about the risks involved with this machinery.

I was equally impressed by my visit to the underground mine at the Newstan Colliery at Fassifern. Modern mining methods are different from those used in deep vertical shafts in Wales, as portrayed in movies such as *How Green Was My Valley*. These days horizontal shafts are dug to give a gradual descent to the mine face. At the Newstan mine we travelled 3¾ kilometres from the mine opening along the horizontal shaft to the longwall mining operation. One does not have to be a genius to work out that in the event of an accident the miners would not get out of the tunnel. Therefore there is great need for safety at such a mine. Many members have heard about longwall mining but I am not sure whether they have seen it or understand it. It is quite frightening to observe a huge machine shave off 18 inches or more of coal from 100 yards of a wall and to see that coal collapsing onto the machinery that takes it to the surface.

A huge piece of equipment, about 18 inches in diameter and similar to the device used to hold a car body, holds up the ceiling of the mine. There are no posts or girders. As the machine moves along, the ceiling collapses behind the miners and the place fills with coaldust. The miners were covered in dust, which brought to mind the possibility that miners may suffer lung disease through that process. I deeply admire men who have to work in those conditions. I was honoured that one of them reached out and shook my hand. I did not recognise him, because he was covered with coaldust, but he indicated that he was a Christian and was pleased that we had shown an interest in his workplace.

We also had an opportunity to visit the picket lines, an unusual experience for a parliamentary committee. We were driving near the Rio Tinto mine and I suggested to the committee members that we should stop and talk to the miners and show some interest. The miners knew we were in the area and I thought it would be detrimental to the reputation of members of Parliament to drive past in our cars and leave them with nothing but our dust. They may have asked who we were and been told that we were politicians from Sydney.

I urged the committee members—and they agreed—to stop our vehicle and meet with those who were on the picket line. We did that at three different sections of the line where vehicles were coming into and out of that particular site. A picket was also formed at the train line on which the railway carriages were leaving. I was impressed with the men. As we walked towards them they could see that we were dressed in suits and were not miners, and they became curious to know who we were. Some recognised my face—one of the advantages of being somewhat controversial—and said, "Hello, Fred. What are you doing here?" I told them that I was a member of the Worksafe committee and so on.

The Hon. D. J. Gay: That is what they said to you at the casino that we went to in South Australia.

Reverend the Hon. F. J. NILE: They were naturally uptight, being on the picket line, and obviously were not sure whether we were plain-clothes police or detectives. But, when we got closer and they recognised me they relaxed. One of them jokingly said, "Would you like to see the Hotel Hilton?" I said, "What is the Hotel Hilton?" They took committee members around the back of the picket line to a galvanised iron shed. This mine was operating 24 hours a day, so miners who were forming the picket line on a roster were using this temporary building as a place in which to sleep. I trust that our visit and our attitude of concern assisted negotiations and conciliation in that environment. That night we met with the mine managers, including the managers from the Rio Tinto mine, and took advantage of the opportunity to let them know that we had met workers on the picket line. I understand there was some improvement in relations following our visit to that area.

The committee also inspected the cotton industry, consequent upon expressions of concern about the effects of pesticides and spraying. People living in the area, not only the workers, were concerned about aerial spraying. Allegations had been made of increases in birth defects in children and other abnormalities that are hard to prove or relate back to aerial spraying. The operation of the cotton gin mills fills the air with light cotton strands, which people must be careful not to breathe in because these strands can have the same effect as asbestos and other dangerous substances.

Committee members were required to wear masks while inspecting the cotton gin. But the workers who are in that environment every day of the year need proper and satisfactory protection to

safeguard their health. Committee members also flew over some of the cotton fields in order to get a better perspective of the industry and watch aerial spraying. We also went to the Namoi cotton mill and met some farmers at Tamworth on that visit.

Worksafe committee members dealt with the grass roots aspects of safety. Ours was not an academic exercise; we met with a number of people. I was most impressed with an inspection of the Victoria plant of Denso Manufacturing Australia Pty Ltd. That plant was neat and tidy, and between the equipment were well-marked areas in which to walk. All equipment was designed so that workers did not have to lift anything at this airconditioning unit manufacturing plant. A mechanical arm at the end of the production line picked up the airconditioner and transferred it to a trolley. The management skills of the company and the co-operation of the workers had almost eliminated back injuries that workers could incur from lifting. These small, portable lifting arms were being used at the end of production lines.

The Denso plant was so well laid out that one could gain the impression that it was built as a model factory to produce equipment. I complimented the managers and the employees of that plant. The people at the plant are no longer called employees; managers and employees are called associates. The excellent environment and the combined efforts of management and the workers led to both the production of goods and proper maintenance of the factory without accidents. Any honourable member who has the opportunity to visit that factory would find it an illuminating experience.

The Hon. D. J. Gay mentioned by way of interjection that committee members visited a casino. We actually visited the Sydney Harbour Casino in order to report on operations at the temporary casino site, which was still under construction but nearing completion. Again, at that site, committee members saw the efforts being made to eliminate accidents from the workplace. I thought I should refer to some of the places that the committee visited not only to illustrate workplace safety problems but also to relate some of the great success stories in eliminating accidents. As has been illustrated in recent television and radio advertisements, families can confidently expect workers to return home safely. That is the aim of the Worksafe committee. It is the aim of all honourable members of this House and of the Government.

I recognise that the Labor Government works closely with the trade union movement and is very concerned about worker safety. I believe that is why it has shown such interest in and support for the

committee's recommendations. I am pleased that a number of those recommendations have already been implemented, particularly that relating to television and radio advertising campaigns. I am sure that many other recommendations will be implemented in due course. I commend the work of the committee chairman, the Hon. B. H. Vaughan, the committee director Mr David Blunt, and the committee staff. It was enjoyable and satisfying to serve on the committee. I thank honourable members for allowing me to serve on the Worksafe committee.

The Hon. P. T. PRIMROSE [5.37 p.m.]: I begin by commending Reverend the Hon. F. J. Nile for his comments, especially those relating to the valuable role played by trade unions in occupational health and safety matters. His comments reinforce the valuable role of the trade union movement in coalmines, particularly in the Hunter, and highlight the need, if not absolute necessity, for unions to have powers such as right of entry to workplaces. I commend the honourable member for his statements. They were illustrative of the aspects of the visits made by committee members and the positive role played by trade unions.

The interim report of the Standing Committee on Law and Justice entitled "Workplace Safety" was tabled in this House in December last year. Since that time the committee has continued its hearings and deliberations, and already a significant number of reforms have been enacted into law. Given this, I would like to focus briefly on only one significant recommendation that is being partially implemented. That is recommendation 9, which is set out at page 46 of the report as follows:

The Committee recommends that the WorkCover Authority sponsor a hard hitting publicity campaign, along the lines of the campaign that has been run by the Victorian Workcover Authority to raise community awareness of workplace safety.

This matter was mentioned earlier today by the Minister when responding to a question from the Hon. Dr Meredith Burgmann. The Minister detailed the present, ongoing campaign in New South Wales, and acknowledged in his answer the important role of the Standing Committee on Law and Justice and the value of its report. I am sure that many honourable members have already seen the advertisements on television, in newspapers and on billboards on places such as the M5, which I see as I travel that roadway daily. Hundreds of thousands of people have seen those advertisements, which are very beneficial.

When the committee visited Melbourne in July of last year we were struck by the high profile of

workplace safety. The large posters with health and safety messages on trams and highway overpasses were part of a wider campaign in the print and electronic media to raise the profile of workplace health and safety. The committee had already received, and continued to receive subsequently, a number of submissions calling for a similar hard-hitting community awareness campaign to be implemented in New South Wales. For instance, the submission received from Advocates for Workplace Safety called for greater media attention to workplace safety and noted the role of the media in raising the profile of road safety. The submission stated:

Constant media reporting of road statistics and trauma have raised the profile of road crashes, in both the community and political arenas. The similarities between the 1990s situation of workplace trauma and the situation applying to the reporting of road trauma in the late 1960s and early 1970s are particularly interesting . . . workplace safety should, and can, become just as significant an issue in media reporting.

The draft submission received from the Labor Council of New South Wales drew attention to a number of community awareness campaigns which have been effective in achieving cultural and social change, including the drink-driving, quit smoking and slip, slop, slap and, I should add, wrap campaigns. The Labor Council highlighted the WorkSafe Australia campaign which ran for a short time in 1996 and commented on the budget disparity between road safety and occupational health and safety. The issue of media reporting of health and safety issues was also discussed in the submission received from the New South Wales Nurses Association, which stated:

Since most employers would have frequent contact with the media, effective use of the media would increase employer knowledge of the existence of workplace health and safety legislation and the consequences of breaching it. It may also help to reduce the prevalence of the "it can't happen to me" paradigm.

The association recommended a mix of media strategies, including promoting organisations of various sizes which have been successful in dealing with workplace health and safety solutions, highlighting the results of workplace injury and disease, publicising significant prosecutions and running advertising campaigns to highlight workplace risks and their potential consequences. I shall conclude my contribution with one example of why this report, the committee's ongoing deliberations and the Government's work in addressing workplace safety issues are so important. I have spoken previously in the House about the death of Mr Rodney Fox on 23 May this year. Mr Fox was employed as a dogman by LBJ Cranes and

Rigging. That company was subcontracted by Gillespies' Crane Service, which was contracted in turn to New South Wales railways in one of its corporate guises.

Rodney Fox was killed when a train struck him on the line between Burwood and Strathfield. He was working with a crane that was involved with another crane in the dual lift of an overhead stanchion. The train concerned was travelling westbound; that is, work was going on at that site while trains were still using some of the lines. The accident occurred at approximately 8.00 p.m. Of course, it was quite dark at that time of the year, in the middle of May. While Mr Fox was at the end of his shift, another shift was supposed to work throughout the night. No artificial work lighting was provided for the site. The only light available was from the headlights on the cranes. No flagmen were on site, although trains were travelling up and down the adjacent railway line. Absolutely incredibly, there were no safety barriers or safety tape to separate workers from the live lines.

Another difficulty on the part of the site railway managers was the total absence of written documents setting out safety procedures. There was no risk assessment plan and no work method statement. At about 8.45 p.m. one Construction, Forestry, Mining and Energy Union co-ordinator, Mr Steve Dixon, arrived on the site—he had been contacted soon after Mr Fox died—and requested a copy of the risk assessment plan and the work method statement. The State Rail Authority manager wanted to know why Mr Dixon had the temerity to ask for those documents. The manager was then correctly informed by the WorkCover officer present that Mr Dixon had a right to view the documents. The project managers then said they would get the documents. They returned with a thick file which they gave to Mr Dixon.

It was clear that the documents in the thick file referred to a project called "Redfern to Central". Mr Dixon suggested that the documents had nothing to do with the project between Burwood and Strathfield. When he pointed this out, the senior SRA site manager said that the office in which the documents were held had burned down and all the documents had been lost in the fire—in this case the documents were not eaten by the dog. At about midnight the site managers conceded that they did not have, and at no stage had they had, a risk management plan or a work method statement for the Strathfield-Burwood project. Not surprisingly, at 12.20 a.m. the WorkCover officer issued a prohibition notice which prohibited work from continuing on the basis that there had been a

contravention or likely contravention of the Occupational Health and Safety Act. While action was finally taken, unfortunately it was taken too late for Mr Rodney Fox and his family. It is incumbent on honourable members who are concerned about workplace safety to ensure that action does not continue to be too late for all those who face perils daily in their occupations. People who leave for work every day are entitled to the maximum protection possible to ensure that they return home to their families safe and well in the evening.

The Hon. Dr A. CHESTERFIELD-EVANS
[5.47 p.m.]: I was not a member of Parliament for most of the period the committee worked on this report and came to its conclusions. Although I was not a member of the committee, occupational health and safety is my area of professional expertise. Having read the report, I thought that as a practitioner I should make some comments. This report must be supported. However, a few points have been omitted and some points need to be reinforced. Firstly, in both this report and the recent workers compensation changes there is an apparent lack of consideration of the effect of workplace changes, including the increasing use of casual labour and the use of body hire companies so that the company responsible for the workplace where an injury occurred is not the employer. The question of who is responsible for the injury and who arranges rehabilitation also becomes blurred.

The Hilmer report, which recommended open competition to minimise the cost of public works, has led to increased use of small subcontractors. These subcontractors are often constituted as \$2 companies and do not carry workers compensation. Often, there is debate as to whether people working casually, especially with small subcontractors, are employees. The bottom line is that when these people are injured they ask to be treated under Medicare; they may not appear as occupational injuries in the statistics or premiums, and they do not receive workers compensation. Small subcontractors often have income guarantee insurance which covers them more cheaply. That means that they are not included in workers compensation statistics. Hilmer referred to the need for competition to achieve efficiency; he said that he did not have the expertise to take non-economic factors into account, and asked others do so.

While many of the recommendations in the Hilmer report are now holy writ, this one appears to have been overlooked and it is time it was redressed. If economic factors push in a certain direction, all other things being equal, that is the way things will go. To stop economic forces from

dominating, the effect that they are producing needs to be recognised and a plan to manage their consequences needs to be devised, costed and implemented. These economic forces are not within the forces of the Occupational Health and Safety Act per se but they will have a big effect on it, and the Act may need to be modified to ensure that workplace changes do not leave better statistics but an increasing number of workers not recorded as injured. It is not clear how this can easily be addressed, as money tends to be a powerful factor in both the deregulation and deunionisation of the labour force that is the driving aspect of this.

With the privatisation of Workers Compensation, some insured companies will improve markedly as systematic and directed risk management strategies are implemented, as suggested in this report. Other small companies that may have difficulty getting workers compensation insurance will either be uninsurable or will suffer high premiums that they will seek to reduce. These companies may try to use self-employed and self-insured subcontractors and this may severely affect occupational health and safety, a discipline which itself needs more attention. It is disappointing that employer groups object to the proposed changes to the Act recommended by the McCallum panel and outlined in paragraph 3.2.1 of the report, which states:

- (b) To protect all persons at a place of work against risks to health or safety.
- (c) To promote safe and healthy work environments and systems of work which are free from disease, illness and injury.
- (d) To protect all persons at work by the identification, assessment, elimination or control of risk.

Incidents caused by increased stress in the workplace demand attention. Some incidents involve traumatic stress due to an increase in armed hold-ups and other robberies with violence or threatened violence. Some of these cases result from the change in social equity, when there is little chance of getting a job, and the development of desperate strategies by society groups. For example, the fact that drugs are illegal and addictive leads to addicts taking desperate measures to acquire them. The introduction of poker machines to pubs has resulted in huge amounts of money being on hotel premises near closing times and has led to a spate of hold-ups of hotels. As a result, employees have suffered increased traumatic stress conditions over and above the stress associated with what is euphemistically titled downsizing of staff, which is specifically

excluded from the Workers Compensation Act.

The report referred to the reluctance to target support for workplace injuries of middle managers, who are often placed in an invidious position. The corporate culture may tolerate neither injuries nor safety measures, which are thought to delay the productive process, but managers become the ham in the sandwich. They face certain career damage if they act to protect themselves from further injury, and put themselves at risk if they do not stop. The prosecution of organisations responsible for injuries must be brought to the highest level to maximise the possibility of change in corporate cultures. Those at the highest level in an organisation would benefit if forced to hear victim impact statements.

I have made many presentations of workplace accident statistics at relatively high-level boardroom meetings. Organisations have reduced the accident rate crudely, often with little meaning, by giving equal weight as lost-time injuries to a cut finger and to a back injury that will ruin a person's life. In some organisations a major injury has become the cryptic back strain due to lifting. The bar charts of costs are the next item of concern. The whole injury process has been so sanitised that the board has no idea of what is happening in human terms.

I advocate compulsory meetings, victims impact statements, or even compulsory home visits by corporation heads to every lost-time injured person who is off work for more than three months. The sordid harassment by private detectives that so rarely finds anything says more about insurance companies than about injured workers. Claims managers who eagerly pore over secret films hoping they will show injury fraud to avoid payment of workers compensation come to believe that if no fraud was revealed it was merely because the investigator was unlucky and did not catch them at it.

A coterie of doctors is willing to ask a few perfunctory questions, find that the patient has exaggerated symptoms, or raise doubt about his or her credibility, pocket a large fee and then congratulate themselves that similar work is available. The new workers compensation laws may mitigate this practice. The committee's report should have mentioned this aspect and recommended a watching brief on such practices. We should support the committee's recommendations for graded penalties, non-money penalties and publicity for convictions. The Crimes Act must be an avenue of recourse for serious breaches.

Certain employers and insurance companies oppose the use of victim impact statements in workplace injury cases and argue that they give an emotional tone to court proceedings and lead to inconsistencies in awards for damages. This last argument may be true, but I am not sure it is a problem. It is necessary every now and again to remind the ponderous processes of the law of the human cost of accidents. If victim impact statements remind judges of the human costs and ultimately result in increased premiums, so be it. Inclusion of company chief executive officers in the process would be a helpful recommendation.

The trend both in the United States of America and here is to use a table of maims, which assigns a certain level of compensation to a given injury. The most used table of maims is that of the American Medical Association and injury assessment specialists have expertise in the application of these guidelines. The object is to have a system where every assessor of a given injury would reach the same result. In theory, at the conclusion of this process every injury will have been assessed by the same yardstick and everyone will get exactly the same compensation. However, such a process produces a few problems.

To achieve a reproducible table, non-quantifiable items like pain must be eliminated. Thus a joint able to be moved over its full range but which produces pain in that movement would be judged to have no disability. If the same joint had half its range, the statutory amount of compensation would be reduced by a percentage. This procedure becomes a little absurd in regard to back injuries. Is someone only 100 per cent disabled if he or she is cut in half, becomes paraplegic or cannot bend more than a certain degree? In any of those cases there would be only a few degrees of movement. These questions require answers. I do not believe that these proposed measures address the nature of a disability.

The tables do not draw the distinction between an impairment and a disability. If I have poor vision, I have an impairment. If I wear glasses that overcome the impairment and I can do my normal job, I am not disabled. More importantly, my earning capacity may be normal. If a concert pianist loses his little finger he may be unable to play. The same impairment in a labourer may be only a trivial problem. On the other hand, a concert pianist in a wheelchair may be able to continue to play whereas a labourer would have no earning capacity at all.

The table of maims has no functional aspect with regard to assessing the disability resulting from

an injury. If one loses a hand, that is a percentage of that arm, which is a percentage of both arms, which is a percentage of the whole body and, hence, is a percentage of a compensation sum for total and permanent disability. A worker may suffer a small percentage of disability but be 100 per cent unemployable. The critical aspect is that the level of unemployability will determine the future wellbeing of an injured person. The percentage of disability may be considered an irrelevant figure, but it determines the amount of compensation.

Perhaps it is too strong to say that the Australian Medical Association tables are a nonsense, but it is not too critical. An assessment of injuries is needed that considers the level of impairment, the probability of getting a job and real income changes. Perhaps the worker will be asked to take on a level of chance or responsibility for his or her post-injury fate. In some cases a worker, forced to give up a blue collar job and use brain rather than brawn to earn a living, discovers latent talents and becomes wealthier. That happy little story is commonly heard. Rather, the converse is more the norm.

The hierarchy of income in the blue collar area is that those who work harder, heavier, longer or in a dirtier environment make more money. Injured people who cannot meet that criteria and must work as cleaners or on lighter duties find that their incomes often are reduced by half. We hear of patients being responsible for their injuries, but insurance companies seem strangely reluctant to take on their responsibilities. It is often an endless tussle to stop them avoiding their responsibilities.

There must be a realistic evaluation of the injured person's situation and life prospects and not merely a determination of a range of joint movements or some other spurious index such as the AMA tables. However, these tables are supported by powerful lobbies. Doctors become specialists in injury assessment and can charge more for their skills, reports become consistent and insurance costs become controlled and predictable. The loser is the injured worker. The amount allocated for total and permanent disability is small, but few people receive it. Many people are disabled to a small degree but are 100 per cent unemployable.

In a tight labour market poorly skilled workers who are most likely to get injured are effectively unemployable as they are totally uncompetitive. The bottom line of all this is that the Australian Medical Association table of maims will provide law but not justice. Yet, when the costs of workers compensation insurance blew out, the already very

modest table of maims was cut by 20 per cent or 25 per cent—I cannot recall which. Claims for hearing loss—which had been very high as historically there had been an almost total lack of hearing protection—resulted in a large amount of money being paid by insurance companies. So a threshold was introduced and workers received no money unless they had a 6 per cent hearing loss. That was a considerable and social loss, and it lessened the amount of money spent on hearing protection in industry. This a matter of great concern and deserved mention in this report.

As a practitioner in the field it seemed obvious to me why the cost of workers compensation insurance blew out. Claims management was in an appalling muddle. In my experience, people with very little wrong with them stayed off work for a year or more, and people with major diagnosed pathologies were refused necessary treatment. The poor souls who had diagnostic difficulties and doubts about where they should go or what should be done drifted around on an endless merry-go-round of visiting doctors, or even Chinese faith healers and naturopaths, until their claims reached the value at which they were denied further benefits.

The difficulty was even worse for ethnic people who did not trust traditional Australian medicine or who were not able to explain their problems to practitioners. A number of Chinese people, being frightened of operations, had gone from practitioner to practitioner, getting inconsistent diagnoses until their benefits were eventually cut off and they were left in appalling circumstances. On the other hand, I had a patient who was slightly disabled but who was still very employable. I saw him at his usual monthly \$37 visit and I was asked to approve a rehabilitation program for \$10,000.

I rang the insurance claims manager and suggested that, although it was none of my business, what was needed was not a rehabilitation program, which would turn my simple certificate into a 20-page document and require three workplace visits and a lot of meetings, but a job search agency which, for half of the \$10,000, could no doubt find this sensible person a job. The insurance clerk on the phone was quite perturbed that I had created such an administrative problem, as it was not within her power to okay the job search agency. She told me she would discuss it with her boss but still asked me to fax the permission for the rehabilitation program.

I believe this sort of hopeless management is rife in the industry, yet no-one has looked at that

aspect. Fraud was blamed, and the private insurers, who were subcontracted to manage the claims, blamed WorkCover. The private insurers said that although they had been managing the claims as subcontractors, they could do it much better if they owned WorkCover's insurance business, so it was given to them under the Workers Compensation Act. I referred to this in my speech on the Workers Compensation Act that came into force this year and which I believe reflected very poorly on the people who had been managing WorkCover.

These aspects seem to have been overlooked and I ask that they be given attention in the implementation of this report. In particular, New South Wales must have a better system of assessing disability than the AMA table of maims, which I believe we are in great danger of introducing by default into workers compensation management. Finally, workers compensation statistics must be watched closely, as subcontracting is eroding those statistics and putting in Medicare treatment and income guarantee insurance, and classifying workplace injuries as non-workplace injuries as a consequence of workplace changes and more macroscopic economic changes within the work force.

The Hon. B. H. VAUGHAN [6.04 p.m.], in reply: I thank Reverend the Hon. F. J. Nile for his remarks. I remind the House that the Standing Committee on Law and Justice was requested to inquire into and report on workplace safety matters with particular reference to: first, integrating management systems and risk management approaches aimed at reducing death and injury in the workplace; second, social and economic costs to the community of death and injury in the workplace; and third, the development of an appropriate legislative framework for regulatory reform and/or codes of practice in relation to occupational health and safety in the workplace.

In my initial address I referred briefly to the study tour undertaken by the Hon. J. F. Ryan, Mr David Blunt, who is the committee's director, and me to the United Kingdom, Scandinavia, Germany and to the International Labour Organisation in Geneva, Switzerland. The wealth of information gathered in those places and an examination of the operation of the internal control approach to occupational health and safety and of management systems will form an integral part of the final report.

The television campaign by WorkCover, recommended by the law and justice committee, is up and running. Indeed, on the 26th of this month at the Sydney Convention and Exhibition Centre at

Darling Harbour Mr John Grayson, who is the General Manager of WorkCover, the Attorney General, and the Minister for Public Works and Services will launch a program entitled "Responsibility Phase of the Workplace Safety Campaign", at which there will be a signing of memoranda of understanding between the New South Wales Government and the hospitality and construction industries. Pursuant to those memoranda the Government will emphasise its insistence that all participants who have a compact with the Government must observe acceptable occupational health and safety measures.

It is distressing to observe that on 24 September a worker on the Homebush Olympic site was killed after being crushed by a pallet of bricks. The man is believed to have been working under scaffolding at the Olympic village when it collapsed, causing the bricks to fall on him. Please God, that was the first death on that site and, please God, there will not be another. In Australia in the year to 30 June 1997, 2,900 people died in workplace accidents and/or occupational diseases, and in the same period 2,030 people died on the roads. Occupational health and safety is everybody's concern. I thank the members of the committee for their contributions to the debate and for their constant support and enthusiasm for our task. Our final report, which will cover some of the matters raised by the Hon. Dr A. Chesterfield-Evans, will be delivered very soon.

Motion agreed to.

STANDING COMMITTEE ON STATE DEVELOPMENT

Report on Operations of the Sydney Market Authority (Dissolution) Bill from commencement until 31 December 1997

Debate resumed from 31 March.

The Hon. A. B. KELLY [6.07 p.m.]: I speak to this report with a great deal of interest, having regard to my background in matters related to fruit and vegetables and having been a vegetable producer for nearly 25 years and obviously during that period having supplied vegetables to the markets, including the previous markets at the Haymarket. I have a number of very interesting stories that I would love to tell the House but I am afraid time will preclude me from doing so, and perhaps some of the stories would be misinterpreted. It is perhaps safer that I restrict myself to my experience in Parliament rather than my time as a vegetable producer or even my time as Deputy

Chairman of the Sydney Market Authority leading up to my becoming a member of this House.

In doing so, I would like to reflect on the bill. In June 1997 the Sydney Market Authority (Dissolution) Bill generated considerable debate in this House. Industry market groups had been lobbying members of this House quite consistently and had petitioned the Hon. Elisabeth Kirkby, Reverend the Hon. F. J. Nile and the Deputy Leader of the Opposition, all of whom recorded the groups' concerns in *Hansard*.

Three major issues emerged from this debate: first, that the dissolution of the market authority would have anticompetitive outcomes; second, that the heads of agreement would not provide equity between the various leaseholders; and, third, that the entire dissolution process was being driven by a particular interest group rather than by the body of market leaseholders. Validity was lent to those concerns when some of the interest groups lodged legal proceedings in the Federal Court claiming that the process of dissolution as outlined in the heads of agreement was in breach of the Trade Practices Act. The application was later withdrawn.

At the time of the debate in the House insufficient evidence could be found to either substantiate or disprove the claims that were being made in various representations. However, the matters were of a serious nature and the House passed the Sydney Market Authority (Dissolution) Bill with the proviso that the Standing Committee on State Development would later review the Act's operation, with particular attention to the concerns raised by the various industry groups.

The terms of reference that emanated from that debate were as follows. The Legislative Council Standing Committee on State Development was to monitor, and prepare a report on, the operation of the Act from the time of its commencement until 31 December 1997. The report was to be tabled in the Legislative Council as soon as practicable after 31 December 1997. A subcommittee of the standing committee comprising the Hon. Jennifer Gardiner, the Hon. J. R. Johnson—who also has a long history in matters vegetable, being a former marketer of vegetables—and me was formed to conduct the inquiry.

After placing various advertisements over a long period the committee received only one public submission and therefore had to seek out relevant stakeholders in order to ensure that the committee heard from all interests. The subsequent report was tabled on 31 March 1998. Before proceeding to the

findings of the committee, I should provide an overview of the operations of the Sydney markets and the dissolution rationale. For 20 years the Sydney Market Authority had exclusive control over public markets for farm produce in the greater metropolitan area.

Pursuant to resolution business interrupted.

PRIVACY AND PERSONAL INFORMATION PROTECTION BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. CARMEL TEBBUTT [6.11 p.m.]: When speaking earlier I outlined the objects of the bill. All honourable members would agree that the bill has been long awaited and is much needed. It is a response to the rapid development of information technology that has been experienced over the past few decades. Those advances have had an enormous impact on the collection, storage and potential use of personal information by government agencies. Whereas in the past cost, distance and incompatibility have provided some protection of privacy, technological developments are rendering this to be less and less the case. Research has shown that Australians rate privacy protection highly amongst issues they regard as important. They value their privacy and expect their rights to privacy to be recognised and protected.

Governments have a duty to deal with personal data in a fair and lawful way. This is an important part of the trust that must exist between any government and its community. The Attorney General has often stated his personal commitment to the development of privacy laws, and I congratulate him on his perseverance in the introduction of this bill. New South Wales has been at the forefront in progressing privacy issues, as the Leader of the Opposition said. The establishment in 1975 of the Privacy Committee in New South Wales heralded the world's third permanent privacy protection agency. Since then the Privacy Committee has exercised powers of investigation, inquiry and reporting in relation to complaints about breaches of privacy from both the public and private sectors.

The Privacy Committee has for a good part of its history advocated enforceable privacy rights. The Leader of the Opposition said in this debate that consultation with the committee had not occurred. I am a member of the Privacy Committee and I can assure honourable members that the committee was consulted about this bill, over a long period of time.

Previous speakers in the debate have highlighted that the need for privacy protection in New South Wales was made particularly apparent in the 1992 Independent Commission Against Corruption report into the unauthorised release of government information. Independent Commission Against Corruption Assistant Commissioner Roden reported on gross violations of privacy by various public officials who had misused information about individuals. The ICAC report was very critical of the lack of any co-ordinated or consistent government policy dealing with the storage and release of information. It is unfortunate that it has taken until now for this matter to be addressed.

Certainly this bill is a positive step forward in providing privacy rights for the people of New South Wales. The availability of damages and other remedies and the requirement that public sector agencies adopt privacy management plans will ensure that agencies focus on their responsibilities with regard to the management of personal information.

This bill has none of the weaknesses of previous bills proposed by the Opposition, which failed to provide enforceable sanctions. This legislation will provide for legal remedies for people who suffer harm as a result of breaches of information protection principles by public sector agencies. With a complaint relating to a breach of a data protection principle, the complainant will be able to choose to have the Privacy Commissioner conciliate the matter or to seek an internal review by the agency, with a right of review by the Administrative Decisions Tribunal.

The Administrative Decisions Tribunal will be able to make a range of orders, including orders to pay damages of up to \$40,000. The Privacy Commissioner will have the right to appear before the Administrative Decisions Tribunal. The legislation will create a specific criminal offence in relation to the supply of personal information by a public official in return for financial or other benefit. This provision is contained in clauses 62 and 63, which will apply to officials of public sector agencies whether or not those agencies are exempt from the provisions of the bill. It will be an offence to solicit the corrupt supply of information by a public official. These offences should act as a powerful disincentive to the wrongful use or disclosure of information by any public servant.

I wish to comment in particular on two other aspects of this bill. First, this bill covers public sector agencies and any public sector data services outsourced to private sector agencies. This is an

important provision. One of the weaknesses of Commonwealth legislation highlighted in the June 1995 report of the House of Representatives Standing Committee on Legal and Constitutional Affairs, entitled "In Confidence", was that coverage of the Federal Privacy Act was being weakened by the tendency to contract out services which in the past had been performed within a government agency. That matter will be addressed by this legislation, covering public sector data services that are outsourced to private sector agencies.

The second aspect of the bill on which I shall comment relates to the role of the Privacy Commissioner. The office of the Privacy Commissioner will subsume all of the present functions and powers of the existing New South Wales Privacy Committee, as well as exercise additional functions in relation to data protection principles. The general functions of the Privacy Commissioner will include recommending privacy codes of practice, conducting research into privacy matters, and preparing and publishing privacy guidelines. The commissioner will continue to be able to receive complaints in relation to alleged violations of the privacy of persons.

It certainly must be acknowledged—and I am sure that other speakers in the debate will refer to this—that not all parties are satisfied with the provisions of this bill. As is often the case in the development of legislation such as this, compromise is required and the end result does not achieve all things for all people. The Privacy Committee has indicated some areas of concern with the bill, one of which is that the exemptions provided for investigative agencies and the Police Service are too broad. Other organisations such as the New South Wales History Council have expressed concern that the new privacy laws are too draconian and will prevent historians from having access to records for legitimate historical research.

There are some aspects of the Privacy Committee's concerns about which I would like to speak tonight. I am concerned that the bill does not apply to State-owned corporations and does not provide for private sector agencies to voluntarily adopt codes of practice under the legislation. The application of privacy legislation to the private sector is an issue that has already been touched on by the Attorney General. The Attorney has indicated that the Government remains committed to the development of effective data protection laws that apply to both the public and the private sector, but believes that is best done in a uniform manner on a national basis.

The Federal Government should bear the primary responsibility for enacting uniform national laws covering the private sector. It is unfortunate that the Federal Government has backed down on its previous commitment to legislate to have data protection principles apply to the private sector nationally and has instead opted for voluntary codes.

As has been pointed out by Professor Graham Greenleaf, the Commonwealth's Privacy Commissioner's attempts to convince business to protect privacy by purely voluntary regulation have been less than successful. Until such time as the Federal Government changes its position and supports privacy laws for the private sector, effective regulation of the private sector will be unachievable. The failure of the Commonwealth to accept its responsibilities should not detract from the significance of what will be achieved by this proposed legislation, given that, because of the large amount of information governments collect, they have a considerable opportunity to invade an individual's privacy.

The History Council, the Society of Australian Genealogists and the New South Wales branch of the Australian Society of Archivists have expressed concern that the legislation may limit their access to information for legitimate historical research. I am pleased that the Attorney General has indicated that he has recognised and will address those concerns through appropriate amendments if necessary. In closing I note that the effectiveness of providing privacy protection for the residents of New South Wales will rely on both an effective legislative regime and a sufficiently resourced and supported Privacy Commission.

This legislation will make New South Wales the first State in Australia to give its citizens enforceable privacy rights, and that is not before time. As increasing amounts, and a greater variety, of information about individual citizens is able and required to be held and stored by government agencies, concern has increased in the community about the proper use of such information. The misuse of personal information can have serious consequences for an individual. Privacy is a value that underpins human dignity, and the Government has recognised and responded to that value by introducing the Privacy and Personal Information Protection Bill.

The Hon. I. COHEN [6.23 p.m.]: The Greens support the concept of privacy and personal information protection. However, in our opinion the bill does not appear to go far enough towards

protecting individuals from misuse of their personal information and does not provide commitment by the Australian Labor Party to its 1995 election law reform policy. A background to that commitment stated:

The immediate background to this paper is the ALP's commitment to introduce privacy legislation under its Law Reform Policy at the March 1995 general election. That document stated:

It is important to introduce effective privacy legislation as part of any administrative law package. This needs to be developed consistently with anti-discrimination laws. As a community, we need to recognise that privacy is not only a matter of individual grievance but a significant issue which should be of concern to society generally.

In addition to the civil rights arguments for the statutory recognition of privacy, there is an economic imperative. Australia is (geographically, politically and technologically) well placed to develop its information-based industries and services for international data processing in a wide range of fields (banking, travel, insurance, medicine) and is developing a reputation for computing innovation. But the growth of these industries may be stunted if Australian privacy laws are perceived as being inadequate.

Labor will:

- develop, in conjunction with the Commonwealth if necessary, effective data privacy laws which apply to both the private and public sectors;
- entitle complainants to challenge decision-making for breaches of privacy; and
- integrate data privacy laws into the administrative regime.

It is of great concern to the Greens that the Government has abolished its pre-election promise to make the private sector subject to privacy laws. The bill specifies that "personal information" means "information or an opinion, including information or an opinion forming part of a database and whether or not recorded in a material form, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion". Personal information includes an individual's fingerprints, retina prints, body samples or genetic characteristics.

A parliamentary briefing paper by Vicky Mullen entitled "The Individual's Right to Privacy: Protection of Personal Information in New South Wales" looks at some of the issues surrounding privacy and personal information protection. The International Covenant on Civil and Political Rights—ICCPR—was ratified by Australia on 13 August 1980. The covenant forms schedule two of the Human Rights and Equal Opportunity Commission Act 1986. Article 17 of the ICCPR deals with the right to privacy and states:

1. No-one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence nor to unlawful attacks on his honour or reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

The effects of international recognition of an individual's right to privacy was strengthened to an extent in Australia in 1991 when Australia acceded to the First Optional Protocol to the International Covenant on Civil and Political Rights. That enables an individual to bring a case of infringement for a right under the covenant before the United Nations Human Rights Committee, but only after the individual has exhausted all available domestic remedies, or where relevant legal processes have been unreasonably delayed.

In addition to article 17 of the covenant, privacy protection was in the developed international community and recognised as having economic importance with the development in 1980 by the Organisation for Economic Co-operation and Development of "Guidelines on the Protection of Privacy and Transborder Flows of Personal Data". These guidelines resulted from the closer attention paid by this organisation to the "social and legal consequences of the technologies which underpin modern economic development". It could be said that the guidelines have had an important and practical impact on the increased international recognition of privacy protection and have contributed to a global approach to jurisprudence surrounding privacy laws.

The OECD guidelines include basic principles on collection limitation, data quality, purpose specification, use limitation, security safeguards, openness and individual participation. As a background to privacy protection in New South Wales, following the commencement of the Privacy Committee Act 1975, on 2 May 1975 the Privacy Committee of New South Wales established a Privacy Ombudsman. The Privacy Committee has primarily an advisory and investigatory role in the management and monitoring of privacy issues in New South Wales. It has never had any effective powers to enforce privacy principles on the public or private sector. The committee has been recommending the introduction of data protection legislation since 1982.

On 5 December 1991 Mr Andrew Tink introduced a private members bill entitled the Data Protection Bill, but it did not proceed beyond its second reading. The bill was reintroduced on 22 February 1992 but again did not proceed past the

second reading. On 14 April 1994 the then Attorney General, the Hon. John Hannaford, introduced the Privacy and Data Protection Bill 1994. The second reading was debated on 5 May 1994, at which time the bill was referred to a select committee. However, the Fiftieth Parliament was prorogued before the select committee could report on the bill and it lapsed. The 1994 bill was the subject of extensive analysis and criticism. Most fundamental was the comment that unlike its Federal counterpart, the Privacy Act 1988, neither its provisions nor the codes of conduct based on the data protection principles could be enforced.

Professor Graham Greenleaf, a law lecturer at the University of New South Wales and an expert on data protection issues, has commented that the directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data in 1995 is the most important international development in data protection in the last decade. Professor Greenleaf said there are two reasons for that. Firstly, the directive establishes throughout Europe a set of legal principles for privacy protection to be enacted in all of the European Union country member States. EU member States have been allowed three years to amend their laws to conform with the directive. The three years will run out for Australia this year and the directive will come into effect.

Secondly, the directive prohibits the transfer of personal data from EU countries to any country that does not have adequate data protection laws, and will therefore place significant international pressure for increased data protection on countries in the Asia-Pacific region and elsewhere, particularly in relation to the private sector. Professor Greenleaf argues that only four countries could mount an argument that their existing privacy laws, covering the whole of their private and public sectors, provide adequate privacy protection in terms of the EU directive. At the end of the day European Union countries could allow transfers of personal data. Countries which have adequate privacy laws include New Zealand, Hong Kong and Taiwan. The province of Quebec also has adequate privacy laws. A discussion paper issued by the Attorney General's Department in September 1996 entitled "Privacy Protection in the Private Sector" stated:

The Directive has received considerable coverage in the Australian financial press. Under the terms of the Directive, transborder flows of personal data to non-European Community nations without an adequate level of data protection would, in some cases, be prohibited.

This observation is important from an economic and financial sector perspective. New South Wales will

not comply with the Directive simply because the bill does not cover the private sector. The private sector should also be covered for another reason: it is notorious for the misuse of an individual's personal information. The Greens are of the opinion that the fact that the private sector is not covered is a serious omission from the bill. Incidentally, the Government made a pre-election promise, as I have already mentioned, to extend coverage of privacy protection legislation beyond the public sector. In a letter to my office the Public Interest Advocacy Centre raised the issue of regulating the private sector. The letter stated:

Our primary response to the Bill is the profound disappointment that the Government has chosen not to apply the Bill to the private sector. This compares poorly with the Victorian Government's proposed Data Protection Bill and the ACT *Health Records (Access and Privacy Act) 1997*. When these developments are combined with the effect of the European Directive on privacy—which comes into force this month—NSW will be a less attractive place to do business. The bill could be easily amended to extend the provisions to the private sector by applying the Bill's privacy principles to business and other organisations, to take effect in two years time. The definition of organisation used in the Victorian proposal includes businesses, clubs, unions, professional practice, corporations, associations and charitable organisations. The principles should apply unless an industry code has been approved by the Privacy Commissioner, like the New Zealand *Privacy Act* and similar to the proposed Victorian Bill.

The Greens have concerns regarding smart cards and the use of biometric technology for both the public and private sectors. I have raised issues regarding this technology in the House previously. However, in the January 1996 edition of the "Privacy Law and Policy Reporter" Graham Greenleaf stated that smart cards would be one of the next big privacy issues, together with Internet surveillance and data matching and profiling. At the same time the term "smart cards" was said to cover a multitude of sins or virtues, or both, depending on perspective. Greenleaf explained that:

One emphasis is on stored value cards, where the key element is the storage of renewable or disposable financial value, and resultant privacy issues of recording of transaction trails and their possible use. The storage of personal details, rather than monetary value, is another focus of smart card use, with the most common and controversial such use being the storage of a person's medical history, including the history of pharmaceutical use.

Other contentious issues include "digital passports" recording a person's travel history, and various types of "intelligent transport systems" including such elements as toll collection.

Another focus, overlapping all the others, is the use of the card as a reliable personal identifier."

[The President left the chair at 6.33 p.m. The House resumed at 8.00 p.m.]

The Hon. I. COHEN: It seems that a card may hold a digitised biometric identifier, such as a fingerprint, which can be verified against the physical holder. Alternatively, using public key encryption technology, a smart card may use a digital signature which, according to Greenleaf, raises the privacy issues of public key authentication infrastructure. He continues:

The one thing that all these rather different emphases have in common is that they rely on a secure method of data storage that is decentralised in the sense that the card is carried by the person to whom the stored information relates. In contrast, network/Internet surveillance issues arise from the prospect of an aggregation and interconnection of personal information that networks make possible. However, the contrast is more apparent than real. A paradox of smart cards is that they are at their most powerful when they interact with complex networks, whether to provide a verifiable link between a physical card-holder so as to allow access to networked information, or to upload or download value of personal details between card and network.

For the NSW Privacy Committee smart cards—

as outlined in its report "Smart Cards: Big Brothers Little Helpers"—

clearly represent a major "challenge to agencies attempting to provide privacy protection in Australia". One comment in the report is that it found that "unfortunately, many participants in the debate appear to be distracted by the 'whiz bang' nature of the technology". Another is that, in this debate, "it is more important than ever for Australians not to be led blindly by technology" and the Committee hoped that its report would "promote further discussion of the social impact of smart cards". To meet the challenge posed by smart cards the Committee recommended a three-layered regulatory framework . . .

The Government has decided not to adopt that recommendation. The Greens have great concerns regarding the social impact of these privacy issues. With regard to examples of privacy breaches, the 1992 Independent Commission Against Corruption report entitled "Report on Unauthorised Release of Government Information" highlighted the widespread and corrupt use of personal information held by certain government agencies. I quote from page 10 of the briefing paper:

The members of the "information exchange club" include police officers; employees of the Roads and Traffic Authority—RTA—employees of many other local, state, and federal government authorities and public utilities; private inquiry agents; debt collectors; solicitors, real estate agents, banks, credit unions and insurance companies. The common interest of club members is the trade in confidential personal information.

Personal information provided in good faith—and frequently under legal compulsion—by the citizens of New South Wales is being bartered and sold on a breathtaking scale. Our privacy is being sold and the proceeds of the sale are lining the pockets of the corrupt.

A major problem with the bill is that it gives wide exemptions to certain public sector agencies. Law enforcement agencies are not compelled to comply with many of the information protection principles, such as in clauses 9, 10, 17, 18 and 19. Clause 9 deals with the collection of personal information directly from individuals, clause 10 outlines requirements when collecting personal information, clause 17 is concerned with limits on the use of personal information, clause 18 is concerned with limits on disclosure of personal information, and clause 19 relates to disclosure of special classes of personal information, such as a person's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership and health or sexual activities.

Investigative agencies, including the Department of Local Government, are not required to comply with clauses 9, 17 and 18 when carrying out an investigation. The Ombudsman's Office is not required to comply with clauses 9 or 10. The Independent Commission Against Corruption, the Police Service, the Police Integrity Commission and the New South Wales Crime Commission are not required to comply with any of the information protection principles except in the exercise of their administrative and education functions. The Ombudsman's Office, the Health Care Complaints Commission, the Anti-Discrimination Board, the Guardianship Board and the Community Services Commission are not required to comply with clause 19, which deals with special classes of personal information.

The Greens office has been advised that some serious breaches have occurred through those agencies, such as very sensitive personal information to do with one's health status and sexual activities being released to the media. The Greens consider that many of these wide exemptions are unnecessary and may be abused by agencies. It is interesting that from time to time we see in the media articles about this issue. The *Northern Star* of 28 September 1998 carried an item that appeared under the headline "Internet Scam". That article contained the following statement:

Ballina and Lismore couples have had to battle with their banks over credit card and Bankcard statements containing charges from Internet providers and bogus web sites.

The article went on to give the following advice to overcome the problem:

Don't use your credit card over the phone is the simplest answer.

An article in the *Sydney Morning Herald* of 29 September 1998 headed "Historians refuse to wear 'straitjacket' privacy law" stated:

The State's new privacy laws are so draconian they could "straitjacket" historians by cutting off their access to hundreds of thousands of valuable documents, the NSW History Council claimed yesterday . . .

Historians would no longer be able to search health records to build a picture of the state of health in NSW at a particular time because the information had not been gathered with that in mind, Dr Fitzgerald said . . .

However, a spokesman for the Attorney General, Mr Shaw, said last night that his office would address the historians' concerns. "We are not aware of anything affecting them in any manner and we will address any identifiable problems."

That indicates that the community walks a tightrope between protection of privacy and legitimate access to records by historians, people working in the public interest and others. An article provided by the Council for Civil Liberties stated:

The *New York Times* recently devoted two entire pages to the impact of commercial data on privacy . . . The American-style business abuse of personal information is developing fast in Australia. Thus the *NY Times* report is of particular interest . . .

The article further stated:

[most people] have no idea what is happening to the stream of personal data that they shed just by living in the modern world.

And most businesses that make money on the collection, recombination and sale of shards of personal information maintain that people need no legal right to know, and have no good reason to object.

The electronic deposits keep growing with the pulse of daily life: telephone calls, checkout counters, ATMs, and electronic bridge tolls, the street gaze of security cameras, plastic insurance cards imprinted with the Social Security numbers that have become identity's common currency—and its easy counterfeit . . .

Marc Rotenberg, director of the Electronic Privacy Information Center in Washington, warns: "Privacy will be to the information economy what consumer protection and product safety were to the industrial age."

The House has a difficult task. It is incumbent on the Government to get this privacy legislation right, otherwise people's rights will be impinged. I hope that the Government notes my comments, especially those relating to the private sector. This privacy legislation should be expanded to include the private sector. The Greens will continue to monitor these issues because we are greatly concerned about protecting individuals in society. However, that protection must be balanced against the right of

people to conduct objective research. Privacy will continue to be an issue for individuals in society as the age of technology grows in importance.

The Hon. Dr A. CHESTERFIELD-EVANS [8.13 p.m.]: The Australian Democrats support the intelligent use of privacy legislation to protect individuals and the use of information in a socially good way. What is needed is an information management approach, rather than simply a privacy approach. Data is neither good nor bad; it is a question of how it is used and who has access to it. The Government said that the purpose of the legislation is to promote the protection of individual privacy by limiting the dissemination of private information by public sector agencies.

The bill gives statutory recognition to internationally recognised data protection principles. The extent to which the bill is successful, and the question of whether it will be enough, is another matter. The background to this bill is that in 1992 the Independent Commission Against Corruption issued a report entitled "Report on Unauthorised Release of Government Information", which chronicled the massive illicit trade in information involving the police, lawyers, government departments, financial institutions and private investigators. The introduction to the report, entitled "In a nutshell", stated:

This investigation has disclosed a massive illicit trade in government information. That trade has been conducted with apparent disregard for privacy considerations, and a disturbing indifference to concepts of integrity and propriety.

The people involved

The principal participants fall broadly into three groups:

1. Police, Roads and Traffic Authority officers and other New South Wales public officials, who have corruptly sold confidential information entrusted to their care.
2. Insurance companies, banks and other financial institutions, which have provided a ready market for that information, and have been major contributors to the thriving trade which developed.
3. Private inquiry and commercial agents, who have acted as brokers and retailers, providing the necessary link between anxious buyer and ready seller.

As they have gone about their corrupt trade, commercial interests have prevailed over commercial ethics; greed has prevailed over public duty; laws and regulations designed to protect confidentiality have been ignored.

A widespread practice

The Commission was selective in pursuing reported instances of unauthorised release of government information. Yet in the course of the investigation, some 446 witnesses were heard at public and private hearings which occupied a total 168 hearing

days. There are thousands of registered private inquiry and commercial agents within the State, whose affairs were not investigated.

It should be noted that the report dealt only with the unauthorised release of government information, thus it tells only half the story. More often than not, the information in the report was used to locate debtors. However, it was also used for other purposes, such as to gain competitive advantage in the marketplace. Convictions for the supply of information were often difficult because, although many inquiry agents freely advertised they could get information on anyone, it was hard to establish who in the government department had leaked the information, and without knowing who was leaking the information prosecutions were difficult under the law at the time. Page 165 of the report stated:

A private inquiry agent who had for some time been advertising for sale, information from a variety of State and Commonwealth sources. The information on offer was shown in brochures as including DMT, social security, Medicare, immigration, telephone, post office box and criminal history checks, each with description, code number and price. It was the agent's dealing in social security information that led to his prosecution.

There was no doubt or dispute about what he was doing. His own brochure described what he called a "No. 2 check" as:

"A search of social security records. This search will ascertain if the debtor is receiving a pension or unemployment benefits. It will give the latest address on record and the date of last payment. This search can be carried out in all states.

\$20 for Australia wide searches."

What was the charge?

It might be thought that the agent was prosecuted for possessing or selling the information, or offering it for sale. However, there was no such offence available. He was charged under Commonwealth law with being knowingly concerned in an unauthorised communication by an unidentified officer of the Department of Social Security. To succeed, the prosecution had to establish that an officer of the Department had released the information to him. It failed because it could not prove how he came by the information. The magistrate said he might have obtained it from someone who hacked into the Department's computer system, or by hacking into it himself.

ICAC was especially critical of the lack of co-ordinated government policy on the storage and release of information. It should be noted that the Government had at its disposal my submission on an information management policy for Australia, which included an earlier report by Barry Jones, in which I said that the information was neutral and a management approach was necessary. At any rate, this bill tries to address the shortcomings.

The objects of the bill are to promote the protection of the privacy of individuals; to specify information protection principles that relate to the collection, use and disclosure of personal information held by public sector agencies; to require public sector agencies to comply with those principles; to provide for the making of privacy codes of practice for the purpose of protecting the privacy of individuals; to provide a complaint mechanism; and to establish an office of Privacy Commissioner to replace the present privacy committee.

The bill defines personal information to mean information or an opinion about an individual whose identity is apparent or can be reasonably ascertained. This information is protected by what are called information protection principles. The driving force for this principle, apart from necessity, seems to be article 17 of the International Covenant on Civil and Political Rights, which came into force in 1976 and was ratified by Australia in 1980. It states:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy . . .
2. Everyone has the right to the protection of the law against such interference . . .

Among the array of interests which go to make up that right, is what is sometimes termed "information privacy"—the right of the individual to determine who shall have access to information about his or her own person and affairs. Accordingly, if Australia's ratification of the words of the Covenant is to be matched by adherence to its principles, substantial weight must be given to the right to privacy in the formulation of laws and procedures governing the handling of information. It cannot be dismissed as a mere catchcry of civil libertarians. It is an internationally recognised right.

The bill raises concern about particular problems. Exclusion of police from complying with information protection principles presents a major concern for the protection of confidential information. The 1992 Independent Commission Against Corruption report named police as one agency that corruptly sold confidential information entrusted to their care. While there have been some improvements in Police Service ranks, it would be naive to assume that confidential information would not be given out by Police Service members.

The bill does not apply to the private sector and this represents a gaping hole in privacy legislation. In his second reading speech the Attorney noted that this should be addressed nationally through Commonwealth legislation. The Howard Federal Government decided not to pursue these much-needed reforms. Once again it was left to the Australian Democrats to fill the gap. In 1997

the Democrats tabled in Federal Parliament the Privacy Amendment Bill, which proposed amendments to the existing Commonwealth Privacy Act 1988. Those amendments will extend to the private sector existing general information privacy laws that cover Federal government agencies. This will provide protection for personal information through clear legislation with a mechanism for complaint, investigation and enforcement.

Unfortunately in this bill the Government does not go as far as the Democrats are trying to go in Canberra, despite the European Union being concerned about its dealings with countries that do not have privacy legislation. I cannot understand why the Federal Government does not introduce appropriate privacy legislation. Perhaps it was too frightened in the period prior to the election to introduce legislation that is generally acknowledged as being necessary. The bill presents other problems. The History Council is concerned that its access to records such as births, deaths and marriages will be restricted and thus make it impossible for it to follow its genealogy and other historical research.

I am concerned that areas such as medical research may not be adequately covered under the provisions of privacy legislation. Research requiring any examination of populations generally comes from Scandinavia, which has a national card system. Anyone who wants to know if fishermen die earlier than members of other professions, or if more electricians than pesticide operators have accidents or suffer from leukaemia, turns to Scandinavia for such information, because no other country seems to have records capable of generating the data.

As I pointed out in my paper "Information Management Policy for Australia", Australia could have the worst privacy legislation in the world. Privacy information would be held back from those who might do good, such as medical researchers, but privacy legislation that has so many loopholes can be easily avoided by those who might do harm. The Credit Reference Association set up a database to examine credit reference. However, the Australia Card—which perhaps would have brought some benefit but certainly would have done harm, and offered a regulated, sensible approach to information management in Australia—died through public fear of its down side.

We currently have the worst of all worlds: those who want to do something illegal can get easy access to information, but those who want to do good cannot. We had hoped that some information could have been obtained from the privacy committee but, as a government body, its ability to

tell us its thoughts is somewhat limited. The committee cannot comment to us separately from the Government. The Democrats believe that the Privacy and Personal Information Protection Bill does not go far enough. Having a bill that deals with the public sector is doing only half the job.

All we can hope for is that having done nothing, the Howard Government, now being a long way from an election, will be emboldened to introduce effective privacy legislation, particularly as the European Union deadline is the middle of next year. Any exclusion of police adversely named in the 1992 ICAC report would be of great concern. The bill does not prevent police gathering from other agencies information necessary for them to fulfil their obligations. The bill creates new offences when information is offered by a public servant for financial or other benefit. This covers dissemination of information for profit or personal benefit, but does not cover doing a favour for a mate.

I foreshadow that in Committee I shall move an amendment to address not so much whether there is reward but whether information is mishandled. Police discover a great deal of personal information in their investigations, including information about the whereabouts of certain people, friends of people, assets, interesting personal habits, and other details, and this information may be passed on with immunity. The Opposition amendments should include a proposal to extend the bill to the private sector, but the Opposition has intimated that it does not have the resources to consult with the private sector and so will not introduce such amendments.

Perhaps I should not comment on the amendments as I have not seen them, but I am concerned that the inability to have resources to consult with the private sector does not appear to exist for any other issue. So, I cannot help but wonder if the Opposition is getting a bit timid because it might offend somebody before the election. If that is the case, this legislation has a glaring hole that the Government and the Opposition both wish to leave, which will mean, presumably, that the bill will have to be repaired after the election. The Democrats believe that is a poor reflection on the state and courage of government in New South Wales.

The down side of having poor privacy legislation is that managers of international businesses who insist on high levels of client confidentiality in their countries will be reluctant to do business in Australia because the legislation as drafted is poor. The Australian Democrats support the legislation though we recognise that it is

fundamentally flawed. It will probably need to be revisited with stronger provisions relating to the private sector. We can only hope that this will happen after the election if it is not to be corrected at this time. The Democrats are concerned also that aspects concerning medical research are not covered for the benefits of population research, which is an area that needs important advances. Research must be able to get from the laboratory into the population. The Democrats support the bill but have considerable reservations about the extent of its provisions.

Reverend the Hon. F. J. NILE [8.28 p.m.]:

The Christian Democratic Party supports in principle the Privacy and Personal Information Protection Bill. However, it is sympathetic to submissions received from various bodies, particularly from organisations concerned with the general study of historical documents without any intention of invading a person's privacy. One such organisation is the Historical Council, which has requested that members of the Legislative Council not vote for the bill but delay debate to allow further consultation with that organisation.

The council claims that the bill is so draconian that it could straitjacket historians by cutting off their access to hundreds of thousands of valuable documents. The council went on to say that the procedures laid down in the bill are so tough that if they had applied to the Holocaust no historians or relatives would be able to see concentration camp records. That statement is made by the council's President, Dr Shirley Fitzgerald. The council makes that statement because, according to the bill, information and documents can be disclosed only to be used for the purpose for which they were gathered. The Nazi Party was gathering these records methodically, and it kept thousands of records of concentration camp victims, obviously not for historians but for its own devious, evil purposes. So, under this bill, if historians asked to see those records they would be told no, because they were collected by the Nazi party for certain purposes and they could not have access to them.

That criticism may seem to be drawing a long bow but conservative bodies such as the History Council of New South Wales are not usually given to making extreme statements. A similar submission has been sent to the Christian Democrats by the Australian Society of Archivists which, in its letter to me of 25 September, sent a copy of its letter to the Attorney General in which it made a very strong criticism of the bill. In its letter to the Attorney General the society said:

On behalf of the NSW Branch of the Australian Society of Archivists Inc, I am writing to express our unhappiness about the way this Bill is being passed through the Parliament.

There has been no call for public comments, and no real opportunity for interested parties (other than the Privacy Committee) to make submissions. The general points raised by the History Council of NSW, in their letter to members of the Legislative Council yesterday, and in the press report this morning, are important and require answers.

The Bill will have a major impact on the public access role of Archives Institutions across New South Wales. Your comment, reported in the press this morning, that "it only affects State-held information" is incorrect as the Bill applies to local government. You are also reported as stating that you "are not aware of anything affecting [historians] in any manner", which frankly suggests the advice from your department has been seriously defective.

In our opinion the effect of the Bill, if it becomes law in its present form, will be to greatly increase the work of public sector archivists by forcing them to undertake document-by-document checking of all records requested by researchers to ensure "personal information" is removed; and to greatly diminish the availability and timeliness of access to archival records by researchers.

We understand that such effects may not have been intended by the Bill, but the way it is worded means that such unintended consequences will certainly ensue.

The Australian Society of Archivists urges that the Bill be set aside for the present, and that an opportunity be afforded to interested parties to make submissions on it, before it becomes law.

Yours sincerely

Angela McGing
Convenor
ASA NSW Branch

Again, that is another very reputable organisation which would not be asking us to delay the bill unless it had genuine concerns as to how it may operate. As the society says, the effects it fears may not be the Attorney's intention but the legislation will have to be enforced. The bill establishes the office of Privacy Commissioner. We understand that will be Mr Puplick. Over the years when Mr Puplick was heading the Anti-Discrimination Board we had many disagreements, and his interpretation of events and other matters has not been consistent with our view of matters. We could end up with a privacy commissioner who, once he gets authority under this bill—like a loaded gun—will use it and it may be used in a way that the Attorney General never anticipated.

If the Attorney General interferes with the Privacy Commissioner, the Attorney General may be seen to be interfering with a statutory organisation. Previously, governments have said they cannot interfere with statutory bodies such as the Board of

Studies. The Privacy Commissioner could be making interpretations in his rulings which may be quite different from what the Government intended. Unless the Government then passes another bill amending this proposed measure, we will be stuck with Mr Puplick's interpretations. I wish somebody else had been appointed to that position, but the Government is now locked into that decision.

The objects of the bill are to promote protection of privacy of individuals; to specify information-protection principles that relate to the collection, use and disclosure of personal information held by public sector agencies; to require public sector agencies to comply with these principles; to provide for the making of privacy codes of practice for the purpose of protecting the privacy of individuals; to provide for the making of complaints about privacy related matters and for review of conduct that involves the contravention of the information protection principles or privacy codes of practice; and to establish an office of Privacy Commissioner and to confer on the Privacy Commissioner functions relating to privacy and the protection of personal information.

"Personal information" is defined as information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. The Christian Democrats note, in addition to the many bodies that have reservations about the bill, Mr Puplick is also critical of it. He wants even greater powers. According to the *Australian Financial Review* of 25 September he says the bill is "seriously deficient". He said:

... the serious deficiencies in the legislation need some further public and parliamentary scrutiny.

The report in the *Australian Financial Review* continues:

He is concerned that Mr Shaw's Privacy and Data Protection Bill will not protect the privacy of personal information in the private sector and large parts of the State public service.

He was particularly concerned about what Mr Shaw has described in Parliament as "generous exemptions" for the NSW police and other investigative agencies.

The bill has also been criticised by Professor Graham Greenleaf, Professor of Law at the University of New South Wales and editor of *Privacy Law & Policy Reporter*. In a lengthy critique of the bill he says:

The bill is a travesty even in relation to the public sector: it contains pages of exemptions which have been found unnecessary in the Federal Privacy Act for the past 10 years; it

allows exemption by ministerial regulation at so many key points it looks like Swiss cheese; and it even has a Catch-22 provision whereby anyone foolish enough to let the Privacy Commissioner investigate and mediate will forfeit their rights to any enforcement remedies.

That is pretty strong criticism and supports what other bodies were saying, that there needs to be further consultation on how the bill will operate. There is also some concern about people who are interested in genealogy and researching family trees, which has become a major interest for many people today. My wife and I have been involved in this research personally, trying to construct family trees by seeking information from government bodies about family backgrounds and about those who came out to Australia on certain ships. It takes a lot of research to put all the pieces of the jigsaw together. It could be that this legislation will obstruct innocent research conducted without any intention of misusing information in a criminal way.

Concern about privacy laws has arisen following ICAC investigation which uncovered a massive illicit trade in files involving government departments, police, lawyers, financial institutions and private investigators. The 1992 report by the then Assistant ICAC Commissioner, Mr Adrian Roden, QC, found that more than 250 people, many of them public servants, were involved in or had contributed to the multimillion dollar trade in information. No-one would want to do anything to allow or encourage illegal use of information or the practice of public servants actually selling information as a sideline and abusing their position. We want to stop that from happening but we do not want draconian legislation that affects an innocent search for information.

Many people have expressed to me concerns about attempts to locate a natural mother by an adoptive child or by a natural mother attempting to locate her adopted child. Changes to birth, death and marriage record laws have made that possible, but in the past it was almost an impossible task. Mr Bob Miller, a researcher active in this area, has not had his authority renewed. He was called the adoption archangel and was credited with reuniting thousands of Australian families. During the past eight years he had a contract with the Attorney General to carry out this work but his contract has not been renewed. Apparently there are fears that he will now be forced to hand the vast adoption information resource over to the Attorney General's Department, and that resource will then be accessible.

That may or may not be of concern to honourable members, but concerns were expressed by quite a few people in an article in the *Sunday*

Telegraph on 20 September. The Government should reassure those people, for example, a natural mother seeking to locate her adopted child who is now 18 years or more, or a child who is trying to locate his or her natural mother, that the information will be available for legitimate purposes. Obstacles should not be placed in the way of such inquiry. With those reservations I support in principle the bill, but I await the amendments.

The Hon. R. S. L. JONES [8.43 p.m.]: This bill provides guidelines for the protection of personal information held by certain public sector agencies in New South Wales and allows for the development of privacy codes of practice. Public sector agencies will be required to comply with information protection principles subject to the development of privacy codes of practice. Information protection principles seek to ensure that personal records held by the public sector are kept securely, and specify how personal information is to be collated, used and stored. Failure to comply with information protection principles would result in an internal review being undertaken by the agency involved.

The bill transfers the functions of the New South Wales Privacy Committee to the new office of Privacy Commissioner, who will be responsible for promoting adoption of and compliance with privacy codes of practice as well as considering complaints about violation of privacy. The bill also creates offences for improper disclosure of personal information. Should a public sector official disclose or use any personal information in a corrupt fashion, or should any person attempt to bribe a public sector official to furnish them with information, or should any person supply personal information that has been unlawfully disclosed, they will be guilty of an offence with a maximum penalty of 100 penalty points and/or two years imprisonment.

The introduction of this bill occurs at a time when past natural barriers to privacy and the transfer of information, such as cost, distance, incompatibility and anonymity, are no longer relevant, due to exponential increases in technological development. Innovations in information technology and data processing mean that the average person has the potential to collect, store and transmit information about people's lives to every corner of the globe within very short periods of time. Government agencies and private businesses are able to routinely keep vast stores of information about their clients which may be used improperly or disclosed, to an individual client's detriment. The ease with which private information can be transferred within and across the public and private

sector was outlined in the 1995 report to the House of Representatives Standing Committee on Legal and Constitutional Affairs. The report stated:

Information often does not exist in separate and discrete holdings. Technological advances, especially digitalised information, means that information collected by the Commonwealth may not remain the exclusive preserve of the collecting agency. It may be transferred to or accessed by other government agencies or the private sector. Information may have been provided for a purpose such as registering on the electoral roll, but private sector organisations may access that information and use it for a purpose which was not contemplated by the provider when the information was provided.

Jurisdictions around the world have been adjusting to this change for many years and developing privacy laws. As Professor Graham Greenleaf, a privacy law expert from the University of New South Wales, noted on 2 October in the *Australian Financial Review*, every country in Europe has enforceable privacy rights against both the public and private sector. New Zealand embraced privacy laws in 1993, Hong Kong did it in 1995, and Canada will do so by the year 2000. In New South Wales the privacy committee has been calling for privacy law for the past 15 years. In 1991 and 1992 privacy legislation was introduced into the New South Wales Parliament by Mr Andrew Tink MP, and in 1994 the Privacy and Data Protection Bill was introduced by the then Attorney General, the Hon. John Hannaford MLC. However, neither piece of legislation passed through Parliament.

The Privacy and Personal Information Protection Bill proposes to cover only public sector agencies, and there are numerous circumstances in which government agencies are exempt from the provisions of the bill. Division 3, proposed sections 22 to 28, consists entirely of general and specific instances in which public sector agencies are not required to comply with the information protection principles. Proposed section 71 allows the Minister to make regulations *inter alia* which exempt specific persons or public sector agencies from any of the requirements of the bill. State-owned corporations are entirely excluded from the bill and investigative agencies are exempt from a number of information protection principles. Private contractors to government are not included, except if provided by regulation.

Further, the ICAC, the Police Integrity Commission, the Crime Commission and the Police Service are not required to comply with the information protection principles. The complete exclusion of the Police Service is disappointing given that the 1992 ICAC report into the release of unauthorised information uncovered an illegal trade

in personal information which spanned government departments, the police, insurance companies, financial institutions and private investigators. I point out that there have been instances of investigative agencies breaching the privacy of individuals and disclosing the identify of patients who were inadvertently affected by the AIDS virus, according to the Health Care Complaints Commission.

I am yet to be convinced that it is necessary to have such extensive exclusions, which temper the positive aspects of the bill and have not been required in other jurisdictions. As Professor Graham Greenleaf noted, the many exemptions in this bill have been found unnecessary in the Federal Privacy Act for the past 10 years. Why is it necessary to include them in New South Wales law? Despite the fact that the Federal Government is reluctant to introduce uniform privacy law that covers both the public and private sector in Australia, other States have gone some way towards providing private sector compliance with privacy law—for example, Victoria's proposed Data Protection Bill and the Australian Capital Territory's Health Records (Access and Privacy) Act 1997.

I endorse the proposal to introduce data protection legislation into New South Wales, but agree with the expression of disappointment of the Council of Social Services of New South Wales that the legislation targets only private sector agencies. The community is concerned about the general use and abuse of personal information in areas such as the financial and insurance industries which use ever-enhanced forms of information technology and data processing.

The Council of Social Service of New South Wales believes, and I believe, that if the private sector were subject to privacy laws, consumers would receive long overdue protection. Furthermore, if the private sector is not covered by official data protection legislation, New South Wales businesses are likely to suffer when the European Council Data Protection Directive comes into force at the end of the year. This directive established throughout Europe a set of legal principles for privacy protection; it prohibits the transfer of personal data from EU countries to any countries that do not have adequate data protection laws.

The Public Interest Advocacy Centre suggested that business and other organisations could easily be included over a period of two years by using a definition of "organisation" similar to that used in the Victorian proposal. This includes businesses, clubs, unions, professional practices, corporations,

associations and charitable organisations. I have received representations from the Australian Society of Archivists and the History Council of New South Wales—which are concerned that the definitions of "publicly available information" and "personal information" are so extraordinarily broad as to limit the ability of historians and researchers to perform their tasks.

Further, the archivists say they have been forced to undertake document-by-document checking of all records requested by researchers to ensure that personal information is deleted. Perhaps there needs to be a clear recognition in the bill that it does not conflict with the State Records Act 1998. Lastly, we need to ensure that the offence described in proposed section 62(1) will not criminalise the actions of whistleblowers acting in the public interest and thus be in conflict with the Protected Disclosures Act 1994. So, while I am supportive of the introduction of data protection legislation, I am disappointed at the number of exclusions in the bill and the non-inclusion of the private sector. We should use this opportunity to ensure that privacy and data protection is as fair and comprehensive as possible.

The Hon. J. W. SHAW (Attorney General, Minister for Industrial Relations, and Minister for Fair Trading) [8.51 p.m.], in reply: Despite the coalition's claims, its 1994 bill was substantially weaker than this bill. The shortcomings of the coalition's bill were amply demonstrated by the Privacy Committee's critique of it. The committee considered the bill to be seriously flawed in a number of important respects. First, it said that the data protection principles set out in the bill were unenforceable and that public authorities were ultimately free to decide the extent to which they would comply with the principles. Second, it said that the bill permitted virtually unrestricted data matching between public authorities. And, third, it said that the bill contained no remedies for people who were adversely affected by serious breaches of the data protection principles.

The Government's bill addresses those shortcomings. Therefore, it must be said bluntly, it is hypocrisy for the Opposition to say that this bill does not go far enough. It goes further than the coalition was prepared to go in this area. The Privacy Committee recommended a wide range of amendments to the coalition's bill, and they were considered in the preparation of this bill. This bill provides remedies for people adversely affected by serious breaches of the principles or codes, and it provides sanctions against unlawful disclosure. The Privacy Commissioner will continue to have power

to receive and investigate complaints. The emphasis will be on conciliating disputes and on promoting the level of understanding of and compliance with the requirements of the Act.

At the end of the day, however, enforceable remedies underpin the authority of the principles and role of the commissioner. If a complaint concerns a breach of an information protection principle, the matter can be conciliated or referred to the relevant agency for internal review. If the result of that review is not accepted by the complainant, there is a right of appeal to the Administrative Decisions Tribunal—another great administrative law innovation of this Government. Damages of up to \$40,000 may be awarded by the tribunal if the applicant has suffered financial loss or psychological or physical harm because of the conduct of a public sector agency. That remedy was simply not available under the 1994 bill, which was unenforceable.

Sanctions will also apply if a public sector agency fails to appear before the Privacy Commissioner for a conciliation hearing, for which the maximum penalty is 50 penalty units. Corrupt disclosure of personal information by a public sector official carries a maximum penalty of 100 penalty units. And offering to disclose personal information unlawfully carries a maximum penalty of 100 units. The coalition's bill was criticised when it was debated in the Legislative Council. The approach adopted in that bill was for the data protection principles to apply by the adoption of specific codes of practice for particular agencies as necessary or desirable. Discretion was given to the individual agencies to determine the appropriate level of compliance with the data protection principles.

The requirement for all agencies to adopt codes would also have resulted in an unnecessary administrative burden, particularly for smaller agencies, and would have had the potential to lead to fragmented and inconsistent practices across the public sector. By contrast, the provisions of the bill automatically apply the information protection principles to government agencies. The Opposition is critical that the bill does not apply to the private sector. The Government's pre-election undertakings included a promise to develop effective data protection laws that apply to both the public and the private sectors. While I believe in principle that there is no reason that appropriately framed data protection principles should not apply to the private sector generally, any approach to introducing privacy principles into the private sector should be addressed nationally. Until recently it was understood that the Commonwealth would legislate for a privacy regime to apply nationally to the private sector.

Whilst I adhere to the view that the business sector would benefit substantially from the application of privacy codes of practice to industries that deal with personal information on a consensual basis, given the substantial uncertainties concerning the approach at a national basis it is not appropriate for this bill to apply to the private sector at this stage. The Government believes that, in the absence of a national approach, the regulation of the private sector would be counterproductive as it would set different standards for business in New South Wales as opposed the rest of the nation, thus placing an unreasonably burden on this State's private sector. In the absence of Commonwealth Government legislation, consideration is currently being given to the development of model legislation that could be adopted by each State and Territory.

Should agreement be reached on such a model, legislation can be adopted at a later date. It is envisaged that such legislation would allow for the development of codes of practice with application to particular areas within the private sector. That would provide a mechanism by which data protection safeguards could be extended by an incremental and consultative basis. Such an approach also has the advantage of allowing particular focus to be placed on those areas or practices within the private sector that have the potential to give rise to particular privacy concerns.

The bill provides some opportunity for the application of the privacy principles to non-government bodies in certain circumstances. For example, it is possible for public sector agencies such as the Department of Community Services to require non-government bodies to apply information protection principles by including them as part of service standards in contracts with non-government agencies. Secondly, if a non-government agency holds personal information on behalf of a government agency, the information principles apply to the agency that holds the information, even if it is a private body. It is possible for a person or body to be prescribed by regulation as a public sector agency.

Despite the Opposition's claim that the Privacy Committee has not been consulted on this bill there has in fact been extensive consultation with the Privacy Committee. I will deal now with the argument of broad public sector exemptions. The Opposition has been critical of the scope of the exemptions provided in the bill. It needs to be accepted that some exemptions are necessary but the Government has sought to keep them at a minimum. This has resulted in agencies being exempted from specific information protection principles in certain circumstances.

The only general exemptions are, as provided in proposed section 27, for the Independent Commission Against Corruption, the Police Service, the Police Integrity Commission, and the New South Wales Crime Commission. All of those exemptions are considered to be justified. I believe that this bill achieves the balance between the competing interests of the need for privacy protection of government-held information bases and the need for a reasonable flow of information for valid purposes of investigation and law enforcement.

I foreshadow that in Committee I will move a number of amendments to meet certain concerns raised by a number of government agencies and research bodies to achieve the balance between the need for protection of information and reasonable access. First, I propose to move an amendment to the definition of "personal information" in clause 4 so that information about an individual arising out of or in connection with an authorised operation within the meaning of the Law Enforcement (Controlled Operations) Act 1997 is not considered to be personal information. That will protect information gathered in the course of covert investigations.

Second, I propose an amendment to clause 25 so that it clearly states that public sector agencies are not required to comply with the principles if that is necessarily implied or reasonably contemplated under the State Records Act 1998. This proposal will remove the problem about access for the History Council and similar research bodies. I will also move a number of other minor amendments to ensure consistency with the State Records Act.

A further amendment is proposed to clause 37 to clarify that the Privacy Commissioner cannot require the Independent Commission Against Corruption to provide information to the Privacy Commissioner. The Opposition has already expressed concern that clause 62, which deals with corrupt disclosure and the use of personal information by public sector officials, may prevent whistleblowers from coming forward. I foreshadow an amendment to clarify that a public sector official is not prohibited from disclosing any personal information about another person if the disclosure is made in accordance with the Protected Disclosures Act 1994.

These foreshadowed amendments have arisen in the context of recent discussions with the Independent Commission Against Corruption, the Ombudsman's Office and a number of research and genealogy groups. They will improve and refine the legislation and will, I believe, meet various criticisms which, perhaps quite legitimately and appropriately, have been raised about this bill. I

commend the idea of privacy legislation constraining public sector agencies.

Motion agreed to.

Bill read a second time.

NURSES AMENDMENT (NURSE PRACTITIONERS) BILL

Bill received and read a first time.

Suspension of standing orders agreed to.

LOTTERIES AND ART UNIONS AMENDMENT BILL

Second Reading

The Hon. R. D. DYER (Minister for Public Works and Services) [9.05 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 has brought forward a bill to make lawful the conduct of social games of housie. There would be few among us who would not be aware that this activity is unlawful under an archaic law. Each day hundreds and thousands of people across New South Wales who participate in social games of housie break the law and risk substantial fines. This is clearly absurd. Officers of the Department of Gaming and Racing and the police have been placed in an invidious position of either having to enforce a ridiculous law or turning a blind eye to this activity. The bill now before the House is intended to remove this conflict. Social games of house should not continue to be unlawful under a law which has no relevance today. This bill will amend the Lotteries and Art Unions Act 1901 which presently contains a prohibition on the conduct of social games of housie.

Under the Lotteries and Art Unions act two types of housie or bingo games may be lawfully conducted: charity housie, which is conducted to raise funds for a charitable purpose, and club bingo, which is conducted to provide a form of social entertainment for the members and guest of a registered club. Social games of housie are similar to these types of housie games, but are organised for different purposes. Social housie games are generally organised by pensioner groups and elderly persons on housing estates,

residential care and senior citizen facilities. They are also conducted by Aboriginal groups and other self-interest groups and communities. In most cases it is organised as a social pastime and for therapeutic purposes. In some cases a small profit may be obtained to help finance the activities of a non-profit organisation—for example, a senior citizens club's bus trip or Christmas party.

Social games of housie have been occurring for many years, as if it were a right. Many persons involved in the conduct of social housie do not believe they are doing any wrong. It is viewed as a harmless pastime, and it is apparent from the absence of complaints to the Department of Gaming and Racing and media coverage that members of the public are not affronted by the conduct of these types of games. As I have stated, a form of social housie already exists, but it is restricted to the premises of registered clubs and such games are for the benefit of members and guests of the registered club. What is commonly called club bingo is not a viable proposition for all persons who would like to participate in social games of housie. Although there is no knowledge of anybody ever being charged with conducting unlawful social games of housie, it is time that the law be changed—people playing social games of housie should not have to be branded as law-breakers. Under the law persons organising illegal social games of housie are open to fines up to \$5,100.

I turn now to some of the specific details of the legislation. The principles of the proposed new regulatory framework for social housie game activities are: to generally make lawful what is happening now with minimal bureaucracy, or paperwork, thereby avoiding or minimising any associated costs; to minimise opportunities for improper conduct; and to minimise the potential for social housie games to impact on charity fundraising games of housie. The proposals follow a program of consultation undertaken by the Department of Gaming and Racing with the community through a discussion paper. I must stress that it is not the intention of this legislation to establish a new means of gambling. It will merely legalise a relatively harmless gambling activity that is occurring.

Social housie games have been unlawfully conducted for many years without the need for a permit and with minimal complaints from organisers and players. Any complaints have related to persons concerned about the apparent lack of accountability by the organiser, the awarding of prizes or the fact that the game cannot be lawfully conducted. The effect of the legislation is to authorise the conduct of social

games of housie without the need for an authorising permit. Income from the sale of tickets may be applied to costs and expenses properly incurred in connection with the conduct of the game, such as the cost of buying tickets or stationery. In addition, a fundraising amount may be retained when a game is conducted for the purpose of raising funds for a not-for-profit organisation. After deducting any proper expenses and any fundraising amount, the amount remaining must be paid out as prizes or otherwise returned to players according to the rules of the game.

As I have mentioned, the legislation does not disallow the making of a profit. However, any profit must be applied to a not-for-profit organisation which has conducted or authorised the conduct of the game. This allows social housie games to be conducted for their entertainment value and perhaps achieve a profit. Such profits may help not-for-profit bodies put aside funds for social outings, seasonal events, anniversary dinners, or to help out a local parish or community with extra funds. Under the legislation organisers of social housie could conduct the game with the view to making a loss, breaking even, or making a profit. The key issues in achieving reform in this area must ensure that the community has confidence in the conduct of social games of housie; that the community and not-for-profit sector has appropriate access to lotteries and games of chance; and that social games of housie are conducted with integrity and fairness.

The legislation is consistent with the Government's recognition of the impact of gambling on the community and its determination to ensure that the public is able to participate in community-based lotteries and games of chance knowing that they are being operated with the highest levels of integrity. Accordingly, the legislation implements a series of controls to protect the public from inappropriate practices. These are: that no charge or other consideration is made or given for the right to enter any place where the game is to be played; other than the payment of the purchase price of the ticket or card, the legislation disallows any other payment having to be made by a player for the right to participate in the game, or to enter any place where the game is to be played; that except as prescribed in the regulations, no charge or other consideration is to be made or given for the right to participate in the game; it is proposed to limit the cost of a ticket, card or the amount paid for the right to participate in a game to no more than 40¢; that no salary, wage, fee, commission, percentage or other benefit, other than the payment of prize, is to be paid or given to, or

taken by, any person in connection with the conduct of the game; and that tickets, cards or other game material can only be distributed at the place where the game is conducted.

The legislation does not impose a standard ticket format. This will allow organisers of social housie games to use reusable tickets or cards to save costs, or to use tickets or cards with large type so that persons with poor eyesight can read the numbers. Also, other game devices may be used such as playing cards. In the absence of any concerns, the legislation does not implement any controls over the hours, times or days or the duration that a game may be conducted, or limit advertising. Nor does the legislation stop any person involved in organising social housie from playing or winning prizes. In addition to the above matters, the legislation will allow the prescription of the maximum value of prizes that may be awarded to ensure they do not impact on charity fundraising games of housie. At this stage, it is intended under the regulations: to limit the value of prizes in a game to \$30.00, unless the prize is a jackpot prize; and to limit the value of jackpot prizes in a session of games to no more than \$150.

The legislation will also allow the prescription of a ceiling on the maximum amount of gross proceeds through the sale of tickets. It is not proposed at this stage to prescribe an amount. However, this would be considered if inappropriate practices develop. The legislation will disallow social games of housie being conducted on the premises of a registered club, or on licensed premises under the Liquor Act. As I have said, the intent of the legislation is to legalise what is happening—not to expand gaming. Social housie is largely conducted on the premises of retirement villages, residential care centres, and community and senior citizens' halls or centres. In addition, it is being conducted in other public and communal areas. Few games would be conducted on the premises of registered clubs or hotels. To allow social games of housie to be conducted on the premises of registered clubs, the premises of a hotel or any other licensed premises would commercialise what is essentially a non-commercial community activity. In addition, these types of premises already have privileges to conduct gaming activities—gaming machines, club keno, et cetera.

The legislation will maintain the prohibition on prizes which consist of or include tobacco in any form. In addition, the current restrictions concerning liquor prizes would apply equally to social games of housie. Cash prizes will be permitted. The legislation will provide for regulation-making powers as previously indicated.

In addition, regulations to govern the day-to-day conduct of social games of housie will be required. The proposed regulations would include similar requirements relating to the fair and proper conduct of community gaming activities including: where the social game of housie is conducted with the purpose of retaining part of the proceeds for the benefit of a non-profit organisation, the maintenance and retention of certain records, for example, the amount of money received and its distribution; and the development and publication of house rules which must contain certain information. The people of New South Wales want to be able to participate in social games of housie for the benefit of others and for their own pleasure without breaking the law. The bill complies with those wishes. I commend the bill to the House.

The Hon. R. T. M. BULL (Deputy Leader of the Opposition) [9.05 p.m.]: The Opposition has much pleasure in supporting this bill, which will legitimise the social game of housie, which has been played in venues across New South Wales for many, many years. This technically illegal game has been popular among our senior citizens and people with time on their hands as a form of social interaction and entertainment. It is enjoyed by those of the older generations who are in retirement homes and villages. Other groups come together in church halls and at other venues to play this social game. The Government has decided to do something about the fact that it is an illegal activity and has introduced these amendments to the Lotteries and Art Unions Act to enable social games of housie to be conducted legitimately.

This legislation does not affect games of housie or bingo—I understand there is no difference between the two—that are conducted in registered clubs. This activity has been part of club life for many years. Anyone who goes to a registered club in the morning would probably find a game of housie under way. Many of our senior citizens enjoy this morning activity before partaking of the fine meals offered by our registered clubs at a reasonable price, perhaps accompanied by a small drink at a reasonable price, and they may even have a flutter on the poker machines before they go home.

Housie is an important facet of the lives of many older people in our community. If it were not for an occasional game of housie or a visit to a registered club, many people would be sitting in their flats, units or homes with little entertainment or social interaction. Social interaction is important for all in our community to maintain stimulation of the mind and to provide an outlook beyond the four walls of our homes. From what I have seen, housie games are very well run. Madam President no doubt has seen the odd game of housie being played in

registered clubs or elsewhere. They are led by extremely articulate comperes who use all sorts of interesting terms when calling numbers. The Minister has them off pat. The Hon. B. H. Vaughan seems to be intimating to the House that he knows some of the names—legs 11 is one, and clickity-clicks is another.

The catchy terms accompanying the call of numbers is all part of the experience and enjoyment of the game. It makes people keep their eyes on the ball, so to speak—or should I say the sheets of numbers in front of them. This legislation will legalise the conduct of social games of housie as a form of entertainment for groups in venues other than registered clubs. I shall not refer to the bill's nitty-gritty. The Opposition supports this bill.

The Hon. C. J. S. LYNN [9.10 p.m.]: I support the Lotteries and Art Unions Amendment Bill because it is sensible legislation that will allow social and other clubs to continue, legally, the conduct of social housie games. These games are designed mainly for charitable fundraising purposes and for the entertainment of club members. These clubs often have a small membership, and more often than not the average age of members would be considered elderly. To require such clubs to have a permit to conduct what is essentially a social game of housie is unreasonable and unfair in the extreme. People living in nursing homes or retirement homes often rely on such social games to continue the social interaction that is so important to them in their later years.

It is important that our senior citizens are provided with every opportunity to entertain themselves without undue regulation preventing them from doing so. For a senior citizens club or nursing home to be told that it cannot organise a housie game is utterly ridiculous and a prime example of too much regulation. It is hard to imagine anyone gaining a large profit from staging a weekly housie game. This legislation is sensible because the Minister has assured the Parliament that, although no permits will be required, it will require games to be conducted according to the Act. This will remove the opportunity for unscrupulous people to take advantage of the fact that no permit is required and attempt to make a substantial profit.

The purpose of this legislation is to allow a game of housie to be the catalyst for social interaction, as it were, and to provide a small amount of revenue for non-profit or charitable organisations. The legislation will be of great benefit to many people in my area of Macarthur and Campbelltown in Sydney's west. Many of the people in that area, particularly elderly residents, are

members of social clubs who consider it rather stupid that they are required to get a permit for a game of housie. This Government may not care too much about the people in Campbelltown—certainly, the local member for Campbelltown does not seem to care, because he moved out; and I doubt whether many housie games are played in Roseville—but I am concerned that organisations designed to provide a social setting for groups of people are restricted in the entertainment they can provide, including entertainment that sensible people consider absolutely harmless.

As the residents in my area get older their ability to travel to a registered club to play a simple game of housie is severely restricted. The area in which I live is very large and transport is often a problem, especially for the elderly. The result is that people have continued to conduct games of housie for their own entertainment. To suggest that they could be prosecuted for doing something that they enjoy and will not make them a fortune is absolutely ridiculous. It is unfortunate that there was this anomaly in the first place. Therefore, I am more than happy to support this bill. The people of Campbelltown who have been restricted in their quest for social interaction will be happy with this bill, and I commend the Government for doing something about the anomaly.

Reverend the Hon. F. J. NILE [9.13 p.m.]: Schedule 1[1] to the Lotteries and Art Unions Amendment Bill amends the definition of "game of chance" in section 2A(1). The explanatory note to the bill states:

Schedule 1[2] inserts a new section 4E to make lawful the conduct of games of housie if certain requirements are complied with. These include requirements that:

- (a) games are not conducted on licensed premises or the premises of registered clubs, and
- (b) except as prescribed by regulation, no charge or other consideration is made or given for participating in the games, and
- (c) money invested in the games is applied towards prizes and the costs and expenses of conducting games or, if the games are conducted by a non-profit organisation, applied towards those purposes and the purposes of the organisation, and
- (d) any regulations made under the Act in relation to the conduct of the games are complied with.

I have never participated in housie games but I am aware of how they are played.

The Hon. M. R. Egan: Doesn't the Methodist Church have housie games?

Reverend the Hon. F. J. NILE: No, it is gambling. Housie is played mostly in Catholic Church halls. I have stood on a street and watched housie being played. I have always been curious about the large number of people who play housie at The Entrance. People on the footpath could not miss seeing those playing housie in the Catholic Church hall in The Entrance as it is close to the street. According to the Government, social housie games are generally organised by pensioner groups, persons in housing estates, residential care or senior citizens facilities and, as I said, church groups. Although social games of housie have been played for many years, people did not realise that technically those games were against the law. Indeed, for many years such games have been played without the need for a permit and with minimal complaints from organisers and players. Any complaints have related to persons concerned about the apparent lack of accountability by the organiser, the awarding of prizes or the fact that the game could not be conducted lawfully.

The effect of this legislation is to authorise the conduct of social housie games without an authorising permit. Income from the sale of tickets may be applied to the costs and expenses properly incurred when conducting the game, such as the cost of tickets or stationery. In addition, a certain amount of money may be retained when a game is conducted by a not-for-profit organisation for fundraising purposes. However, any profit must be applied to the not-for-profit organisation that has conducted or authorised the conduct of the game. This will enable social housie games to be conducted for entertainment value and perhaps a small profit. Such games may help not-for-profit bodies to put money aside for social outings and certain events, such as anniversary dinners, to help local parishes or communities raise extra funds.

On the surface this seems to be innocent legislation. It appears to address an anomaly not dealt with in previous legislation in that it will now cover social housie games. I have watched many pensioners and other people become hooked on poker machines, and I am concerned that as more people play social games of housie they will be encouraged to try to beat the system and graduate from housie to poker machines and other gambling devices. Many pensioner ladies play poker machines all day in registered clubs.

The Hon. R. T. M. Bull: That is true. However, I am not sure whether too many people have become impoverished as a result of playing housie.

Reverend the Hon. F. J. NILE: I cannot say that people who play social housie games become impoverished because I cannot prove a direct link.

The Hon. R. T. M. Bull: They play low-denomination machines.

Reverend the Hon. F. J. NILE: Yes. I simply urge the Government to be wary about introducing what appear to be innocent measures, as it has done in this bill, that may be capable of being exploited or abused. In the past some smart operators have seen an angle and exploited legislation in a way that was never foreseen. Indeed, when the Government introduced a bill relating to the number of people who may be present in a gaming room, card game operators simply redesigned their gaming rooms. With those reservations, I shall conclude my remarks. I am sure that honourable members will thank me for not taking this opportunity to detail gambling statistics.

The Hon. M. R. Egan: I am intrigued as to whether Reverend the Hon. F. J. Nile supports or opposes the bill.

Reverend the Hon. F. J. NILE: I support it, with reservations.

The Hon. Dr A. CHESTERFIELD-EVANS [9.19 p.m.]: The Lotteries and Art Unions Amendment Bill has been introduced to correct an anomaly so that the aspects of gambling that are considered to be relatively harmless, such as playing housie in social and charitable fund-raising endeavours—

Reverend the Hon. F. J. Nile: In Catholic Church halls.

The Hon. Dr A. CHESTERFIELD-EVANS: Even in Catholic Church organisations—can go forward. Some time ago in Wollongong the local school depended heavily on these types of activities and was adversely affected when the Steelers rugby league team held a similar function. In fact, the school waited until the rugby league season had finished so that its receipts from the fund-raising event would be increased and help to manage its affairs. I am aware of the importance of revenue from gambling for some good works.

Generally my opinion of gambling is that it is not in any way the boon for the economy it was considered to be. As I said before the Street royal commission, it is for the groups that propose to

introduce gambling to prove that it does no harm; it is not for the groups that disapprove of gambling to prove that it is harmful. Little information is available on this aspect.

The Hon. R. S. L. Jones: On a point of order. It is impossible for Hansard to hear what anyone is saying in the House. The Treasurer is interrupting the speech of the Hon. Dr A. Chesterfield-Evans in the most rude manner.

The Hon. M. R. Egan: On the point of order. Was the Hon. R. S. L. Jones objecting to my constant interjections that the Hon. Dr A. Chesterfield-Evans was a wowser, interjections that the honourable member attempted to have omitted from *Hansard* by not responding to them?

The PRESIDENT: Order! There is no point of order but I ask members to show consideration for Hansard and listen to the Hon Dr A. Chesterfield-Evans in silence.

The Hon. Dr A. CHESTERFIELD-EVANS: I confess that it is difficult to compete with the Treasurer in volume. *Hansard* cannot record the volume at which remarks are made in this Chamber or the gradually escalating volume as one tries to keep one's wits when beset by idiots. The essence of my comments is that it is up to those who want to profit from the activity to prove that it is not harmful. The gambling industry has consistently failed to do that. Only relatively recently has scientific research about the effects of gambling come to hand.

It is interesting that the term "wowser" should be used with regard to those who oppose gambling. The prohibition of smoking in 1906 through the introduction of the Juvenile Smokers Oppression Act was undertaken with a religious flavour because the strongest way to criticise something last century was to say that God did not like it. Of course now social morality is often tied up with anti-clericalism, and the church is not. Therefore, everything the church stands for and the good values it tries to uphold are also satirised.

Nowadays everything should be proved scientifically, at least that is the trend in some areas—unless money gets in the way, in which case that seems to override the need for any scientific debate. It is happily assumed that to create gambling simply creates jobs. In a new and relatively innovative research book called *The Luck Business* American researcher Robert Goodman examined gambling in a scientific fashion and found that it does not create jobs in a good sense. The jobs that

gambling creates are taken from other areas of the economy as money is spent; and as that money is probably spent less wisely than it would have been on other goods and services, there may well be a net detriment to the economy to be taken into account. I am sure honourable members would agree with the written commentary of that famous economist John Kenneth Galbraith, who is well respected by the most conservative folk in the economic world. He said of *The Luck Business*:

The Luck Business is a damning indictment of legalized gambling, the fastest-growing multi-state industry in America. Professor Robert Goodman documents how this business, which generates over \$40 billion a year in revenues, is also the cause of myriad economic and social problems for the very communities that looked to it as a panacea. *The Luck Business* once and for all demolishes the false hopes held out by the merchants of chance, forcing us to face the grave problems and missed opportunities that legalized gambling has left in its destructive wake.

In clear, persuasive English, Professor Goodman makes a strong case against extracting money from the poor, the gullible and the sometimes insane for public use and private gain. No one, and certainly no responsible public official, should miss it.

That was published by Simon and Schuster in New York. The effect of gambling changes in New South Wales are difficult to assess, but, fortunately, at the University of Western Sydney at Macarthur a gambling research unit is examining this issue. This House should take note of what that research unit produces. Interestingly I received a letter dated 5 September from David Charles, the Chief Executive of the Australian Hotels Association, which began with the following unpromising start:

Following recent media reports that linked hotels with problem gambling the AHA (NSW) would like to inform you that such assertions have no truth whatsoever.

Given that hotels now are worth twice what they were, the amount of money that must have come into them must be considerable. To say gambling has no effect must be an absurd suggestion. However, I will not say that because I do not have any facts and I am bothered somewhat because I have no facts to support the assertion. I can only proffer an anecdote. I have spent some considerable time weaning a patient of mine from prostitution and every drug imaginable, but she is not a happy person. I was running behind schedule the day when she came to see me. She became distressed in the waiting room, wandered off to the nearest hotel and put the entire proceeds of her pension cheque through the poker machine. She came back and told me, "Gambling is the only friend I've got." I said, "Sorry, I was trying to prove to you that you had me and I was doing my best, but never mind."

It is really a bold assertion to say gambling has no effect. There was no club within the geographical boundary of the surgery in which I practised at that time where she could have put her money in the poker machines. The effect of housie is likely to be minor, but once again it demonstrates the triumph of rhetoric. Will any research be undertaken to see if gambling problems result? When I worked for the British National Health Services in Leeds in 1980 it was recognised that pensioners with bingo addictions were a considerable problem. It is not sufficient to say that there will be no problems because it raises money for churches.

If someone is raising money from a gambling activity, part of that money should go towards research to determine the adverse effects gambling may have on the community. If that is proved to be the case, and I would find it difficult to believe that it would not have some sort of effect, some restitution must be made for the problem that has been created. While I agree it is unreasonable that huge casinos should be built and suburbs demolished to accommodate them, or that huge profits should be made from selling poker machine licences, it is incongruous that anyone would make a fuss over this. Nevertheless, the point still needs to be made that the social effects of these changes in behaviour ought to be documented.

The Hon. R. D. DYER (Minister for Public Works and Services) [9.30 p.m.], in reply: I thank the Deputy Leader of the Opposition and the Hon. C. J. S. Lynn for their support for this measure. I thank also Reverend the Hon. F. J. Nile for his support for the bill "with reservations", as he put it. I note the comments of the Hon. Dr A. Chesterfield-Evans—

The Hon. M. R. Egan: An old-fashioned wowser!

The Hon. R. D. DYER: The Treasurer should be very careful, I come from a Methodist background.

The Hon. M. R. Egan: Well, you're an old-fashioned wowser as well.

The Hon. R. D. DYER: I take exception to that remark! One of the ironies of the Carr Government must be that I am in charge of liquor and gambling matters in this House. Perhaps there is some purpose to that. I would like to calm the Hon. Dr A. Chesterfield-Evans by placing on record the fact that the intent is to legalise what is happening

now, not to expand any gaming activity. Social housie is largely conducted in retirement villages, residential care centres, and community and senior citizens' halls or centres, and at the moment it is an unlawful activity. That seems to the Government to be an anomaly and, unless I am very much mistaken, even Reverend the Hon. F. J. Nile agrees with us to that extent.

The Hon. M. R. Egan: It hasn't stopped the Catholic Church.

The Hon. R. D. DYER: Well, the Catholic Church is renowned for this activity, for fundraising purposes. I know the Treasurer has said in the past that he would not have had an education without the gambling activities within the confines of the Catholic Church. I think I have said enough. I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

BILLS UNPROCLAIMED

The Hon. M. R. Egan, on behalf of the Hon. J. W. Shaw, tabled a list detailing all legislation unproclaimed as at 13 October 1998.

PUBLIC SECTOR MANAGEMENT AMENDMENT (COUNCIL ON THE COST OF GOVERNMENT) BILL

Second Reading

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [9.35 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 Council on the Cost of Government was established to oversee reform of major government operations. Whereas other Australian governments have established short-term commissions of audit, the council has a constructive role of initiating reforms and overseeing their implementation. The council's continued operations for the next two years is necessary to ensure the implementation of a range of initiatives. The council has highlighted the poor quality of the management information systems, and has advanced a vision to enable the New South Wales public sector to introduce financial management systems comparable to the best within the Australian commercial sector.

The council is pursuing a range of projects, including simplification and standardisation of financial management policies and the review of financial reporting systems to ensure that the Government is better informed about agency expenditures. Another project of the council has been the development of performance measures, known as SEAS—service efforts and accomplishments—indicators, to enable assessments to be made of the outputs and outcomes of government activities within broad policy areas.

The council has outlined reforms in the delivery of corporate services. If appropriately implemented, those initiatives are expected to secure substantial ongoing savings that can be diverted from administrative overheads to direct service delivery. The council has set up a system of program reviews that will cover all major government programs. Over the past 12 months, 13 programs have been reviewed and another 10 reviews will commence shortly. To date, reviews have included the Public Sector Management Office of the Premier's Department, WorkCover New South Wales, the Police Service, and the Department of Community Services.

There is a need to have a body to advise the Government on the changes required to ensure that the public sector provides value for money and quality services. To be effective, this body must have a measure of independence from the public sector; have strong legislated powers to require agencies to surrender information; have strong contacts within, and report inside, the public sector; involve agencies in reform; and serve as a conduit for private sector expertise. The council meets those criteria.

The Hon. J. H. JOBLING [9.35 p.m.]: It is interesting to note that on 27 September 1995, at the launch of the Council on the Cost of Government, the Premier stated:

The success of the council will be measured by its ability to identify the significant issues and the areas that can lead to real and substantial savings in the cost of government.

That is a most interesting statement. Since then the council has been, without doubt, an unmitigated failure. It has failed to meet its performance criteria. Yet, we are now being asked by the Government to support an amending bill which will result in the continuation of the council for a further two years instead of its dissolution on 13 October 1998. Clearly, the Opposition will oppose this legislation. It is the Opposition's view that the Council on the Cost of Government has been nothing more than a personal indulgence for one of Labor's great supporters while in opposition, Professor Bob Walker. The Council on the Cost of Government, or CCG, has become what one might fairly describe as Bob's very own sheltered workshop. In the face of Professor Bob Walker's well-known partiality to the Australian Labor Party, of which there is no doubt, in 1995 the Premier tried his utmost—

The Hon. M. R. Egan: On a point of order. It is a requirement in this place that members deliver their own speeches. The speech that the Hon. J. H. Jobling is delivering now is virtually word for word

the speech that the Deputy Leader of the Opposition delivered in the other place yesterday. I am sure it would be in accordance with the standing orders of this House if the honourable member were to give his own speech.

The Hon. D. J. Gay: On the point of order. It is an extreme irony that the Treasurer takes such a point of order, given the speech he only moments ago had incorporated in *Hansard*. It will be word for word the speech delivered in the other place. How could the Treasurer, who has already disgraced himself in this House tonight, further prove what a fool he is by taking such a frivolous point of order?

The Hon. M. R. Egan: Further to the point of order. Second reading speeches of Ministers are in a different category to other speeches. The second reading speech becomes part of the interpretation of a statute. When the courts of the land are interpreting legislation they have regard, amongst other things, to a Minister's second reading speech. It would be quite absurd if the second reading speech of a Minister in one House was different from the second reading speech of the Minister representing him in the other House. It would place the courts in a very difficult position. This is a second reading debate, and members are required to give their own speeches.

The Hon. D. J. Gay: Further to the point of order. The Minister's second reading speech should take into account the debate in the other place, any amendments that may have been moved and any changes made to the bill before it came into this House. The Treasurer's speech tonight takes absolutely no account of the debate that occurred in the other place, because it is the speech delivered by the Minister in the other House before that debate took place. Therefore his comments tonight are utterly irrelevant.

The Hon. M. R. Egan: Further to the point of order. It is not the purpose of a Minister in this place to respond to debate in the other place. That would clearly be absurd. Obviously, if the bill that comes to this House is different in form from the bill introduced in the other place then a Minister's second reading speech will be altered to take account of the difference in the bill debated by the two Houses. In this House the Minister's second reading speech does not debate what has transpired in the other place.

If the Hon. J. H. Jobling is so lazy that all he can do is read the contribution made in the other place by the Hon. Ron Phillips, perhaps we could save some time. The Hon. J. H. Jobling could seek

leave to have incorporated in *Hansard* the contribution made by the Hon. Ron Phillips, and this House could facilitate that request. But let the honourable member not pretend that he is delivering his own speech.

The Hon. R. T. M. Bull: On the point of order. The Leader of the House is being extremely frivolous this evening. He has presented no evidence that the contribution being made by the Hon. J. H. Jobling has anything to do with a speech given in the other place. For that reason I respectfully suggest that this is merely a frivolous point of order and should be thrown out.

The Hon. M. R. Egan: Further to the point of order. Mr Deputy-President, you and other honourable members have heard the remarks made by the Hon. J. H. Jobling. I shall read what was said by the Hon. Ron Phillips in the other place last night in order that you may judge for yourself whether the words of the Hon. J. H. Jobling are a verbatim repetition of what was said in the other House. Yesterday the Hon. Ron Phillips said:

The Council on the Cost of Government has been nothing more than a personal indulgence for one of Labor's greatest supporters while Labor was in opposition, Professor Bob Walker. The Council on the Cost of Government has become Bob's very own sheltered workshop.

What the Hon. J. H. Jobling has just said in this House is a repetition of those words.

The Hon. J. H. JOBLING: On the point of order. It is well known that many facts presented and many statements made are true in both Houses. Yes, I do discuss matters with my colleague in the other House; yes, we sometimes have the same views on what may be said; and yes, it is quite possible that from time to time the words used may be the same. Frankly, the Opposition will in both Houses convey the simple statement that it opposes the bill and will raise many issues about it. The House is dealing with a bill that has been introduced by the Government. The Opposition in both Houses has made a statement of opposition. There are certain statements that will be truisms in both Houses, and, yes, they may well be expressed in both Houses. I make no apology for sometimes using the words used by my colleagues in the other House because those words are true.

That I intend to deliver an identical speech is an opportunist view taken by the Leader of the House, who is tetchy, sensitive and concerned about what he is doing. I put to you, Mr Deputy-President, that I am well able to deliver my own words and my own speeches but I am not beyond accepting the

views presented in the other Houses when those views express the truth. If the Leader of the Government does not like that fact, I am sorry, but I am not prepared to agree with the argument put forward by him.

The DEPUTY-PRESIDENT (The Hon. J. R. Johnson): Order! Each House stands alone and each House is its own master. Over the years members have used speeches delivered in another place, but I consider that that is not within the spirit of parliamentary democracy, and that it is incumbent upon members to make their own contributions to debate. I therefore entreat the Hon. J. H. Jobling to make his own speech. Having said that, it is highly irregular for a member to attack a person whose only recourse is by way of a citizen's right of reply to the Parliament, which Mr Justice Sheahan availed himself of recently.

The Hon. J. H. JOBLING: The question faced by the House relates to a critical matter with which the Opposition disagrees. Opposition members do not agree with the concept put forward, the date put forward or the arguments put forward. Clearly, that is a fact of life whether it is said in this House or the other House. The Leader of the House cannot disagree with the statement that was made—a statement that comes from his own people—about what the council is supposed to do. If the Council on the Cost of Government is supposed to provide independent advice, so be it. I question whether it does provide independent advice. I question how the council was established. I question the way in which it is dealt with. I question the effect of what the Premier has suggested the council is doing.

The Council on the Cost of Government is supposed to be a public sector management council. I put to the House that the council is not doing what it is supposed to do. Many people have said that the council has become an organisation involving friends and associates. I say that such suggestion cannot be disputed. I suggest that the Labor Party has appointed its friends, its mates. Whether the Treasurer likes it or not, the council exists to watch over what he would like to do. He has propelled the cost to the taxpayer. Somebody has to pay for the council, and clearly that is the taxpayer—surely the Treasurer is not going to deny that. If the Treasurer denied that, he would simply be saying that the Government and the Treasurer are incompetent and inept. Most people would agree with that suggestion. Voters will make their agreement known on 27 March 1999.

The council shows up this Government's financial incompetence. I put to honourable members

that the council is nothing more than a figurehead to explain away the Treasurer's financial incompetence. "Mr Eganomics", who has been called Michael the Miserable—probably factually—is economically incompetent and illiterate. He smiles at that suggestion, but he knows it is true. People who are economically competent know that the Treasurer is not. Somebody has to look after the council. Nobody in the Premier's Department trusts the council with its own independence. Even the Premier does not trust the council, and he certainly does not trust the Treasurer.

The council is a crisis management tool for the Carr Labor Government, designed to keep the Treasurer in control—box him in. It is a wonder that there are not more people in the Treasury whose responsibility it is to report on what the Treasurer is doing. Part of the role of the Council on the Cost of Government is to keep the Treasurer in line. This has been going on for a considerable period. The so-called savings of money are not happening, whether in health or energy. The Treasurer has admitted so far to a \$1 billion black hole in energy. I suggest that that shortfall, and it is growing, will be at least \$2.5 billion. If that is what the Council on the Cost of Government has done, I am really worried about where this State is headed. The Treasurer should also be worried. The Treasurer's budget has a black hole and is shot to hell, and he well knows it.

The Council on the Cost of Government is a useful red-herring department to keep our minds off how the Treasurer is destroying our economy and sending this State back into bankruptcy. What happened to the old Public Accounts Committee? The Treasurer used to think the PAC was a fine body that looked after problems, dealt with them, and investigated the financial structure and management of this State. How much is being slipped off sideways to this new Council on the Cost of Government and thus kept out of public accounts. Properly prepared public accounts will show that the Government has been financially incompetent and fiscally profligate.

The Treasurer cannot argue about WorkCover, though he could probably argue about the TAB. I do not recall that he wanted to bring that issue before the Parliament for scrutiny. Rather, the Treasurer wanted to bury it. What have Professor Walker and his Council on the Cost of Government achieved during the past 3½ years?

The Hon. D. J. Gay: Nothing.

The Hon. J. H. JOBLING: My colleague the Hon. D. J. Gay is absolutely right.

[*Interruption*]

If the Hon. E. M. Obeid thinks he has any future with knives in his back from some of his mates, he would be well advised to listen carefully. The cost of maintaining the Council on the Cost of Government has continued to grow, at great expense to taxpayers, even though that body was supposed to reduce costs. The council was supposed to be lean and mean and to save money. The Treasurer would have us believe it is saving money. He would have us believe that with little or no staff it has kept costs down and that it is a great asset. The Council on the Cost of Government has done none of that. It has grown and has increased its staff numbers; it has not set an example. Despite the Treasurer's woes I am constrained to put on the record a quote from the chairman of that committee. I freely admit that the quote has been used in the other House, as the Treasurer will comprehend when he hears it. The chairman said:

The Council on the Cost of Government will set an example on the public sector savings by reducing its staff from 35 to 15 . . .

That is a factual statement. He continued:

. . . by reducing staff numbers by 20 the council was meeting the Government's objective of improving efficiency in agencies so that they will deliver better frontline services.

That was an absolute hoax and a total misrepresentation of the situation. Staff numbers of the Council on the Cost of Government did not get down to 15 or anywhere near it. The council has 25 staff. If that is an example of economies of scale and cost cutting, it is an example of economics of the worst kind. Perhaps the Treasurer savours such economics and runs his Treasury accordingly, and that is why there are so many black holes. I suspect that very shortly we will see a review of the budget that will expose other overruns. Clearly, the council has not reduced staff numbers and is not saving money. The council proposes increasing staff by two senior additional executive service staff on three-year contracts, a move which will add \$300,000 in costs. Surely that cannot be described as economics of the first order on which to base a claim that the council is saving money.

Many questions need to be raised. The council has produced a series of reports and has employed staff. To my understanding it has employed university students who were members of Professor Walker's staff. Currently a number of public servants are members of the council. Several members who are known have not attended meetings, a fact that the Treasurer is aware of. He will not mention their

names and will remain singularly silent about it. The Treasurer will not comment on them not turning up for meetings and not performing their duties for which they have been paid. Certainly they were chastised and their attendance improved a little, but they still have not carried out their function and done the deed.

What savings has the council achieved? No wonder the Premier was upset about costs and about failure to contain expenditure. But the Government has no intention of containing costs. The council has continued, as all bureaucratic organisations do, to expand exponentially and geometrically, to spend money, and to build up an empire. What is the council doing and why should it be allowed to continue? The council costs millions of dollars to run but has done absolutely nothing. I am told that outlays have increased by more than 20 per cent in only four years during the Government's term in power. The Government promised it would contain costs.

The mission of the Council on the Cost of Government is to achieve the Government's goal of lowering the cost of running public sector operations, yet the council has not gone anywhere near achieving that goal. The council has allowed costs to explode. The council is a cover-up, a camouflage, but it is a useful organisation to enable the Government to explain away the actions of a spendthrift Treasurer and Government in an attempt to claim fiscal responsibility. The council is not fiscally responsible. The council has indulged in sloppy management and sloppy economics under an incompetent Government—and even Standard and Poor's realise that. Standard and Poor's have given a message to this Government that it had better reform but there is no evidence of that happening. The council is supposed to look after waste, mismanagement and containment of government expenditure, but it is not doing that.

I briefly remind honourable members of the installation of taxi screens, the redundancy program on agriculture, the increasing debt in rural health boards, the \$50 back-to-school allowance, the cashback scheme, and the M4 and the M5. It is reasonable to say that this council should not be allowed to proceed to the proposed date. The Opposition will move an amendment in the Committee stage to change that date to 27 March 1999, which will allow the incoming Government a reasonable and fair chance to say that it does not want to retain this body. The Opposition will oppose the legislation.

The Hon. R. S. L. JONES [10.01 p.m.]: Yesterday I heard Ron Phillips, the member for Miranda, speak in the House, and I took a copy of his speech from the computer and read it through. It was the most disgraceful speech I have ever read. He made an ad hominem attack on Bob Walker. He also attacked Mrs Betty Walker, Bob Walker's wife, which is a most disgraceful thing to have done. I used to deal with her when she worked for the Greiner Government. She was thought of very highly by Nick Greiner, but when she married Bob Walker the coalition decided that she was an enemy, not a friend. Ron Phillips talked about "political storm troopers for the Carr Government" and about "Bob's very own sheltered workshop" and about the Council on the Cost of Government usurping "the role of the Public Accounts Committee". He said that the CCG "had a staff of 25, 10 more than originally planned".

In the Premier's Department estimates for 1994-95, during the Greiner-Fahey Government, the line item Oversight of Public Sector Management Performance showed that those two sections were replaced by the Council on the Cost of Government. In 1994-95 the portfolio and project management, and management development unit, had a total staff of 40, not 25 or 35. The cost in those days for the identical unit was about \$4 million a year. Ron Phillips lied in his speech about the cost and said that it was \$11 million over four years. In fact, the costs for 1995-96 were \$2.049 million; for 1996-97, \$2.299 million; and for 1997-98, \$3.071 million, giving a total of \$7.464 million. The total costs for members' fees, including those for Bob Walker, were \$150,000 a year. The actual savings, if he were sacked, would be only \$150,000 a year because those employees would still be there in any case.

Honourable members who are opposed to this legislation and to the Council on the Cost of Government have not read the report put out by the council. If honourable members bothered to read the fourth report dated December 1997, they would have found on page 11 that:

The Council's conservative estimate was that these initiatives could reduce the cost of corporate services by at least \$300 million p.a. after five years i.e. far more than the initial estimates of around \$120 million p.a. from improving efficiencies within agencies.

If we could save over 1 per cent of our budget by spending a total of \$2 million or \$3 million we would be doing extremely well. Honourable members should realise that the overhead costs in the public sector are about 11 per cent compared to

4 per cent in the private sector. If we were to reduce our overheads to that of the private sector we would save nearly \$2 billion a year in government costs, which this Government would be able to achieve. Professor Bob Walker could show the Government how to save \$2 billion a year by merely cutting overheads. The public sector has much waste compared to the private sector.

I am not talking about privatisation. The private sector is a lot more efficient than the public sector. The Government has overheads of 11 per cent compared to 4 per cent in the private sector. Up to \$2 billion a year could be saved and the same health and education services could still be delivered. Shortly we will save \$300 million as a result of simplifying and standardising processes and consolidation of back office functions through the establishment of shared service centres to handle routine transaction processing, including payroll, accounts receivable, accounts payable, et cetera.

The council has also reviewed surplus property and found huge amounts of surplus property in various departments. This is being followed up with efforts to improve systems for monitoring asset usage to stop agencies hoarding unused assets. This valuable organisation has been needed for some time. It did not work well under the Greiner-Fahey administration and was costing twice as much and had twice as many people. A lot of lies have been told about Bob Walker and the Council on the Cost of Government. The council has been an extremely efficient and slim organisation compared to what it was like under the Greiner Government. The Opposition members are attacking it, but they obviously have not read the reports.

[*Interruption*]

The Hon. J. H. Jobling obviously has not read the reports and does not understand that there was an equivalent unit in the previous department, employing 40 people, who were doing the same kind of work.

The Hon. Patricia Forsythe: It was different.

The Hon. R. S. L. JONES: No, it was not. It was the same work. The portfolio and project management, and management development unit were doing the same work and they have been replaced by the Council on the Cost of Government—and Opposition members should know that. The operating expenditure for this State is in the order of \$26 billion a year and the Government manages \$65 billion a year. If we could save 1 per cent of that we would save \$260 million a year. I

believe we could save up to 7 per cent. The council has produced a series of reports entitled "Service Efforts and Accomplishments". These reports record the results of Government activities, that is its outcomes or accomplishments; the activities undertaken, that is outputs or efforts; and the resources consumed in doing so, that is inputs.

The reports represent the first time that this level of detailed information has been made available to the people of New South Wales. The reports will lead to greater public accountability for services delivered. In addition, the SEA project is contributing to efforts to specify more precisely the kinds of things agencies deliver by way of outputs and hence ensure that better information is available to those involved in allocating resources to agencies. Release of the reports has evoked press comment and brought about discussion with stakeholder groups outside government. One aim of the project is to link costs with the provision of a particular set of outputs or outcomes. This will assist an approach to resource allocation designed to achieve better quality services for the consumer and greater accountability. This approach is being introduced by Treasury.

Output, outcome and performance measures will become budgetary tools. An example of an SEA report is the forthcoming report on programs for Aboriginal people. This report will provide an excellent basis for the Department of Aboriginal Affairs to monitor and evaluate performance which seeks to improve the socioeconomic status of Aboriginal people. SEA reports already published report on a diverse range of government services including agriculture, economic development, vocational education and training, sport and recreation, fisheries, housing, health, and social and community services. Turning to service competition policy, knowledge of the costs and output of activities is a requirement of the Government's policy for which the council has developmental and monitoring responsibilities.

The first priority of the service competition policy is to seek to improve in-house performance. This does not always mean seeking outside competitive tenders but using market testing to compare in-house costs with alternative providers and then finding ways to improve in-house performance. To achieve this, managers need to know the costs of the activities for which they are responsible, compare the agency's performance with that being achieved elsewhere in the public sector or outside, and then take action to improve performance. An annual survey will be conducted by the council to monitor implementation of the policy.

The survey will be pitched at major activities and major initiatives. The aim of the survey includes finding out the extent to which agencies know the costs and performance of activities. The survey has been developed in consultation with officers from 10 government agencies. Representatives from the Labor Council and unions were consulted.

Given the magnitude of the cost of government I support the continuation of the council for a further two years under the leadership of Professor Bob Walker, for whom I have great regard as a person, not as a tool of government. A perusal of the council's half-yearly reports to Parliament show that it is performing a worthwhile task in contributing to the upgrading of the management efficiency of government in this State. I suggest honourable members read these reports to make sure that they can make an informed decision when deciding on this legislation. A lot of misinformation has come from the Opposition and I condemn it for doing that.

The Hon. E. M. OBEID [10.09 p.m.]: Mr Deputy-President—

The Hon. Jennifer Gardiner: He is going to read the Treasurer's speech.

The Hon. E. M. OBEID: So what?

The Hon. Franca Arena: It has been incorporated in *Hansard*.

The Hon. E. M. OBEID: Where do you think this speech came from?

The Hon. J. H. Jobling: I saw the Treasurer give it to you.

The Hon. E. M. OBEID: Who gave you your speech?

The Hon. J. H. Jobling: You will not find my speech incorporated in *Hansard*.

The Hon. E. M. OBEID: A number of statements have been made in the other place about the Council on the Cost of Government and its operations.

The Hon. C. J. S. Lynn: Is this from the heart, Eddie?

The Hon. E. M. OBEID: Of course it is from the heart. I read it all. The Opposition had good reason to be embarrassed by the work of the council.

The Hon. D. J. Gay: On a point of order. Mr Deputy-President, earlier you indicated that there should not be a repetition of speeches that already had been delivered. It has been indicated by the Hon. E. M. Obeid that his speech would be the speech that the Treasurer incorporated in *Hansard*.

The Hon. M. R. Egan: I incorporated my own second reading speech. I have no idea what the Hon. E. M. Obeid is about to say.

The Hon. D. J. Gay: Could I seek an assurance that the honourable member's speech is not the speech that was incorporated earlier?

The Hon. M. R. Egan: On the point of order. I can assure the House that I have not given the Hon. E. M. Obeid the speech that I incorporated in *Hansard*.

Reverend the Hon. F. J. Nile: Is it his own speech?

The Hon. M. R. Egan: Of course it is his own speech.

The DEPUTY-PRESIDENT (The Hon. J. R. Johnson): Order! I have not heard sufficient of the speech to enable me to rule on the point of order.

The Hon. E. M. OBEID: This is a speech I prepared. It is not the Treasurer's speech. Honourable members opposite should listen, read *Hansard* tomorrow and then make a determination. I continue with my speech. In the other place the former Minister, the Hon. Ron Phillips, said that when he was a Minister the former coalition Government had done all that it could to make savings in corporate services. He said that "the lemon had been squeezed dry". In other words, the coalition had said it had made all savings that it could possibly make. Yet the Council on the Cost of Government found the opposite: that savings of up to \$300 million per annum could be achieved after five years by simplifying and standardising processes—

The Hon. R. T. M. Bull: On a point of order. Mr Deputy-President, earlier you ruled that a member must deliver his or her own speech in this Chamber. Can we be assured that the Hon. E. M. Obeid is delivering his own speech when, at the commencement of it, he indicated that the speech had been given to him by the Treasurer?

The Hon. E. M. OBEID: On the point of order. Whilst I indicated that it had been handed to me by the Treasurer, it is not necessarily the Treasurer's speech. The Treasurer gave me a speech.

The Hon. R. T. M. Bull: It is not your own speech.

The Hon. E. M. OBEID: That is not the point.

The Hon. M. R. Egan: Precisely. I did the spelling check.

The Hon. R. T. M. Bull: Further to the point of order. The honourable member indicated that this is not his own speech. Must the honourable member deliver his own speech or is he entitled to deliver someone else's speech?

The Hon. M. R. Egan: Further to the point of order. Of course I handed the speech to the Hon. E. M. Obeid. He gave it to me to read. I read it and handed it back to him. I have to say that what honourable members are about to hear is an excellent speech.

The Hon. J. H. Jobling: Who wrote it?

The Hon. M. R. Egan: I assume the Hon. E. M. Obeid or one of his staff.

The DEPUTY-PRESIDENT: Order! I repeat: I have not heard sufficient of the speech to rule on the point of order.

The Hon. R. T. M. Bull: He said it was not his speech.

The Hon. E. M. OBEID: I said it was handed to me.

The DEPUTY-PRESIDENT: Order! There is quite a difference.

The Hon. E. M. OBEID: Quite obviously it had some checks done to it.

The DEPUTY-PRESIDENT: Order! The honourable member may proceed.

The Hon. E. M. OBEID: Yet the Council on the Cost of Government found the opposite: that savings of up to \$300 million per annum could be achieved after five years by simplifying and standardising processes and by consolidating back-office functions through the establishment of shared service centres for routine transaction processing. The fact is that the former coalition Government promoted the idea of "letting the managers manage" without establishing robust systems of accountability.

When the Council on the Cost of Government was first established, it looked at how the coalition Government had been managing the public sector. It found massive waste and mismanagement. It found that 82 of the 95 agencies surveyed were operating different accounting systems using 48 different software packages. Moreover, each agency developed its own accounting codes to record information so that it was not possible to even track trends in spending. The council found that administrative overheads were running at around 11 per cent of recurrent spending, so that funds were being wasted on internal processes—money that could have been spent on delivering services to the community. That is the kind of problem that this Government inherited and which the council has been trying to fix.

The coalition Government abolished detailed reviews of spending and promised to substitute a system of monitoring the outputs and outcomes of government activities. But it never delivered on that promise. For five years the former Government collected performance information in what it described as "program statements". But the statements were of such poor quality that the coalition Government did not dare to publish them. The previous coalition Government produced some highly selective reports on the performance of government agencies. Those reports focused almost exclusively on the costs of producing services and measures of labour productivity. The coalition Government's reports failed to deal with the quality of services being provided to the community, and with issues of access and equity in service delivery.

The Council on the Cost of Government, on the other hand, has not just been concerned with addressing the legacy of wasteful practices inherited from the Fahey era; it has encouraged agencies to examine the quality of services being produced by government agencies. The council has been producing a series of reports titled statements of service efforts and accomplishments, which provide a comprehensive overview of the major activities of the State public sector. Those published to date cover arts and culture, agriculture, fisheries, economic development, sport and recreation, vocational training, health, housing, and community services. More reports are to follow on transport, school education, law, order and public safety, and the environment.

With its past record, the Opposition must find it extremely embarrassing to see its prior shortcomings shown up by the work of the Council on the Cost of Government—whose reports to

Parliament were cited with approval by the Auditor-General. Instead of trying to respond to the things the council has been saying, the Opposition tried to mount a sleazy personal attack on the chairman, Professor Bob Walker. But they got their facts all wrong. A sample of that was a claim that the former General Manager of the Office of the Council on the Cost of Government was appointed while he was one of Professor Walker's students. That is totally false, the person named by the Opposition was not in any of the courses in which Professor Walker had any involvement during or after the time he worked for the council. The Opposition suggests that the employment of this officer compromised the academic standards of the University of New South Wales. The Opposition should apologise to the university.

A second example relates to a claim that the council is empire building by recently advertising for two additional SES officers at a cost to the budget of \$300,000 per annum. That is totally untrue. These are not additional positions. The council operates a small office, and these positions will come out of its own existing budget. When the council was established it operated with only one SES officer and 15 core staff. It replaced the similar unit operated by the former coalition Government with four SES officers and 35 staff. The small increase in staffing in the past year reflects an increased workload following the Government's decision to engage the council to review all major programs of government.

The third example is that the council costs about \$3 million a year. In fact, the council costs only about \$150,000 a year, covering members' fees and associated expenses. The \$3 million covers the employment of public servants to undertake review functions. The coalition Government ran a similar unit in the Premier's Department, at a far greater cost. The Opposition claimed that the council had been politicised because the Chairman, Professor Bob Walker, once caused problems for the coalition Government by highlighting how it had cooked the books. Premier Greiner claimed to have a balanced budget while Victoria had a deficit of \$1 billion, but Professor Walker showed that that was a lie.

The Opposition neglected to say that the reforms proposed by Professor Walker in 1991 had been implemented by this Government and governments in other States. The proposal was that governments should report the budget results of general government as defined by the Australian Bureau of Statistics, not only the result of Consolidated Fund transactions, as had been the practice in New South Wales. The accountability of

all Australian governments has been enhanced as a consequence of Professor Walker's comments. The Opposition neglected to acknowledge that Professor Walker's skills are widely recognised, even by conservative governments. He was an adviser to the New South Wales Public Accounts Committee when the coalition was in government, and he has been an adviser to the Northern Territory Treasury and public accounts committees—and the Northern Territory Government is conservative.

Just this year Professor Walker wrote a paper for the Victorian Public Accounts and Estimates Committee on issues associated with performance indicators and environmental accounting. The worst feature of the Opposition's poorly researched attack on the work of the Council on the Cost of Government was the way the shadow treasurer in another place displayed his ignorance of government processes. The council was established to provide advice on how to improve the workings of the public sector. The Opposition seems to confuse the council's role with that of Ministers. It is astounding that the shadow treasurer, who was a Minister, does not understand that the Government makes policy and that the public service implements it.

The coalition then alleged that the Government has stripped the council of its role by changing the way corporate services are delivered. Again, the council's role is to advise the Government, not to engage in the hands-on process of running systems to pay employees or suppliers. The Opposition's claim reflects its lack of understanding of how the public sector actually works. Obviously the Opposition fears the work of the Council on the Cost of Government because the council has shown up the legacy of the years of mismanagement by the Fahey Government. Continuation of the council's work is in the best interests of the people of New South Wales.

Reverend the Hon. F. J. NILE [10.24 p.m.]: The Christian Democrats are concerned that the role of the Council on the Cost of Government is being duplicated by the Public Accounts Committee. Preferably, a joint party committee such as the Public Accounts Committee should carry out that role. I understand that since the council was established there has been some competition, overlapping and confusion between the two bodies, and in the confusion the Council on the Cost of Government appears to have emerged as the superior body. The Public Accounts Committee, which has functioned well under both Labor and coalition governments, should not be undermined but reinforced. Therefore we will support the amendment foreshadowed by the Opposition.

The main purpose of the bill is to ensure that the life of the Council on the Cost of Government is extended from 30 October 1998 to 13 October 2000. The Opposition proposes to amend the date to 27 March 1999. The rationale for the amendment is that the incoming government should decide whether the Council on the Cost of Government continues. A Labor government would reappoint the council; a coalition government would apparently dissolve the council and have its functions undertaken by the Public Accounts Committee. The Christian Democrats will support the Opposition's proposed amendment.

The Hon. D. J. GAY [10.25 p.m.]: Given the lateness of the hour, I will not cover the matters raised by other speakers; nor will I cover the matters I raised in my budget speech relating to Professor Bob Walker. Over the years I have devoted many hours in this Chamber to those matters. The appointment of Professor Walker was political. The Opposition's proposed amendment is fair, because we have clearly indicated that the continued service of Professor Walker under a Coalition government is unacceptable. Clearly, the Treasurer and the Labor Party are trying to provide one of their supporters, a mate, with a salary after the State election. That is why the Opposition will properly move in Committee an amendment that will result in the bill falling over. To be fair, we have suggested that that should happen on 1 May 1999.

The Opposition has said that it will divide the House on the second reading because the life of the Council on the Cost of Government should not be extended. If it loses that vote, in Committee it will move an amendment that the legislation cease after the election and that Professor Walker not be reappointed. If the Labor Party wins the election the Treasurer will have much pleasure in reappointing Professor Walker, who is a close friend of his.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.27 p.m.], in reply: The House has just witnessed one of the most bizarre and, I think, most offensive debates I have ever heard. The Opposition made a vindictive and very personal attack on the Chairman of the Council on the Cost of Government, Professor Walker.

The Hon. D. J. Gay: It was.

The Hon. M. R. EGAN: Incredibly, the Hon. D. J. Gay concedes that point.

The Hon. D. J. Gay: He is a political appointment.

The Hon. M. R. EGAN: He is appointed by the government of the day. To this day I do not know whether Professor Walker supports Reverend the Hon. F. J. Nile, the Australian Democrats, the National Party, the Liberal Party or the Australian Labor Party. All I know is that the Opposition developed an intense hatred of Professor Walker when, as Professor of Accounting at the University of New South Wales, he simply pointed out that the Greiner Government's boast of a budget surplus compared with a \$1 billion deficit in Victoria was not a like comparison. It was not a case of comparing apples with apples; it was a case of comparing apples with oranges.

In those days the New South Wales budget embraced not the whole of the general government sector but simply those parts of it that the Government wanted to incorporate. Consequently the budget result was an entirely meaningless figure. It was a contrived, concocted figure, and it was Professor Walker who first drew that to the attention of not only members of Parliament but, as some of us were aware, the media and others who follow such matters. The Opposition has never forgiven him. It was not as though Professor Walker was concocting an argument; he was simply presenting the facts in the *New Accountant* to his readers and to the people of New South Wales. But the Coalition found it difficult to live with that.

The Council on the Cost of Government comprises not only senior public servants appointed by the Government but people appointed from outside the public sector, including the chairman, Professor Walker. It may be that if Reverend the Hon. F. J. Nile's party has a majority after the next election and forms the Christian Democratic Government, it might choose not to continue the appointments the current Government has made to the Council on the Cost of Government. The committee might have entirely different personnel. That is the right of any government. Likewise, if the Australian Democrats form the Government they might want different personnel on the Council on the Cost of Government. Regardless of whether this legislation is passed in its original form, it will be the prerogative of whichever party forms government after the next election to reconstitute the council.

The Hon. J. H. Jobling: Therefore you will support our amendment?

The Hon. M. R. EGAN: The amendment is not necessary. The amendment is a stupid, vindictive and personal attack on Professor Robert Walker because the Opposition will never forgive him for

telling the truth and exposing its lies. He has become the No. 1 enemy of the Opposition. I look forward to the Committee stage when we will defeat the stupid amendment.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 17

Mrs Arena	Mr Obeid
Ms Burnswoods	Mr Primrose
Dr Chesterfield-Evans	Ms Saffin
Mr Cohen	Mr Shaw
Mr Corbett	Ms Tebbutt
Mr Egan	Mr Vaughan
Mr Jones	<i>Tellers,</i>
Mr Kelly	Mrs Isaksen
Mr Macdonald	Mr Manson

Noes, 15

Mr Bull	Rev. Nile
Mrs Forsythe	Mr Ryan
Mr Gallacher	Mr Rowland Smith
Miss Gardiner	Mr Tingle
Mr Gay	Mr Willis
Mr Kersten	<i>Tellers,</i>
Mr Lynn	Mr Jobling
Mrs Nile	Mr Moppett

Pairs

Dr Burgmann	Dr Goldsmith
Mr Dyer	Mr Hannaford
Mr Johnson	Dr Pezzutti
Mr Kaldis	Mr Samios

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Schedule 1

The Hon. J. H. JOBLING [10.41 p.m.]: I move:

Page 3, schedule 1[1], line 6. Omit "13 October 2000". Insert instead "1 May 1999".

The Opposition moves this amendment for one reason: because it makes very clear the view and

intention of the Opposition. It also allows those people employed on the council sufficient time to see who comes into government and to make appropriate arrangements about their positions. The Opposition is strongly of the view that 1 May 1999 is the right date to deal with the situation correctly, rather than the nonsense of 13 October 2000, regardless of the change in government. The latter date would do nothing more than present those on the council with a golden parachute. It is totally wrong. The new Government should have the option of determining what will happen with the Council on the Cost of Government. This amendment will clearly allow that to happen.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.42 p.m.]: The Hon. J. H. Jobling has just given the game away by warning the employees of the Council on the Cost of Government that they should start looking for new jobs.

The Hon. D. J. Gay: Professor Walker, not the others.

The Hon. M. R. EGAN: Honourable members should read what the Hon. J. H. Jobling just said. It is clear not only what he said but also what he meant. That is a warning that should be issued to every public servant in New South Wales, because there is no doubt that the intention of the Coalition is wholesale sackings and retrenchments if by some mischance it were to win office at next year's State election. This amendment is based on an absurd assumption on the part of members of the Opposition that they will be elected to government on 27 March next year. It would be absurd if the Opposition were to move amendments or to introduce legislation to bring everything to a halt within a few weeks of the next State election.

The Opposition is creating a tremendous problem for the second Carr Labor Government by cluttering up the legislative timetable in April and May next year with unnecessary legislation. If the operations of the Council on the Cost of Government were extended to 13 October 2000, as the Government proposes, and on 27 March next year Reverend the Hon. F. J. Nile's Christian Democrats form the Government of New South Wales, they can introduce legislation to repeal the Council on the Cost of Government Act or simply change the personnel on the Council on the Cost of Government. If the Shooters Party forms the Government after 27 March next year, it can do likewise.

The amendment will ensure there will be nothing to re-appoint these people to unless Parliament meets before 1 May 1999, and this legislation is on top of the agenda. All that the Opposition is doing is clogging up the legislative agenda for the early part of the next Parliament. Members opposite know that, and they know it is driven by a personal vendetta against Professor Walker.

The Hon. FRANCA ARENA [10.45 p.m.]: I express my support for the Opposition's amendment, because I feel that an appointment as controversial as Professor Walker's should not be imposed upon an incoming government. If the Labor Government is re-elected it can re-appoint Professor Walker. If a Liberal-National Party Government is elected, obviously it will not want Professor Walker, but without this amendment the taxpayers of New South Wales will have to pay Professor Walker until 13 October 2000. Only last week I noticed that an eminent public servant, Helen Bauer, who was appointed to the Department of Community Services, is still on the unattached list and is still being paid by the taxpayers. It is just not fair for the taxpayers to continuously have to pay people who are no longer employed because their appointments were perceived to be political. I think this is a most sensible amendment, and I will support it.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.46 p.m.]: The Hon. Franca Arena has touched upon a point I should have responded to earlier: the absurd suggestion by the Hon. J. H. Jobling that somehow the Government's legislation was designed to provide Professor Walker with a salary. The remuneration that Professor Walker receives for his chairmanship of the Council on the Cost of Government is a mere pittance compared with the remuneration he could earn in other endeavours. For the Hon. J. H. Jobling or the Opposition to suggest that somehow his chairmanship of the Council on the Cost of Government provides him with a financial reward greater than he would receive elsewhere is offensive.

The Hon. J. H. Jobling: We did not suggest that.

The Hon. M. R. EGAN: You clearly did and you know you did, and anyone who reads *Hansard* will know precisely what you said and what you meant. It was offensive. What should be placed on the record is that Professor Walker's work as chairman of the Council on the Cost of Government would, if anything, be costing him money.

The Hon. PATRICIA FORSYTHE [10.47 p.m.]: I have never heard such hypocrisy from the Treasurer as the House has heard tonight. During the Treasurer's reply to the second reading debate the Hon. D. J. Gay interjected that Professor Walker was a political appointment. In response the Treasurer said, "He was appointed by the Government of the day." If honourable members read *Hansard*, that will stand out quite clearly: "... appointed by the Government of the day." That is what our amendment is about: to make sure that the Government of the day is able to make such an appointment. The Opposition is making it quite clear that this appointment will finish in May next year, just as the term of the Carr Labor Government will have finished. Should that Government be returned next year it can ensure the future of Professor Bob Walker. There is absolutely no doubt that this was an appointment of the day—a political appointment of the day, just as many other people in the public service have been political appointments of the day.

They are the Government's words, they are not our words. The Treasurer used them in his reply to justify his position. The Opposition has moved the amendment because it does not believe that political appointments of the day should be given a free ride to some date in 2000. We believe it is the right of the Government to make appointments, so the Government's proposal to extend the appointment of Professor Walker to 13 October 2000 is just absurd. The Treasurer agreed with the Hon. D. J. Gay. Opposition members know that a political appointment was made, just as we know that the public service is littered with political appointments. If the Government is returned to office next year, it will be able to reappoint Professor Walker. The fact is that the Government will not be returned to office, and the coalition should not be shackled with this Government's political appointments.

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [10.50 p.m.]: The argument presented by the Hon. Patricia Forsythe was dishonest. The honourable member has both the amendment and the bill before her. She knows that the amendment has nothing to do with the tenure of the appointment of Professor Walker. The amendment relates to the dissolution of the Council on the Cost of Government. The schedule now reads:

The council is dissolved on 13 October 2000.

The amendment omits the date 13 October 2000 and inserts the date 1 May 1999. The Hon. Patricia

Forsythe has said that if the Government is returned to office it will have the ability to reappoint Professor Walker. To what body would he be reappointed? Would he be reappointed to the Council on the Cost of Government, which on 1 May 1999 would be dissolved? If, as is most likely, the Government is returned to office on 27 March then it will want to deal with a great deal of legislation in the first session of the next term of the Parliament, and this legislation would be top of the agenda. The returned Labor Government would reinstitute the Council on the Cost of Government.

On the other hand, if the Council on the Cost of Government continued to exist until 13 October 2000, as provided in the schedule, any incoming government—whether it be a government of the Australian Democrats, the Christian Democratic Party or the Shooters Party; it certainly would not be a government of the Liberal Party or the National Party—could introduce legislation to dissolve the council if it so desired. Not only that, whilst the council continued to exist an incoming government could replace the personnel on the council. The Hon. D. J. Gay, the Hon. J. H. Jobling and the Hon. Patricia Forsythe know that. The Hon. Patricia Forsythe looks very guilty about this, because when she spoke she was lying and she knows she was lying.

The Hon. D. J. Gay: On a point of order. The Treasurer disgraced himself earlier this evening and he has now accused the Hon. Patricia Forsythe of lying. I request that the Treasurer withdraw that allegation.

The Hon. Patricia Forsythe: On the point of order. I find the words of the Treasurer offensive and I ask him to withdraw them.

The Hon. M. R. EGAN: As the honourable member finds the words to be offensive, I shall withdraw them. But the honourable member knows that she was not telling the truth.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 17

Mrs Arena	Mrs Nile
Mr Bull	Rev. Nile
Mrs Chadwick	Mr Ryan
Dr Chesterfield-Evan	Mr Rowland Smith
Mrs Forsythe	Mr Tingle
Mr Gallacher	Mr Willis
Mr Gay	<i>Tellers,</i>
Mr Kersten	Mr Jobling
Mr Lynn	Mr Moppett

Noes, 15

Ms Burnswoods	Mr Primrose
Mr Cohen	Ms Saffin
Mr Corbett	Mr Shaw
Mr Egan	Ms Tebbutt
Mr Jones	Mr Vaughan
Mr Kelly	<i>Tellers,</i>
Mr Macdonald	Mrs Isaksen
Mr Obeid	Mr Manson

Pairs

Dr Goldsmith	Dr Burgmann
Mr Hannaford	Mr Dyer
Dr Pezzutti	Mr Johnson
Mr Samios	Mr Kaldis

Question so resolved in the affirmative.

Amendment agreed to.

Schedule as amended agreed to.

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

ADJOURNMENT

The Hon. M. R. EGAN (Treasurer, Minister for State Development, and Vice-President of the Executive Council) [11.01 p.m.]: I move:

That this House do now adjourn.

WORLD WHEELCHAIR BASKETBALL CHAMPIONSHIPS

The Hon. PATRICIA FORSYTHE [11.01 p.m.]: I draw the attention of the House to the fact that Sydney is to play host to the World Wheelchair Basketball Championships at the State Sports Centre, Homebush. The Gold Cup will be held from 23 to 31 October. Many honourable members write columns for local newspapers. The Gold Cup would be an excellent vehicle for members to demonstrate their support for our elite athletes by promoting the event to the community of Sydney. The Australian men's team is seeded number one for the championships, having won a gold medal at the Atlanta Paralympics.

The competition will be especially intense for the Canadian and United States of America teams, eager to demonstrate their prowess. Twelve teams will compete in the men's championships and eight will compete in the women's championships. The Australian women competed for the bronze medal at Atlanta and are seeded fourth. However, if the stands at Homebush can be filled I have no doubt

that the Australians will be lifted towards their goal of reaching first place. Wheelchair basketball is an aggressive and exciting sport. I strongly recommend that honourable members attend at least one game. Those who have not previously seen wheelchair basketball may be very surprised at the aggressive and exciting nature of the basketballers. The competition will be well worth a visit. The Gold Cup provides the only opportunity for the public to see Paralympic sport between now and October 2000.

Full stands would send the message that Sydney is proud to be host of the next Paralympics and that the community of Sydney is there to lend support. The Gold Cup will be run each day from 10.00 a.m. The women's finals will be staged on the evening of Friday, 30 October, and the men's final on the afternoon of Saturday, 31 October. Tickets are selling for as little as \$5, to make the events as attractive as possible, and are available in Sydney through the EnergyAustralia Gold Cup 1998 office. EnergyAustralia is the event's main sponsor. Sydney is hosting not only the Olympics but also the Paralympics. Building up knowledge about and enthusiasm for the Games is something we can all do. Breaking down the barriers faced by people with a disability will be achieved with community understanding of the level of ability of the athletes.

I trust that all honourable members will give these champions great support and enthusiastically spread the message in the community. I can think of no better way to do that than for every member to contribute a column for his or her local newspaper—something that members of Parliament, particularly those in the other place, do every week—and mention the Gold Cup. The Gold Cup is a community event that deserves the support of the Parliament of New South Wales. I for one ask that honourable members do everything they can. New South Wales schools could attend this competition in numbers. Unlike the situation in Atlanta, the stands at Homebush should be filled with representatives of the community, including members of the Parliament of New South Wales.

NATIONAL RECONCILIATION

Reverend the Hon. F. J. NILE [11.05 p.m.]: Honourable members are all concerned about reconciliation in our society. I was pleased to participate, with many other citizens of New South Wales and some from interstate, in the national reconciliation march and celebration at Sydney on Monday, 5 October. The Prime Minister, the Hon. John Howard, sent a message to that celebration, the theme of which has been repeated often. John

Howard, Prime Minister of Australia, said in his brief message:

It gives me great pleasure to send a message of support to the National Reconciliation March and Celebration organised by the Festival of Light on Monday, 5th October, 1998.

I warmly support the objective of the March and Celebration—to promote and demonstrate reconciliation and unity. As your invitation to join the March states, we need to promote reconciliation and unity between Aboriginal, non-Aboriginal and ethnic communities, as well as employers and employees, husbands and wives, rich and poor, young and old, country and city, police and community.

One of the deepest streams running through Australian history and Australian community life is the idea of a fair go for all. The Australian people have always rejected unfair and unequal treatment of others and readily respond to a need to reconcile differences and create unity. One of the great strengths of Australia is that people of ethnic and cultural diversity can live in harmony with each other and build a rich community life together. Australians have consistently rejected racist attitudes and behaviour and have warmly embraced the reconciliation process between indigenous and non-indigenous people.

Activities such as the National Reconciliation March and Celebration build on these great strengths of Australian community life and will be supported by all people of goodwill.

The Festival of Light march and celebration involved representatives from many ethnic communities—Chinese, Vietnamese, Tongan, Fijian, German, Indonesian, Filipino and many others. They spoke the common language of Christian love for each other. At Hyde Park the guest speakers were interviewed by every television channel, many radio stations and newspaper representatives. The Hon. Philip Ruddock MP, caretaker immigration Minister, spoke of the Federal Government's concern for Australia's multiracial component, which could date back to the first settlers. Mr Ruddock said that many on the first fleet came from different nationalities yet together they worked on the formation of the country we now call Australia.

Mr Ruddock gave an interesting background to the words "fair dinkum", which he said could be traced to the gold rush days. The Chinese word for gold sounded like "Kim". Real gold or a decent size find sounded like "din-Kim". So when we hear people such as Pauline Hanson—a politician quoted by the media as being a racist—say "fair dinkum", they are actually speaking Chinese. I had the opportunity of sharing in the march and the celebration. Many journalists asked me about the outcome of the march and celebration, and I said that it had put another nail in the coffin of Hansonism. The march and reconciliation celebration, attended by hundreds of Fijians, Tongans, Chinese, Koreans, Aborigines—many from

near the Queensland border on the Tweed River—and Anglo-Saxon Australians, demonstrated that the spirit of reconciliation in our nation is alive and well. The Lord Mayor of Sydney, Mr Frank Sartor, was a guest speaker. In his stirring address he said:

I judge the character of a person by the way they treat others—people of lesser standing in the community or people that are different. We need to treat everyone with respect and dignity. It is my great pleasure to be here this afternoon and to support this call for reconciliation.

One of the stars of the celebration was Esther King, a well-known Fijian singing star and one of Australia's leading musicians. Warwick Marsh of the Marsh family singing group from Wollongong assisted with music and stage management. The national anthem *Advance Australia Fair*, all three stanzas, was sung by those present. The third stanza is very important. The Hon. Elaine Nile shared the biblical theme of 2 Corinthians 5:17-21.

The multifaceted program indicated something of the multiracial content of the reconciliation celebration in society. Greetings were presented by Tongan Pastor Hua and Chinese Pastor Rebecca Chong. Raymond Moti, the Manager of the ethnic radio station SBS Sydney, brought a greeting, followed by his wife, who danced in traditional Indian style. Musical items were presented by the Obadiah Christian Youth Choir and Band from a Christian village near Taree. A Fijian and Tongan combined group also contributed several musical items, led by Esther King.

One highlight was the Aboriginal Slabb Brothers from the Tweed River area, who performed several Aboriginal dances accompanied by a didgeridoo and slapping sticks. They were able to show some of the attractive aspects of Aboriginal cultural at Hyde Park in the heart of the city. At the end of the gathering everyone shared in an affirmation of faith and reconciliation, praise and worship in which it was stated:

We were all without Christ, being aliens and strangers from the covenants of promise, having no hope and without God in the world.

[Time expired.]

SOUTH COAST FACILITIES FOR CHILDREN WITH DISABILITIES

The Hon. P. T. PRIMROSE [11.10 p.m.]: I recently visited Bega as the guest of local parents who are seeking to establish a facility for young people with severe and profound disabilities who live in the south coast area. The proposal is to

establish a service at Quaama. The facility, to be known as Nardy House, has the total and active support of the local community. The Chair of the Nardy House committee is Denise Redmond. Two of the most active committee members are Rex and Betsy Hilton, the parents of 14-year-old Zeke, who is profoundly disabled as a result of a childhood accident.

The land for the facility has been donated by Mr and Mrs Hilton. The local council has agreed to assist with capital costs, as has the Minister for Housing. Local architects, plumbers, builders, gardeners and others have pledged extensive support. The proposal is strongly supported by the South Coast Labour Council and its secretary, Mr Paul Matters. All that is missing is a commitment for recurrent funding. The facility could be run using the insurance packages of young people who have received insurance payments, but this would exclude those without such packages and it would mean that vital respite care services could not be provided.

The estimated recurrent funding required to provide six full-time beds and six respite-care beds is around \$600,000 per annum. The problem is that although the Government provides around \$318 million annually for recurrent funding, the Commonwealth Government provides only \$104 million. If dollar-for-dollar funding were available from the Commonwealth, vital services such as Nardy House would be a reality today. But of equal concern is the model of service provision that seems to be dominant at the moment. This model has been developed largely by people living in the inner city of Sydney on the basis that all services need to be located close to retail facilities in close-knit residential areas.

The Nardy House facility is situated about 15 minutes from Bega. By Balmain standards that is a vast distance; by rural standards it is next-door. It is outrageous to apply inner-city standards for the location of services to people who have chosen to live in rural locations. I propose to say much more in future about Nardy House, the rural model of service delivery and the people of the Bega shire, as well as those concerned to have this service established. In the meantime I publicly acknowledge the dedication, commitment and tenacity of those in the area who are seeking to provide this much-needed service for such a vulnerable group.

NEW SOUTH WALES JUSTICES ASSOCIATION LTD

The Hon. FRANCA ARENA [11.14 p.m.]: On 8 October I was delighted to attend a luncheon

to celebrate 75 years of service to the community of the New South Wales Justices Association Ltd. It was a wonderful day, presided over by Sister Mary Joseph, the State President, including executive committee members and Marie Moore, the secretary. The guest speaker was Marie Ficarra, the honourable member for Georges River, who gave an excellent speech on the history of this women's organisation. In attendance was a large number of women representing many women's organisations, such as the National Council of Women and Guides Australia Inc., just to name a few.

As a justice of the peace, a woman and a parliamentarian, I was very happy to attend such an important function. At the function I met Dr Malcolm Buck, who is President of New South Wales Justices Association Ltd. Yesterday in the House I asked a question of the Attorney regarding justices of the peace. I was pleased to hear that the Attorney is expecting a briefing paper from his department outlining possible options for reforms. I trust that this will happen expeditiously and that the Attorney will be able to present a set of reforms to the House before it rises in December prior to the next State election.

Being a justice of the peace has always been a great honour for me but I have always felt that there was a need to review not only the criteria for appointment but also the duties and responsibilities of JPs. At the moment the criteria for appointment is the policy adopted by the Attorney General. To apply one must be between the ages of 21 and 75, enrolled to vote in New South Wales, an Australian citizen by birth or naturalisation or be a British subject, of good character and required to exercise the function of justice of the peace in his or her current employment or on a community basis.

The prospective applicant must apply to his or her State member of Parliament, who decides whether the person should be nominated for appointment and is suitable to become a justice of the peace. This presents some problems because as a member of Parliament I have been requested to nominate people to become JPs and have been embarrassed because I was not really sure whether the persons were suitable. The easy way for members of Parliament not to antagonise people is to get the application through even though there may be doubts about the suitability of the applicant.

However, if we want bona fide people as JPs, there should be definite rules for such appointments, and they should not be only on the recommendation of a member of Parliament. There are associations of justices of the peace in every State in Australia

and whilst New South Wales has the largest membership, it is one of the few associations in Australia that does not receive any financial or other contribution from the Government. In Victoria I believe the Royal Victorian Association of Honorary Justices receives an annual grant of \$5,000 and an old courthouse as an administration centre, fully maintained and cleaned, with power supplied.

In Western Australia the local association has access to large office space in a government building at no cost. The Western Australian Government also pays approximately \$28,000 per annum for the production of a quarterly journal. It pays for training courses as well. Surely the New South Wales Government should consider what type of financial assistance it can offer to the New South Wales Justices Association, which deserves some recognition. I trust that the Attorney will take these matters into consideration, together with the duties of JPs, which in other States vary from giving bail and bonds to undertaking minor bench duties. These duties assist in enhancing the position of JPs and make their contributions worthwhile. I look forward to hearing the Attorney's package of reforms.

CRIME AND PUNISHMENT

The Hon. Dr A. CHESTERFIELD-EVANS [11.19 p.m.]: I wish to speak about criminal sentencing and punishment in general. Justice Spigelman has suggested that there should be consistency in sentencing and has tried to put together some guidelines to achieve consistency amongst the judiciary. It might be considered that the judicial response is in fact a response to parliamentary action regarding mandatory sentencing and suggestions as to sentencing. Sentencing, mandatory sentencing and truth in sentencing have been part of the parliamentary concept of increasing punishment. I think that is an entirely unfortunate concept. We must look at the reasons that offenders are gaoled. The first is to exact revenge or punishment; the second is to protect society; and the third is to rehabilitate offenders, to change the ways of those who commit crimes so that they may become more contributory members of our society. It is important that the third of those objectives not be lost in our great endeavours to pursue the first two.

I am not certain how many people will improve in response to others being unpleasant to them, but I would doubt that such a method is a great motivator. Education usually is better than punishment in the bringing up of children. The proportion of criminals who are a threat to society is relatively small, and therefore the protection of

society is not a large part of the reason for locking up offenders. The question becomes: why do we lock people up? Should we simply increase the penalties through the actions of this Parliament or through guidelines which the Chief Justice is using to anticipate actions that this Parliament might be taking or which follow trends being set by the approach of this Parliament?

It has to be recognised that increasing social inequality leads to an increase in crime. Certainly, there is a perception of an increase in crime, which leads to increased fear and to a response that more people should be locked up, and for longer. Honourable members of this House, in making decisions on these matters, should try to take a more scientific approach. We should examine whether revenge and punishment work, take into account the recidivism rate and refer to statistics on whether crime is increasing or decreasing. By taking such a course we should achieve a more sensible and humane approach to sentencing and rehabilitation in the Australian community.

I do not have the answers to this problem. However, I think we need to adopt a more scientific approach to resolution of the problem. Punishments for culpability in motor vehicle accidents should be more proportional to the degree of irresponsibility. Sometimes a good driver will make an error that has dire consequences; on the other hand, the actions of some people with a pattern of repetitive and far more dangerous offences have less dire consequences. It really is a question of regarding the pattern of dangerous behaviour as being more important than the consequences of that behaviour. Some may be totally irresponsible in their actions and get away with that, while others may be totally responsible yet be involved in an accident. So discretion is necessary. Both this Parliament and Justice Spigelman have to take a broad and logical approach to this question, rather than limit themselves in regard to sentencing

Motion agreed to.

House adjourned at 11.23 p.m.
